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STATE-LEVEL GOVERNMENT: AN EVALUATION OF MAINE'S CONFLICT OF  
INTEREST LAWS AND AMENDMENTS TO IMPROVE TRANSPARENCY  
THROUGH FINANCIAL DISCLOSURE

by

Shelbe K. Lane

A Thesis Submitted in Partial Fulfillment  
of the Requirement for a Degree with Honors  
(Management)

The Honors College

University of Maine

May 2013

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## Abstract

In March of 2012, the State Integrity Investigation published a Corruption Risk Report Card for each state, giving them a grade on 14 different areas relating to government transparency. Based on those grades, the states were then ranked 1-50, with 50 being the worst in government transparency; Maine ranked 46th. This report card prompted my thesis which evaluated government transparency at the state level, with a particular focus on Maine. Based on my research I attempted to answer the following questions: What are the current statutes/regulations regarding conflict of interest for legislative and executive branch officials in Maine? What potential concerns and problems arise from these current statutes, or the lack of current statutes? What can and should be done to address these concerns and problems? I then took my research and drafted a bill proposal to make amendments to improve Maine's conflict of interest laws which was submitted to the 126th Maine Legislature by Governor Paul R. LePage as LD 1001: *An Act to Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed* by Senator Emily Cain.

“Opportunity is missed by most people  
because it is dressed in overalls and  
looks like work.” –Thomas Edison

## ACKNOWLEDGEMENTS

I would like to express my deepest appreciation for the work, encouragement, and faith of Senator Emily A. Cain and Legal Counsel to the Governor Michael Cianchette. If it had not been for the faith they had in me from the very conception of LD 1001 to the unanimous “Ought to Pass” vote in the Veterans and Legal Affairs Committee work session this thesis project would not have been possible. By giving of themselves, their time, energy, and encouragement they made this achievement happen. Both of them have been, and continue to be an encouragement to me as mentors, as outstanding people, and as examples of the kind of achievements that are possible. You guys are the true rock stars!

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## **CHAPTER 1- INTRODUCTION**

In this age of instant communication, news sharing, and endless potential for information gathering, it seems only fitting that people have become more interested in having access to government records and information about government figures at the federal, state, and municipal levels. “Open government,” “freedom of access,” and “government transparency” have been some of the key labels for this interest in access to government information. The philosophy behind creating a more transparent government is that if citizens have access to all of the information about government officials’ actions and decisions, conflicts of interest will be more easily caught, and corruption essentially eliminated. Politicians have been throwing around buzz words like “government transparency” and “government ethics” in relation to a wide variety of topics, issues, and initiatives. Many proposals and initiatives have been put forth and many have been enacted, in the effort to give citizens more access to information and to improve an array of topics under the umbrella of government ethics. One of the specific topics related to government ethics is conflict of interest. This can be evaluated by reviewing a government official’s personal financial information and comparing that to the official’s involvement in an endeavor where their obligation to act in the interest of their constituents might be obstructed by a competing personal interest. This thesis attempts to understand conflict of interest laws in the states and evaluate the current regulations in Maine to see if improvements can be made.

In order to understand and evaluate the current situation in Maine state government these questions must be answered: What are the current statutes/regulations regarding conflict of interest for legislative and executive branch officials in



Maine?<sup>1</sup>What potential concerns and problems arise from these current statutes, or the lack of current statutes? What can and should be done to address these concerns and problems?These questionswere the inspiration behind this research and ultimately this thesis, which will address these questions based on academic literature and firsthand experience with the legislative and executive branches of Maine state government.The project is two-fold; the first aspect was an extensive literature review, and the second aspect was a research project of civic engagement. The literature review included many examples of state and federal conflict of interest statutes, and a number of academic journals and texts regarding the topics of state-level government political culture and climate, the role of the governor in state politics, and government transparency.The civic engagement projectinvolved an attempt to effect real world changeby researching, drafting, proposing, and defending a bill as a vehicle to change or amend the way conflict of interest in the legislative and executive branches is dealt with in the state of Maine.

An explanation of the civic engagement aspect of this thesis begins with my work as an intern to Governor Paul R. LePage and specifically his legal counsel. As an intern, working alongsideChief Legal Counsel Michael Cianchette,I proposed and defendeda Governor's bill, LD 1001- *An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed.*- before the 126<sup>th</sup>Maine State Legislature. This bill was proposed as a Governor's bill, sponsored by Senator Emily Cain (D-Penobscot), and cosponsored by

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<sup>1</sup>The judicial branch was not included in this thesis. In Maine, members of the judicial branch are appointed, not elected, and the judicial branch activities and procedures are kept very separate from the other two branches of government. The review process for evaluating how well a judge is performing their duties and if they are doing so in an ethical manner is done as part of a separate process and is not really regulated by the Maine Commission on Ethics and Election Practices. Therefore, I decided to leave the judicial branch out of my research.

Representative Michael Beaulieu (R-Auburn) and Senator John Tuttle (D-York). It was heard on March 27, 2013 by the Joint Standing Committee on Veterans and Legal Affairs, chaired by Senator John Tuttle (D-York) and Representative Louis Luchini (D-Ellsworth). The work done surrounding this bill was both a civic engagement act and a means of learning the inner workings of the state legislative process. The bill topic stemmed from a Corruption Risk Report Card and the work of the State Integrity Investigation.

The State Integrity Investigation is a project pointed at “keeping government honest.”<sup>2</sup> The major players who facilitated this project were The Center for Public Integrity, Global Integrity, and Public Radio International.

- *The Center for Public Integrity* claims to be a nonpartisan, nonprofit investigative news organization. Their mission is “to enhance democracy by revealing abuses of power, corruption and betrayal of trust by powerful public and private institutions, using the tools of investigative journalism.”<sup>3</sup> They took the lead on investigative reporting for this nationwide project.
- *Global Integrity* is a non-profit innovation center working to create research tools and technologies to help transparency and accountability evolve through the use of data and technology.<sup>4</sup> They are “striving to ensure more transparent and accountable government for all citizens, regardless of state, region, or country.”<sup>5</sup> They do this by collaborating with both individuals and groups who are working toward implementing government transparency reform. Global Integrity

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<sup>2</sup>“About the State Integrity Investigation”, 2012, <<http://www.stateintegrity.org/about>>

<sup>3</sup>“About the Center for Public Integrity” 2013, <<http://www.publicintegrity.org/about>>

<sup>4</sup>“Our Story” ,<<http://www.globalintegrity.org/about/story>>

<sup>5</sup>“Global Integrity’s Mission”,<<http://www.globalintegrity.org/about/mission>>

helped lead the development of the State Integrity Investigation's "Corruption Risk Indicators." It also is coordinating the project's outreach and engagement with state governments and civil society.<sup>6</sup>

- *Public Radio International* This is a Minneapolis-based public radio organization and major media content creator that focuses on bringing global news and programs to American cities.<sup>7</sup> Their mission is to be a source of information and insight to their audience. They connected with this investigation in an effort to use social media in order to create public engagement.<sup>8</sup>

Together, these three organizations initiated The State Integrity Investigation to analyze each state's laws and practices that prevent corruption and promote government accountability.

In the Spring of 2012, The State Integrity Investigation published a "Corruption Risk Report Card" for each of the 50 states as part of a \$1.5 million public collaboration designed to look at the mechanisms in place—or not in place—in each of the 50 states and grade their corruption potential in a report card fashion based on certain criteria.<sup>9</sup> While the report card does not measure ACTUAL corruption in each of the states, it does examine three concepts identified as indicators of the potential for corruption to exist within the state capitals. Those three concepts are as follows:

1. The existence of public integrity mechanisms, including laws and institutions, which promote public accountability and limit corruption.

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<sup>6</sup>"Investigation Project Partners", 2012, <[http://www.stateintegrity.org/investigation\\_project\\_partners](http://www.stateintegrity.org/investigation_project_partners)>

<sup>7</sup>Sisario, 2012

<sup>8</sup>"Investigation Project Partners", 2012, <[http://www.stateintegrity.org/investigation\\_project\\_partners](http://www.stateintegrity.org/investigation_project_partners)>

<sup>9</sup>"State Integrity Investigation methodology FAQ", 2012, <<http://www.stateintegrity.org/methodology>>

2. The effectiveness of those mechanisms, such as their insulation from political interference, their level of staffing, and their ability to impose penalties.
3. The access that citizens have to those mechanisms, such as access to public records at reasonable cost and within a reasonable time<sup>10</sup>

The research, which was conducted by independent (non-government) contractors during the summer of 2011, provided the information which was then graded on an A-F scale and allowed the states to be ranked 1-50. The state ranking in the #1 spot (meaning the state with the least potential for corruption) was New Jersey.<sup>11</sup> Maine scored 46<sup>th</sup>, with an average score below 59 receiving an overall grade of “F,” with an “F” in 9 out of 14 categories.<sup>12</sup>

The Corruption Risk Report Card, published by the State Integrity Investigation, was the inspiration and starting point to researching government transparency and, more specifically, conflict of interest law in the state of Maine. When the report card was published online, I, along with many state of Maine government officials and the media looked at the scores Maine received. As part of the ethics seminar which preceded the convening of the 126<sup>th</sup> legislature, following the general election, questions were posed related to what is prohibited by the conflict of interest statutes in Maine. The presenter explained the laws related to bribery, use of improper influence, and purchase of public office to which he received the reply “but that just doesn’t happen here in Maine.” So, does Maine need to improve their conflict of interest regulations as suggested by the State Integrity Investigation, or is Maine not at risk for corruption?

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<sup>10</sup>"State Integrity Investigation methodology FAQ" 2012, <<http://www.stateintegrity.org/methodology>>

<sup>11</sup>"State Integrity Investigation: Your State" 2012, <[http://www.stateintegrity.org/your\\_state](http://www.stateintegrity.org/your_state)>

<sup>12</sup>"State Integrity Investigation: Maine" 2012, <<http://www.stateintegrity.org/maine>>

Maine prides itself on “the state’s citizen legislature composed mostly of amateur legislators” who perform their civic legislative duties on only a part-time basis. The benefit, and at the same time the problem, is that these part-time legislators are also doing something else to secure an income outside of their legislative duties and while they bring their expertise from that field they also bring their biases and potential for conflicts of interest. Numerous proposals have already been made in the attempt to legislate ethics reform in Maine’s state government. Former Maine Speaker of the House Glenn Cummings proposed such reform and met substantial opposition during the 123<sup>rd</sup> Maine Legislature; much of his initiative did not pass. Another current example of an ethics reform initiative is a proposal by Senator Emily Cain which is currently before the state legislature. Governor Paul LePage has also submitted a proposal.

It appears obvious that at least some people do think changes need to be made; the opposition is either avoiding the challenge of creating such change or believes that because Maine has not yet had any major corruption that we will never have any in the future. Proposing legislation is the primary way to create change, put in place the mechanisms needed to prevent corrupt practices, and deal with them if they do arise. The challenge is getting a body of individuals, with both common and individual interests, to agree upon legislation that primarily affects those individuals themselves and those who will fill their seats upon the completion of their tenure in the legislature. It is important that reform does take place, and that people realize the importance of this matter. This is why I have pursued this thesis.

I conclude this chapter by defining some of the key terms and concepts that have been presented in my research and which are pertinent to the understanding of the issue at hand.

### *DEFINITIONS*

Conflict of Interest (general)- a situation in which a person's obligation to act in the interest of another is obstructed by a competing personal interest that interferes with the fulfillment of that obligation.<sup>13</sup>

Conflict of Interest (specific)- if a legislator votes on a question in connection with a conflict of interest.<sup>14</sup>

Corruption- involving the abuse of trust, generally involving public power, for private benefit which often, but not always, comes in the form of money or another form of wealth.

Financial Disclosure Statement (FDS)- annual statement disclosing certain required financial information including, but not limited to, assets, liabilities, sources of income and expenses; the purpose of financial disclosure is to “ remind public officials and employees of their financial interests to help them avoid conflicts of interest, and it promotes public confidence in the integrity of government by providing citizens with information about those who serve them”.<sup>15</sup>

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<sup>13</sup>Andrew Crane, and Dirk Matten, (2007) p.366 and Kolb, (2007) p.400

<sup>14</sup> For more see MRS 1§1014

<sup>15</sup>“Financial Disclosure 101”, 2013

Freedom of Information Act (FOIA)- federal law allowing any person the right to obtain access to federal agency records, unless the information requested falls under one of nine exemptions.<sup>16</sup>

Freedom of Access Act (FOAA)- a state of Maine statute intended to open the government up to the public by guaranteeing access to the “public records” and “public proceedings” of state and local government bodies and agencies.<sup>17</sup>

Gift- anything of value received by a legislator, including the forgiveness of a debt or obligation, unless you provide consideration of equal or greater value to the donor (i.e. payment) with the exception of an inheritance or gift from a relative or close friend; in Maine, this must have an aggregate value of \$300 or more.<sup>18</sup>

Government Transparency- government’s obligation to proactive openness and communication with constituents creating a heightened sense of accountability pertaining to government actions.<sup>19</sup>

Open Government- the notion that the people have the right to access the documents and proceedings of government, along with the right to scrutinize and participate in the government.<sup>20</sup>

Political Culture- the system of empirical beliefs, expressive symbols, and values which defines the situation in which political action takes place; grounded in the states’

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<sup>16</sup>"FOIA.gov" 2011

<sup>17</sup> 1 M.R.S. §400-414

<sup>18</sup> M.R.S 1§1012-4

<sup>19</sup>"Declaration of Parliamentary Openness," OpeningParliament.org, 2012

<sup>20</sup>Lathrop and Ruma, 2010,p.xix

historical experience and dominant traditions about what constitutes proper government action.<sup>21</sup>

Public Record- "any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business".<sup>22</sup>

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<sup>21</sup>Morgan and Watson, 1991, p.32-33; also cited in Patterson, 1968, p.188

<sup>22</sup>M.R.S. 1 § 402(3)



## CHAPTER 2- STATE GOVERNMENT AND POLITICS

State governments take many different dynamic approaches to governing which are representative of 50 unique political and cultural climates. At the same time, all 50 states have common attributes that shape them. This chapter defines state political culture and climate, identifies the players in the policy arena, and frames the concept of a policy preference and agenda. There is a focus on gubernatorial power, position, and impact in the policymaking process, which is different from state to state. This thesis will place emphasis on the relationship between a state governor and the legislature.

### *POLICY PROCESS & STATE-LEVEL GOVERNMENT*

Political culture in the states can be defined as “the system of empirical beliefs, expressive symbols, and values which defines the situation in which political action takes place...[grounded in] cumulative historical experience and dominant traditions about what constitutes proper government action.”<sup>23</sup> There are a group of major players who help shape the political culture and climate but who are not members of the government but whose impact and insight cannot be left out of the equation. These “outsiders” include the media, interest groups, academics, researchers and the public. These groups have a heavily vested interest in the implications of government actions. Let us briefly examine the interest and impact of these groups.

*Special interest groups:* Academic research places interest groups right up there with Congress and the president’s administration when it comes to influence on policy in the federal arena.<sup>24</sup> “When the public isn’t that involved in it, you have to deal with the vested interests. Generally, then, the lower the partisanship...and campaign visibility of

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<sup>23</sup>Morgan and Watson, 1991, p.32-33

NOTE: definition combines words of Sydney Verba & Daniel Elazar

<sup>24</sup>Kingdon, 2011, p.46-47

the issues in a policy domain, the greater the importance of interest groups.”<sup>25</sup> These groups bring issues to light both in the capitol and through the media, they send lobbyists to the capitol, they provide information on a particular issue, and they have policy objectives.<sup>26</sup> These attributes make them highly influential because they tend to know the issue better than others and have the tools to influence both legislation and public opinion.

*Public opinion:* An incredibly powerful force in determining what policies are and are not made and what government policy agendas look like is public opinion. This should make perfect sense based on the fact that government officials are representing the public and elected by the public. Creating a policy agenda that fits with the interests of the vast majority of constituents is the most popular choice for a politician seeking approval and potentially re-election from that constituent body. “Members of Congress care intensely about reelection. Although they are not single-minded seekers of reelection, reelection is their dominant goal.”<sup>27</sup> Reelection drives politicians to pay close attention to public opinion at both the congressional and state legislative level; however, “mass public opinion affects the agenda more than the alternatives.”<sup>28</sup> This means that government officials take heavily into consideration the topics that are on the mind of the majority of citizens, and then they look to other sources for potential alternatives that should be considered.

*Media:* The media has a significant impact on legislators in two ways; it shapes public opinion on policies and issues, and creates the public’s image of individual

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<sup>25</sup>Kingdon,2011, p.47

<sup>26</sup>Arnold, 1990, 3.and Kingdon,2011, p.47-51

<sup>27</sup>Arnold, 1990, p.5

<sup>28</sup>Kingdon,2011, p.66

legislators. Media is both a tool and a curse to a legislator. “The mass public’s attention to governmental issues tracks rather closely on media coverage of those issues.”<sup>29</sup> The media has the ability to alter the public’s policy choices by making news presentations which influence the public’s perception of an issues importance.<sup>30</sup> Without the media citizens would have a very difficult time educating themselves on the issues facing anything beyond their local environment, and in this sense legislators can use the media to educate citizens about the issues they are working on and why it is important to work on them. On the other hand the media typically sheds a negative light on legislators, “politics and politicians are covered in ways that highlight conflict and controversy, on the one hand, and personal ambition and ethical lapses, on the other.”<sup>31</sup> Legislators and other government officials can take advantage of the media toward their own aims as well. They can use the media “to build public support for a measure... [they] endorse,” “to build public support and thereby persuade the legislature to back [the proposal],” or “to encourage opposition to a legislative initiative that the governor [or legislator] opposes.”<sup>32</sup>

*Academics and Researchers:* “Ideas from academic literature are regularly discussed by Hill staffers, bureaucrats, and lobbyists.”<sup>33</sup> This places academics and researchers in one of the most important outsider positions, because their presence is already established and is not limited to one specific topic. In contrast with an interest group who advocates on one issue or for one category of people, academics and researchers evaluate and study a broad range of topics. Once a researcher or academic

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<sup>29</sup>Kingdon, 2011,p.57

<sup>30</sup>Cook et al, 1983, p.17

<sup>31</sup> Rosenthal, 2008, p.23

<sup>32</sup> Rosenthal, 2008, p.277

<sup>33</sup>Kingdon,2011, p.54

has established a name for themselves government officials look to their work for future guidance and for policy alternatives and for policy solutions to problems.<sup>34</sup> The catch for this group is that policy makers tend to turn to them only once an issue is already on their mind, meaning academics and researchers are often working inside the government figuring out what the issues are and then stepping outside into a university or research setting to search for and find solutions to those problems.<sup>35</sup>

Policy preferences are shaped by a variety of things, in addition to all of the outside influences mentioned previously the political parties play a significant role in the policy preferences of a legislator. Sarah McCally Morehouse suggested that “the single most important factor in state politics is the political party.”<sup>36</sup> In fact this is a common viewpoint among political scientists as can be read in numerous journals, books, and articles. Discussing the relevance of parties in understanding policy, Richard Winters notes that parties play possibly the most significant role in American politics as a whole; “we define our candidates in party terms and our issues in party terms; in fact, we define ourselves in terms of the political party.” Based on the current state of affairs in Washington, D.C. we, as an American society, are becoming accustomed to constant complaints about “party politics,” “partisan politics,” and the lack of cooperation that seems to be the result; however parties are not just a problem they are an established system that creates consistency. Parties carry a set of values and ideologies that they consistently apply to policies.<sup>37</sup> This is most significant when we look at government leadership in the states because public policy tends to change when the governor’s office

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<sup>34</sup>Kingdon, 2011, p.55-57

<sup>35</sup>Kingdon,2011, p.56

<sup>36</sup>Dye, 1984, p.1097-1098

<sup>37</sup>Dye, 1984, p.1101

or majority of the state legislature switch from Democratic to Republican and vice versa. Competition between the political parties is another dimension considered indicative of state political culture.

