

**BEFORE THE FEDERAL ELECTION COMMISSION**

Foundation for Accountability and Civic Trust  
1717 K Street NW, Suite 900  
Washington, D.C. 20006

v.

MUR No. 7727

Sara Gideon  
Sara Gideon for Maine  
FEC ID: C00709899  
PO Box 812  
South Freeport, ME 04078

and

Majority Forward  
FEC ID: C90016098  
700 13<sup>th</sup> Street NW, Suite 600  
Washington, DC 20005

**COMPLAINT**

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interests over the interests of the public good. This complaint is submitted,<sup>1</sup> upon information and belief, to request the Federal Election Commission (FEC) investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act by Sara Gideon, her campaign committee, Sara Gideon for Maine, and the 501(c)(4) non-profit, Majority Forward.

There is a known method for candidates to communicate with outside groups. Moreover, several candidates have successfully used this method to “request or suggest” an outside organization run specific advertisements on their behalf. In each case, the “request or suggestion” follows a specific format: the campaign website is updated to include an “Important Update” icon and link on the home page. The “Important Update” page uses code language, such as “Mainers need to know,” to identify the request, content for the advertisement, and media market in which to run the advertisement. The “Mainers need to know” page also includes a link to a PDF, which are formatted exactly the same and includes specifics for the content and citations to sources. The

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<sup>1</sup> This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1).

appearance of the PDF documents is so similar it cannot be coincidental. After this precise method is followed, the outside organization responds with an advertisement based upon this information.

This is exactly what occurred in this case: Sara Gideon for Maine updated its website, using this exact format to “request or suggest” an advertisement and weeks later, Majority Forward responded by running the advertisement Gideon requested. After the communication was successful and the advertisement ran, Gideon removed the “Important Update” link from her website’s Home Page. The method to “request or suggest” an advertisement and provide information for it has been used by several candidates.<sup>2</sup> All of the requests use the same web page formatting, language, and uniquely formatted PDF document. There is no doubt this is a common scheme because not only are the requests done in a very specific and nearly identical method, but they are successful. Gideon cannot use this known method to communicate with an outside group and then claim she did not “request” an advertisement.

Under federal law, Senate candidates are prohibited from coordinating with outside groups such as Majority Forward on advertisements. As a result, there is reason to believe the Gideon campaign accepted, and Majority Forward made, an illegal in-kind contribution in the form of a television advertisement. We request the Commission investigate and if coordination is found, take appropriate enforcement actions to address the violations.

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<sup>2</sup> Exhibits B and C (Examples of candidates that have “requested or suggested” an advertisement with this method are Gary Peters and Theresa Greenfield); *See* Theresa Greenfield, Federal Election Commission, MUR 7717 (using an “Important Update” webpage with the language “Iowa voters need to hear about . . .,” which links to a PDF document); Gary Peters, Federal Election Commission, MUR 7666 (using an “Important Update” webpage with the language “What Michiganders Need to Know,” which links to a PDF document).

## I. Facts

Several federal candidates have used their campaign websites to request outside organizations, with which they are prohibited from coordinating, producing and running television advertisements on their behalf.<sup>3</sup> The requests are conveyed in a specific format: a campaign webpage entitled “Important Update,” which identifies the information for the content and placement of the advertisement with specific “code words” such as “What Mainers Need to Know,” and links to a PDF document in a substantially similar format that provides detailed information and citations.<sup>4</sup> The campaigns often provide photographs or video to be used in the advertisement.<sup>5</sup> The purpose and effect are clear: to give specific instructions, information, and graphic campaign materials to outside organizations to run advertisements beneficial to their campaign.

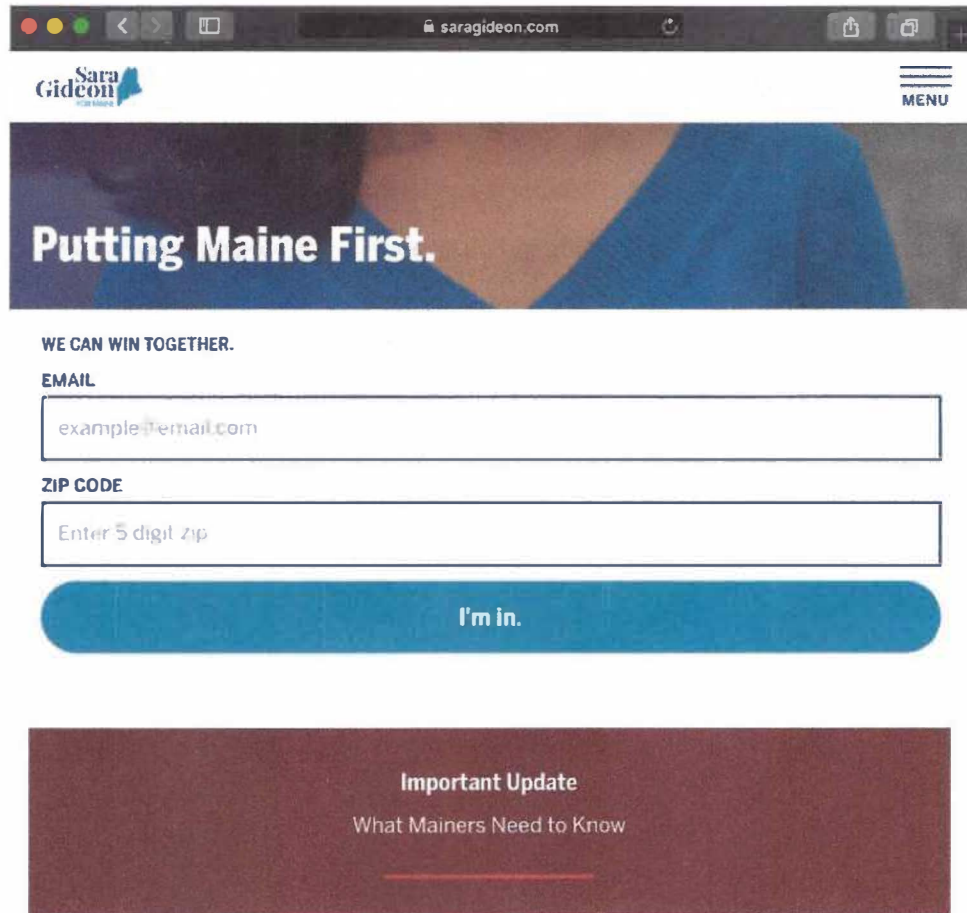
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<sup>3</sup> See, e.g., Ryan Lovelace, ‘Dark Money’ Ad Raises Questions Over Peters Campaign for Senate, Washington Times, Nov. 18, 2019, available at: <https://www.washingtontimes.com/news/2019/nov/18/dark-money-ad-raises-questions-over-gary-peters-ca/>; see also Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico (July 15, 2016).

