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VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

125TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 624, L.D. 1806, Bill, "An Act To Promote Transparency in Government"

Amend the bill by striking out all of sections 2 to 6 and inserting the following:

Sec. 2. 1 MRSA §1012, sub-§7, as corrected by RR 2001, c. 1, §6, is amended to read:

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; gross income derived from business; gains gross income derived from dealings in property, rents and royalties; gross 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 distributions from a partnership income or limited liability company; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in kind includes, but is not limited to, the transfer of property and options to buy or lease, and stock certificates. "Income" does not include: alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to money to be spent on behalf of a client for payment of a licensing or filing fee.

- A.—Alimony and separate maintenance payments; or
B.—Campaign contributions recorded and reported as required by Title 21-A, chapter 43.

Sec. 3. 1 MRSA §1012, sub-§7-A is enacted to read:

7-A. Managerial employee. "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

COMMITTEE AMENDMENT

1 **Sec. 4. 1 MRSA §1012, sub-§8**, as amended by PL 2009, c. 208, §4, is further
2 amended to read:

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

10 **Sec. 5. 1 MRSA §1012, sub-§8-A** is enacted to read:

11 **8-A. Reportable liability.** "Reportable liability" means any unsecured loan of
12 \$3,000 or more received from a person who is not a relative. "Reportable liability" does
13 not include:

14 A. A credit card liability;

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

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

19 **Sec. 6. 1 MRSA §1016-A**, as amended by PL 2007, c. 704, §1, is repealed.

20 **Sec. 7. 1 MRSA §1016-B**, as amended by PL 1991, c. 331, §1, is repealed.

21 **Sec. 8. 1 MRSA §1016-C**, as amended by PL 2011, c. 471, §4, is further amended
22 to read:

23 **§1016-C. Reports by legislative candidates**

24 A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who
25 is not required to file a report under section ~~1016-A, 1016-B or 1016-E~~ 1016-G shall file
26 a report containing the same information required of Legislators under ~~sections 1016-A,~~
27 ~~1016-B and 1016-E~~ section 1016-G no later than 5 p.m. on the first Monday in August
28 preceding the general election unless the candidate withdraws from the election in
29 accordance with Title 21-A, section 374-A by that date.

30 **Sec. 9. 1 MRSA §1016-E**, as enacted by PL 2007, c. 704, §2, is repealed.

31 **Sec. 10. 1 MRSA §1016-F**, as enacted by PL 2007, c. 704, §3, is repealed.

32 **Sec. 11. 1 MRSA §1016-G** is enacted to read:

33 **§1016-G. Disclosure of specific sources of income, interests and reportable liabilities**

34 Each Legislator shall annually file with the commission a statement identifying the
35 sources of income received, positions held and reportable liabilities incurred during the
36 preceding calendar year by the Legislator or members of the Legislator's immediate
37 family. A Legislator who has completed service in the Legislature shall file the statement
38 within 45 days of the Legislator's last day of service to disclose the sources of income in
39 the Legislator's final calendar year of service.

1 **1. Content of statement.** The name and, where applicable, the job title of the
2 individual earning or receiving the income must be disclosed, unless otherwise noted.
3 Each source of income must be identified by name, address and principal type of
4 economic or business activity. If disclosure of this type is prohibited by statute, rule or an
5 established code of professional ethics, it is sufficient for the Legislator to specify the
6 principal type of economic or business activity from which the income is derived.