There are three primary categories used to describe state political cultures: individualistic, moralistic, and traditionalistic.<sup>38</sup> Empirical tests by several researchers have shown correlations between the states' political culture and both political participation and party competition. Sharhansky was able to show that traditionalistic states have lower political participation from their constituents; Johnson confirmed Sharhansky's results and found that individualistic states have the most competition between parties.<sup>39</sup> In addition, Hanson observed that traditionalist states have lower levels of voter turnout (low political participation) and less party competition.<sup>40</sup> I will return to this discussion of political parties in chapter 4 when evaluating the current situation in Maine.

Also important to this discussion of political players and attributes leading up to the creation of a policy agenda and legislative proposals are events such as a new majority in the legislature or a change in the administration. Kingdon refers to these events as "electoral, partisan, or pressure group factors."<sup>41</sup> New agendas are formed under two circumstances: either an incumbent changes his/her priorities or an election takes place and the personnel change.<sup>42</sup> "Elections bring new participants into the policy

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<sup>38</sup>Morgan and Watson, 1991,p.33; NOTE: Based on the work of Daniel Elazar,

<sup>39</sup>Ibid.

<sup>40</sup>Ibid.

<sup>41</sup>Kingdon, 2011, p.145

<sup>42</sup>Kingdon, 2011, p.153

process and provide deadlines for policy choices.”<sup>43</sup> The beginning of a new administration or of a switch in majority in the legislature from Democratic to Republican or vice versa is the optimal time to change the policy focus because there are different players. Such a change also signals a change in the “public mood,” Robinson and Warren describe this as “the tendency of the public to support or oppose extensions of governmental problems.”<sup>44</sup> Kingdon suggests that elections resulting in a shift in representation also demonstrate a shift in public mood<sup>45</sup> Politicians are forced to take these things into consideration as they set their policy agendas and make proposals, because a lack of consideration for these factors will result in an unsuccessful attempt to pass legislation.

As evidenced by the information presented here so far, there are many factors that go into creating a policy agenda. I imagine that accurately understanding or predicting what issues and proposals belong in a policy agenda would be very difficult. So the question may be what is the importance of a policy agenda? As a legislator or governor you must choose where to focus your efforts after considering at least some of the problems that are affecting your constituency. Putting your effort toward legislating on all of them would be an insurmountable task, not only because of sheer volume or the lack of insight available to even create a list of all the problems, but also because every issue has an optimal time to be addressed with policy. “Only when a prominent problem can be linked to a viable policy consistent with national mood at a time when elected

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<sup>43</sup>Robinson and Warren, 2010, p.4

<sup>44</sup>Ibid.

<sup>45</sup>Kingdon, 2011, p.146-149

officials can make a decision will policies emerge.”<sup>46</sup> This is to say that until a problem is fully presented, and a viable solution or array of solutions has been found can a policy be created and begin its trip down the policy stream.<sup>47</sup> Policy agendas are primarily used by those at the top of their domain (i.e. the President or governor) and are used to establish a plan and direction in which to go and to determine what subjects they wish to have their subordinates pay attention to. It is very important that the policy agenda, once established, is well conveyed to those appointed by the administrator and to the legislature, especially those in the same political party, because it is the senators and representatives who have the most influence on these initiatives. This is also an explanation for why the most powerful political combination is a legislative majority of the same party as the governor or president. “Senators and representatives are discussed frequently partly because they are among the few actors in the political system who have marked impacts on both the agenda and the alternatives that are seriously considered.”<sup>48</sup> Once the agenda has been established it becomes about writing successful legislative proposals.

In order for a policy proposal to survive its journey down the policy stream, there are certain criteria that must be met; Kingdon calls this the “criteria for survival,” Robinson and Eller say “Natural selection mechanisms vet potential policy solutions by eliminating the normatively and pragmatically unviable policies,” both are suggesting the

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<sup>46</sup>Robinson and Warren, 2010, p.4giving reference to Kingdon, 2011, p.165-195

<sup>47</sup> The “policy stream” is a metaphor used most prominently by John Kingdon in his multiple streams model of understanding policy process. In this model Kingdon concentrates on the timing and flow of policy making and implementation to illustrate the importance of context such as the political climate, timing, and events that bring change which must be dealt with in the policy and agenda setting process. (Note from: Kingdon, 2011 and <http://www.metagora.org/training/encyclopedia/Kingdon.html>)

<sup>48</sup>Kingdon, 2011, p.35

same thing.<sup>49</sup> There are three primary criteria that must be met for a policy to be considered viable: technical feasibility, value acceptability, and anticipation of future constraints. Technical feasibility is, in essence looking ahead to implementation and asking the question, how will this policy be “brought into practical use”?<sup>50</sup> This means looking at the proposal and specifying the actual mechanisms that would be needed to put it in place and if that can realistically be done. Value acceptability is about evaluating specialists’ values and deciding if the proposal fits with their ideology because without the support of specialists there is no substance to back up the proposal. This also means considering does the proposal have “equity and efficiency.”<sup>51</sup> Last is anticipation of future constraints. This is where budget considerations come into play. Anticipating future constraints means evaluating if the proposal is economically feasible and where the money would be allocated from, it also means considering what the general public opinion will be of the policy, and considering how the group or groups specifically affected by the policy will feel about it.<sup>52</sup> I will revisit this system of evaluation in Chapter 5 when I discuss the design of my legislative proposal.

As a result of the checks-and-balances system of government devised by the Founders, there are a few areas in the lawmaking process where the executive branch and legislature have overlapping roles and powers. The overlaps include the ability to set program and policy agendas, participating in budget formulation, shaping policies, and using the power of veto to override each other.<sup>53</sup> Individual legislators and the governor are both able to initiate legislation. In this way, each individual is able to push forward

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<sup>49</sup> Quote: Robinson & Warren, 2010, p.4

<sup>50</sup> Kingdon, 2011, p.131

<sup>51</sup> Kingdon, 2011, p.132-133

<sup>52</sup> Kingdon, 2011, p.137-139

<sup>53</sup> Rosenthal, 2008, p. 265-272



their policy agenda, however the governor has the upper-hand in this situation for “constitutional, statutory, and political reasons” as the governor can also be referred to as “Chief Legislator,” giving him/her the most prominent title in the lawmaking arena.<sup>54</sup>

Looking at the purely political reasons why it is appropriate to give the governor this title, possibly one of the most influential is the governor assembles the most important agenda: the budget. The level of media attention allotted to the governor in comparison to that allotted to individual legislators is another important distinction that provides the governor with an advantage. This is a powerful tool in pushing forward an agenda based on constituent support. Rosenthal refers to this as “the bully pulpit,” expressing that the governor has the advantage of taking the administration’s policy objectives to the public from an elevated pulpit where they can be easily heard. This compared to the legislators who have no pulpit at all from which to speak loudly and continually to the public. This allows the governor to publicize his initiatives and gather support; constituents in turn contact their legislators in support of the initiative pressuring them to vote in support as well, this is especially true if the governor is of the same party as the legislator. The governor holds two roles that provide a policy advantage: “as state chief executives, they have the legitimacy to propose major governmental reforms; and, as chief legislative officers and political leaders, they have resources to steer their proposals through state legislatures.”<sup>55</sup> As a result the governor has a superior position when it comes to pushing bills successfully through the policy making process.<sup>56</sup>

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<sup>54</sup>Rosenthal, 2008, p.275

<sup>55</sup>Durning, 1995, p.36

<sup>56</sup> Rosenthal, 2008, p.276-283

In the event that legislation is passed by the legislature that the governor does not agree with or feels should be looked at for a second time he/she has the ability to override it by vetoing the bill. Rosenthal explains:

The veto power, which is enjoyed by governors in every state, enables most governors to negotiate from a position of strength. Unless the legislature has the extraordinary majority of votes needed to override a veto, it had better attempt to satisfy the governor's objections. For many governors the veto, whether threatened or used, is a significant part of their governing styles.<sup>57</sup>

This power of veto comes in two forms: the line-item veto, and a conditional or amendatory veto.<sup>58</sup> The line-item veto allows the governor to read a piece of legislation and veto sections or items from the bill without vetoing the whole thing. A conditional or amendatory veto means that the governor can veto a bill and send it back to the legislature along with recommendations or amended language. Either way the bill is slowed down and revised or, without a three-fifths majority, not passed. This power, when used for bargaining, "helps secure the passage of their preferred legislation."<sup>59</sup>

Political culture plays a particularly important role in state-level politics, rooted in the state's history. The media, special interest groups, and other outside influences play a major role in shaping the policy preferences and agendas that are taken up by state legislators and the governor. As chief legislator, the governor has a powerful position in shaping the agenda as well. Each of the points that have been made about state government help to explain how it operates and what factors have the most influence on its operation; the next chapter depicts government through a slightly different lens by placing a particular focus on government ethics, transparency, and conflict of interests.

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<sup>57</sup> Rosenthal, 2008, p.273

<sup>58</sup> Rosenthal, 2008, p.273-274

<sup>59</sup> Ferguson, 2003, p.163

## CHAPTER 3-TRANSPARENCY & OPEN GOVERNMENT

### *Promoting a Culture of Openness:*

*“Parliament has a duty to enact legislation, as well as internal rules of procedure and codes of conduct, that foster an enabling environment guaranteeing the public’s right to government and parliamentary information, promoting a culture of open government, providing for transparency of political finance, safeguards freedoms of expression and assembly, and ensuring engagement by civil society and citizens in the legislative process.”<sup>60</sup>*

-Declaration of Parliamentary Openness, August 2012, Supported by 53 countries, the European Union, and Latin America

The first memo produced by the Obama Administration included a subject heading “Transparency and Open Government.” This memo demonstrated the United States’ continued engagement in promoting a political culture of government openness. In the U.S., this shift can be rooted back to the regulations adopted and changes made in government in the wake of the Watergate scandal. In the memo President Obama outlined what government “should be,” saying that the U.S. government would “establish... transparency, public participation, and collaboration.”<sup>61</sup> The president listed several key reasons why this was a priority for his administration, and they sum up the reasons why government transparency and open government are sought after in a general sense. Two of the reasons are to promote the strengthening of democracy and to make government more effective and efficient through accountability. Let us examine why these may be results of transparency and openness.

One of the major goals of government transparency and openness is to promote the strength of democracy. Alan Rosenthal’s *Engines of Democracy* highlights numerous key components of how politics and policymaking work in state legislatures. Rosenthal

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<sup>60</sup> “Declaration of Parliamentary Openness,” OpeningParliament.org, p.2

<sup>61</sup> Lathrop and Ruma, 2010, p.389

NOTE: The memo written by President Barack Obama can be found in this thesis Appendix A

stated that “Legislatures are impressive political institutions...people in the nation and states do not directly decide policy but rather choose those who decide on their behalf...[they are] the essence of representative democracy.”<sup>62</sup> We can go back to the papers that came out of the Constitutional Convention in 1787 where Madison, Hamilton and others were debating how to construct a political system for America; upon reading these documents we find that they believed representation in the House and Senate was crucial to the function of the government. Hamilton wrote, “The whole power of the proposed government is to be in the hands of the representatives of the people. This is essential, and after all, the only efficacious security for the rights and privileges of the people which is attainable in civil society.”<sup>63</sup> We can go back even further to Locke’s *Second Treatise of Government*, which was of great influence to the Founders, and see that he too believed that there needed to be representation of the people in government and that the work of these representatives “ought to be designed for no other end ultimately but the good of the people.”<sup>64</sup> The legislature is the institution which provides this representation, and if it fails to be representative of the people the system is broken.

One problem state governments are facing is a breakdown of this principle of representation. Madison said the election process and representative government “will be more likely to center on men who possess the most attractive merit and the most diffusive and established characters.”<sup>65</sup> However this excerpt from Rosenthal depicts the current perception of state legislatures more accurately than Madison’s description of an ideal legislator:

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<sup>62</sup> Rosenthal, 2008, p.8 &14

<sup>63</sup> Federalist # XXVII (28); Kramnick ed., 1987 p.206

<sup>64</sup> Locke, Peardon ed., 1997, p.81

<sup>65</sup> Federalist X (10); Kramnick ed., 1987 p.127

Americans today are hardly convinced that legislators are the most virtuous among them, or that they are virtuous at all. They are distrustful of politicians generally... They do not believe that those who are elected care about or represent them or their interests. In the Knowledge Network survey, as shown in Figure 1-1,<sup>66</sup> only 39 percent agreed that “elected officials care what their constituents think,” while 34 percent felt that they did not care. Only 35 percent agreed that ‘elected officials work to serve the public interest,’ while 41 percent thought that they ‘work to serve their own personal interests.’ A large percentage of Americans believe that public officials are not only self-interested but also corrupt.<sup>67</sup>

So why does the majority of Americans believe they are not being represented?

Rosenthal outlines eight reasons why he believes this has happened ranging from that legislatures are an easy target for criticism to the fact that the media accentuates the negative situations rather than the positive. One of his explanations applies to transparency and moves us into conflict of interest as well: “people generalize from the worst cases, not the best cases.”<sup>68</sup> There are situations when legislators have been convicted of a crime in office, disciplined by a state ethics commission, or accused of a vote in which they had a personal interest. These are the stories that make it out to the public via the media. Yet there is no counteraction in which it is explained to the public what safeguards have been put in place to prevent such actions, or where legislators have been asked to disclose information to keep them accountable, or simply the positive stories about what they are doing in the interest of the greater good without a personal gain.

Another goal of government transparency is to make government more effective and efficient through accountability. In academia there seem to be opposing views as to

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<sup>66</sup>Figure 1-1 can be seen in Appendix D

<sup>67</sup>Rosenthal, 2008, p.14-15

<sup>68</sup>Rosenthal, 2008, p.25

whether transparency actually improves effectiveness and efficiency or if it does the exact opposite, hindering legislative progress. One side of the coin is, “By enacting ethics laws, legislatures have hoped to pacify the press and public so that they could move on with their broader agendas.”<sup>69</sup> The other side however, is the one that President Obama and many others have focused on, which is accountability to the public. The legislature was initially designed to be representative of and accountable to the public; the most efficient and effective way to improve accountability is through increased transparency. The introduction to the U.S. National Open Government Action Plan states “[the U.S. will] focus Open Government efforts on increasing public integrity, more effectively managing public resources, and improving public services.”<sup>70</sup> One example given in the Action Plan is the establishment of Performance.gov, a website set up to track “progress underway in cutting waste, streamlining government, and improving performance.” The website can be accessed by both the government and the public meaning that the public can monitor the changes being made, which keeps the legislature accountable and pushes them to show continuous progress.<sup>71</sup> On Performance.gov President Obama is quoted expressing essentially this same motive, “If we believe the government can make a difference in people’s lives, we have the obligation to prove that it works – by making government smarter, and leaner and more effective...” Another improvement that the Action Plan hopes to achieve is more public participation in the development and passing of regulations in order to better represent the constituency and as another safeguard against conflicts of interest.<sup>72</sup> Instituting policies with the specific

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<sup>69</sup> Rosenthal, 2008, p.213

<sup>70</sup> “The Open Government Partnership: National Action Plan for the United States of America”, p.1

<sup>71</sup> “The Open Government Partnership: National Action Plan for the United States of America”, p.7

<sup>72</sup> “The Open Government Partnership: National Action Plan for the United States of America”, p.7-8

intention of making information more readily accessible to the public will allow for an increase in public participation while decreasing public skepticism.

Another way to look at government transparency policy is to consider it a sequence of events or “action cycle”:

- Information users perceive and understand newly disclosed information
- And therefore choose safer, healthier, or better quality goods and services (in the case of government this means electing officials and supporting policies)
- Information disclosers perceive and understand users’ changed choices
- And therefore improve practices or products (better policies)
- That in turn reduce risks or improve services (better government)<sup>73</sup>

However you look at it, transparency enables citizens to be more informed and able to provide better feedback to a more accountable group of government officials.

### *CONFLICT OF INTEREST LEGISLATION*

*“Political power, then, I take to be a right of making laws with penalties...and all this only for the public good.” - John Locke<sup>74</sup>*

The National Conference of State Legislatures separates the state legislatures into three categories: full-time, part-time, and what they call a “hybrid.” A full-time legislature requires that elected officials spend the equivalent of 80-100% as much time as a full-time job. Part-time means lawmakers are spending the equivalent of half a full-time job in the legislature. The “hybrid” category means legislators are spending about two-thirds the equivalent of a full-time job working in the legislature.<sup>75</sup> Typically, the legislatures can be separated into these three categories based on population size in the

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<sup>73</sup>Fung, Graham, and Weil, 2007, p.6

<sup>74</sup>Locke, Peardon ed., 1997, p. 4

<sup>75</sup>NCSL, 2009

state with the highest populations having full-time legislatures and the lowest populations having part-time legislatures. This means that full-time legislators are compensated at a higher rate equal to that of a full-time job compared to part-time legislators who are compensated minimally and need another source of income in order to make a living.<sup>76</sup> Note the following table; the average compensation for a part-time legislator is clearly not enough to be considered a living wage without some form of supplemental income. The implication of this arrangement is that legislators work in the private sector or elsewhere in the public sector while performing their civil service in the legislature and therefore inherently have potential for a conflict of interest if a bill presents an opportunity for gain or advantage in their sector, business, or for themselves on a personal basis.

<b>Category of Legislature</b>	<b>Time on the Job (1)</b>	<b>Compensation (2)</b>	<b>Staff per Member (3)</b>
Red: Full-time	80%	\$68,599	8.9
White: Hybrid	70%	\$35,326	3.1
Blue: Part-time	54%	\$15,984	1.2
Notes: 1. Estimated proportion of a full-time job spent on legislative work including time in session, constituent service, interim committee work, and election campaigns. 2. Estimated average annual compensation of legislators including salary, per diem, and any other unvouchered expense payments. 3. Ratio of total legislative staff to number of legislators. This includes central legislative staff offices, so it is not a measure of how many staff work directly for each legislator.			

Source: NCSL, 2009

Academic literature regarding government ethics, conflict of interest in government, and government transparency exists most prevalently from the early 1980s.

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<sup>76</sup>NCSL, 2009



This is reflective of the time in which a greater focus was placed on these topics and new laws to regulate them began to immerge. Commonly referred to as “sunshine laws”, government transparency, conflicts of interest, and financial disclosure really began to immerge at the federal level with the passing of the Sunshine Act in 1976. The Sunshine Act required that “all portions of all meetings conducted by federal agencies be open to the public unless they fit within one of ten exemptions.”<sup>77</sup> Amendments were made to the Freedom of Information Act (FOIA) as a result and the two acts together created a more complete set of laws about the disclosure of government documents and operations. A review of the Sunshine Act published in the Duke Law Journal in 1977 raised some concern about the effect that the Act would have on the efficiency of government: “While it is in the public interest to have open government, it is also in the public interest to have a government which operates as efficiently and productively as possible.”<sup>78</sup> Arguments were made at the time of the Acts passing that it would make government operations too rigid and therefore less productive. Financial information was exempt from disclosure under the Sunshine Act partially for this reason as Congress sought a balance between increased transparency and accountability without limiting flexibility.<sup>79</sup>

Just two years after the passing of the Sunshine Act, Congress looked to further their transparency initiatives with the Ethics in Government Act of 1978.<sup>80</sup> This act was put in place to require financial disclosure by certain candidates, nominees, and public officials, “thereby creating records that the public and the press may scrutinize for

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<sup>77</sup> Baird, 1977, p.565

<sup>78</sup> Baird, 1977, p.571

<sup>79</sup> Baird, 1977, p.591

<sup>80</sup> Walter, 1981, p.659

potential conflicts of interest.”<sup>81</sup> The Ethics in Government Act gave birth to the idea of financial disclosure as a means of preventing and evaluating conflicts of interest in government. The Act also created the Office of Government Ethics (OGE). This information is noteworthy because these were the building blocks from which states began to establish ethics commissions and boards and began evaluating conflicts of interest within their own state governments. The information that is currently disclosed in many states stemmed from the original goals and requirements of the Ethics in Government Act of 1978.