<sup>4</sup> *Id.*; Exhibits B and C; see also, e.g., Theresa Greenfield, Federal Election Commission, MUR 7717 (using an “Important Update” webpage with the language “Iowa voters need to hear about . . .,” which links to a PDF document); Gary Peters, Federal Election Commission, MUR 7666 (using an “Important Update” webpage with the language “What Michiganders Need to Know,” which links to a PDF document).

<sup>5</sup> *Id.*

In early 2020, Gideon made a “request” using this exact known format. She updated her home page to include a red box with an “Important Update” link<sup>6</sup>:



<sup>6</sup> In January 2020, Gideon updated the home page on her campaign website to include the “Important Update” graphic and link. Exhibit A (Sara Gideon for Maine, Home Page, available at saragideon.com (accessed on Jan. 10, 2020 and March 5, 2020)). However, after Majority Forward ran the requested advertisement in February 2020, Gideon removed the “Important Update” graphic and link from the home page. *Compare* Exhibit A and Sara Gideon For Maine, accessed via the Internet Archive’s Wayback Machine on March 5, 2020, available at <https://web.archive.org/web/20200305044255/https://saragideon.com/> (last accessed April 8, 2020), with Sara Gideon for Maine, [www.saragideon.com](http://www.saragideon.com) (last accessed April 8, 2020).

The “Important Update” link opened a “Important Update What Mainers Need to Know” page, which conveyed the content for an advertisement<sup>7</sup>:

The screenshot shows a web browser window with the URL saragideon.com. The page features a blue header with the Sara Gideon logo and a 'MENU' button. Below the header is a large blue banner with the text 'IMPORTANT UPDATE' and 'What Mainers Need to Know'. The main content area has a white background with the following text:

**Susan Collins: She's Not for You Anymore**

*Instead of working for Maine people, Susan Collins has become part of Washington, taking millions of dollars from special interests like drug companies, insurance companies and Wall Street and then working for them in the Senate. Susan Collins – she's not for you anymore.*

**H.R. 3**  
2/5/20

A major bill just passed the House of Representatives that would significantly lower the cost of prescription drugs.

The only things standing in the way now are Mitch McConnell ... and Susan Collins.

Public finance records show that Susan Collins has taken \$1.4 million dollars for drug and insurance companies. The pharmaceutical industry is “strongly opposed” to the bill so it's no surprise Collins refuses to support it.

Even though it could save Mainers thousands of dollars a year.

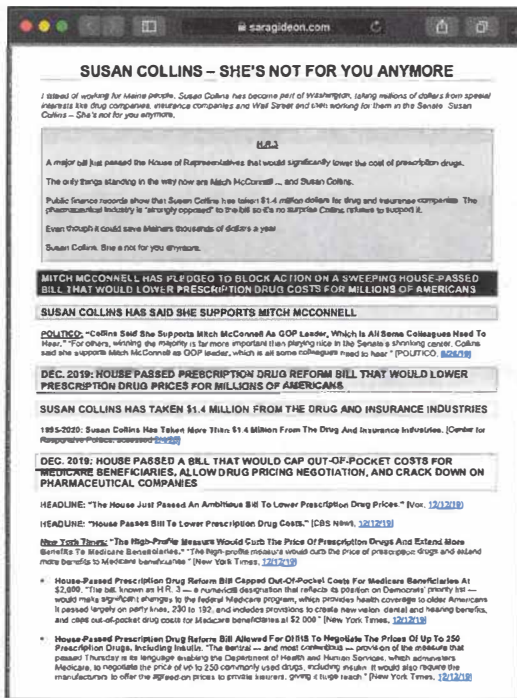
Susan Collins. She's not for you anymore.

[Click here for more information.](#)