7 The statement must identify:

8 A. If the Legislator is an employee of another person, firm, corporation, association
9 or organization that has provided the Legislator with compensation of \$2,000 or
10 more, the name and address of the employer. The Legislator shall identify the title
11 and position held by the Legislator;

12 B. If the Legislator is self-employed, the name and address of the Legislator's
13 business and each source of income derived from self-employment that represents
14 more than 10% of the Legislator's gross income from self-employment or \$2,000,
15 whichever is greater;

16 C. The name, address and principal economic or business activity of any corporation,
17 partnership, limited liability company or other business in which the Legislator or
18 members of the Legislator's immediate family own or control, directly or indirectly,
19 more than 50% of the outstanding equity, whether individually or in the aggregate,
20 that has received revenue of \$2,000 or more;

21 D. Each source of income of \$2,000 or more the Legislator derived from providing
22 services as an attorney, the major areas of law practiced by the Legislator and, if
23 associated with a law firm, the major areas of practice of the firm;

24 E. Each source of income of \$2,000 or more received by the Legislator;

25 F. The specific source of each gift received by the Legislator;

26 G. Each source of income of \$2,000 or more received by any member of the
27 immediate family of the Legislator, except that the Legislator is not required to
28 identify the names of dependent children. If the member of the Legislator's
29 immediate family received income of \$2,000 or more in compensation, the Legislator
30 shall identify the source of the compensation, the type of the economic activity and
31 the title of the position held by the immediate family member;

32 H. Each source of honoraria of \$2,000 or more that the Legislator accepted;

33 I. Each executive branch agency before which the Legislator or any immediate
34 family member has represented or assisted others for compensation;

35 J. Each state governmental agency, board or commission to which the Legislator, a
36 member of the Legislator's immediate family or an associated organization has sold,
37 rented or leased goods or services with a value of \$10,000 or more during the
38 preceding calendar year and a description of the goods or services sold, rented or
39 leased;

40 K. Each organization that is required under Title 21-A, chapter 13 to register with the
41 commission as a political action committee or ballot question committee for which

1 the Legislator is a treasurer, principal officer or principal fund-raiser or decision
2 maker;

3 L. Any offices, trusteeships, directorships or positions of any nature, whether
4 compensated or uncompensated, held by the Legislator or a member of the
5 Legislator's immediate family with any for-profit or nonprofit firm, corporation,
6 association, limited liability company, partnership or business. For the purposes of
7 this paragraph, service as a clerk of a corporation or as a registered agent authorized
8 to receive service of any process, notice or other demand for a business entity is not
9 considered a position with the corporation or business entity; and

10 M. All reportable liabilities incurred by the Legislator or a member of the
11 Legislator's immediate family during the reporting period.

12 **2. Time for filing.** The following provisions govern the time for filing statements.

13 A. Each Legislator shall file with the commission by 5:00 p.m. on February 15th of
14 each year on the form provided by the commission a statement of the sources of
15 income, interests and reportable liabilities for the preceding calendar year required by
16 subsection 1. Prior to the end of the first week in January of each year, the
17 commission shall deliver a form to each Senator and member of the House of
18 Representatives.

19 B. A Legislator shall file an updated statement concerning the current calendar year
20 if the income, reportable liabilities or positions of the Legislator or an immediate
21 family member, except for dependent children, substantially change from those
22 disclosed in the Legislator's most recent statement. Substantial changes include, but
23 are not limited to, a new employer that has paid the Legislator or a member of the
24 Legislator's immediate family \$2,000 or more during the current year, another source
25 that has provided the Legislator or a member of the Legislator's immediate family,
26 excluding dependent children, with income that totals \$2,000 or more during the
27 current year or the acceptance of a new position with a for-profit or nonprofit firm
28 that is reportable under subsection 1, paragraph L. The Legislator shall file the
29 updated statement within 30 days of the substantial change in income, reportable
30 liabilities or positions.

31 **3. Penalties.** Penalties for violations of this section are as follows.

32 A. Failing to file a statement within 15 days of having been notified by the
33 commission is a civil violation for which a fine of not more than \$100 may be
34 adjudged. A statement is not considered filed unless it substantially conforms to the
35 requirements of this subchapter and is properly signed. The commission shall
36 determine whether a statement substantially conforms to the requirements of this
37 subchapter.