In spite of the laws and preventative measures that are in place, we can reference several recent examples of politicians getting caught up in a conflict of interest. An early example is the conviction of a U.S. Senator from New Jersey in the early 1980s, Harrison “Pete” Williams (D-New Jersey), who was caught by the FBI on numerous charges of misconduct, using his position in office for private gain. He was caught in a set up accepting bribes from foreigners seeking American citizenship and conspiring with businesses to push forward initiatives for private gain. He promised to use his relationships with top officials to secure a government contract for a mining company in exchange for a \$100 million loan.<sup>82</sup> A more recent example of misconduct was the indictment of Republican Illinois Governor George Ryan in 2003. Ryan was convicted of using his office in exchange for money and gifts and for the misuse of campaign contributions. He used his position to negotiate government contracts worth millions of dollars into the hands of friends in exchange for gifts and cash amounting to

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<sup>81</sup> Walter, 1981, p.659

<sup>82</sup> “Williams, Harrison Arlington Jr.” from Grossman, 2008

\$167,000.<sup>83</sup> Another example, U.S. Representative Randall Cunningham(R-California), pled guilty to accepting over \$2 million in bribes in exchange for political favors. These bribes came in various forms, the founder of a defense contracting company purchased Cunningham's home at a severely inflated price, and another military contractor paid for his daughter to attend college, while yet another company wanted their product used by the federal government so Cunningham pushed for their product while receiving \$630,000 in cash.<sup>84</sup> The link we can make between these individuals and their cases is that each used their political office for significant personal financial gain; these bribes could have been uncovered before the magnitude of these crimes could escalate to the levels they reached had they been forced to disclose their finances.

In response to scandals, media attention, and public criticism state legislatures have been passing laws and picking up new practices to govern legislative ethics.<sup>85</sup> There are nine main categories of ethics legislation in place in the states. "Ethics training is now offered in most states and is mandated in thirteen," these training sessions focus on informing legislators about the ethics laws and regulations in place in their state and how to comply with those laws.<sup>86</sup> There are laws to prevent nepotism, keep legislators from being employed as lobbyists immediately following their time in the legislature and make it illegal to accept gifts or honorariums. All but three states require legislators to file a financial disclosure form on which they must disclose their assets and sources of income, in an effort to prevent conflicts of interest along with not allowing employment in certain professions while in the legislature, for example while serving in the legislature

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<sup>83</sup> "Ryan, George Homer" from Grossman, 2008

<sup>84</sup> "Cunningham, Randall Harold" from Grossman, 2008

<sup>85</sup> Rosenthal, 2008, p.210

<sup>86</sup> Ibid.

an individual is not allowed to also be employed as a lobbyist. Most states require lobbyists to file with a state agency or commission disclosing the name and industry of their employer and their expenditures on lobbying activities. Finally, many states have established an ethics enforcement agency or ethics commission which is independent of the legislature and has investigative and enforcement powers.<sup>87</sup> Rosenthal states that “new ethics regulation has certainly not eliminated corruption, but it has had a marked impact on legislators and legislatures. Probably the most significant effect has been a transformation of cultures in most state capitals.”<sup>88</sup> The impact that Rosenthal is referencing is an increased sense of accountability.

The idea behind increasing transparency is that there is a direct relationship between transparency and accountability. It seems to make sense that increasing the amount of information officials and government agencies are required to disclose the more likely they will act in an ethical manner because they would not want to have anything bad known about them; accountability as a result of potential shame. Jonathan Fox states “transparency is supposed to generate accountability.”<sup>89</sup> The question is does this work in practice? “The actual evidence on transparency’s impacts on accountability is not as strong as one might expect.”<sup>90</sup> Transparency utilizes the power of shame and the human conscience and this has been given as the logical path between transparency and accountability. The question Fox posed was this: what about the shameless? “If the power of transparency is based on the “power of shame”, then its influence over the

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<sup>87</sup> Rosenthal, 2008, p.210-212

<sup>88</sup> Rosenthal, 2008, p.214

<sup>89</sup> Fox, 2007, p.663

<sup>90</sup> Fox, 2007, p.664

shameless could be quite limited.”<sup>91</sup> Transparency has boundaries, it is not entirely sufficient to create an ethical climate and all together eliminate conflict of interest, however I would argue, as did Fox, that it is a necessary preventative tool.

Governments and academics alike have learned through the research that has been done and the initiatives that have been implemented how increased transparency can effect government and the public. We have learned what works and what does not. We have clearly learned that more can be done to increase accountability and public trust. Another important lesson has been that government needs to be efficient and overregulation decreases that efficiency, but under regulation allows for ethical loopholes. Much has been done to evaluate government transparency, but there is still more work to be done. In the legislative arena, as of the early 1980s even though financial disclosure rules had been added not much “ha[d] been changed in the applicable substantive law regarding conflicts of interest”. Since the ‘80s more has been done legislatively, but academic literature analyzing what has been done and if it is effective does not exist.<sup>92</sup> The research and literature about government transparency at the state level is almost nonexistent. Conflict of interest as it is related to government is even scarcer, and the literature that does exist places an emphasis only on the relationship between transparency and the use of technology. There are many more crucial facets to the issue of transparency than how technology enables governments to make information public. These areas need to be studied and analyzed in order for improvements to be made to state and federal government. In the 1970s and ‘80s state government was a topic frequently studied by political scientists; however literature from more recent

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<sup>91</sup>Fox, 2007, p.665

<sup>92</sup>Walter, 1981, p.659

decades is very hard to find making the current information and research available mostly outdated material. That is not to say that it is no longer accurate, it may still be, but there are no current evaluations of if this is so.

States and the federal government have legislated ways to prevent and deal with conflicts of interest. These statutes identify what is to be considered a conflict of interest, put in place mechanisms to prevent and monitor potential conflicts of interest, and also impose penalties for breaking those barriers. The primary ways this is being done are requiring periodic financial disclosure, regulating the type of employment officials can have upon leaving office, and regulating the gifts and honorariums they receive while in office. The next chapter will take a closer look at what Maine has done, both in practice and in statute, in comparison to other states.

## CHAPTER 4- CURRENT SITUATION IN MAINE

This thesis focuses on politics and statutes in the state of Maine, because Maine is my home state and the place my legislative work is taking place. Some background on politics in Maine will provide a set up for going more in depth with the laws and the legislative process I am working with. Maine operates under its original 1819 constitution, which has been categorized by Daniel Elazar, an expert on state politics, as a “commonwealth constitution.” He notes that this type of constitution “is usually brief and concerned mostly with setting forth the essentials of government.”<sup>93</sup> It has been my finding through reading many of Maine’s statutes that this is how most of Maine’s statutes are laid out; they are brief and rather general in nature and set the foundation for practices rather than explicitly requiring a specific action. This means they are often open to interpretation based on certain moralistic principles.

Maine’s political culture has been categorized by Elazar as just that, moralistic. Indicative of the state’s moralistic culture is the idea that “the strongest force keeping citizens in touch with their government is a commonality of values in Maine.”<sup>94</sup> While the moralistic political culture originated out of the towns of New England and Puritan values, it does not exclusively mean that the political climate is ethical or based on principles of ethics, it also includes ideas such as being community-oriented and citizen operated.<sup>95</sup> This is indicated by the fact that Maine has a citizen legislature of which it is extremely proud of and cherishes as a symbol of constituent representation.<sup>96</sup> Maine legislators spend a significant amount of time in their constituencies, meeting and talking

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<sup>93</sup> Palmer, et al., E-book, 1992, location 829

<sup>94</sup> Palmer, et al., E-book, 1992, location 67

<sup>95</sup> Palmer, et al., E-book, 1992, location 132

<sup>96</sup> Palmer, et al., E-book, 1992, location 67

with citizens and then taking their ideas and concerns back to Augusta. Another indication of a moralistic state is that they are “more likely [to] adopt political reforms and innovations.”<sup>97</sup> Maine has led the way with several innovative pieces of legislation, political elections, and appointments have been examples to the rest of the country; the saying goes “as Maine goes, so goes the nation.” Just to name a few examples, Maine was one of the first to institute fairly strict lobbyist registration laws, Maine elected Margaret Chase Smith as the first female U.S. Senator and was a leader for women in state politics as well, and Maine was the first state to enact a domestic violence law allowing for the opening of the first domestic violence shelter. So, it seems that Maine does truly fit into Elazar’s description of a moralistic political culture.

In another study, however, by political scientist Thomas Dye which evaluated different criteria and used different variables, Maine was ranked as an individualistic culture which is characterized by conceiving “of the political system as a marketplace, in which individuals and groups advance their self-interests through political action.”<sup>98</sup> It appears in my research that there is more evidence in support of the first categorization; however this possibility of individualistic tendencies is something to keep in mind while considering ethics and conflict of interest laws, as we are doing here. The potential for this orientation toward individual goals largely stems from the fact that an amateur, part-time legislature requires that legislators also have another source of income and therefore often times another occupation. Such an occupation “must also permit a legislator to maintain a flexible working schedule.”<sup>99</sup> This means many are self-employed, business

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<sup>97</sup> Morgan and Watson, 1991, p.34

<sup>98</sup> Morgan and Watson, 1991, p.33

<sup>99</sup> Palmer, et al., 1992, location 1012



owners, or, in Maine, retired educators.<sup>100</sup> There are few other circumstances which allow individuals the time off required while the legislature is in session. This double-occupation status presents potential for self-interested individuals to seek personal gain and engage in activities which show a conflict in interest between their personal gain and the broad public welfare. Maine attempts to combat this issue by having an “open” style of politics where citizen are able to be highly involved.

This “open” style of government was a very new idea nationwide when it really began here in Maine in the gubernatorial election of 1954.<sup>101</sup> Before the 1950s, Maine was a largely Republican state with very few exceptions. There is a story told in *Maine Politics and Government* about an election warden who was counting the votes after an election who came upon one Democratic vote, so he set it aside. Just a bit later he came upon a second Democratic vote at which time he picked up both and tore them up exclaiming “They are illegal. The Democrat, whoever he is, voted twice!”<sup>102</sup> When Edmund Muskie, a Democrat, ran for governor in 1954 he needed to offer something the other party was not, so he offered a “hands-on” accessible style of politics.<sup>103</sup> It was not necessarily that Republicans opposed this initiative for open government, it was just an innovative idea created by the Democratic candidates as a way to present something new that might begin to swing Republican voters in their direction. This created a turning point in Maine politics and gave us the two-party politics that are currently seen, mostly

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<sup>100</sup>Palmer, et al., 1992, location 1012

<sup>101</sup> Palmer, et al., 1992, location 420-462

<sup>102</sup> Palmer, et al., 1992, location 354

<sup>103</sup>Palmer, et al., 1992, location 420-462

in a context of moderation with neither party always having control nor always voting on party lines.<sup>104</sup>

This system and culture, by design, tend to keep elected officials honest and working for the common good, because citizens are able to be involved and watch what is going on and an official best do a good job because reelection is not a given. All of these historical points and political culture characteristics lead many to believe that Maine is a highly ethical state, with little need to fear corruption or unethical practices. The recent study, producing the “Corruption Risk Report Card” introduced in chapter one, concluded differently, saying that Maine has every reason to fear such a thing because Maine does not have statutes in place regulating many of the ethical areas of concern.

To reiterate from chapter one, the “Corruption Risk Report Card” evaluated the mechanisms in place –or not in place—in each of the 50 states and graded their corruption potential in a report card fashion.<sup>105</sup> This was based on the following three criteria identified as indicators of potential for corruption:

1. The existence of public integrity mechanisms, including laws and institutions, which promote public accountability and limit corruption.
2. The effectiveness of those mechanisms, such as their insulation from political interference, their level of staffing, and their ability to impose penalties.
3. The access that citizens have to those mechanisms, such as access to public records at reasonable cost and within a reasonable time<sup>106</sup>

The report card provided a grade in 14 categories, and included 330 points/questions used in evaluating these categories. Because of the overwhelming volume of information

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<sup>104</sup> Palmer, et al., 1992, location 420-462

<sup>105</sup>“State Integrity Investigation methodology FAQ”, 2012, <<http://www.stateintegrity.org/methodology>>

<sup>106</sup>Ibid.

provided in the report card, I researched at a surface level each category and sought interviews with experts on the topics I found most pertinent to this thesis.

This thesis focuses primarily on two categories, executive and legislative accountability, which examine conflict of interest regulations in the executive and legislative branches. The basis of my research and bill are the following six questions from the report card on which Maine scored below 35%:

3.3 Are there regulations governing conflicts of interest by the executive branch (defined here as governors and/or cabinet-level officials)?

3.4 Are the regulations governing conflicts of interest by the executive branch (defined here as governors and/or cabinet-level officials) effective?

3.5 Can citizens access the asset disclosure records of the governor and the state cabinet?

4.2 Are there regulations governing conflicts of interest by members of the state legislature?

4.3 Are regulations governing conflicts of interest by members of the state legislature effective?

4.4 Can citizens access the asset disclosure records of members of the state legislature?<sup>107</sup>

While the report card offered a great basis for beginning my research, this is really where reliance upon it ended. Discussion suggests that some individuals involved in government question the validity of the study because of the “unrealistic” nature of some of the criteria. The questions were very specific and looked for only certain ways of governing and regulating and did not reflect upon the practices that are not explicitly laid out in statute. This was my primary concern with the study as a means of evaluating

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<sup>107</sup>“State Integrity Investigation: Maine-- Executive Accountability and Legislative Accountability,” 2012, <<http://www.stateintegrity.org/maine>>

Maine because, right or wrong, Maine follows the moralistic practice of laying out guidelines without a lot of detail, which means it is very possible that practices are in place to deal with these points that are not laid out in statute. The question then became, how realistic is that evaluation for Maine? The report card did not evaluate this way, so I abandoned it for my own research.

Maine statute defines conflict of interest as “voting on a question in connection with a conflict of interest...or attempts to influence the outcome of that question.”<sup>108</sup> This simply means that a legislator is not allowed to vote on a question or attempt to persuade others to vote a certain way on a question if the outcome of the vote would directly, personally, impact the legislator in a way that is distinct from that of the general public. This applies in the same way for executive branch officials, they are not allowed to attempt to influence the vote of the legislators on a question that would bring them personal gain. Defining personal gain becomes a bit more complex.

A legislator or executive official is said to be in a conflict of interest under several circumstances. First, if the legislator or official or a member of their immediate family acquires a direct financial benefit, distinct from the general public. Second, if the legislator or official accepts a gift or campaign contribution given with the known intent to influence a vote or other official duties. Third, if they receive compensation for services, advice, or assistance as a legislator or official. Fourth, it is a conflict of interest if a legislator or official advocates for or represents another person for compensation before the legislature. Fifth, if a legislator or official knows that there is an opportunity for their direct employment or that of an immediate family member as a result of a vote,

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<sup>108</sup> MRS 1§1014-1

more so than the opportunity afforded the general public but chooses to vote anyway. Finally, if a legislator or official has a special interest in legislation related to their profession, trade, or business and would be impacted in a way that is distinctly unique from other people in that profession, trade, or business.<sup>109</sup> These six situations are considered a conflict of interest, Maine has chosen to obtain pertinent information and regulate these situations using a financial disclosure form.

Knowing that Maine uses a financial disclosure form to detect and regulate potential conflicts of interest we can break down what knowledge is needed using three questions: what is the financial disclosure form, who has to file it, and who reviews it. Statute MRS Title 1§1016-G subsection 2 says each legislator must file the form on February 15<sup>th</sup> of each year and within 30 days of any substantial changes to the information filed for that calendar year. There are equivalent requirements for executive branch employees, but given the difference in timeframe for executive appointments they are required to file on April 15<sup>th</sup>.<sup>110</sup> These forms ask officials to disclose sources of income, reportable liabilities, and positions on themselves personally and their immediate family which includes their spouse, domestic partner, and dependent members of the household. Further details about what information specifically must be disclosed will be included in chapter five.

All members of the House and Senate, elected executive officials, and appointed officials in major policy-influencing positions are required to file a financial disclosure form in Maine. Major policy-influencing positions are explicitly listed under MRS Title

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<sup>109</sup> MRS 1§1014-1

<sup>110</sup> MRS 5§19-3

5, Chapter 71, but basically include commissioners, deputy commissioners, and a few directors and superintendents in each department who hold major leadership positions.

The forms are filed with the Commission on Governmental Ethics and Election Practices, which is Maine's ethics regulation agency and is independent of party politics. The Commission is composed of five members who are appointed jointly by the Governor and legislative leaders; no more than two members may be from the same political party in order to assure there is no party bias.<sup>111</sup> The members of the commission read over each form and look for inconsistencies or points of concern and then upload them to the Maine.gov website for citizens to be able to access the information. The Joint Rules of the Legislature state: Rule 104. 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. This is the first line of defense, the legislators removing themselves from a vote when they know they are in conflict. The second line of defense is the House and Senate leadership who can request that a legislator not participate in a vote if they believe there is a conflict of interest. However, when these things fail to take place it is up to the Commission to perform an investigation and hold a hearing about the situation. If, based on the hearing, the Commission believes there was wrongdoing the case could be turned over to the Attorney General's office and often would fall under Title 17-A of the Maine Criminal Code, Chapter 25 Bribery and Corrupt Practices. If this is the case, the Attorney General's office would proceed with criminal prosecution. The Commission itself has very little authority to punish these actions.

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<sup>111</sup>“About the Ethics Commission”, 2006

This information provided the foundation for formulating my legislative proposal. Working with the current laws and practices, I looked for gaps in regulation, points that needed to be reformed, and what improvements could be made. This will be the focus of the following chapter.

## **CHAPTER 5-MY BILL--DESIGN, INTENT, AND CONTENT**

Initially, when this thesis came into creation, the intent was to look at the Corruption Risk Report Card and improve Maine's grade in at least one of the categories. Out of 14 categories, Maine received a failing grade in nine: Public Access to Information, Executive Accountability, Legislative Accountability, State Civil Service Management, State Pension Fund Management, State Insurance Commissions, Lobbying Disclosure, Ethics Enforcement Agencies, and Redistricting.<sup>112</sup> It did not take long digging into these nine categories to find that there were a few far outside of my realm of knowledge and even further outside of my ability to do anything about them. While this is not to say that change cannot be made, it requires a great deal of expertise and resources that were not accessible to me in this context. Review of the Corruption Risk Report Card revealed that there was a common thread among the questions in several of these categories all relating to ethics and disclosure. My intent evolved through the initial research into finding a topic that I could create real change in and that dealt with disclosure as this seemed to have a major impact on the ethical climate of the state, meaning states that scored well on disclosure also scored better overall in the categories.

Upon further digging, the volume of information became overwhelming and the scope needed to be even further refined. My intent, which I more commonly have referred to as my purpose, became even tighter. It was to research and reflect upon the current conflict of interest and asset disclosure statutes in Maine and compare them to other states and the federal government as a means to improve Maine's regulation and reduce the potential for corruption. Another aspect of the intent was to reflect upon findings and make suggestions that would both make improvements and remain feasible

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<sup>112</sup>“State Integrity Investigation: Maine,” 2012, <<http://www.stateintegrity.org/maine>>



for the state to maintain and live up to, because laws are only as good as their enforcement. In essence, what I hoped the bill would accomplish is more clarity for citizens about the interests of their legislators and executive officials and a more positive feeling about their work. Closely regulating conflicts of interest promote the public's greater sense of trust by creating confidence that officials are working for the public good, not personal gain. This development of trust is essential to improving state government. This may sound a bit fuzzy, and ethics often is. Ethics tends to be very abstract and revolve around certain morals, principles, and philosophies. In order to accomplish the above mentioned goals, the bill needed to have a clear practical application. The bill is designed to reflect this intent by being specific and targeting certain transparency goals that will tighten Maine's asset disclosure regulations and improve clarity for the public on a very practical level.

There are five basic design features that distinguish a general policy from a specific targeted transparency requirement.<sup>113</sup> The features are:

1. A specific policy purpose
2. Specified disclosure targets
3. A defined scope of information
4. A defined information structure and vehicle
5. An enforcement mechanism<sup>114</sup>

The intent is the same as the policy purpose. The specified disclosure targets are legislators and executive branch officials. The scope of information is specific to each

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<sup>113</sup>Fung, Graham, and Weil, 2007, p.39

<sup>114</sup>Fung, Graham, and Weil, 2007, p.39

point. The information structure and vehicle are the financial disclosure forms already being completed by legislators and some executive branch officials. The enforcement mechanism is the Maine Commission on Governmental Ethics and Election Practices and the Attorney General. Many of these features have already been established in previous legislation; there is no need to reinvent the wheel, instead my proposal further utilizes the tools already available. Therefore, this research was based on looking for the gaps in what Maine already has in place.