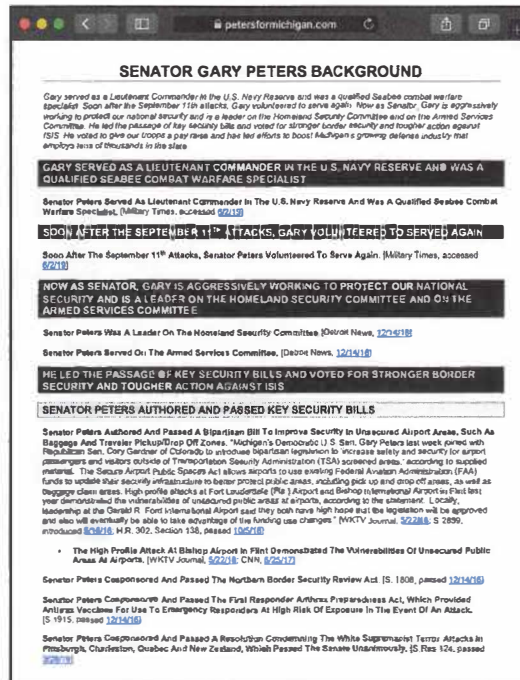
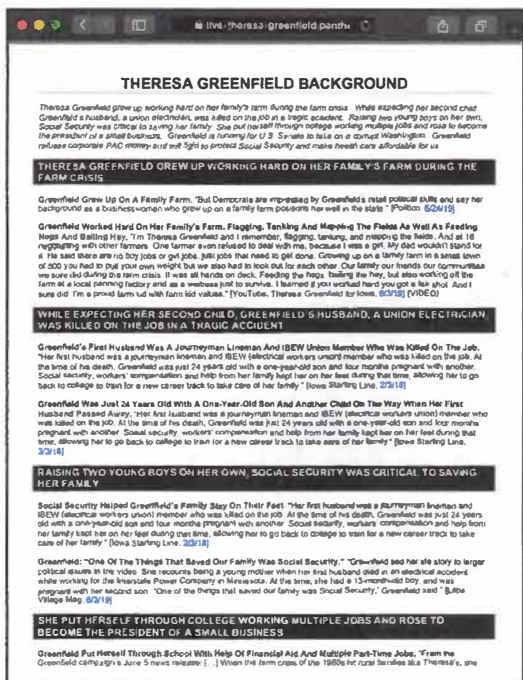
Below the text are social media icons for Facebook and Twitter. At the bottom of the page is a dark blue footer with a red 'Donate' button, social media icons for Facebook, Twitter, Instagram, and YouTube, and a navigation menu with links: Home, Meet Sara, Priorities, News, Take Action, Store, CONTACT, VOLUNTEER, JOBS, and PRIVACY POLICY. The footer also includes the copyright notice '© 2019–2020 Sara Gideon for Maine' and a small box that says 'Paid for by Sara Gideon for Maine'.

<sup>7</sup> This page was updated on January 10, 2020 and February 5, 2020, both with the headline “Susan Collins: She’s Not for You Anymore” and focusing on the issue of prescription drugs. Exhibit A (Sara Gideon for Maine, “Important Update What Mainers Need to Know,” available at: <https://saragideon.com/update/> (accessed Jan. 10, 2020 and Feb. 5, 2020).

The "Click here for more information" link opened a PDF document:<sup>8</sup>



This document is formatted exactly as other candidates who have followed the same method and successfully had an outside organization run an advertisement on their behalf. Here are two other recent examples:<sup>9</sup>



<sup>8</sup> Exhibit A; see also Exhibits B (Theresa Greenfield for Iowa) and C (Gary Peters for Michigan).

<sup>9</sup> Exhibits B and C; see also Theresa Greenfield, Federal Election Commission, MUR 7717; Gary Peters, Federal Election Commission, MUR 7666.

On February 18, 2020, Majority Forward released a 30-second advertisement, the substance of which was based upon the content of Gideon’s webpage.<sup>10</sup> Both the webpage and advertisement focused on the issue of prescription drug costs for Mainers, specifically stating Gideon’s opponent received \$1.4 million from drug and insurance industries and citing the Center for Responsive Politics.<sup>11</sup> Majority Forward was reportedly spending \$500,000 to run Gideon’s advertisements.<sup>12</sup> Sometime after Majority Forward responded with the advertisement, Gideon changed the home page on her website to remove the “Important Update” icon and link, likely because it had served its purpose and was no longer necessary.<sup>13</sup>

<sup>10</sup> Majority Forward “Twenty Years,” uploaded Feb. 18, 2020, available at: <https://www.youtube.com/watch?v=bA2Ao9zzAK8&feature=youtu.be> (last accessed April 8, 2020).

<sup>11</sup> Both Gideon’s website and Majority Forward’s advertisement cited the same source:



Twenty Years

Unlisted

527 views · Feb 18, 2020

LIKE DISLIKE SHARE SAVE ...

Majority Forward  
322 subscribers

SUBSCRIBE

Category

People & Blogs

<sup>12</sup> Caitlin Andrews and Jessica Piper, Susan Collins Hits Gideon on Corporate Money as Senate Race Heats Up, Bangor Daily News, Feb. 20, 2020, available at <https://bangordailynews.com/2020/02/20/politics/daily-brief/susan-collins-hits-gideon-on-corporate-money-as-senate-race-heats-up/> (“Just this week, Majority Forward, a nonprofit “dark money” group affiliated with a PAC that supports Democrats in Senate races, is out with a new, half-million dollar TV ad buy . . .”).

<sup>13</sup> Gideon updated the home page on her campaign website to include the “Important Update” graphic and link in January 2020. The “Important Update” page had a January 10, 2020 version and February 5, 2020 version, which both had links to PDF documents using the same unique formatting. Both versions of the page were on the same topic. However, after Majority Forward ran the ad, Gideon removed the “Important Update” graphic and link from her home page. *Compare* Exhibit A and Sara Gideon For Maine, accessed via the Internet Archive’s Wayback Machine on March 5, 2020, available at <https://web.archive.org/web/20200305044255/https://saragideon.com/> (last accessed April 8, 2020), with Sara Gideon for Maine, [www.saragideon.com](http://www.saragideon.com) (last accessed April 8, 2020).

## II. Law

Under federal law, candidates for federal office are subject to regulations that limit or prohibit contributions from and interactions with individuals, groups, and organizations. Among these regulations, federal candidates are prohibited from soliciting or accepting contributions from an individual or a non-multicandidate PAC in excess of \$2,800, from a multicandidate PAC in excess of \$5,000, or from any corporation or labor organization in any amount.<sup>14</sup> Federal candidates are also prohibited from accepting contributions from entities that accept contributions from corporations or labor organizations.<sup>15</sup> On the other hand, individuals, groups, and organizations are also prohibited from making any illegal contribution.<sup>16</sup> Contributions are broadly defined to include cash donations, but also “anything of value . . . for the purpose of influencing any election for Federal office.”<sup>17</sup>

Additionally, federal law sets forth three specific expenditures that are defined as contributions:

(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

....