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

1 **4. Rules, procedures and forms.** The commission may adopt or amend rules to
2 specify the reportable categories or types and the procedures and forms for reporting and
3 to administer this section. Rules adopted pursuant to this subsection are routine technical
4 rules as defined in Title 5, chapter 375, subchapter 2-A.

5 **5. Public record.** Statements filed under this section are public records. The
6 commission shall publish on a publicly accessible website the completed forms of
7 Legislators filed under this section.

8 **Sec. 12. 1 MRSA §1017-A**, as amended by PL 2007, c. 704, §4, is repealed.

9 **Sec. 13. 1 MRSA §1018**, as amended by PL 2001, c. 75, §2, is repealed.

10 **Sec. 14. 1 MRSA §1019**, as amended by PL 2011, c. 471, §5, is repealed.'

11 Amend the bill by striking out all of sections 9 to 11 and inserting the following:

12 '**Sec. 9. 5 MRSA §19, sub-§1, ¶H**, as enacted by PL 1989, c. 561, §14, is
13 amended to read:

14 H. "Income" means economic gain to a person from any source, including, but not
15 limited to, compensation for services, including fees, commissions and payments
16 in-kind; gross income derived from business; ~~gains~~ gross income derived from
17 dealings in property, rents and royalties; gross income from investments including
18 interest, capital gains and dividends; annuities; income from life insurance and
19 endowment contracts; pensions; income from discharge of indebtedness; ~~distributive~~
20 ~~share of distributions from a partnership income or limited liability company; gross~~
21 income from an interest in an estate or trust; prizes; and grants, but does not include
22 gifts or honoraria. Income received in-kind includes, but is not limited to, the transfer
23 of property and options to buy or lease and stock certificates. "Income" does not
24 include alimony and separate maintenance payments, child support payments or
25 campaign contributions accepted for state or federal office or funds or other property
26 held in trust for another, including but not limited to fees paid in advance or money to
27 be spent on behalf of a client for payment of a licensing or filing fee.

28 **Sec. 10. 5 MRSA §19, sub-§1, ¶H-1** is enacted to read:

29 H-1. "Managerial employee" means an employee of an organization whose position
30 requires substantial control over the organization's decision making, business
31 operations, financial management or contracting and procurement activities. For the
32 purposes of this subsection, financial management does not include tasks that are
33 considered clerical in nature.

34 **Sec. 11. 5 MRSA §19, sub-§2**, as amended by PL 2009, c. 524, §2, is repealed
35 and the following enacted in its place:

36 **2. Content of statement.** Each executive employee shall annually file with the
37 Commission on Governmental Ethics and Election Practices a statement identifying the
38 sources of income received, positions held and reportable liabilities incurred during the
39 preceding calendar year by the executive employee or members of the executive
40 employee's immediate family. The name and, where applicable, the job title of the
41 individual earning or receiving the income must be disclosed, unless otherwise noted.
42 Each source of income must be identified by name, address and principal type of

1 economic or business activity. If disclosure of this type is prohibited by statute, rule or an
2 established code of professional ethics, it is sufficient for the executive employee to
3 specify the principal type of economic or business activity from which the income is
4 derived.

5 The statement must identify:

6 A. If the executive employee is an employee of another person, firm, corporation,
7 association or organization that has provided the executive employee with
8 compensation of \$2,000 or more, the name and address of the employer;

9 B. If the executive employee is self-employed, the name and address of the executive
10 employee's business and each source of income derived from self-employment that
11 represents more than 10% of the employee's gross income from self-employment or
12 \$2,000, whichever is greater;

13 H. The name, address and principal economic or business activity of any
14 corporation, partnership, limited liability company or other business in which the
15 executive employee or members of the employee's immediate family own or control,
16 directly or indirectly, more than 50% of the outstanding equity, whether individually
17 or in the aggregate, that has received revenue of \$2,000 or more;

18 I. Each source of income of \$2,000 or more the executive employee derived from
19 providing services as an attorney, the major areas of law practiced by the executive
20 employee and, if associated with a law firm, the major areas of practice of the firm;