Based on the study of the laws in Maine and other states, contact with the D.C. based Sunlight Foundation, and numerous conversations with the Commission on Governmental Ethics and other government officials I attempted to detect gaps and shortfalls in Maine's current financial disclosure form. The contents of the proposal were ways to reinforce those weak points. Each of the following points was included in the proposal and I will explain what each point is intended to accomplish.

Point 1: *Disclosure forms should be submitted having been computer generated (typed).* This applies to both legislators and executive branch employees. This is necessary for the purpose of clarity when citizens look the financial disclosure forms up online. It is required in statute that the disclosure forms be published by the Commission on a publicly accessible website. Currently the forms are available to the public in the "Other Disclosures" section of the Commission website. Some legislators do fill out the form on a computer, however many hand write their information and all legislators must print the form in order to sign and submit it. This becomes very difficult to sort through, and some of the examples I examined were practically illegible. It also means that the Commission is scanning and uploading these documents rather than having them

transferred electronically which is certainly not utilizing the available technological resources. Other states are pushing for this transition as well; it streamlines the process, provides greater clarity, and creates easier access for citizens.

Point 2: *Add a new section to the form to disclose Unearned Income (rent, lease, or sale of assets, dividends, etc.).* This section would include sources of income such as rental income, the lease or sale of assets, dividends, and capital gains. Currently the disclosure form has a section titled “Other Disclosures” where an official could put this information, however it is not explicitly asked for. This leaves the section far too open to interpretation, and allows for the excuse “You did not ask for that.” While many officials include the information in this section without being asked this is a loophole that would allow an individual to get away with not doing so. This information is important when considering a conflict of interest for several reasons; I will give just two examples. As mentioned in chapter three, U.S. Representative Randall Cunningham(R-California), pled guilty to accepting over \$2 million in bribes in exchange for political favors, some of this payment came from the sale of his home to a defense contracting company at a severely inflated price in exchange for a government contract.<sup>115</sup> Requiring legislators to disclose the sale of any asset over \$2,000 would create the potential for a situation like this to be noticed. Another example involves dividends and capital gains; if an official owned equity in a company and was showing significant income from dividends and capital gains and then a vote was presented to give that company some kind of permit, contract, or other advantage this would potentially be a conflict of interest because the official has

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<sup>115</sup> “Cunningham, Randall Harold” from Grossman, 2008

the opportunity for significant, personal gain as a result of the company gaining this advantage.

Point 3: *Monetary values should be included using monetary ranges based on amount.* This proposed change originates largely from the disclosure statements of federal Congressional members and other states. The current financial disclosure laws in Maine require officials to disclose information about any sources of income or reportable liability if the amount is greater than \$2,000, unless otherwise specified such as in the case of a gift which must be disclosed over the amount of \$300. While this shows the sources of the income or liability and some other pertinent information the actual amount of the income or liability is not disclosed. There is a significant difference in the influence a \$2,000 source of income has on an individual versus a \$100,000 source of income. One of the biggest arguments against disclosing the amount is that it is not necessary and is intrusive, so I proposed that Maine follow in the footsteps of the federal government and use monetary ranges rather than disclosing exact dollar figures. The ranges would provide enough information to be aware of the amount of influence a source has on the individual without compromising the individual's privacy and being so intrusive that it becomes highly unlikely the initiative would pass.

Point 4: *Positions in Political Action section should be made to include the filer's spouse.* Under the current regulations, officials are required to disclose their personal involvement in any political action committee (PAC)<sup>116</sup> and their specific affiliation with

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<sup>116</sup> The Federal Election Commission defines PACs as political committees categorized either as "separate segregated funds (SSFs) [or] nonconnected committees...SSFs are political committees established and administered by corporations, labor unions, membership organizations or trade associations. These committees can only solicit contributions from individuals associated with connected or sponsoring organization. By contrast, nonconnected committees--as their name suggests--are not sponsored by or

the organization (i.e. treasurer, secretary, president, etc.). There is a separate section that requires the filer, their spouse or domestic partner, and immediate family to disclose their involvement in party committees and their positions in them. The PAC section of the form is the only one that does not require the spouse or domestic partner and immediate family to disclose information about their positions or income. This amendment would streamline the form and provide information about the potential influences from their family's involvement with a certain PAC.

Point 5: *Amend business ownership to include investments of more than 5% of the outstanding equity that has received income of \$2,000 or more.* As mentioned in point two, ownership of business equity can have an influence on officials, especially if they own a significant portion of the equity in that company. Under the current law officials are required to disclose ownership investments of 50% or more of the outstanding equity in that company. This proposed change would lower that threshold to 5% or more of the outstanding equity in a company if it receives an income of \$2,000 or more. To clarify, this means that an official would be required to disclose equity ownership of 5% or higher that has received revenue of \$2,000 or more. Previously, anything from 5-50% ownership would not have been disclosed even if it was over \$2,000 because it did not breach the 50% ownership threshold. In a small business it may be necessary for an individual to own the majority in order to see such revenues, but in a larger firm that has significantly higher revenue it might not be necessary to own a majority or even a large share in order to see revenues of \$2,000.

To summarize, the intent, or purpose, was to research and reflect upon the current conflict of interest and asset disclosure statutes in Maine and compare them to other states and the federal government as a means to improve Maine's regulation and reduce the potential for corruption. Another aspect of the intent was to reflect upon the findings and make suggestions that would both make improvements and remain feasible for the state to maintain, because laws are only as good as their enforcement. The design of the bill was intended to reflect that of an effective targeted transparency initiative based on the guidelines found by Fung, Graham, and Weil (2007). As a result of giving consideration to the suggestions and opinions of some experts combined with my own research and the available information provided by other state governments a list of points was created. Based on the list of points, gaps and relevant changes were identified and then their possible solutions were considered for feasibility, as a result, five proposed amendments and additions to the current law were drafted.

## **CHAPTER 6-MY BILL--PROCESS AND PROGRESS**

There is more to the legislative process than the actual steps taken inside the state house. The process begins long before a proposal is submitted and a committee votes on whether or not the bill should move on to the entire body of the legislature for a vote. When the general topic is selected, in this case ethics, this is when the process really begins. Refining that topic and making the transition from research to proposal takes the greatest amount of effort, time, and consideration. To use a common analogy, what the public sees about the legislative process is just the tip of the iceberg; the majority of what is there is actually beneath the surface.

Every bill is prompted by something; either it is in response to an event, a result of new research findings, an activist group pushing for reform, or any number of other things that make a person think, reflect, and take action. This research and bill was prompted by the Corruption Risk Report Card, and upon reflecting on the results realized that action needed to be taken to protect the best interests of Maine's citizens by improving government operations or regulations in some way. This prompt was very broad in scope and the Report Card offered an absolutely overwhelming amount of information to attempt to process. In the following paragraphs, I will explain my method for selecting a topic and the reasoning behind making that my focus.

As explained in chapter five, out of 14 categories, Maine received a failing grade in nine, those nine are as follows: Public Access to Information, Executive Accountability, Legislative Accountability, State Civil Service Management, State Pension Fund Management, State Insurance Commissions, Lobbying Disclosure, Ethics

Enforcement Agencies, and Redistricting.<sup>117</sup> While the other categories could stand to be improved upon, these nine with failing marks seemed to logically need the most work so I focused on only those nine. That was a surface decision and included basically no research.<sup>118</sup> The next move toward narrowing the topic was to create a chart of the nine categories and reference other states that ranked well in those categories. Any state receiving below a B- was not included, and if a category had more than ten states scoring higher than a B-, only higher grades are reflected. The result was the following chart:

Category	Grades Included	States Scoring Within Range:
Public Access to Information	B+, B- ( <i>no As given</i> )	CT, NJ, WA, RI, IL, PA
Executive Accountability	B+, B- ( <i>no As given</i> )	NJ, WA, CA, TN, NH
State Civil Service Management	B+, B, B- ( <i>no As given</i> )	NJ, AL, KY, NE, PA
State Pension Fund Management	A, B, B-	NJ, CT, IA, IN, KS, KY, PA, NC, MN, VT, TX
State Insurance Commissions	A, B+, B	CT, MS, NJ, WA, LA, AL, NH, CA, IN, MO
Legislative Accountability	B+, B- ( <i>no As given</i> )	WA, TN
Lobbying Disclosure	A, B+, B	NJ, WA, CA, NC, NE, KY, CT, MS, IA, MA, WI, SC
Ethics Enforcement Agencies	A, B+, B, B-	NJ, CT, IA, CA, WA, WI, WV
Redistricting	A	20+ states

\*\*\*All information in this chart is reflected in the Corruption Risk Report Cards.<sup>119</sup>

A few observations about the chart helped narrow down the scope even further. First of all, I questioned why Maine failed in redistricting when over 40% of the states received a perfect score in that category. Research revealed that Maine has been attempting to redistrict for awhile and all attempts to do so have not passed. According

<sup>117</sup>“State Integrity Investigation: Maine,” 2012, <<http://www.stateintegrity.org/maine>>.

<sup>118</sup> NOTE: The initial process of narrowing down a topic was not highly scientific and I took the information from the report card at face value without any further research or analysis, which does not mean the information was necessarily valid, it was a means of finding a research point and was not utilized as a research tool.

<sup>119</sup>State Integrity Investigation, 2012, <<http://www.stateintegrity.org>>.



to related news articles, Maine's rural communities fear losing representation to the more populated southern regions of the state, while the southernmost region feels they are underserved. A plan to bridge this gap has not yet been made. As noted in chapter three, representation is key; in the minds of constituents either feeling underserved or poorly represented leads to a similar breakdown in the system as having representatives who are not truly representative of the population. The second observation was that in four of the categories not a single state scored in the "A" range. This created more questions than answers as it could be attributed to either a flaw in the testing (i.e. unrealistic expectations, questions that were not reflective of what they are seeking to answer, etc.) or it could be that all the states are falling down in those categories. Finally, the third major observation was that three categories showed particularly low scores across all of the states where five or fewer states scored in even the "B" range, with none receiving an "A." Similarly, observations two and three seem to indicate a need for further review of the report card assessment. Chapter two discusses the major role that the media can play in policy agendas, and the fact that states have responded to this report card is a clear indication of that power as states have given a lot of attention to the areas where the lowest scores were received. As noted in chapter three, further work from both an academic and legislative standpoint needs to be done to continue to improve government transparency and conflict of interest laws in the states, and the report card is reflective of that need for information and action. These observations were taken into account when deciding what the bill topic should be.

As mentioned before, it became obvious that some of these categories required a great deal of expertise, background knowledge, and time to make meaning of the

information and figure out what would be reasonable solutions to any of the problems. There were a few that were quite simply beyond my reach and outside of my ability to do anything about them.<sup>120</sup> Certainly there are answers and excellent information within those categories, but they require resources and expertise beyond my reach in this context, so I chose to leave them alone and focus my efforts elsewhere.

With the assistance of the Governor's office, I went more in depth in the remaining categories. After interviewing experts in the fields of executive, legislative, and judicial accountability, public access to information, and ethics enforcement, I was able to further refine the scope of my research. This meant eliminating some of the remaining categories, and choosing to focus on conflict of interest, which can be found in the legislative and executive accountability sections of the report card. Going in depth within the content of the interviews is not pertinent to the research topic of this thesis; the critical part was how they helped me reach this topic. The session that played the most significant role in shaping the proposal was with Jonathan Wayne, Executive Director of the Maine Commission on Governmental Ethics and Election Practices. The Commission is in charge of administering the legislators' disclosure statements and making sure that legislators and other officials are in compliance with the ethics laws and regulations.

Going into the interview I knew very little about what the Commission is responsible for and I did not know anything about the financial disclosure procedure. Mr. Wayne explained and highlighted what the laws regulating legislative and executive

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<sup>120</sup> The categories that I eliminated because they were out of my reach were redistricting, state budget processes, procurement, state insurance commissions, state pension fund management and state civil service management.

conflict of interests are in the state and how they relate to financial matters; this was the focus of our conversation. In Maine, as in many other states, financial disclosure is used to detect and prevent conflicts of interest. There is a form currently used by the Commission to gain information from officials about their financial situation including income, assets, and liabilities, and what organizations or individuals have influence on them. By the end of the discussion, Mr. Wayne had equipped me with a stack of paper including highlighted portions of statute, the current financial disclosure forms for legislators and the form for executive employees, along with some suggestions to work with. From this session the majority of my proposal developed. The other major contributing factor was attending the legislative ethics training session and learning about legislative ethics from their perspective.

On December 4, 2012 the 126<sup>th</sup> Maine Legislature met for ethics training by the Office of the Attorney General and the Maine Commission on Governmental Ethics and Election Practices. As each legislator arrived and registered they received a packet of information about legislative ethics and the sessions for the day. As a participant, I too received this packet to follow along with the training and get a sense for what the legislators were being provided. Three points taken away from the session were of the most significance. First, the common sentiment of legislators was that bribery, improper use of influence, conflicts of interest, etc. “just doesn’t happen here in Maine.” This thesis really did not try to answer this question, so I have no grounds to voice an opinion on whether this is true or not, but the point that is missed and is related to this thesis is that even if it does not currently “happen here in Maine,” that does not mean the potential for it to happen in the future is not there. Second, information was shared regarding the

exceptions to financial disclosure, including the \$2,000 threshold on sources of income, the \$300 threshold on gifts, and the 50% threshold on equity ownership. Meaning, if a gift is less than \$300 a legislator is not required to disclose it, if a source of income is less than \$2,000 it does not have to be disclosed, and if a legislator owns less than 50% of a business' equity that information does not have to be disclosed. Finally, a point I found useful in talking with legislators, was the concept of the "front page test," which suggests that when wondering if an action is ethical or not think to yourself, what would the perception of my action be if it were to be written about on the front page of the newspaper. Put into that context many of the ethical dilemmas seem to have a much clearer answer. Everything discussed thus far in this chapter was a part of narrowing down the focus of the legislative proposal and learning about government ethics, conflict of interests, and financial disclosure. The next piece of this project was learning about how to write and defend public policy, because the knowledge by itself does not change anything.

Catherine Smith wrote "Writing Public Policy: A Practical Guide to Communicating in the Policy Making Process," which is a guide through the legislative process and the key strategies and points that an individual needs to know in order to effectively write and defend a piece of legislation. This text looks at each of the steps in the policy making process, which are: frame the problem, know the record, know the arguments, request action or propose policy, inform policy makers, witness in a public hearing, and influence administration. Catherine Smith's text influenced my direction in framing the problem and learning the legislative history/record in Maine. While the book references specifically how to do each of these steps in writing, the approach taken as

part of this thesis was much more verbal. Through conversations and discussion I learned about and analyzed the arguments that would be presented in relation to my proposal.

To learn the arguments requires both thinking about what potential arguments might be and talking to people about the proposal and finding out what their concerns or reactions are. Before you can effectively argue for something you need to know what the opposition's arguments are going to be and critically analyze both their arguments and your own.<sup>121</sup> The more you include aspects of their argument in your argument, the more the policy makers will realize that you have considered their point, thought about where they are coming from, and have grounded your reasons in an analysis of the best way forward. "A policy argument supports a claim that something should or should not be done. Such arguments have two main components: a claim and its support".<sup>122</sup> When looked at using this framework you realize that the reason you create an argument and analyze the arguments of others is to give validity to what you think and want to accomplish. If I were to have simply said, "I think legislators should have to disclose their income in four monetary ranges" that would not have accomplished anything. Instead of simply making the statement, an explanation of what was to be accomplished by disclosing income in that way and why, was necessary. Preparing such an argument, which answers both of these questions, would increase the likelihood that the argument would be accepted as valid, rather than being dismissed as a big idea and a lack of attention to the potential implications.

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<sup>121</sup>Smith, 2010, p.86-88

<sup>122</sup>Smith, 2010,p.86

This became a major focus for my arguments that I delivered in my testimony before the committee. It was also a major part of the process for deciding what to propose, because if I could not anticipate the opposing arguments or could not articulate the reasons why I believed that specific change was necessary then my arguments would be ineffective. The next step in the process was submitting a proposal, which included only points that I felt could be effectively argued for based on Smith's criteria, to Governor LePage's legal counsel.

The points that were included in the final proposal are outlined and explained in chapter five; here the proposal process will be explained. Working with the Governor's office on this initiative meant that the proposal drafted first went to the Governor's legal counsel for review. The proposal was a list of points or ideas, and all of the points that were on my list did not make the draft for varying reasons. The original proposal drafted was not in a legislative format and did not give reference to statutes; it was the ideas behind the language. The progression of the format can be seen in Appendix G-I, from a list, to the language drafted by the Governor's office, to the language that was drafted by the Office of Revisor of Statutes which was labeled LD 1001. I had little to do with this process, besides answering a few questions before the initial draft was made in the Governor's office.

When the proposal left the Governor's office it went to the Office of the Revisor of Statutes. "The Revisor's Office performs four primary functions: legislative drafting and editing; engrossing; publishing of statutes; and maintaining a statutory database."<sup>123</sup> They are "the Legislature's central production office where all legislative instruments,

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<sup>123</sup>“About the Office of the Revisor of Statutes”

including bills and amendments, are initially filed and then produced in final form for introduction.”<sup>124</sup> This is where the proposal is put into legislative language, making all of the appropriate references to current statutes, highlighting any amendments, and properly formatting any additions to statute. The Revisor’s Office drafted the language and sent it back to the Governor’s office, because it was proposed as a Governor’s bill, titled “LR 2005, first draft.”<sup>125</sup> At this point the Revisor’s Office was waiting for the bill draft to be cleared, or approved, by the Governor’s office or for them to note any amendments that needed to be made, and to assign the bill a Sponsor and up to eight Co-Sponsors. Upon clearance from the Governor’s office and designating a sponsor and two co-sponsors, the draft was sent back to the Revisor’s Office for its official printing as LD 1001. This bill was then assigned to the Joint Standing Committee on Veterans and Legal Affairs to be heard in a public hearing.

Some background information about the Veterans and Legal Affairs committee and the public hearing process follows. The Veterans and Legal Affairs committee is made up of 14 members; there were 12 members present at the time of the hearing on LD 1001. The committee is comprised of eight Democrats, five Republicans, and one representative from the Penobscot Nation. During the committee meeting the Chair acts as the voice of the committee, they allow members to ask questions upon request, and he/she is the one who keeps the agenda moving along. I was able to be a part of this formal hearing process as the committee heard LD 1001 after first listening to the presentations of other likeminded bills.

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<sup>124</sup>“About the Office of the Revisor of Statutes”

<sup>125</sup>NOTE: LR 2005 (1<sup>st</sup>) can be seen as Appendix H(Smith 2010)

In the public hearing, the bill's sponsor presents the initiative to the committee and then the committee listens to the testimony of any proponents of the bill, opponents of the bill, and anyone there to testify neither for nor against the bill. Because of my involvement in this initiative the process was slightly different as I was allowed to present the bill following Senator Emily Cain (D-Penobscot), the bill's sponsor, and Michael Cianchette who was there to present on behalf of the Governor.<sup>126</sup> For the March 27th public hearing I prepared a folder for each committee member containing a list of references, state data, graphs and charts, examples of disclosure forms used in other states, and contact information for follow up inquiries. All testimony at a public hearing is recorded and becomes public record; in my case this included the folder of information that I provided to the committee members. As the originator of the bill, this was my opportunity to explain the bill's contents to the committee, identify what the bill is intended to do, how the bill will affect the various stakeholders, try to persuade the committee to agree that the contents of the bill are significant and that the bill ought to pass. The public hearing is also the time when committee members can ask questions of clarification regarding thoughts, concerns or potential issues with the bill before they vote.