(iii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for the purpose of this paragraph[.]<sup>18</sup>

Under subsection (i), to determine whether a communication was made in cooperation with a candidate, a three-part test applies: (1) the communication is paid for by a third-party; (2) the communication satisfies a “content” standard of 11 C.F.R. § 109.21(c); and (3) the communication satisfies one of the “conduct” standards of 11 C.F.R. § 109.21(d).<sup>19</sup>

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<sup>14</sup> 52 U.S.C. §§ 30116, 30118.

<sup>15</sup> 52 U.S.C. §§ 30101, 30118.

<sup>16</sup> *See, e.g.*, 52 U.S.C. § 30116(a)(7)(B).

<sup>17</sup> 52 U.S.C. § 30101(8)(A).

<sup>18</sup> 52 U.S.C. § 30116(a)(7)(B).

<sup>19</sup> 11 C.F.R. § 109.21.



Under subsection (iii), to determine whether a communication was a dissemination, distribution, or republication of campaign materials, the general rule applies:

a. General Rule. The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's authorized committee, or an agent of either of the foregoing shall be considered a contribution for the purposes of contribution limitations and reporting responsibilities of the person making the expenditure. The candidate who prepared the campaign material does not receive or accept an in-kind contribution, and is not required to report an expenditure, unless the dissemination, distribution, or republication of campaign materials is a coordinated communication under 11 CFR 109.21 or a party coordinated communication under 11 CFR 109.37.<sup>20</sup>

Any republication of material prepared by a candidate or campaign is a contribution,<sup>21</sup> even if the campaign materials are only a small part of a larger advertisement.<sup>22</sup> Whether the materials were obtained from a publicly available source is “not relevant to the analysis of whether it was republished under 11 C.F.R. § 109.23.”<sup>23</sup>

The contributions specified in subsections (i) and (iii) are separate and distinct ways to make an illegal contribution.

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<sup>20</sup> 11 C.F.R. § 109.23(a).

<sup>21</sup> There are five narrow exceptions, which are:

1. The campaign material is disseminated, distributed, or republished by the candidate or the candidate's authorized committee who prepared that material;
2. The campaign material is incorporated into a communication that advocates the defeat of the candidate or party that prepared the material;
3. The campaign material is disseminated, distributed, or republished in a news story, commentary, or editorial exempted under 11 CFR 100.73 or 11 CFR 100.132;
4. The campaign material used consists of a brief quote of materials that demonstrate a candidate's position as part of a person's expression of its own views; or
5. A national political party committee or a State or subordinate political party committee pays for such dissemination, distribution, or republication of campaign materials using coordinated party expenditure authority under 11 CFR 109.32.

11 C.F.R. § 109.23. *See also*, Federal Election Commission, First General Counsel's Report, MUR 6357 (Aug. 31, 2011) (finding the use of a video clip does not fall under the exception 11 C.F.R. § 109.23(b)(4) of consisting of a brief quote).

<sup>22</sup> *See, e.g.*, Federal Election Commission, *First General Counsel's Report*, MUR 6357, at 5-11 (finding an outside group republished campaign materials and made an in-kind contribution to the campaign when it obtained campaign video footage from the campaign's YouTube page and used it in an advertisement).

<sup>23</sup> Federal Election Commission, Ellen L. Weintraub, Cynthia L. Bauerly, and Steven T. Walther, *Statement of Reasons*, MUR 6357, at 3, Feb. 27, 2012 (available at <https://www.fec.gov/files/legal/murs/6357/12044312290.pdf>).

### III. Cause of Action

#### A. Illegal Contribution of Coordinated Communication (52 U.S.C. § 30116(a)(7)(B)(i)).

There is reason to believe Sara Gideon and Sara Gideon for Maine solicited and accepted an illegal contribution from Majority Forward by coordinating communications valued at \$500,000. Facts demonstrating coordination are: Gideon made the request for the advertisement in a known format designated to convey the request, the request was acted on within a short amount of time, and the advertisement's content was exactly what was requested. Moreover, after the request was fulfilled, Gideon changed her webpage to remove the "Important Update" link requesting the advertisement.

Specifically, a communication is coordinated with a candidate, an authorized committee, or a political party committee when (1) it is paid for by an outside entity; (2) it satisfies a "content standard" of 11 C.F.R. § 109.21(c), i.e. expressly advocates for the election or defeat of a clearly identified candidate for Federal office or republishes campaign materials; and (3) satisfies a "conduct standard" of 11 C.F.R. § 109.21(d), i.e. the communication is created, produced, or distributed at the "request or suggestion" of a candidate.<sup>24</sup> The "request or suggestion" conduct standard does not have a "safe harbor" for requests made publicly or information obtained from a publicly available source.

**1. Payment Standard.** The "payment" standard is satisfied when a communication is paid for by an entity "other than that candidate, authorized committee, or political party committee."<sup>25</sup> Here, the advertisement disclaimer states, "Majority Forward." Thus, from the face of the communication, it is clear the advertisement was paid for by Majority Forward, and not Sara Gideon for Maine.

**2. Content Standard.** The advertisement meets multiple "content" standards under 11 C.F.R. § 109.21: (c)(2) the communication is a public communication that "disseminates, distributes or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate's authorized committee;"<sup>26</sup> (c)(3) is a public communication that expressly advocates for the election or defeat of a clearly identified candidate for Federal office;<sup>27</sup> and (c)(5) "is the

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<sup>24</sup> 11 C.F.R. § 109.21.

<sup>25</sup> *Id.*

<sup>26</sup> 11 C.F.R. § 109.21(c)(2).

