

## OFFICE OF POLICY AND LEGAL ANALYSIS

**Date:** May 14, 2021  
**To:** Veterans and Legal Affairs Committee  
**From:** Janet Stocco, Legislative Analyst  
**LD 1621** **An Act To Reform Payments to Legislators by Political Action Committees**  
*(Senator Maxmin)*

## SUMMARY

This bill repeals and replaces [21-A M.R.S. §1054-B](#) (*attached*), the law restricting payments to Legislators and their businesses by a political action committee (PAC) for which the Legislator services as a principal officer, treasurer, primary decision maker or primary fundraiser.

	Current law: <a href="#">21-A M.R.S. §1054-B</a>	<a href="#">LD 1621</a> (emphasis added by analyst)
Affected PACs	PAC for which a Legislator is <ul style="list-style-type: none"> <li>➤ a principal officer</li> <li>➤ the treasurer</li> <li>➤ individual primarily responsible for fundraising or decision-making</li> </ul>	Same as current law
Prohibited payments	<ul style="list-style-type: none"> <li>➤ Compensation to the Legislator for services provided to the PAC.</li> <li>➤ Any payments to or distributions, loans, advances, deposits or gifts of money or anything of value to or compensation to a business owned or operated by the Legislator.</li> <li>➤ Any reimbursement for expenses that the Ethics Commission determines are for the personal financial enrichment of the Legislator</li> </ul>	<ul style="list-style-type: none"> <li>➤ Compensation to the Legislator or an immediate family member of the Legislator for services provided to the PAC.</li> <li>➤ Any payments to or distributions, loans, advances, deposits or gifts of money or anything of value to or compensation to a business owned or operated by the Legislator or an immediate family member of the Legislator.</li> <li>➤ Payments the Ethics Commission determines are for the personal financial enrichment of the Legislator or an immediate family member of the Legislator</li> <li>➤ Reimbursements for any expenses that are or will be reimbursed by the Legislature or any other source of payment or reimbursement</li> </ul>
Authorized Payments	The PAC may reimburse the Legislator:	The PAC may pay for or reimburse the Legislator: <ul style="list-style-type: none"> <li>➤ For travel expenses incurred (a) in the proper performance of the duties of the Legislator and (b) for conducting activities for the PAC,               <ul style="list-style-type: none"> <li>• Including the cost of fuel for the use of the Legislator's vehicle; but</li> <li>• Not including the cost of repairing or maintaining the Legislator's vehicle or the cost of non-necessary vehicle accessories</li> </ul> </li> </ul>

Authorized payments <i>continued</i>	<ul style="list-style-type: none"> <li>➤ For expenses incurred in the proper performance of the Legislator's duties</li> <li>➤ For purchases on behalf of the PAC</li> <li>➤ For travel expenses associated with volunteering for the PAC</li> </ul>	<ul style="list-style-type: none"> <li>➤ For <b>other</b> expenses incurred in the proper performance of the Legislator's duties</li> <li>➤ For purchases on behalf of the PAC</li> <li>➤ For travel expenses associated with volunteering for the PAC</li> </ul>
Other prohibitions	PAC funds may not be commingled with <ul style="list-style-type: none"> <li>➤ Legislator's personal funds or</li> <li>➤ Funds of a business owned or operated by the Legislator</li> </ul>	PAC funds may not be commingled with <ul style="list-style-type: none"> <li>➤ Personal funds of Legislator <b>or any person</b></li> <li>➤ Funds of a business owned or operated by the Legislator <b>or any other person</b></li> </ul>
Penalties	Unclear; the following sometimes applies: <ul style="list-style-type: none"> <li>➤ <b>A PAC</b> that makes an "expenditure" in violation of campaign finance laws commits a class E crime, <i>see</i> <a href="#">§1004(1)</a>; <i>but see</i> <a href="#">§1052(4)</a> (defining "expenditure" to include payments made to initiate or influence a candidate or ballot question campaign or the transfer of the PAC's funds "to another candidate or [PAC]").</li> </ul> Thus, if the PAC makes an expenditure to a Legislator that is not related to influencing a campaign or that is made when the Legislator is not a "candidate," it is not clear that the penalty in §1004(1) applies.	A Legislator or PAC that violates this section is subject to a penalty that is the greater of: <ul style="list-style-type: none"> <li>➤ up to a \$500 fine or</li> <li>➤ the amount of the impermissible payment or reimbursement.</li> </ul>
Rulemaking	Unclear.	Authorizes routine technical rules regarding: <ul style="list-style-type: none"> <li>➤ record keeping and reporting requirements</li> <li>➤ travel and vehicle reimbursement rates</li> </ul>