On March 27<sup>th</sup>, 2012 the Veterans and Legal Affairs committee held a public hearing on LD 1001. The committee scheduled and held a work session for April 5, 2013 to discuss the bill, gather additional information, and make any amendments they so choose. On April 5, 2013 at the work session, after questions and deliberation, the

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<sup>126</sup> Appendix I includes the testimony of Senator Emily Cain, myself, and Anne Luther, who testified as a proponent to the bill. Michael Cianchette, Chief Legal Counsel to Governor Paul R. LePage testified as part of presenting the bill and Jonathan Wayne, Executive Director of the Maine Commission on Governmental Ethics and Election Practices testified neither for nor against, but neither presented written testimony.



committee voted “Ought to Pass as Amended”. The amendment was additional language to allow officials who are unable to file the form electronically to obtain a waiver to file in a paper format or receive assistance from the Maine Commission on Governmental Ethics and Election Practices. The next step is for the bill to be passed by the House and Senate and then sent to the Appropriations Committee, because the electronic filing component of the bill has an attached fiscal note indicating a one-time, \$50,000 expenditure needed to create the database. If funded, the bill will be finally enacted and sent to the Governor for his signature. Unfortunately, the final result cannot be reported at this time.

## **CHAPTER 7- CONCLUSION**

To reiterate the purpose of this thesis, there were three questions I set out to answer: What are the current statutes/regulations regarding conflict of interest for legislative and executive branch officials in Maine? What potential concerns and problems arise from these current statutes, or the lack of current statutes? What can and should be done to address these concerns and problems? These questions were all answered, at least in part, in the process of creating a bill proposal. The first two questions were answered in detail in chapters five and six as the proposal and the research leading to that proposal were laid out. The final question is really still being answered, and it is likely that it will continue to be answered for years to come. There are many possible answers to the final question, there are many perspectives that could be evaluated and the result of that analysis would be a variety of proposals and ways of closing loopholes, fixing problems, and preventing problems in the future. The proposal I submitted answered just a small piece of this question.

What I found after narrowing down the focus of my research from government ethics in Maine to my final focus of financial disclosure was that there are several loopholes in the financial disclosure format used in Maine and that there are improvements that can be made. Looking at the conflict of interest laws being used in Maine and comparing them to similar laws in other states of similar legislative make up (meaning mostly states with part-time legislatures), I discovered that there were five changes that could be made immediately by proposing amendments to the law. Those five amendments, which were described in chapter five, were put into a legislative proposal which was submitted to the Governor's office and then from there was submitted as a Governor's bill sponsored by Senator Emily Cain (D-Penobscot). At the

time this thesis is being completed the ultimate fate of the bill, LD 1001 *An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed*, is unknown. It was heard by the Joint Standing Committee on Veterans and Legal Affairs, but the progression after that point is at this time yet to be determined. If passed, the statute will be amended and this research will have had a real impact on policy in Maine.

In addition to what I found about conflict of interest laws related to financial disclosure, I learned a great deal about state politics, political cultures, the role of the governor and the legislature, and how all of this has transpired into the current political situation in Maine. As someone who has always been very interested in history, I found one of the most interesting things to be looking at how politics in the states has changed over time but even more so how much of our history has shaped the political climate in Maine. For instance, knowing that Maine still operates under its original constitution is only one example of how the state is so deeply rooted in its history; this was also proven by the legislators' positive perceptions of their role, image and influence on the state versus those reported by an objective vehicle such as the report card. Maine has always had an amateur legislature, with legislators who took pride in the fact that they spend a great deal of time in their constituencies, and this continues to hold true, Maine's legislators still pride themselves on being part-time, constituent focused, civil servants. This became particularly useful knowledge when I got involved in working with legislators, to understand what they thought about their own position, duties, and role in the state. Context became most important when I was creating a bill proposal and then seeing it through the committee process.

What I have learned through the process of researching, drafting, and defending a bill in the legislature is that the process is much more in depth than I originally realized. There are many inputs that go into a bill before it hits the floor of the legislature; largely at that point the process is already complete and the decision regarding whether or not the bill will pass is mostly already made. Going into this thesis I had never heard of the Revisor's office and I had no idea what it meant for a bill to be "engrossed," among many other things. Government has so many moving parts, it is complicated, but it is fascinating to see it in motion. The other side is that it can be very partisan, even petty at moments, confusing, and inefficient. I was far more fascinated and captured by its operation than its flaws. The media is capturing all of the flaws in government, but being involved reveals a more realistic picture. To be clear, I am not saying the media is all wrong, as there certainly are flaws or there would be no basis for this thesis on conflict of interests, there would be no need for financial disclosure or any other transparency mechanism.

For now, I have done my part in learning about the process and the ethics laws in Maine and states all across the country, but there is more to do. There is a great deal of room for future research and work in the area of government ethics, transparency, conflict of interest law, and financial disclosure both in Maine and across the country at the state level. While this thesis only touched upon the umbrella issues of government ethics and transparency this is an arena that will be open for research and other work for years and years to come, primarily because it is such an expansive area of study but also because it is fairly recently becoming a real focus. Based upon the categories included in the Corruption Risk Report card alone there are an abundance of other topics that need to

be looked at. This thesis did not deal with the judicial branch at all and dealt very little with civil servants outside the legislative and executive branches of government. These areas need to be looked at. There is more to do in the areas of legislative and executive accountability as well. This is rather unfamiliar territory in the world of academia; little research on state-level government transparency is available, and even less relates to conflicts of interest and financial disclosure at the state level. Getting into this topic leads into uncharted territory that needs to be explored.

Speaking to the remaining needs in Maine that relate to the specific focus of this thesis there is still work to be done. There are several other proposals before the legislature this session in regard to ethics and disclosure, and the possibility of a more in depth look at Maine's ethics laws via a task force or other mechanism has been discussed. I believe this could be a critical step. Work still needs to be done to improve Maine's financial disclosure. The laws need to be more inclusive, and there should not be exceptions to filing financial disclosure if you are involved with the legislature or executive branch and currently there are exceptions. There needs to be an auditing process for evaluating the financial disclosure forms and then the actions of those policy-influencing officials in comparison to their disclosures. There also needs to be asset disclosure; this is required at the federal level but has not really permeated state governments. Having evaluated a large number of the financial and asset disclosure forms that are available to the public many of the policy influencing officials at the federal level have less financial influence than some of those at the state level, yet less disclosure is required of them.

If future researchers were to look at the State Integrity Investigation Corruption Risk Report Card I would suggest that a comprehensive, statistical analysis of the report card mechanism should be done. Because I was unable to speak to the validity of the report card and its true success in accomplishing what it was designed to do I only used it as a source of inspiration, not a source of research. However, if validated, the information presented in the report card really paints a picture of what still needs to be done in Maine and all of the other states. Even the highest scoring state only received a B+, meaning there is room for improvement across the board.

At every tip of the United States, corruption and potential for corruption is being acknowledged. Sarah Palin, former governor of Alaska, wrote in her book *America by Heart*, “[it is a] corrupt mind-set that has members of Congress writing tax laws for the rest of us, but failing to pay their own taxes, and crooked legislators being caught with their fingers in the till, refusing to live by the same laws and standards as the people who pay their salaries. No wonder millions of Americans are up in arms.”<sup>127</sup> Unfortunately, this sentiment transfers down to the state level. It would be unfair to say that the job of Congress or a state lawmaking body is to make everyone happy or to gain their approval, because as long as there are differences in opinion that simply will never happen. What is possible is creating a culture in government that does not tolerate corruption, and that places an emphasis on ethical practices. Creating cultural change takes time and will likely be changed piece by piece, but changed just the same.

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<sup>127</sup> Palin, 2010, p261

## Bibliography

- Arnold, R. Douglas. *The Logic of Congressional Action*. New York: The Composing Room of Michigan, Inc, 1990.
- Baird, Benita. "The Government in the Sunshine Act: An Overview." *Duke Law Journal*. No. 2 (1977): 565-592.
- Cook, Fay Lomax, Tom R. Tyler, Edward G. Goetz, Margaret T. Gordon, David Protes, Donna R. Leff, and Harvey L. Molotch. "Media and Agenda Setting: Effects on the Public, Interest Group Leaders, Policy Makers and Policy." *The Public Opinion Quarterly*.no. 1 (1983): pp.16-35.
- Crane, Andrew, and Dirk Matten. *business ethics*, 2nd ed.. Oxford University Press, 2007.
- "Declaration of Parliamentary Openness." *OpeningParliament.org*. (2012).  
<<http://openingparliament.s3.amazonaws.com/docs/declaration/1.0/english.pdf>>.
- Durning, Dan. "Governors and Administrative Reform of the 1990s." *State and Local Government Review*.no. 1 (1995): pp. 36-54.
- Dye, Thomas. "Party and Policy in the States." *The Journal of Politics*.no. 4 (1984): pp.1097-1116.
- Fox, Jonathan. "The Uncertain Relationship between Transparency and Accountability." *Development In Practice*. No. 4/5 (2007), pp. 663-671.
- Fung, Archon, Mary Graham, and David Weil. *Full Disclosure: The Perils and Promise of Transparency*. New York, NY: Cambridge University Press, 2007.
- Federal Election Commission, "Quick Answers to PAC Questions."  
<[http://www.fec.gov/ans/answers\\_pac.shtml](http://www.fec.gov/ans/answers_pac.shtml)>.
- Ferguson, Margaret Robertson. "Chief Executive Success in the Legislative Arena." *State Politics and Policy Quarterly*.no. 2 (2003): pp. 158-182.
- Global Integrity: Innovations for Transparency and Accountability, "Our Story." Accessed January 8, 2013.<<http://www.globalintegrity.org/about/story>>.
- Global Integrity: Innovations for Transparency and Accountability, "Global Integrity's Mission."<<http://www.globalintegrity.org/about/mission>>.
- Grossman, Mark. *Political Corruption in America: An Encyclopedia of Scandals, Power, & Greed*. Grey House Publishing; 2 ed., 2008.

- Hamilton, Alexander, Jay, John, and Madison, James. *The Federalist Papers*, (10 & 28). 1787-1788.  
ed. Kramnick, Isaac. Penguin Books Limited, 1987.
- Kingdon, John. *Agendas, Alternatives, and Public Policies*. Pearson Education Inc., 2011.
- Kolb, Robert. *Encyclopedia of Business Ethics and Society*. SAGE Publications, Inc, 2007.
- Lathrop, Daniel, and Laura Ruma. *Open Government: Collaboration, Transparency, and Participation in Practice*. O'Reilly Media Inc., 2010.
- Locke, John. *The Second Treatise of Government*. 1690.  
ed. Peardon, Thomas P.. Prentice Hall, 1997.
- Maine Commission on Governmental Ethics and Election Practices, "About the Ethics Commission." 2006. <<http://www.maine.gov/ethics/about/index.htm>>.
- Maine State Legislature Office of the Revisor of Statutes, "About the Office of the Revisor of Statutes." <<http://www.maine.gov/legis/ros/AboutROS.htm>>.
- Maine Revised Statutes, title 1, section 400-414
- Maine Revised Statutes, title 1, section 1012, subsection 4
- Maine Revised Statutes, title 1, section 1014
- Maine Revised Statutes, title 5, section 19, subsection 3
- Palmer, Kenneth T., Taylor, G. Thomas, LiBrizzi, Marcus A., and Jean E. Lavigne. *Maine Politics and Government*. E-book. 1992.
- Morgan, David, and Sheilah Watson. "Political Culture, Political System Characteristics, and Public Policies among the American States." *Publius*. 21. No. 2 (1991): 32-33.
- National Conference of State Legislatures (NCSL), "Full and Part-Time Legislatures." 2009. <<http://www.ncsl.org/legislatures-elections/legislatures/full-and-part-time-legislatures.aspx>>.
- Palin, Sarah. *America by Heart*. New York: HarperCollins, 2010.
- Patterson, Samuel. "The Political Cultures of the American States." *The Journal of Politics*. 30. No. 1 (1968): pp. 188.
- Robinson, Scott E., and Warren S. Eller. "Participation in Policy Streams: Testing the



Separation of Problems and Solutions in Subnational Policy Systems." *Policy Studies Journal*. no. 2 (2010): pp.199-216.

Rosenthal, Alan. *Engines of Democracy: Politics and Policymaking in State Legislatures*. CQ Press, 2008.

Sisario, Ben. The New York Times, "Boston's WGBH Buys Public Radio International." 2012. Accessed April 8, 2013.

Smith, Catherine F. *Writing Public Policy: A Practical Guide to Communicating in the Policy Making Process*. New York: Oxford University Press, 2010.

State of Ohio Ethics Commission, "Financial Disclosure 101: An Introduction to Financial Disclosure". 2013. <<http://ethics.ohio.gov/disclosure/101.shtml>>.

The State Integrity Investigation, Last modified 2012. Accessed 2012 and 2013. <<http://www.stateintegrity.org/>>.

The Center for Public Integrity, "About the Center for Public Integrity." 2013. Accessed January 8, 2013. <<http://www.publicintegrity.org/about>>.

"The Open Government Partnership: National Action Plan for the United States of America." September 20, 2011. <[http://www.whitehouse.gov/sites/default/files/us\\_national\\_action\\_plan\\_final\\_2.pdf](http://www.whitehouse.gov/sites/default/files/us_national_action_plan_final_2.pdf)>.

Tucker, Thomas H. "'Sunshine' The Dubious New God." *Administrative Law Review*. No. 3 (1980): pp.537-554.

United States Department of Justice, "FOIA.gov." 2011. Accessed January 14, 2013. <<http://www.foia.gov/about.html>>.

Walter, J. Jackson. "The Ethics in Government Act, Conflict of Interest Laws and Presidential Recruiting." *Public Administration Review*. No. 6 (1981): pp. 659-665.

Appendix A: Obama's transparency memo

**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES, January 21, 2009**

SUBJECT: Transparency and Open Government

My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government.

*Government should be transparent.* Transparency promotes accountability and provides information for citizens about what their Government is doing. Information maintained by the Federal Government is a national asset. My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use. Executive departments and agencies should harness new technologies to put information about their operations and decisions online and readily available to the public. Executive departments and agencies should also solicit public feedback to identify information of greatest use to the public.

*Government should be participatory.* Public engagement enhances the Government's effectiveness and improves the quality of its decisions. Knowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge. Executive departments and agencies should offer Americans increased opportunities to participate in policymaking and to provide their Government with the benefits of their collective expertise and information. Executive departments and agencies should also solicit public input on how we can increase and improve opportunities for public participation in Government.

*Government should be collaborative.* Collaboration actively engages Americans in the work Government. Executive departments and agencies should use innovative tools, methods, and systems to cooperate among themselves, across all levels of Government, and with nonprofit organizations, businesses, and individuals in the private sector. Executive departments and agencies should solicit public feedback to assess and improve their level of collaboration and to identify new opportunities for cooperation.

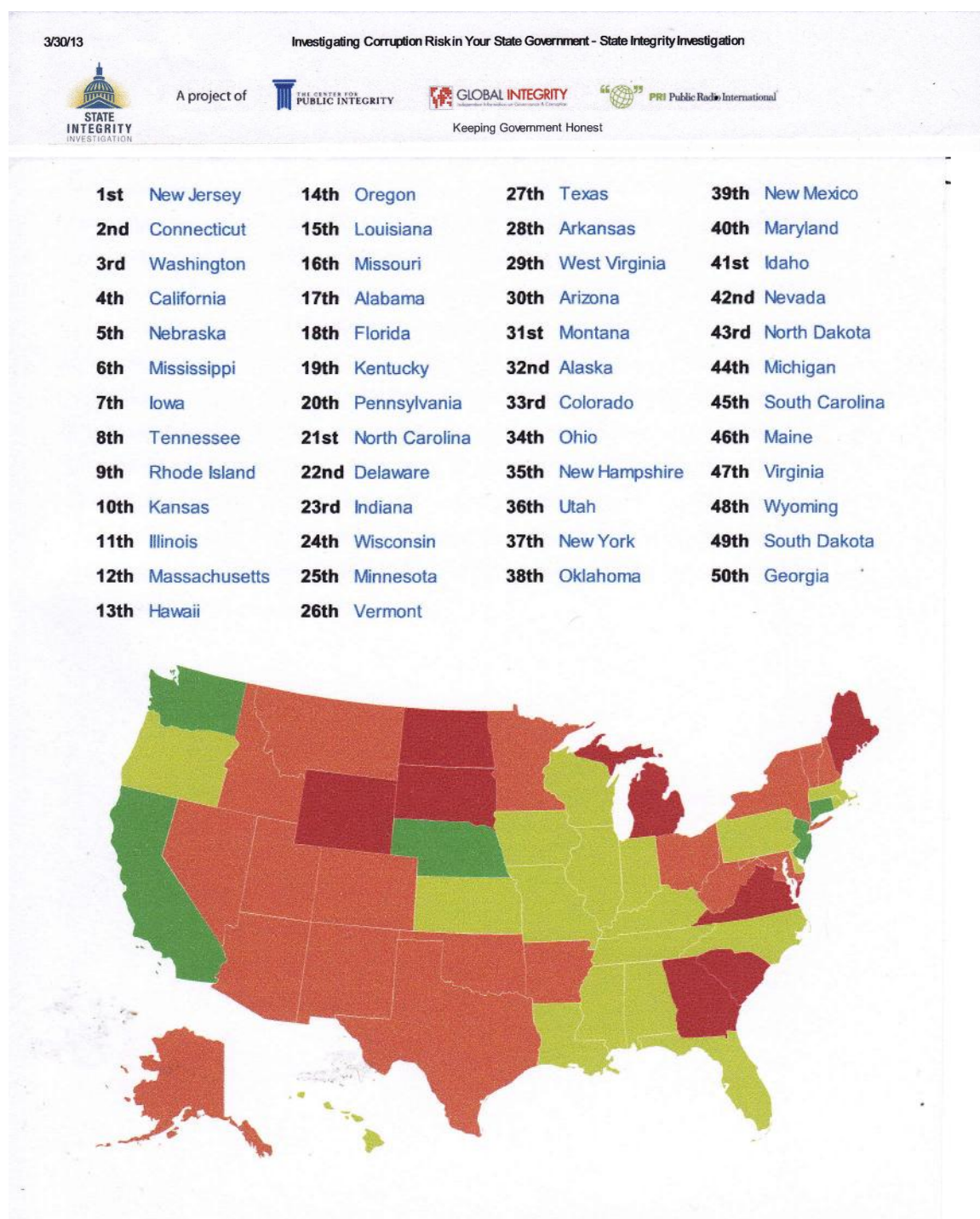
I direct the Chief Technology Officer, in coordination with the Director of the Office of Management and Budget (OMB) and the Administrator of General Services, to coordinate the development by appropriate executive departments and agencies, within 120 days, of recommendations for an Open Government Directive, to be issued by the Director of OMB, that instructs executive departments and agencies to take specific actions implementing the principles set forth in this memorandum. The independent agencies should comply with the Open Government Directive.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

This memorandum shall be published in the *Federal Register*.