21 J. Each additional source of income of \$2,000 or more received by the executive
22 employee;

23 K. The specific source of each gift received by the executive employee;

24 L. Each source of income of \$2,000 or more received by any member of the
25 immediate family of the executive employee, except that the employee is not required
26 to identify the names of dependent children. If the member of the executive
27 employee's immediate family received income of \$2,000 or more in compensation,
28 the executive employee shall identify the source of the compensation, the type of the
29 economic activity and the title of the position held by the immediate family member;

30 M. Each source of honoraria of \$2,000 or more that the executive employee
31 accepted;

32 N. Each executive branch agency before which the executive employee or a member
33 of the employee's immediate family has represented or assisted others for
34 compensation;

35 O. Each state governmental agency, board or commission to which the executive
36 employee, a member of the employee's immediate family or an associated
37 organization has sold, rented or leased goods or services with a value of \$10,000 or
38 more during the preceding calendar year and a description of the goods or services
39 sold, rented or leased;

40 P. Each organization that is required under Title 21-A, chapter 13 to register with the
41 commission as a political action committee or ballot question committee for which

1 the executive employee is a treasurer, principal officer or principal fund-raiser or
2 decision maker of the organization;

3 Q. Any offices, trusteeships, directorships or positions of any nature, whether
4 compensated or uncompensated, held by the executive employee or a member of the
5 employee's immediate family with any for-profit or nonprofit firm, corporation,
6 association, limited liability company, partnership or business. For the purposes of
7 this paragraph, service as a clerk of a corporation or as a registered agent authorized
8 to receive service of any process, notice or other demand for a business entity is not
9 considered a position with the corporation or business entity; and

10 R. All reportable liabilities incurred by the executive employee or members of the
11 employee's immediate family during the reporting period.

12 **Sec. 12. 5 MRSA §19, sub-§3, ¶B**, as amended by PL 2001, c. 75, §3, is further
13 amended to read:

14 B. Each executive employee shall file the annual report ~~prior to the close of the 2nd~~
15 ~~week in April by 5:00 p.m. on April 15th of each year~~, unless that employee has filed
16 an initial or updating report during the preceding 30 days; ~~except that, if an elected or~~
17 ~~appointed executive employee or~~ has already filed a report for the preceding calendar
18 year pursuant to paragraph A, ~~a report does not need to be filed.~~

19 **Sec. 13. 5 MRSA §19, sub-§3, ¶C**, as enacted by PL 1979, c. 734, §2, is repealed
20 and the following enacted in its place:

21 C. An executive employee shall file an updated statement concerning the current
22 calendar year if the income, reportable liabilities or positions of the executive
23 employee or an immediate family member, excluding dependent children,
24 substantially change from those disclosed in the employee's most recent statement.
25 Substantial changes include, but are not limited to, a new employer that has paid the
26 executive employee or immediate family member, excluding dependent children,
27 \$2,000 or more during the current year, another source that has provided the
28 employee with income that totals \$2,000 or more during the current year or the
29 acceptance of a new position with a for-profit or nonprofit firm that is reportable
30 under subsection 2, paragraph Q. The executive employee shall file the updated
31 statement within 30 days of the substantial change in income, reportable liabilities or
32 positions.'

33 Amend the bill by adding after section 12 the following:

34 **'Sec. 13. 5 MRSA §19, sub-§4**, as amended by PL 2007, c. 704, §7, is repealed
35 and the following enacted in its place:

36 **4. Penalties.** Penalties for violation of this section are as follows.

37 A. Failing to file a statement within 15 days of having been notified by the
38 Commission on Governmental Ethics and Election Practices is a civil violation for
39 which a fine of not more than \$100 may be adjudged. A statement is not considered
40 filed unless it substantially conforms to the requirements of Title 1, chapter 25,
41 subchapter 2 and is properly signed. The commission shall determine whether a
42 statement substantially conforms to such requirements.