## TECHNICAL ISSUES

1. **Travel expenses.** Are the limitations in §1054-B(1)(B) of the bill (p.1, lines 14-19) on the types of travel expenses that may be reimbursed—*i.e.*, fuel costs but not maintenance or accessory costs—**also** intended to apply to PAC payments to Legislators for "travel expenses associated with volunteering for the [PAC]" under §1054-B(1)(C) of the bill (p.1, lines 20-23)?
2. **Ballot question committees.** As drafted, both current law and the bill apply only to PACs with Legislators in certain leadership positions. Does the VLA Committee intend for the bill's prohibitions also to apply to some or all BQCs with Legislators in certain leadership positions?
  - a. Under current law, the definition of "PAC" includes some persons who influence ballot question campaigns rather than candidate campaigns. Specifically, under the definition in [21-A M.R.S. §1052\(5\)\(A\)\(1\) and \(4\)](#), a PAC is defined to include both separate or segregated funds and other persons whose major purpose is to initiate or influence ballot question campaigns and that receive or expend more than \$1,500 in a calendar year for that purpose.
  - b. [LD 1485](#) would limit the PAC definition to include only organizations that receive or expend more than \$2,500 in a calendar year for the purpose of influencing *candidate elections*, however. This committee unanimously voted in favor of an amended version of LD 1485 that preserves the distinction that LD 1485 makes between PACs—organizations that influence candidate

elections—and BQCs—individuals or organizations that initiate or influence ballot question elections. Thus, if LD 1485 is enacted, the restrictions on expenditures to Legislators and against comingling of funds would only apply to committees that influence candidate elections and not to any committees that merely initiate or influence ballot question campaigns. Is this intended?

3. ***Violations by Legislators.*** The plain language of §1054-B(1) in the bill prohibits PACs from making certain payments to Legislators or comingling its funds with Legislators but does not prohibit any actions *by a Legislator*. Yet, new §1054-B(3) in the bill (p. 1, lines 24-46) provides that “A Legislator . . . that is found to be in violation of this section may be subject to a penalty . . . .”

If the intent is to impose penalties on Legislators for accepting prohibited PAC payments or for comingling funds with a PAC described in the bill, then the Committee may wish to consider amending the bill to add clarity to these prohibitions.

### **FISCAL IMPACT**

Not yet determined.

**§1054-B. Payments to Legislators by political action committees**

If a Legislator is a principal officer or treasurer of a political action committee or is one of the individuals primarily responsible for raising contributions or making decisions for the political action committee, the political action committee may not compensate the Legislator for services provided to the political action committee. The political action committee may not make payments or distribute, loan, advance, deposit or gift money or anything of value to or compensate a business owned or operated by the Legislator. The political action committee may reimburse the Legislator for expenses incurred in the proper performance of the duties of the Legislator, for purchases made on behalf of the political action committee and for travel expenses associated with volunteering for the political action committee. Allowable reimbursement for expenses does not include payments from the political action committee that are determined by the commission to be for the purpose of personal financial enrichment of the Legislator. The funds of the political action committee may not be commingled with the personal funds of the Legislator or the funds of a business owned or operated by the Legislator. [PL 2019, c. 563, §9 (AMD).]

**SECTION HISTORY**

PL 2017, c. 98, §1 (NEW). PL 2019, c. 21, §1 (AMD). PL 2019, c. 563, §9 (AMD).