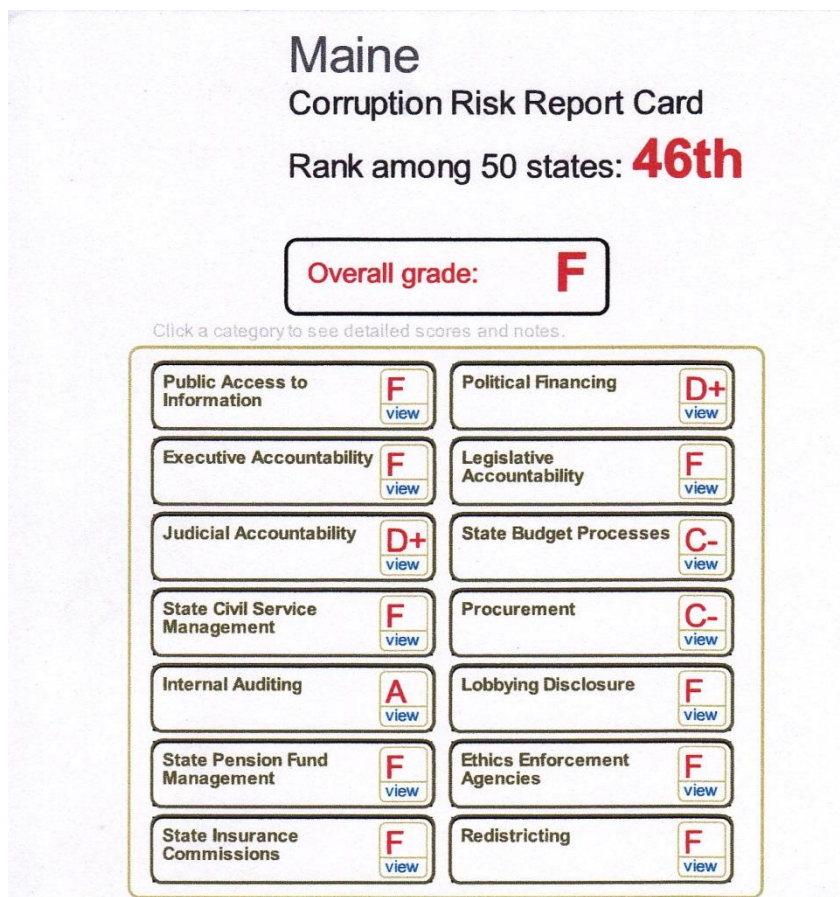
BARACK OBAMA

## Appendix B: Map of Corruption Risk Ranking



Taken from: [http://www.stateintegrity.org/your\\_state](http://www.stateintegrity.org/your_state)

## Appendix C: Maine Corruption Risk Report Card

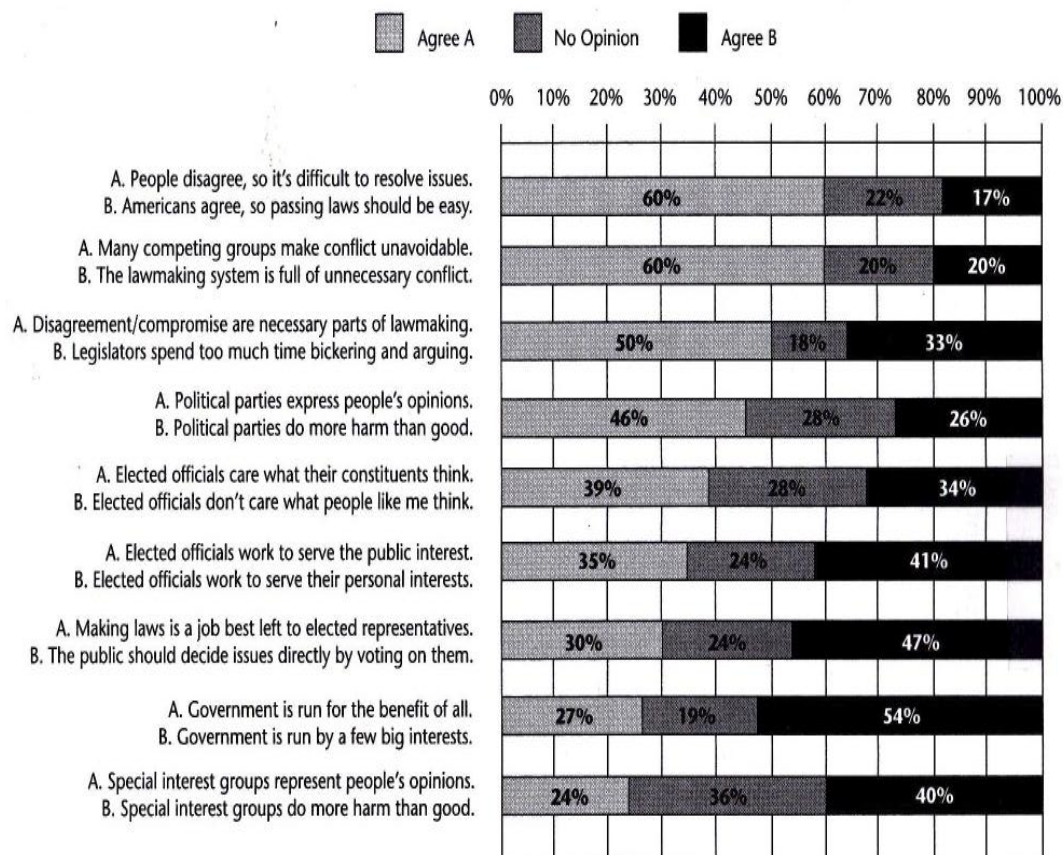


Taken from: <http://www.stateintegrity.org/maine>



## Appendix D: Engines of Democracy p.10 chart

Figure 1-1 Public Attitudes toward Representative Democracy



Source: Karl T. Kurtz, Alan Rosenthal, and Cliff Zukin, *Citizenship: A Challenge for All Generations* (Denver: National Conference of State Legislatures, September 2003), 9.

## Appendix E: Log of Interviews Conducted

**Naomi Schalit**(Senior Reporter and Executive Director of the Maine Center for Public Interest Reporting): Ms. Schalit was a valuable resource for the primary reason that she conducted the research in Maine that went into the Corruption Risk Report Card. Our interview covered the workings of the report card, the challenges in collecting the data, what the report card seemed to miss, and what areas of the law appeared to be the most lacking. She also provided an invaluable tutorial about how to locate information on the State Integrity and State of Maine websites based on her experience with them conducting research.

**Suzanne D. Goucher** (President and CEO of the Maine Association of Broadcasters): A brief interview with Ms. Goucher provided a great deal of background on the initiatives in Maine to improve government transparency and disclosure. The primary topic of this interview was Maine’s Freedom of Access Act and the “Right to Know”; we discussed how it functions, what the idea is behind it, and what the issues are with it.

**Michael P. Friedman**(Attorney at Rudman Winchell, former Chairman of the Maine Ethics Commission, and member of the Maine Judicial Selection Committee):A formal interview was held with Mr. Friedman near the beginning of this process, he was able to help narrow down the scope of the project because he had expertise in numerous of the Corruption Risk Report Card categories. It was this interview that steered me away from looking at reform for the judicial branch in particular.

**Jonathan Wayne**(Executive Director of the Maine Commission on Governmental Ethics and Election Practices): Two interviews with Mr. Wayne provided a great deal of the background and resources necessary to draft the legislative proposal which was submitted. He served as the leading expert on Maine’s conflict of interest statutes and also provided information about what the laws look like in practice as it is the Maine Commission on Governmental Ethics and Election Practices that administers, oversees, and audits the financial disclosure process in Maine.

**Laurenellen McCann**(National Policy Manager of the Sunlight Foundation): Communication with Ms. McCann was all done via email; however she provided a great deal of literature and knowledge of the federal initiatives that have been taken to improve government transparency. Much of the literature she provided was included.

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<sup>128</sup> \*NOTE: Informal interviews and conversations were held with 20+ various legislators both current and past. These interviews were not specifically documented and are not listed above, but they did play a large role in shaping the legislation that was created. They offered suggestions, thoughts on what they do not like about the current laws, questions they wanted answered, and a variety of other comments about conflicts of interest and financial disclosure. I attended numerous events including, but not limited to, the Legislative Ethics Training, the Maine NEW Leadership Day in the State House, and shadowing a legislator; it was on these occasions and those similar that allowed me to hold these discussions.

## Appendix F: Maine Financial Disclosure forms



## COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

MAIL: 135 STATE HOUSE STATION, AUGUSTA, MAINE 04333

OFFICE: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE

WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: 207-287-4179

FAX: 207-287-6775

## STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS

2012 Calendar Year: January 1, 2012 - December 31, 2012

☐ Check here if this statement is an update or amendment of a previously filed statement.

Name	Office <input type="checkbox"/> House <input type="checkbox"/> Senate
Mailing Address	District Number
City/Town, State, Zip	E-mail Address

## FILING DEADLINES

**CURRENT LEGISLATORS:** Please file this statement with the Clerk of the House or Secretary of the Senate by 5:00 p.m. on February 15, 2013.

**LEGISLATORS LEAVING OFFICE:** Please file this statement with the Maine Ethics Commission by 5:00 p.m. on January 22, 2013. Please mail it to Maine Ethics Commission, 135 State House Station, Augusta, Maine, 04333-0135 or hand-deliver to the Commission's office at 45 Memorial Circle, Augusta, Maine.

## GENERAL INSTRUCTIONS

- Complete all sections. **If a section is not applicable, check the box marked "None."**
- A glossary is located in the back of this form.
- If completing this form by hand, please write legibly.
- Report the sources of income for you, your spouse or domestic partner, and your dependent children.
- Report only specific sources of income. **Dollar amounts need not be listed.**
- Campaign contributions and Maine Clean Election Act payments duly recorded as required by law need not be reported in this statement.
- State law (1 M.R.S.A. § 1018) requires Legislators to file an updated statement with the Commission within 30 days of any change to the information in this report. Additionally, the law (1 M.R.S.A. § 1016-B (2)) requires Legislators to make a supplementary statement to the Commission of any reportable liability within 30 days after it is incurred.
- The completed statements are posted on the Commission's website and copies are made available to the public upon request.
- Please keep a copy of this statement for your records.

**Please call the Commission staff 207-287-4179 if you have any questions.**

**Thank you for your cooperation.**



**INSTRUCTIONS: Part 1. Income from Employment by Another**

If you were a full or part time employee of any public or private organization (including the Legislature) and received compensation during the reporting year of \$2,000 or more, list your job title, and the name, address, and principal type of economic or business activity of the employer. Do not include information about self-employment or the practice of law in this section.

**EXAMPLE:** Jane is currently serving as a State Senator. She is also employed by Pine Tree Counseling Services as a counselor and earns more than \$2,000 per year.

Name of Employer	Address	Principal Type of Economic or Business Activity of Employer	Job Title
Pine Tree Counseling Services	201 Main Street, Pine Tree City, ME	Counseling Services	Counselor
Maine State Legislature	3 State House Station, Augusta, ME	Government	State Senator

**INSTRUCTIONS: Part 2. Income from Self-Employment**

If you sold goods or provided services to others during the reporting year, list the name, address, and principal type of economic activity of your business. If your business does not have a name, list the name under which you provide goods and/or services. If the amount you received from any client or customer was more than \$2,000 or more than 10% of your gross income from self-employment during the year, whichever is greater, list the name, address, and principal type of economic or business activity of the client or customer. If this type of disclosure is prohibited by law, rule, or an established code of professional ethics, specify only the principal type of economic or business activity of the client or customer.

**EXAMPLE:** Jane has a business that supplies rough cut timber. Last year the business grossed \$30,000. Robert Thompson bought four orders of lumber at \$1,000 per order—\$4,000 in total. Joan Hill bought \$2,000 worth of lumber. Because her business made \$30,000 during the reporting period, she must only report those clients who represent more than 10% or \$3,000, of her income from self-employment.

Name of Your Business/Trade name	Address of Business	Principal Type of Economic or Business Activity
Smith's Lumber Co.	123 Main Street, Pine Tree City, Maine	Rough Cut Timber Milling
Name of Customer or Client, if required (see instructions).	Address	Principal Type of Economic or Business Activity of Client
Robert Thompson	456 Main Street, Pine Tree City, Maine	Carpenter

**INSTRUCTIONS: Part 3. Revenue of Business Entities**

List the name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business entity in which your or the members of your immediate family, own or control, directly or indirectly, more than 50% of the outstanding equity, individually or in the aggregate, if the business had revenue of \$2,000 or more during the calendar year.

**EXAMPLE:** Jane's spouse is the sole member of a limited liability company which receives revenue of more than \$2,000 each year by leasing office suites in an office building it owns.

Name of Business	Address	Principal Type of Economic or Business Activity
123 Broad Street LLC	456 Elm Street, Pine Tree City, Maine	Leasing of office space

**INSTRUCTIONS: Part 4. Income from the Practice of Law**

List the name, address, and major areas of practice for all sources of income of \$2,000 or more derived from the practice of law. If you are a member of a firm, partnership, or limited liability company, list the major areas of practice for that entity. In addition, state whether you are a sole practitioner, partner, associate, or shareholder.

**EXAMPLE:** Last year, Jane was a sole practitioner. Her labor law practice earned more than \$2,000.

Name of Firm or Practice	Address	Your Major Areas of Practice	Firm's Major Areas of Practice	Position: Partner, Associate, Sole Practitioner
The Law Office of Jane Smith	789 Elm Street, Pine Tree City, Maine	Labor Law	N/A	Sole Practitioner



**Part 1. Income from Employment by Another**

☐ None. Check this box if you did not have income from employment by another.

Name of Employer	Address	Principal Type of Economic or Business Activity of Employer	Job Title

**Part 2. Income from Self-Employment**

☐ None. Check this box if you did not have income from self-employment.

Name of Your Business/Trade Name	Address	Principal Type of Economic or Business Activity
Name of Client or Customer, if required (see instructions)	Address	Principal Type of Economic or Business Activity of Client

**Part 3. Revenue of Business Entities**

☐ None. Check this box if you and your immediate family did not have a majority share in a business.

Name of Business	Address	Principal Type of Economic or Business Activity

**Part 4. Income from the Practice of Law**

☐ None. Check this box if you did not have income from the practice of law.

Name of Practice or Firm	Address	Your Major Areas of Practice	Firm's Major Areas of Practice	Position: Partner, Associate, Sole Practitioner



**INSTRUCTIONS: Part 5. Income from Any Other Source**

Include in this section any source of income of \$2,000 or more not listed in Parts 1, 2, or 3 which you received during the reporting year, such as investments, sales of property, or retirement benefits. Please see the glossary for examples of income that must be reported. Include income received "in-kind" as well as regular income.

Income **does not** include alimony, child support or similar support payments, campaign contribution or gifts or honoraria. Income also does not include funds or other property held in trust for another such as fees that are paid in advance or money to be spent on behalf of a client for a licensing or filing fee.

**Do not** include income received by immediate family members. Report immediate family members' income in Parts 6-A & 6-B.

**EXAMPLE:** Jane has investments in a mutual fund with Global Investment, LLC. The mutual fund paid quarterly dividends to Jane that added up to more than \$2,000 over the course of the reporting year. In addition, Jane receives a monthly pension payment from her prior job as a school teacher.

Name of Source	Address	Type of Income
Global Investment, LLC	One Copley Plaza, Boston, MA	Mutual fund
Maine Public Employees' Retirement System	46 State House Station, Augusta, Maine	Pension

**INSTRUCTIONS: Part 6-A. Compensation Income of Immediate Family Members**

List the name, address, and principal type of economic or business activity for each entity representing income of \$2,000 or more **derived through employment or compensation** by any member of your immediate family. Include all income received through employment by another, self-employment, or the practice of law.

Include the job title **and** name of the **spouse or domestic partner** receiving income. Include the job title of the dependent child receiving income, but **do not** include the dependent child's name. Instead write "dependent" in the section for name.

**EXAMPLE:** Jane's spouse is an attorney with Smith & Jones. He earned more than \$2,000 in the previous year practicing law. Jane's dependent daughter worked as a lifeguard during the summer of the previous year, earning more than \$2,000.

Name and Job Title (do not list name of dependent child)	Employer's Name and Address	Principal Type of Economic or Business Activity of Employer
John Smith, Attorney	Smith & Jones, L.L.P. 28 Hollywood Drive, Raymond, Maine	Worker's Comp., Personal Injury, Probate/ Wills
Dependent, Lifeguard	Pine Tree YMCA 202 Main Street, Pine Tree City, Maine	Fitness

**INSTRUCTIONS: Part 6-B. Other Source of Income of Immediate Family Members**

List the name, address, and type of income for each source of income not listed in Part 5-A which represents \$2,000 or more received by any member of your immediate family. Include the name of the spouse or domestic partner receiving income. **Do not** include the name of a dependent child receiving income. Instead, write "dependent" in the section for name.

**EXAMPLE:** Jane's oldest daughter was given money to be held in trust until her 16th birthday. Now that she has turned 16, the trust is issuing payments to her. Over the course of the year, the payments add up to more than \$2,000. Jane's spouse lost his job and is receiving unemployment benefits. Last year, he received more than \$2,000 in benefits.

Name of Spouse or Partner (do not list name of dependent child)	Source's Name and Address	Type of Income
Dependent	Union Life Insurance Co., One Copley Plaza, Boston, MA	Trust distribution
John Smith	Maine Dept. of Labor	Unemployment Benefits

<b>Part 5. Income from Any Other Source</b>		
<input type="checkbox"/> None. Check this box if you did not have income from any other source.		
Name of Source	Address	Type of Income

<b>Part 6-A. Compensation Income of Immediate Family Members</b>		
<input type="checkbox"/> None. Check this box if no members of your immediate family received income of \$2,000 or more from employment or compensation.		
Name and Job Title (do not list name of dependent child)	Employer's Name and Address	Principal Type of Economic or Business Activity of Employer

<b>Part 6-B. Other Sources of Income of Immediate Family Members</b>		
<input type="checkbox"/> None. Check this box if no members of your immediate family received income of \$2,000 or more from any other source.		
Name of Spouse or Partner (do not list name of dependent child)	Source of Income Name and Address	Type of Income



**INSTRUCTIONS: Part 7. Loans and Liabilities**

If you received any loan of \$3,000 or more during the reporting year that was not secured by collateral (e.g., mortgage, car loan), list the name, address, and principal type of economic or business activity of the lender. For more information concerning what loans and liabilities must be reported, please see the definition of reportable liability in the glossary.

**EXAMPLE:** Jane borrowed \$5,000 from Carl Smith, a friend, to pay for an addition of a deck to her house.

Lender's Name	Lender's Address	Principal Type of Economic or Business Activity of Lender
Carl Smith	201 Main Street, Pine Tree City, Maine	Accountant

**INSTRUCTIONS: Part 8. Gifts, Including Travel and Accommodations**

List each source from which you received a gift or gifts with a total value of more than \$300 during the reporting year. If a person or organization has spent more than \$300 in the year to finance your travel, meals, or accommodations, their payments are considered a gift which must be reported. See the glossary for goods and services which are **not** considered a gift.

**EXAMPLE:** Jane was invited to speak at a conference on utilities regulation held by the U.S. New Energy Association. The association paid her travel and hotel expenses, which were \$800. Because the cost of travel and lodging was more than \$300, it is a gift and must be disclosed.

Source of Gift	Source of Gift
1. U.S. New Energy Association	2.

**INSTRUCTIONS: Part 9. Honoraria**

List all sources of honoraria you received during the reporting year. "Honoraria" means a payment of money or anything with resale value received for an appearance or speech by you in your official capacity. See the glossary for more information concerning honoraria.

**EXAMPLE:** Jane was paid to speak at the national conference on proposed corporate tax legislation in Maine.

Source of Honoraria	Source of Honoraria
1. National Federation of Independent Business	2.

**INSTRUCTIONS: Part 10. Positions in Political Action or Ballot Question Committees**

List the name of each political action committee or ballot question committee for which you were the treasurer, a principal officer or fund-raiser, or decision-maker.

**EXAMPLE:** Jane was a principal decision-maker in a ballot question committee that is active in a bond referendum.

Name of Committee	Title
1. Improve Maine's Economy PAC	Principal decision-maker
2.	

**Part 7. Loans**

☐ None. Check this box if you did not have reportable liabilities.

Lender's Name	Lender's Address	Principal Type of Economic or Business Activity of Lender

**Part 8. Gifts, Including Travel and Accommodations**

☐ None. Check this box if you did not received any gifts.

Source of Gift	Source of Gift
1.	2.
3.	4.

**Part 9. Honoraria**

☐ None. Check this box if you did not received honoraria.

Source of Honoraria	Source of Honoraria
1.	2.
3.	4.

**Part 10. Positions in Political Action or Ballot Question Committees**

☐ None. Check this box if you were not a treasurer, officer, decision-maker, or fundraiser of a PAC or BQC.

Name of Committee	Title
1.	
2.	



**INSTRUCTIONS: Part 11. Conducting Business with State Agencies**

List each State agency, board or commission to which you or an immediate family member or an associated organization rented, leased or sold goods or services for more than \$10,000 during the reporting period. Include the name of the individual or organization conducting business with the agency and a description of the goods or services.