<sup>27</sup> 11 C.F.R. § 109.21(c)(3).

functional equivalent of express advocacy.”<sup>28</sup> All three of these standards are demonstrated by the advertisement: The advertisement republishes campaign materials, i.e. written material for an advertisement.<sup>29</sup> Moreover, it is information Sara Gideon for Maine identified as important for voters to know. Thus, the communication can only be understood to be providing information to convince a citizen to vote for Gideon and is clearly “an appeal to vote for or against a clearly identified Federal candidate.”

**3. Conduct Standard.** The communication meets the “conduct” standard of 11 C.F.R. § 109.21(d): “The communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political party committee.”<sup>30</sup> Evidenced by the campaign making the request in the known format, the advertisement is clearly in response to a request by Gideon to disseminate, distribute, and republish the substantive message.

It is public knowledge that candidates are communicating with outside groups through a specific method: designed webpages that use a specific format and language. There are other examples of candidates using the same method successfully to obtain a desired advertisement that was paid for by an outside group. Gideon’s “request or suggestion” followed the exact known method to request an outside group run an advertisement: the “Important Update” title of the webpage, the “code language” to identify the substance and media market for the advertisement, and a specific formatted PDF research document with particular substantive points and citations. Gideon’s webpage is exactly like those used by other candidates who have successfully requested or suggested outside groups run specific advertisements on their behalf. The formatting is so specific it cannot be coincidental, but rather is an obvious communication with an outside group to request an advertisement. Because she used this known precise method, Gideon should not be permitted to claim she didn’t request or suggest the outside group run an ad.

Moreover, Majority Forward’s advertisement clearly responded to Gideon’s request. Within weeks of the request, it created and ran an ad that precisely conveyed the substantive information identified by the Gideon campaign. The close proximity in time between the campaign providing the instruction and materials and the outside group running the

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<sup>28</sup> 11 C.F.R. § 109.21(c)(5). The advertisements are clearly “an appeal to vote for or against a clearly identified Federal candidate.”

<sup>29</sup> 11 C.F.R. § 109.21(c)(2).

<sup>30</sup> 11 C.F.R. § 109.21(d)(1).

advertisement also demonstrates this was a “request or suggestion.” Finally, once the advertisement had ran, Gideon changed her webpage to remove the “Important Update” link.

Additionally, the coordination between the Gideon campaign and Majority Forward is not excused because a public avenue was used to make the “request or suggestion” and to transfer campaign materials and information. The “publicly-available-information safe harbor” does not generally apply to the “request or suggestion” conduct standard. The language of the “request or suggestion” conduct standard does **not** state it is not satisfied if the “information material to the creation, production, or distribution of the communication was obtained from a publicly available source.”<sup>31</sup> This is unlike every other conduct standard, which does explicitly provide for a publicly-available-information safe harbor.<sup>32</sup> To interpret the “request or suggestion” standard as not applying if information was obtained from a publicly available source is directly contrary to the plain language of the regulation, and unreasonable and contrary to the statute.<sup>33</sup>

The 2006 E&J notes the Commission decided that the publicly-available-information-safe-harbor “more appropriately applies to only four of the five conduct standards, and is being added to the paragraphs currently containing those four conduct standards.”<sup>34</sup> The conduct at issue under “request or suggestion” standard is a candidate’s request or suggestion that a communication be

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<sup>31</sup> Compare 11 C.F.R. § 109.21(d)(1) (stating in full: “Any one of the following types of conduct satisfies the conduct standard of this section whether or not there is agreement or formal collaboration, as defined in paragraph (e) of this section: 1. REQUEST OR SUGGESTION. i. The communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political party committee; or ii. The communication is created, produced, or distributed at the suggestion of a person paying for the communication and the candidate, authorized committee, or political party committee assents to the suggestion.”), with 11 C.F.R. § 109.21(d)(2) (“This paragraph, (d)(2), is not satisfied if the information material to the creation, production, or distribution of the communication was obtained from a publicly available source.”), 11 C.F.R. § 109.21(d)(3) (“This paragraph, (d)(3), is not satisfied if the information material to the creation, production, or distribution of the communication was obtained from a publicly available source.”), 11 C.F.R. § 109.21(d)(4) (“This paragraph, (d)(4)(iii), is not satisfied if the information material to the creation, production, or distribution of the communication used or conveyed by the commercial vendor was obtained from a publicly available source.”), and 11 C.F.R. § 109.21(d)(5) (“This paragraph, (d)(5)(ii), is not satisfied if the information material to the creation, production, or distribution of the communication used or conveyed by the former employee or independent contractor was obtained from a publicly available source.”).

<sup>32</sup> *Id.*

<sup>33</sup> Compare Coordinated Communications, 71 Fed. Reg. 33190, 33204-05 (June 8, 2006) (explaining the plain language of the statute did not contain an exception for the use of publicly available information and it would be inappropriate to include this type of exception); with FEC, Factual and Legal Analysis, Shaheen for Senate, MUR 6821 (Dec. 2, 2015) (stating “that a communication resulting from a general request to the public or the use of publicly available information, including information contained on a candidate’s website, does not satisfy the content standard.”) and FEC, First General Counsel’s Report, MUR 7136 (Oct. 24, 2017) (same).

<sup>34</sup> Coordinated Communications, 71 Fed. Reg. 33190, 33205 (June 8, 2006).

created, produced, or distributed, whereas the four standards to which the publicly-available-information-safe-harbor was added “all concern conduct that conveys material information that is subsequently used to create a communication.”<sup>35</sup> The request or suggestion standard is different than the other four because it simply is the request or ask, whereas the other four require conveyance of **information** material to the creation of the communication. Thus, by its plain language a “request or suggestion” is not “information” and the publicly-available-information-safe-harbor could not apply.