**EXAMPLE:** Jane's spouse is the vice-president for operations of a large software developer. Last year, the company received \$250,000 from the Department of Environmental Protection for developing custom software.

Name of Agency	Name of Individual/Organization Selling Goods or Services	Description of Goods or Services
Dept. of Environmental Protection	Acme Technology, Inc.	Custom software application

**INSTRUCTIONS: Part 12. Representing Others before State Agencies**

If you, or a member of your immediate family, appeared for, represented, or assisted any person or client before a State agency for compensation, list the State agency and the person receiving the compensation for the representation or assistance.

**EXAMPLE:** Jane's spouse, an attorney, received \$5,000 for representing a client before the Department of Health and Human Services in an appeal of a disability determination.

Name of Agency	Name of Individual Receiving Compensation
Department of Health and Human Services	John Smith

**INSTRUCTIONS: Part 13. Positions in For-Profit and Non-Profit Organizations**

List any for-profit or non-profit corporation, firm, association, limited liability company, partnership or business in which you or a member of your immediate family held any office, trusteeship, directorship, or position of any nature in the reporting year, and indicate whether the position was compensated or uncompensated.

Reportable positions include, but are not limited to:

- Director
- Partner
- Trustee
- Officer of any type
- Member of limited liability company
- President
- Chair of board
- Treasurer
- Secretary
- Board member

A clerk of a corporation or a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity.

**EXAMPLE:**

Organization/Business and Address	Title	Name of Position Holder	Relationship to Legislator	Compensated Yes/No
Kennebec Historical Society 107 Winthrop Street Augusta, Maine 04330	Director	Jane Smith	<input checked="" type="checkbox"/> Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent	No
Community Ventures, LLC 2941 Fairview Park Drive Pine Tree City, Maine, 232042	Member	John Smith	<input type="checkbox"/> Self <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Dependent	Yes

**Part 11. Conducting Business with State Agencies**

☐ None. Check this box if neither you nor your immediate family did business with any State agency.

Name of Agency	Name of Individual Selling Goods or Services	Description of Good or Services

**Part 12. Representing Others Before State Agencies**

☐ None. Check this box if neither you nor your immediate family represented another before a State agency.

Name of Agency	Name of Individual Receiving Compensation

**Part 13. Positions in For-Profit and Non-Profit Organizations**

☐ None. Check this box if you and members your immediate family did not hold positions in any for-profit or non-profit organizations.

Organization/Business and Address	Title	Name of Position Holder	Relationship to Legislator	Compensated Yes/No
			<input type="checkbox"/> Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent	
			<input type="checkbox"/> Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent	
			<input type="checkbox"/> Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent	

**SIGNATURE**

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

THE INTENTIONAL FILING OF A FALSE STATEMENT IS A CLASS E CRIME (1 M.R.S.A. § 1016-G(3)(B))



### **Glossary**

**Associated organization** means any organization in which an Legislator or a member of the Legislator's immediate family is a managerial employee, director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

**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 or from an individual on the basis of a personal friendship as long as that individual is not a registered lobbyist or lobbyist associate under Title 3, section 313, unless the Legislator has reason to believe that the gift was provided because of the Legislator's official position and not because of a personal friendship;
- D. A subscription to a newspaper, news magazine or other news publication;
- E. Legal services provided in a matter of legislative ethics;
- F. A meal, if the meal is a prayer breakfast or a meal served during a meeting to establish a prayer breakfast; or
- G. A meal, if the meal is provided by industry or special interest organizations as part of the informational program presented to a group of public servants.

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

**Immediate family** includes your spouse or domestic partner and dependent children.

**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; 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; distributions from a partnership 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 fees paid in advance or money to be spent on behalf of a client for payment of a licensing or filing fee.

**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.

**Relative** means an individual who is related to you or your 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 includes your fiancé or fiancée.

**Reportable liability** means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of \$3,000 or more received from a person not a relative. Reportable liabilities do not include:

- (1) A credit card liability;
- (2) An educational loan made or guaranteed by a governmental entity, educational institution, or nonprofit organization; or
- (3) A loan made from a state or federally regulated financial institution for business purposes.

**Self-employment** means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13, which states in part, "independent contractor means a person who performs services for another under contract, but who is not under the essential control or superintendence of the person while performing those services."



## Appendix G: Legislative Proposal

### Proposed Changes and Additions:

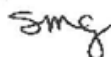
- Disclosure forms should be submitted having been computer generated (TYPED) for the purpose of clarity when citizens look them up online.
- Training or availability for meeting times should be made available by the Ethics Commission to legislators with questions about the asset disclosure form and how to file each year either at the ethics training in December or immediately prior to the February 15th deadline of each year.
- Add a new section to the form to disclose Investments and Dividends.
- Add a new section to the form to disclose Unearned Income (rent, lease, or sale of assets)
- Monetary values should be included using amount ranges. This would apply to parts 1-6.
- Positions in Political Action section should be made to include the filer's spouse.
- Disclosure form Part 12: Representing Others Before State Agencies: be amended to include job title (ex. Consultant, attorney, ect.)
- Lower, from 50%, the percent of equity ownership in a company that has to be disclosed from

Appendix H: LR 2005 (1<sup>st</sup>)

MAINE STATE LEGISLATURE  
OFFICE OF THE REVISOR OF STATUTES  
7 STATE HOUSE STATION  
AUGUSTA, MAINE 04333  
Phone: 207-287-1650  
Fax: 207-287-6468

MEMO

DATE: March 07, 2013  
TO: John McGough, Governor's Office  
FROM: Suzanne M. Gresser, Revisor of Statutes  
RE: Agency bill, LR # 2005



Attached to this memo is a final draft of the above-referenced bill. The title of the bill is shown on the face sheet, along with the sponsor, if one has already been designated.

**Please review our draft and note any changes you believe should be made. If changes are needed, please indicate them directly on the enclosed draft.**

Please return your revisions or clearance authority and designate a sponsor within 5 working days of the date of this memo so that we can send the bill. Please note that the Joint Rules authorize you to obtain the signatures of a lead cosponsor from the other chamber and 8 additional cosponsors in addition to the primary sponsor. Please let me know if you have any questions about this draft.

**In an attempt to achieve greater efficiency in the legislative process, we are requesting that you send an additional copy of the draft along with a copy of the fiscal impact statement, as described in Title 5, MRSA, section 1665, subsection 6, to the Office of Fiscal and Program Review within the 5-day deadline. If you have questions or concerns about the fiscal impact statement, please call the Office of Fiscal and Program Review at 287-1635**

If you have any questions, please do not hesitate to call this office. Thank you for your attention and assistance.

Enclosure  
846ROS

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An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain  
Public Employees and Public Access to Information Disclosed

(GOVERNOR'S BILL)

126LR2005(01)

PROPOSED SHORT TITLE:  
IMPROVE LAWS GOV FINANCL DISCL  
BY LEGISLTRS & CERT PUB EMPLOYEE  
(Subject to change)

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

**2 Sec. 1 1 MRSA §1016-G, sub-§1, ¶¶C, E and K,** as enacted by PL 2011, c.  
**3 634, §11,** are amended to read:

**4 C.** The name, address and principal economic or business activity of any corporation,  
**5 partnership, limited liability company or other business in which the Legislator or**  
**6 members of the Legislator's immediate family own or control, directly or indirectly,**  
**7 more than 50%5% of the outstanding equity, whether individually or in the**  
**8 aggregate, that has received revenue of \$2,000 or more;**

**9 E.** Each source of income of \$2,000 or more received by the Legislator and a  
**10 description of the nature of the income, such as rental income, dividend income and**  
**11 capital gains;**

**12 K.** Each party as defined in Title 21-A, section 1, subsection 28, including a party  
**13 committee, and each** organization that is required under Title 21-A, chapter 13 to  
**14 register with the commission as a political action committee or ballot question**  
**15 committee for which the Legislator or a member of the Legislator's immediate family**  
**16 is a treasurer, principal officer or principal fund-raiser or decision maker;**

**17 Sec. 2. 1 MRSA §1016-G, sub-§§4 and 5,** as enacted by PL 2011, c. 634, §11,  
**18 are amended to read:**

**19 4. Rules, procedures and forms.** The commission may adopt or amend rules to  
**20 specify the reportable categories or types and the procedures and forms for reporting and**  
**21 to administer this section. The commission shall adopt rules requiring that income**  
**22 received of \$2,000 or more be reported in one of at least 4 ranges based on amount,**  
**23 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,**  
**24 chapter 375, subchapter 2-A.**

**25 5. Public Record.** Statements filed under this section are public records. ~~The~~  
**26 commissionLegislators shall publishfile these statements electronically in a format to be**  
**27 specified by the commission, which format must include immediate placement of the**  
**28 statements on a publicly accessible website ~~the completed forms of Legislators filed~~**  
**29 ~~under this section.~~**

**30 Sec. 3 5 MRSA §19, sub-§2, ¶¶H, J and P,** as enacted by PL 2011, c. 634,  
**31 §19,** are amended to read:

**32 H.** The name, address and principal economic or business activity of any  
**33 corporation, partnership, limited liability company, or other business in which the**  
**34 executive employee or members of the employee's immediate family own or control,**  
**35 directly or indirectly, more than 50%5% of the outstanding equity, whether**  
**36 individually or in the aggregate, that has received revenue of \$2,000 or more;**

**37 J.** Each additional source of income of \$2,000 or more received by the executive  
**38 employeeand a description of the nature of the income, such as rental income,**  
**39 dividend income and capital gains;**

1 P. Each party as defined in Title 21-A, section 1, subsection 28, including a party  
 2 committee, and each organization that is required under Title 21-A, chapter 13 to  
 3 register with the commission as a political action committee or ballot question  
 4 committee for which the executive employee or a member of the executive  
 5 employee's immediate family is a treasurer, principal officer or principal fund-raiser  
 6 or decision maker of the organization;

7 **Sec. 4. 5 MRSA §19, sub-§5**, as amended by PL 2007, c. 704, §8, is further  
 8 amended to read:

9 **5.Rules.** The Commission on Governmental Ethics and Election Practices may  
 10 adopt or amend rules to specify the reportable categories or types and the procedures and  
 11 forms for reporting and to administer this section. The commission shall adopt rules  
 12 requiring that income received of \$2,000 or more be reported in one of at least 4 ranges  
 13 based on amount. Rules adopted pursuant to this subsection are routine technical rules as  
 14 defined in chapter 375, subchapter 2-A.

15 **Sec. 5 5 MRSA §19, sub-§6**, as amended by PL 2007, c. 704, §9, is further  
 16 amended to read:

17 **6. Public record.** Statements filed under this section are public records. ~~The~~  
 18 ~~Commission on Governmental Ethics and Election Practices.~~ Executive employees shall  
 19 publish file these statements electronically in a format to be specified by the commission,  
 20 which format must include immediate placement of the statements on a publicly  
 21 accessible website ~~the completed forms of executive employees filed under this section.~~

## 22 SUMMARY

23 This bill amends financial disclosure laws applicable to Legislators and certain  
 24 executive branch employees. Annual income received of \$2,000 or more must include a  
 25 description as to the nature of the income. Ownership interests of 5% or more in business  
 26 entities must be reported. Involvement as a responsible officer of a political party or  
 27 political committee by the Legislator or executive employee, or by a member of that  
 28 person's immediate family, must be reported. The Commission on Governmental Ethics  
 29 and Election Practices is directed to adopt rules that require reporting of income of  
 30 \$2,000 or more in ranges. Finally, Legislators and executive employees are required to  
 31 file their disclosure statements electronically and those statements must be on a publicly  
 32 accessible website.

Appendix I: Copy of LD 1001



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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**Legislative Document**

**No. 1001**

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S.P. 346

In Senate, March 12, 2013

**An Act To Improve Laws Governing Financial Disclosure by Legislators and  
Certain Public Employees and Public Access to Information Disclosed**

---

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

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CAIN of Penobscot. (GOVERNOR'S BILL)  
Cosponsored by Representative BEAULIEU of Auburn and  
Senator: TUTTLE of York.

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

2 **Sec. 1. 1 MRSA §1016-G, sub-§1, ¶¶C, E and K**, as enacted by PL 2011, c.  
3 634, §11, are amended to read:

4 C. The name, address and principal economic or business activity of any corporation,  
5 partnership, limited liability company or other business in which the Legislator or  
6 members of the Legislator's immediate family own or control, directly or indirectly,  
7 more than ~~50%~~5% of the outstanding equity, whether individually or in the  
8 aggregate, that has received revenue of \$2,000 or more;

9 E. Each source of income of \$2,000 or more received by the Legislator and a10 description  
11 of the nature of the income, such as rental income, dividend income and  
12 capital gains;

12 K. Each party as defined in Title 21-A, section 1, subsection 28, including a party  
13 committee, and each organization that is required under Title 21-A, chapter 13 to  
14 register with the commission as a political action committee or ballot question  
15 committee for which the Legislator or a member of the Legislator's immediate family  
16 is a treasurer, principal officer or principal fund-raiser or decision maker;

17 **Sec. 2. 1 MRSA §1016-G, sub-§§4 and 5**, as enacted by PL 2011, c. 634, §11,  
18 are amended to read:

19 **4. Rules, procedures and forms.**The commission may adopt or amend rules to  
20 specifythe reportable categories or types and the procedures and forms for reporting and  
21 toadminister this section. The commission shall adopt rules requiring that income  
22 received of \$2,000 or more be reported in one of at least 4 ranges based on amount.  
23 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
24 chapter 375, subchapter 2-A.

25 **5. Public record.**Statements filed under this section are public records. ~~The~~  
26 ~~commission~~Legislators shall ~~publish~~file these statements electronically in a format to be  
27 specified by the commission, which format must include immediate placement of the  
28 statements on a publicly accessible website ~~the completed forms of Legislators filed~~  
29 ~~under this section.~~

30 **Sec. 3. 5 MRSA §19, sub-§2, ¶¶H, J and P**, as enacted by PL 2011, c. 634,  
31 §19, are amended to read:

32 H. The name, address and principal economic or business activity of any  
33 corporation, partnership, limited liability company or other business in which the  
34 executive employee or members of the employee's immediate family own or control,  
35 directly or indirectly, more than ~~50%~~5% of the outstanding equity, whether  
36 individually or in the aggregate, that has received revenue of \$2,000 or more;

37 J. Each additional source of income of \$2,000 or more received by the executive  
38 employeeand a description of the nature of the income, such as rental income,  
39 dividend income and capital gains;

1 P. Each party as defined in Title 21-A, section 1, subsection 28, including a party

2 committee, and each organization that is required under Title 21-A, chapter 13 to  
 3 register with the commission as a political action committee or ballot question  
 4 committee for which the executive employee or a member of the executive  
 5 employee's immediate family is a treasurer, principal officer or principal fund-raiser  
 6 or decision maker of the organization;

7 **Sec. 4. 5 MRSA §19, sub-§5**, as amended by PL 2007, c. 704, §8, is further  
 8 amended to read:

9 **5.Rules.**The Commission on Governmental Ethics and Election Practices may  
 10 adopt or amend rules to specify the reportable categories or types and the procedures and  
 11 forms for reporting and to administer this section. The commission shall adopt rules  
 12 requiring that income received of \$2,000 or more be reported in one of at least 4 ranges  
 13 based on amount. Rules adopted pursuant to this subsection are routine technical rules as  
 14 defined in chapter 375, subchapter 2-A.

15 **Sec. 5. 5 MRSA §19, sub-§6**, as amended by PL 2007, c. 704, §9, is further  
 16 amended to read:

17 **6. Public record.** Statements filed under this section are public records. The  
 18 Commission on Governmental Ethics and Election Practices Executive employees shall  
 19 publishfile these statements electronically in a format to be specified by the commission,  
 20 which format must include immediate placement of the statements on a publicly  
 21 accessible website the completed forms of executive employees filed under this section.

22

## SUMMARY

23 This bill amends financial disclosure laws applicable to Legislators and certain  
 24 executive branch employees. Annual income received of \$2,000 or more must include a  
 25 description as to the nature of the income. Ownership interests of 5% or more in business  
 26 entities must be reported. Involvement as a responsible officer of a political party or  
 27 political committee by the Legislator or executive employee, or by a member of that  
 28 person's immediate family, must be reported. The Commission on Governmental Ethics  
 29 and Election Practices is directed to adopt rules that require reporting of income of  
 30 \$2,000 or more in ranges. Finally, Legislators and executive employees are required to  
 31 file their disclosure statements electronically and those statements must be on a  
 32 publicly accessible website.



## Appendix J: Testimony: Veterans and Legal Affairs Committee on March 27, 2013

*126th Legislature*  
*Senate of*  
*Maine*  
*Senate District 30*

*Senator Emily Anne Cain*  
*3 State House Station*  
*Augusta, ME 04333-0003*  
*(207) 287-1515*

*103 Forest Avenue*  
*Orono, Maine 04473*  
*(207) 866-3753*  
*emily.cain@gmail.com*

**Testimony of Senator Emily Ann Cain to Present LD 1001, *An Act to Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed***

**Before the Joint Standing Committee on Veterans and Legal Affairs**

**March 27, 2013**

Senator Tuttle, Representative Luchini and honorable members of the Joint Standing Committee on Veterans and Legal Affairs. I am Senator Emily Ann Cain, representing twenty-one communities in Penobscot County, and I am here to present a Governor's Bill, LD 1001, *An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed*.

This bill is the result of more than a year's worth of work by University of Maine Senior and Honors College student, Shelbe Lane, who has been researching and writing her Honors thesis since last year. When I am not in Augusta, I work part-time in the Honors College as the Coordinator of Advancement, and periodically have the opportunity to advise senior Honors students on their theses. You will meet Shelbe today, and I know you will be as impressed with the caliber of her research as you will be with the caliber of her intellect and determination.

Chief Legal Counsel to the Governor, Michael Cianchette, is a co-advisor of Shelbe's thesis and a member of the Thesis Committee as well.

Shelbe has completed a thorough review of Maine's ethics and disclosure laws and has also considered laws on the books in other states. She drafted this bill for consideration by the Governor, which he accepted. He asked me to sponsor, which I happily do today.

LD 1001 would require lawmakers and members of the executive branch to disclose more information about their income sources and investments, as well as their involvement in political activities.

I will outline the specifics of the bill here, briefly, and I will be happy to answer any questions, but I want to encourage you to hear from Shelbe for the full background on these proposals and why the timing is right for them this year.

Specifically, the bill includes:

- that the percentage amount that requires reporting for any corporation, partnership, limited liability company or other business in which the legislator or members of the legislator's immediate family own or control, directly or indirectly is lowered to a 5% threshold, rather than the current 50%, of the outstanding equity, whether individually or in the aggregate that has received revenue of \$2,000 or more. This provision is also extended to executive employees and their immediate family.

- that for each source of income that is \$2,000 or more received by the legislator, the bill would require a description of the nature of the income, such as rental income, dividend income, and capital gains. This provision is also extended to executive employees and their immediate family.

- that disclosure of involvement with a political party committee is added to the current requirement of a political action committee or ballot questions committee, and is extended to include members of the legislator's immediate family if they are treasurer, principal officer, or principal fund-raiser or decision maker. This provision is also extended to executive employees and their immediate family.

- that the Maine Ethics Commission adopt rules requiring that income received of \$2,000 or more be reported in at least one of four ranges based on amount for legislators and executive employees.

- that the disclosure statements filed by legislators and executive employees must be filed electronically in a format that includes immediate placement of statement on a publicly accessible website

Transparency is key to an effective government that works on behalf of the people. By disclosing more information to the public and making it more accessible, Maine people can have increased confidence in our actions as lawmakers and know we have their best interests at heart.

I am happy to answer any questions you might have, and I can plan to be present at the work session.

Thank you.

**Outline of Points**  
**Testimony before the Veterans and Legal Affairs Committee**  
**March 27, 2013**

- Introduction
  - Who I am: Shelbe Lane, senior in the University of Maine Honors College
  - Why I am involved in this initiative
- The Honors Thesis
  - The State Integrity Investigation: Corruption Risk Report Card
  - Narrowing down the scope of my research in ethics to a manageable topic
  - Examining financial disclosure laws and practices in Maine and other states
- 5 Elements of L.D. 1001- An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed
  - Element 1:** Amend the percentage of ownership in equity that must be disclosed from the current 50% or more to 5% or more if it equals or exceeds \$2,000
  - Element 2:** To require more detail in the “other disclosures” section by asking for disclosure of sources of income such as rental income, dividends, and capital gains if any of these sources equal or exceed \$2,000.
  - Element 3:** An amendment to require the filer to disclose the affiliation of an immediate family with a political action committee or ballot question committee
  - Element 4:** Requiring that income be disclosed in four ranges
  - Element 5:** Requiring that the financial disclosure forms be filed electronically
- Thank you for your time. Please feel free to ask any questions you may have.

Included in this packet of information are the following:

- |   |  |
|---|--|
| • List of thesis sources  | • New Jersey Electronic Filing                                 |
| • Bangor Daily News article   | • Federal Government Financial Disclosure Monetary Ranges      |
| • UMaine news release about my thesis   | • New Jersey Financial Disclosure Income Ranges                |
| • State Integrity Investigation Corruption Risk Map                                 | • Georgia Financial Disclosure- Ownership Interest of 5%       |
| • Maine Corruption Risk Report Card   | • Rhode Island Financial Disclosure- Ownership Interest of 10% |
| • Maine Legislative Accountability Grading  |  |
| • National Conference of State Legislatures (NCSL): Full and Part-Time Legislatures |  |

**Testimony of Shelbe K. Lane before the Veterans and Legal Affairs Committee,  
126<sup>th</sup> Maine Legislature, March 27, 2013**

Good afternoon, Senator Tuttle, Representative Luchini and distinguished members of the Veterans and Legal Affairs Committee, it is an honor for me today to stand before you and present my research and thoughts related to LD 1001 An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed in collaboration with Senator Emily Cain and Chief Legal Counsel to the Governor Michael Cianchette. I would like to provide for you some background about myself and my research and connection with this initiative. My name is Shelbe Lane, I am from Patten, ME and I am a senior in the Honors College at the University of Maine in Orono. I am majoring in Business Management and minoring in Legal Studies and will be attending the University of Maine School of Law in the fall to pursue my J.D. In the fall semester of 2011, as a part of the Honors curriculum which requires students to study somewhere off site, I interned in the Governor's office under the leadership of Michael Cianchette. My interest in state government, the law, and the interplay between state house activities and the views of the constituency began to flourish at that time.

In order to graduate from the Honors College at UMaine a student is required to complete a sequence of courses, an Honors Tutorial which was my internship in the Governor's office, and a thesis which is an academic-year long research and writing project. Because procrastination is my worst enemy I actually began the project in April so that I would have the summer and both semesters to work on it. Typically the thesis is done in the student's field of study, meaning mine would have been on a business topic. I sat down with Dean Charlie Slavin one afternoon to talk about the thesis; he always provided great direction and support for all of the students and he told me to think of the best academic experience I had had thus far in my education at the University and find a way to further pursue it with my thesis. As I thought about that, what came to mind

was my internship and time here in the State House, but the one thing that had been missing in that experience was learning about the legislative side of things. This is how my thesis was born.

I could go through in great detail with you the research process that I followed and how each of the 60+ sources lead me to the proposal that shaped L.D. 1001, but I will spare you the agony of listening to me talk about all of the political science texts I read, conversations I had with the Ethics Commission and legislators, the hours I spent getting my hands on and then sifting through financial and asset disclosure forms from states all across the country, and the days it took to work my way through every single category and question on the Corruption Risk Report Card. What I will say is believe me I put in my time on this, I was very methodical in selecting what points to tackle in this bill and making sure that each would have a real impact and a practical application. As I learned very early on in my research, the topic of government ethics is overwhelming and needs to be narrowed down into sections or even pieces, and made into practices.

I will briefly explain each of the elements in the proposal and what my intention was for each of them to do. First of all would be amending the percentage of ownership in equity that a legislator or executive official is required to disclose. Currently an equity ownership of 50% or more in a company that equals \$2,000 or more must be disclosed. This amendment would require that an equity ownership of 5% or more in a company equaling \$2,000 or more would have to be disclosed. If you are wondering why change this to 5% the answer is quite frankly we needed to start somewhere lower than 50% so I started at the bottom and the value can be negotiated from there, but 50% just is not inclusive enough. It provides a loophole to avoid disclosure which is completely missing the point, so the goal is to close that loophole.

The second element of the proposal is to require more detail in the “other disclosures” section. Currently the way the financial disclosure form is written there is a section for “other

disclosures” which is left up to interpretation as to what needs to be disclosed there. It is too ambiguous, and should be amended to explicitly ask for some of the things it is intended to capture, which are sources of rental income, and income from dividends and capital gains if any of these sources are in an amount greater than \$2,000. This is for the purpose of clarity, I have been told over and over again that these forms are not always easy to fill out; hopefully this will eliminate some of the questions and direct people as to what they need to disclose. It also closes another loophole by eliminating the “I did not know I was supposed to disclose that” argument, not that we are necessarily worried about that now but it is always better to be safe than sorry and we cannot predict that this will never happen in the future.

The third element would be an amendment to require the filer’s immediate family to disclose their affiliation with a political action committee or ballot question committee. The filer already has to disclose this information about themselves but this would require them to list any significant position their spouse might hold, for example. To illustrate why this is important just think of the potential for influence from a political action committee where the legislator’s spouse is the treasurer and putting money into the campaign or lobbying on a question.

Fourth is requiring that income be disclosed in four ranges. The proposal does not explicitly lay out what those ranges might be because that job is best suited for the people who are handling the data each year. They know what will provide the best information and therefore should be allowed to decide the ranges, however currently there are no monetary amounts on the form at all. There is a significant difference in the amount of influence an income source of \$2,000 has on an individual than what an income source of \$100,000 would have. Currently there is no way to look at that. Maine is behind on this, other states and the federal government already require that income be disclosed in ranges, so this would be catching us up. I realize that the thought of having to disclose dollar figures may feel intrusive, but you will not be asked to

disclose your exact income, just to categorize your income as I am sure you have done on surveys for other things in the past.

Finally would be changing the filing format. Right now, as you all know, you have a paper form which you fill out by hand and send to the Ethics Commission who then reviews the forms and uploads them, one by one, to their website for public access as required by state law. Requiring that the financial disclosure forms be filed electronically would simplify the process for the Commission, make them more clearly and readily available to the public, and bring them up to date. We file just about everything else electronically; Maine has been a leader in utilizing technology through initiatives such as the MLTI (Maine Learning Technology Initiative) program and others so we should keep up with the standard we have set for ourselves and file these forms electronically as well. I just finished filing my financial information electronically to qualify for student aid and I am not the most tech savvy individual but the process is far simpler that way than filling it out on a form with a bottle of white out and a pen!

I have learned a great deal through this process, and what I have to offer you as a result of my thesis is a proposal that is attainable right now including a series of additions and amendments to the financial disclosure statements used here in Maine that can be put into practice and help get Maine moving further in the right direction with ethics reform. So I will close by saying thank you for your time and this opportunity to have a hands on learning experience, this is what I have been working up to for a year now and as already mentioned this is my practice for the defense so I would like to open it up to the committee and please, ask me anything!

TO: The Honorable Senator John L. Tuttle, Jr.  
The Honorable Representative Louis J. Luchini, Co-chairs  
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: March 27, 2013

RE: LD 1001 An Act To Improve Laws Governing Financial Disclosure by Legislators and  
Certain Public Employees and Public Access to Information Disclosed

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My name is Ann Luther. I'm a resident of Trenton. I work as a volunteer for the League of Women Voters of Maine and chair its Advocacy Committee.

The League of Women Voters believes that responsible government should be responsive to the will of the people and that it should be free from undue influence, corruption, and the appearance of corruption. We support measures that encourage ethics in governmental, that promote an atmosphere of openness and transparency, and that give citizens confidence that public affairs are being conducted in the public's best interests. LD 1001 surely contributes to these goals, and the League urges that you vote Ought to Pass.

Disclosure is the most fundamental tool available to us for protecting against conflicts of interest and undue influence. Disclosure induces upright behavior - those who are asked to disclose are loathe to engage in activities that would be censured if known. And disclosure lights the way for future reform -- without evidence, we lack the tools to know where enforcement needs to focus, much less the next wave of reform. For all these reasons, we support meaningful disclosure.

Of course, disclosure has its limits. If the disclosures are not timely or accessible, they do not contribute to any of our goals. For this reason, we also support the aspects of this bill that require electronic filing and online public access.

Furthermore, if we know that bad things are happening but lack enforcement tools to stop it, we citizens are likely to become more cynical than ever about politicians, government, and public service. Disclosure is not substitute for outright prohibitions and enforcement on activities that erode citizen confidence in government. For these reasons, we support additional measures that provide enforcement jurisdiction for the Ethics Commission over executive branch employees and that close the revolving door for both legislators and executive branch employees, as proposed in bills heard earlier this session.

But LD 1001 stands on its own and deserves your support. We urge you vote Ought to Pass on LD 1001.

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Founded in 1920, the League of The League of Women Voters is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major political policy issues, and influences public policy through education and advocacy.



Appendix K: In the News: Bangor Daily News Article and UMaine news article

# BANGOR DAILY NEWS

## LePage and House Democratic leader Emily Cain announce plans to improve state ethics

By Naomi Schalit and John Christie, Maine Center for Public Interest Reporting  
Posted Sept. 19, 2012, at 3:46 p.m.

AUGUSTA, Maine — Two of the state’s top political leaders say they will lead a bipartisan effort to make government ethics, accountability and transparency key issues in the upcoming legislative session.

Republican Gov. Paul LePage and House Democratic leader Emily Cain are responding to a [national report](#) that gave Maine government an “F” for its potential for corruption. Maine ranked 46th in the [“State Integrity Investigation”](#) by three nonpartisan good government groups that was released in mid-March.

Cain, the Democratic House leader who is running for a Senate seat from Orono, has proposed two linked initiatives that she hopes will lead to government ethics reform.

Cain said Tuesday she will ask her fellow lawmakers to form a bipartisan, joint select committee to consider ethics reform and report out a bill in the legislative session that begins in January.

“While the report didn’t reveal that Maine is corrupt, we have a lot of things to look at to do better,” Cain said, adding that she believes key areas of concern include nepotism, cronyism, legislative financial disclosure, government transparency and citizen access to information.

Cain on Tuesday submitted a “concept draft” bill, “An Act to Strengthen Maine’s Ethics Laws and Improve Public Access to Information,” that she hopes will provide a vehicle for bipartisan reform proposals.

Cain said her reform effort could succeed where others have failed in the past in part because the public is more aware now of the potential for corruption.

“I think the fact that Maine had a public blemish in that report changes a mindset for the public and for legislators,” Cain said.

“And we can say to ourselves: why did we get scored that way and can we take a look at ourselves in the mirror and say, ‘What do we want to be known for?’”

Both Cain and Gov. Paul LePage [vowed](#) after the integrity report’s release last spring to spearhead comprehensive government ethics reform proposals.

The report was based on research into 330 indicators in 14 categories, from procurement to campaign disclosure to lobbying. No state got an A, leading the report’s sponsors to conclude, “statehouses remain ripe for self dealing and corruption.”

[Global Integrity](#) collaborated with the [Center for Public Integrity](#) and [Public Radio International](#) on the investigation. In Maine, the research was done by the [Maine Center for Public Interest Reporting](#), based in Augusta. The center's research was then analyzed by the three sponsoring groups, which came up with the scores.

Maine got an F in nine of the 14 categories, including executive accountability, public access to information, civil service management, pension fund management, the insurance commission, legislative accountability, lobbying disclosure, ethics enforcement and redistricting.

The state got a D+ in judicial accountability and political financing and a C- in the budget process and procurement. It got one A: in internal auditing.

This week, LePage's acting chief legal counsel, Michael Cianchette, said that the governor's office is working with a University of Maine student to research and write omnibus ethics reform legislation.

That student, Shelbe Lane of Patten, will make the legislation the subject of her Honors College thesis. That, in turn, said Cianchette, will be turned into a bill from the governor's office.

"Rewriting ethics laws and finding best practices is a big objective," Cianchette said. And he said that while it may be unusual to hand the job over to a college student, Lane is up to the challenge.

"She's an intelligent young Mainer who wants to undertake this public service and it will of course go through process in the governor's office and the legislature to find the best way forward," Cianchette said.

While the goal is to address a range of problems identified in the report, Cianchette said he believes the legislation will ultimately "focus in on a few red flag areas."

Lane, 20, worked as an intern in LePage's office in the fall of 2011. She said the work she's undertaking now is daunting.

"I would say that at times, yes, it makes me a little nervous to think about what I will be doing," Lane said. "But I am getting ready to go to law school next year, so I'm also looking at it as a good step to working on my skills to help me through my career."

And Lane said her interest in ethics reform went beyond the personal. Pride in her state motivates her.

"I am a student and I am always going after straight A's," she said. "This report card is not my own, but what I hope to accomplish is a better report card and ranking for the State of Maine in the form of straight A's."

Both Cain and Cianchette said the reform efforts will not be politicized.

"Anything I'm doing I want to do in collaboration with the governor's office, Republicans in the legislature, everyone," Cain said.

"What I'd like to see happen is not only an end result that increases trust in state government, but a process that reflects and leads to an increased trust as well."

“It’s not a Republican or Democrat issue,” said Cianchette. “It’s a transparency issue.”

The bipartisan theme extends to Lane: Her thesis advisor is Cianchette, a Republican, while Democrat Cain sits on her thesis review committee.

*The Maine Center for Public Interest Reporting is a nonpartisan, nonprofit news service based in Hallowell. Email: mainecenter@gmail.com. Web: pinetreewatchdog.org.*

<http://bangordailynews.com/2012/09/19/politics/lepage-and-house-democratic-leader-emily-cain-announce-plans-to-improve-state-ethics/> printed on March 30, 2013

## Active in Augusta

UMaine honors student helps draft ethics bill being considered by Maine legislature.

When Shelbe Lane graduates with honors from the University of Maine in May, she'll be equipped with a bachelor's degree in business management, a minor in legal studies and experience as the intern to chief legal counsel in the Governor's Office.



All of which should serve her well this fall when she enters the University of Maine School of Law in Portland.

Lane's philosophy helps explain how she accomplished so much in three years at UMaine: "If you see something you want to accomplish you should go after it," she says.

The scope of her academic accomplishments could soon extend far beyond campus and impact public service in Maine for decades; she participated in drafting proposed ethics reform legislation for Maine politicians and officials.

After Lane completed her draft of the legislation in the fall, she submitted it for review and consideration to Michael Cianchette, chief legal counsel in the Governor's Office. It then went to the desk of Gov. Paul LePage, the official sponsor.

The result is LD 1001, "An Act To Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed."

Sen. Emily Cain of Penobscot is presenting the bill, which is co-sponsored by Rep. Michael Beaulieu of Auburn and Sen. John Tuttle of York. Lane says she will testify for LD 1001 on March 27 before the Committee of Veteran and Legal Affairs.

The Patten native helped pen the proposed legislation for her Honors College thesis. "I picked an area that interests me and where I think real change could be made," she says.

Lane decided to tackle writing ethics reform legislation after The State Integrity Investigation — an assessment of "transparency, accountability and anti-corruption mechanisms" — ranked Maine 46th of 50 states with regard to integrity in politics in its March 2011 report.

The investigation, a collaborative effort by the Center for Public Integrity, Global Integrity and Public Radio International, assigned Maine an F on its Corruption Risk Report Card.

"The fact we're 46th out of 50 doesn't mean we're corrupt," Lane says. "It means we don't have the statutes in place to deal with things."

Maine, she says, lags behind many other state

s and the federal government with regard to asset disclosure and conflict-of-interest regulations.

LD 1001 seeks to rectify that. If the legislation becomes law, legislators and some executive branch employees would have to include a description of annual income of \$2,000 or more on disclosure forms and would have to report ownership interests of 5 percent or more in businesses. They also would be required to file disclosure statements electronically and post the statements on a publicly accessible website. In addition, they would have to report any involvement by them or an immediate family member as a responsible officer of a political party or committee.

“It’s not about being nosy; it’s about avoiding conflict of interest in the voting process,” Lane says of her honors thesis, whose working title was State-Level Government Transparency and the Maine Legislative Process.

“Citizens have an apprehension and concern about politicians and I hope maybe this will ease some concerns,” she says.

Lane, who turns 21 in April, credits UMaine’s Honors College with encouraging her to be analytical and search for solutions as well as providing her with unique cultural opportunities and interesting, varied courses.

Civic service is a priority for Lane, who in the summer of 2012 participated in Maine NEW Leadership — a free, six-day, nonpartisan university training program that seeks to empower and engage college women. It promotes public speaking, coalition building, networking, advocacy and running for public office.

The program strives to provide attendees with “a greater awareness of their leadership potential, skills, and opportunities in civic life and public office” and to prepare them to “emerge as political leaders.”

Lane says the program and its presenters inspired her. She wants to enact positive change in ways other than running for elected office, including perhaps someday working in an attorney general’s office.

Mary Cathcart, co-director of Maine NEW Leadership and a senior policy associate at the Margaret Chase Smith Policy Center at the University of Maine, knows about public service. The former four-term state senator and three-time representative believes in the importance of women motivating and supporting each other.

In 1988, Cathcart attended a Winning With Women speech given by Shirley Chisholm, a teacher, activist and congressperson who ran for president in 1972. When Chisholm asked those in the audience to rise if they planned to run for office, Cathcart’s friends encouraged her to stand. Not long after, Cathcart launched her distinguished career in public service.

“Women do make a difference,” Cathcart says, adding that women are buoyed when they can identify with successful role models. Cathcart says Lane is a bright young woman from a small town “who is growing up to be a very strong leader.”

Lane says she strives to be courageous, create opportunities and do her best. In the fall of 2011, she became the first Governor's Office intern in Gov. LePage's administration.

Honors College members are encouraged in their junior tutorials to study abroad or take part in an alternate learning experience. As Lane was carrying a 21-credit course load, studying abroad wasn't feasible.

So she pursued the opportunity for an experience in the Governor's Office and she landed an internship with Cianchette, Gov. LePage's chief legal counsel.

Lane recounts a number of highlights, including Pardons Board hearings. She relished the internship so much she extended it for a month and wrote a handbook guide for future interns.

In order to graduate in three years with 120 credits, the commuter has taken as many as 21 credits a semester and enrolled in summer classes. She also earned 10 college credits when she was a student at Katahdin Middle/High School, where she was valedictorian of the Class of 2010.

Throughout her college career, Lane has also worked six to 10 hours a week at her father's logging business in Patten, where she has been employed since she was 13.

During the 1.5-hour drive to Patten, which is home to about 1,000 people, Lane says she listens to music and frequently composes papers in her head.

A calendar and sticky notes help her keep everything on track.

"If it needs to get done, then it is written down on a list somewhere," she says. "Sometimes, when things get crazy, that includes a note reminding me to take a little time off. I am a planner, I have an end goal and I like to challenge myself."

Entering her final semester, Lane's grade-point average was 3.89.

She says her friends and supporters also occasionally remind her to relax, which for her means cooking, reading magazines, gardening and watching movies with her fiancé.

After law school, Lane is considering specializing in employment law or mediation.

Contact: Beth Staples, 207.581.3777

*Author's Biography*

Shelbe K. Lane, raised in Patten, Maine graduated in 2010 from Katahdin High School as class valedictorian. As a Presidential Scholar, she entered the University of Maine that fall, to major in Business Management. During her time at the University, she participated in the Maine NEW Leadership program from which she graduated in the summer of 2012. She was a member of Phi Kappa Phi, Beta Gamma Sigma, and the National Society of Collegiate Scholars.

After she graduates summa cum laude in May 2013, Shelbe plans to attend the University of Maine School of Law to pursue a J.D. (Juris Doctor).