In addition to the fact that it was not technically applicable, it was noted that one concern commentators expressed was if the publicly-available-information-safe-harbor was added to the “request or suggestion” conduct standard, it may allow for a loophole that could be exploited by precluding “certain communications from satisfying the coordinated communications test simply because a portion of a given communication was based on publicly available information, even if a candidate privately conveyed a request that a communication be made.”<sup>36</sup> The choice not to apply the publicly-available-information safe harbor to the request or suggestion conduct standard was to make the regulation stronger—it was intended to prevent any argument the communication was based upon some information or statement that was publicly available—it did not allow for a request or suggestion to be made publicly. In fact, the concerns addressed ensured that no part of the ask could be made publicly. The language of the statute prevails—the request or suggestion conduct standard does not contain a safe harbor for publicly available information.

Moreover, the “publicly-available-**information** safe harbor” states it only applies to “information”—not a “request or suggestion” and not the transfer of other types of campaign assets and materials, i.e. campaign written materials and photographs.<sup>37</sup> Although the “request or suggestion conduct standard” does **not** include the public information safe harbor, the conduct standards that do state: “This paragraph . . . is not satisfied if the **information** material to the creation, production, or distribution of the communication was obtained from a publicly available source.”<sup>38</sup> As discussed above, the Commission recognized “information” was not appropriately

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *See, e.g.*, 11 C.F.R. § 109.21(d)(2).

<sup>38</sup> *See, e.g.*, 11 C.F.R. § 109.21(d)(2) (emphasis added). Information is defined as “(1) knowledge obtained from investigation, study, or instruction; (2) intelligence, news; (3) facts, data.” “Information,” Merriam-Webster Online Dictionary 2019, available at <https://www.merriam-webster.com/dictionary/information>, last accessed Dec. 18, 2019.

applied to a “request or suggestion” because they are not the same thing.<sup>39</sup> The law also generally recognizes the difference between “information” and “assets,” including “campaign materials.”<sup>40</sup> The written content was prepared and paid for by Gideon’s campaign, and thus would be an “item of value” or an “asset.”<sup>41</sup>

The “request or suggestion” was evident in the format in which it was made, which is not “information.” Because Gideon knew to use this format, it also indicates other communications occurred. Majority Forward acted on the “request or suggestion” and created an advertisement using campaign assets, which are not “information.” Thus, the “publicly-available-information safe harbor” does not apply either in this case.

The advertisement was paid for by Majority Forward, the content of the advertisement was the substantive message identified by the Gideon campaign, and Gideon or Sara Gideon for Maine made a “request or suggestion” using the known format to do so, all demonstrating the coordination in this case.

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<sup>39</sup> Coordinated Communications, 71 Fed. Reg. 33190, 33204-05 (June 8, 2006) (explaining the plain language of the statute did not contain an exception for the use of publicly available information and it would be inappropriate to include this type of exception: “Moreover, the four conduct standards that are being revised to include a safe harbor for the use of publicly available information all concern conduct that conveys material information that is subsequently used to create a communication, whereas the “request or suggestion” conduct standard concerns only a candidate’s or political party’s request or suggestion that a communication be created, produced or distributed, and is not dependent upon the nature of information conveyed.”).

<sup>40</sup> For example, where the “publicly-available-information safe harbor” applies, the regulations states it is in the context of “decisions,” “discussion,” or knowledge of common employees or vendors—all applications are to conveyance of knowledge or facts. *Compare* 11 C.F.R. § 109.21(d) (applying the “publicly-available-information safe harbor” to “decisions,” “discussion,” and knowledge of a common employee or vendor), *with* 11 C.F.R. § 109.21(d)(6) (providing certain conduct standards are only satisfied “that occurs after the original preparation of the campaign materials that are disseminated, distributed, or republished”). On the other hand, the regulations distinguish “information” from “campaign materials” that are prepared by the campaign. *Id.* The content standards are based upon republication of campaign materials and the conduct standards are based upon the communication of information. *See* 11 C.F.R. § 109.21(d)(6).

<sup>41</sup> “Asset,” Merriam-Webster Online Dictionary 2019, available at: <https://www.merriam-webster.com/dictionary/asset>, last accessed Dec. 19, 2019 (defining “asset” as an “item of value owned”); 11 C.F.R. § 100.51(a) (“The term contribution includes payment, services, or other things of value . . .”); 11 C.F.R. § 100.52(d)(1) (stating that in-kind contributions include “the provisions of goods or services” including “securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists”).

**B. Illegal Contribution of Dissemination, Distribution, or Republication of Campaign Materials (52 U.S.C. § 30116(a)(7)(B)(iii))**

There is reason to believe Majority Forward made an illegal contribution by financing “the dissemination, distribution, or republication, in whole or part” of Sara Gideon for Maine written campaign materials in excess of \$500,000.<sup>42</sup> Specifically, Majority Forward’s advertisement clearly republished written campaign materials and information compiled and provided by Sara Gideon for Maine.

Under federal law, Majority Forward is prohibited from reproducing any materials prepared by a candidate’s authorized committee. Republishing campaign materials is a contribution to the candidate, even if the republication is only a small portion of a larger advertisement.<sup>43</sup> The law does not allow for any use of campaign materials by an outside organization and there are no exceptions applicable in this case.<sup>44</sup> Majority Forward simply republished Gideon’s campaign materials, which is an illegal contribution.

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<sup>42</sup> 11 C.F.R. § 109.23.

<sup>43</sup> *See, e.g.*, First General Counsel’s Report, Federal Election Commission, MUR 6357, at 5-11 (finding an outside group republished campaign materials and made an in-kind contribution to the campaign when it obtained campaign video footage from the campaign’s YouTube page and used it in an advertisement).

<sup>44</sup> Only the narrow exceptions expressly listed permit republication of campaign materials, and none of the five narrow circumstances are even remotely applicable in this case. *See* 11 C.F.R. § 109.23. *See also*, Federal Election Commission, First General Counsel’s Report, MUR 6357 (Aug. 31, 2011) (finding the use of a video clip does not fall under the exception 11 C.F.R. § 109.23(b)(4) of consisting of a brief quote).





**Exhibit A**

Sara Gideon for Maine, Home Page (Jan. 10, 2020), at: <https://saragideon.com>.

The screenshot shows a web browser window with the URL [saragideon.com](https://saragideon.com). The page features the Sara Gideon logo in the top left and a 'MENU' button in the top right. A large blue banner with the text 'Putting Maine First.' is positioned below the header. Underneath the banner, the slogan 'WE CAN WIN TOGETHER.' is displayed. The page includes two input fields: one for 'EMAIL' with the placeholder 'example@email.com' and one for 'ZIP CODE' with the placeholder 'Enter 5 digit zip'. A prominent blue button labeled 'I'm in.' is located below the input fields. At the bottom of the page, a dark red banner contains the text 'Important Update' and 'What Mainers Need to Know'.

## Exhibit A

Sara Gideon for Maine, Important Update (Jan 10, 2020), at <https://saragideon.com/update/> (last accessed Jan. 15, 2020).



IMPORTANT UPDATE

## What Mainers Need to Know

### Susan Collins: She's Not for You Anymore

*Instead of working for Maine people, Susan Collins has become part of Washington, taking millions of dollars from special interests like drug companies, insurance companies and Wall Street and then working for them in the Senate. Susan Collins – she's not for you anymore.*

#### CHAPTER #2: Pay for Delay

1/10/20

Drug and insurance companies have given Susan Collins more than \$1.4 million dollars.

And Susan Collins twice voted to allow secret deals for drug companies that delay access to cheaper generic drugs – these schemes have forced Mainers to pay 10 times more for brand name drugs than they would for their generic equivalents and have resulted in billions in additional profits for the drug companies.

Susan Collins. She's not for you anymore.

[Click here for more information.](#)



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Exhibit A: Sara Gideon for Maine, Important Update (Jan. 10, 2020), "[Click here for more information](#)" link.

## SUSAN COLLINS – SHE’S NOT FOR YOU ANYMORE

*Instead of working for Maine people, Susan Collins has become part of Washington, taking millions of dollars from special interests like drug companies, insurance companies and Wall Street and then working for them in the Senate. Susan Collins – She’s not for you anymore.*

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## SUSAN COLLINS – SHE’S NOT FOR YOU ANYMORE

### SUSAN COLLINS TWICE VOTED AGAINST CRACKING DOWN ON SECRET “PAY-FOR-DELAY” AGREEMENTS THAT DELAY ACCESS TO CHEAPER GENERIC PRESCRIPTION DRUGS

#### 2010: SUSAN COLLINS VOTED TO REMOVE A PROVISION BANNING “PAY-FOR-DELAY” AGREEMENTS FROM AN APPROPRIATIONS BILL

**7/29/10: Susan Collins Voted For An Amendment That Would Have Removed A Provision Prohibiting So-Called “Pay-For-Delay” Agreements From An Underlying Appropriations Bill.** On July 29, 2010, Susan Collins voted for an “Amendment that would remove a provision to prohibit brand-name drug companies from paying generic-drug companies to delay introducing cheaper generic drugs into the market.” The Senate Appropriations Committee rejected the amendment by a vote of 15 to 15. The underlying bill was the Fiscal Year 2011 Financial Services and General Government Appropriations Act. [CQ, [7/29/10](#); S. 3677, [7/29/10](#)]

- **New York Times Editorial: The Amendment Would Have Removed A Provision From The Underlying Bill That Would Have “Greatly Curtail[ed] Pay-For-Delay Practices.”** “The bill pending in the Senate, which was incorporated into a general government appropriations bill, is similar to legislation already approved by the House. It would greatly curtail pay-for-delay practices by presuming that such agreements are illegal and anticompetitive while leaving an opportunity for the affected companies to overcome that presumption in court. On the merits, the bill deserves passage. But the proposal barely survived a challenge in the Senate Appropriations Committee when an amendment that would have dropped it from the broader bill failed to win a majority; it lost on a 15-to-15 tie.” [Editorial, New York Times, [8/9/10](#)]
- **Washington Drug Letter: The Provision Banned “Pay-For-Delay” Agreements Between Generic And Brand-Name Pharmaceutical Companies Under Which Generic Manufacturers Agreed To Delay Or Limit Research, Development, Manufacturing, Or Sales Of Their Generic Drugs.** “But less than a week later, the Senate Appropriations Committee included Kohl’s bill in the Fiscal 2011 Financial Services and General Government Appropriations Act. Kohl’s provision, opposed by the brand and generics industries, would amend the FTC Act by banning agreements between brand and generic companies in which an ANDA filer receives anything of value or agrees to limit or forego research, development, manufacturing or sales of its generic drug for any period.” [Washington Drug Letter, [8/2/10](#)]

#### 2012: SUSAN COLLINS VOTED AGAINST AN AMENDMENT THAT WOULD HAVE CRACKED DOWN ON “PAY-FOR-DELAY” AGREEMENTS

**5/24/12: Susan Collins Voted Against An Amendment That Would Have “Ensured] That Anti-Competitive ‘Pay-For-Delay’ Settlements Between Brand-Name And Generic Pharmaceutical Manufacturers Do Not Block Generic Drugs From Entering The Market.”** On May 24, 2012, Susan Collins voted against an amendment that would have “provide[d] substantial savings in health care costs to the Federal government and consumers by fostering competition among generic pharmaceutical manufacturers and ensuring that anti-competitive ‘pay-for-delay’ settlements between

brand-name and generic pharmaceutical manufacturers do not block generic drugs from entering the market.” The amendment was rejected 28-67. [CQ, [5/24/12](#); S.Amdt. 2111 to S. 3187, Vote 105, [5/24/12](#)]

- **Amendment “Would Have Prevented Generic Pharmaceutical Companies From Reaching Pay-For-Delay Settlements With Makers Of Brand-Name Drugs Under Which They Were Paid To Put Off The Introduction Of Generic Versions Of Brand-Name Drugs.”** “SENATE Vote 1: Generic drugs: The Senate has rejected an amendment sponsored by Sen. Jeff Bingaman, D-N.M., to the Food and Drug Administration Safety and Innovation Act (S. 3187). The amendment would have prevented generic pharmaceutical companies from reaching pay-for-delay settlements with makers of brand-name drugs under which they were paid to put off the introduction of generic versions of brand-name drugs. The vote, Thursday, was 28 yeas to 67 nays.” [Tusla World, [5/27/12](#)]

## **SECRET “PAY-FOR-DELAY” DEALS DELAYED THE INTRODUCTION OF CHEAPER GENERIC DRUGS...**

**NBC: “Pay-For-Delay” Agreements “Allow Drug Manufacturers In Some Instances To Pay Competitors Not To Manufacture Generic Versions Of Their Products.”** “Known as ‘reverse settlement payments,’ or ‘pay-to-delay’ deals, the financial arrangements are a unique but common practice in the pharmaceutical industry. Essentially, they allow drug manufacturers in some instances to pay competitors not to manufacture generic versions of their products, thereby ensuring that they maintain patent protection for as long as possible.” [NBC, [8/13/15](#)]

## **...HAVE COST CONSUMERS BILLIONS IN HIGHER DRUG COSTS...**

**2013: Federal Trade Commission Estimated That “Pay-For-Delay” Agreements Cost Consumers And Health Insurance Plans \$3.5 Billion Annually.** “In 2013, the U.S. Supreme Court ruled that a brand-name drug manufacturer could be sued for violating antitrust laws if it engaged in pay-for-delay agreements, but that regulators could pursue such cases only on a case-by-case basis. At the time, the FTC said such agreements cost consumers and health plans \$3.5 billion annually.” [Los Angeles Times, [7/29/19](#)]

**2013: Consumer Advocacy Groups CalPIRG And Community Catalyst Estimated That Brand-Name Drugs Impacted By “Pay-For-Delay” Deals Cost 10 Times More Than Their Generic Equivalents.** “On average, brand-name drugs affected by pay-for-delay deals cost 10 times more than generic versions, according to a 2013 report from consumer advocacy groups CalPIRG and Community Catalyst that analyzed information about 20 medications. Brand-name drugmakers made an estimated \$98 billion in total sales of those drugs while generic versions were delayed, the report said.” [Los Angeles Times, [7/29/19](#)]

**2019: California Attorney General Xavier Becerra Said “Pay-For-Delay” Agreements Caused Consumers To “Pay As Much As 90% More For Drugs Shielded From Competition” Under The Deals.** “Under such ‘pay-for-delay’ agreements, drugmakers could maintain a monopoly on branded medications after their patents expired, [California Attorney General Xavier] Becerra said. The practices caused consumers ‘to pay as much as 90% more for drugs shielded from competition,’ his office added.” [CNN, [7/29/19](#)]

## **...WHILE MAKING THOSE SAME DRUG COMPANIES BILLIONS OF DOLLARS OFF THE SCHEMES**

**2013: In A Study Of 20 Drugs Impacted By “Pay-For-Delay” Agreements, Brand-Name Manufacturers Made \$98 Billion In Total Sales While The Generic Versions Were Delayed.** “On average, brand-name drugs affected by pay-for-delay deals cost 10 times more than generic versions, according to a 2013 report from consumer advocacy groups CalPIRG and Community Catalyst that analyzed information about 20 medications. Brand-name drugmakers made an estimated \$98 billion in total sales of those drugs while generic versions were delayed, the report said.” [Los Angeles Times, [7/29/19](#)]

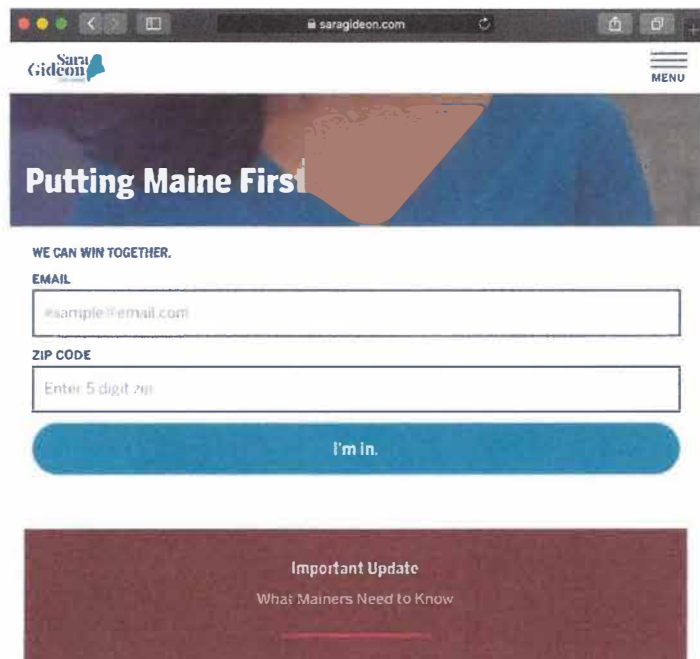
## **SUSAN COLLINS HAS TAKEN MORE THAN \$1.4 MILLION FROM DRUG AND INSURANCE COMPANIES WHILE THE COST OF PRESCRIPTION DRUGS HAS SKYROCKETED**

### **1995-2019: SUSAN COLLINS HAS TAKEN MORE THAN \$1.4 MILLION FROM DRUG COMPANIES AND THE INSURANCE INDUSTRY...**

**1995-2019: Susan Collins Has Accepted \$413,999 From The Pharmaceutical/Health Products Industry And \$1,026,460 From The Insurance Industry.** [Open Secrets, accessed [1/10/20](#)]

**Exhibit A**

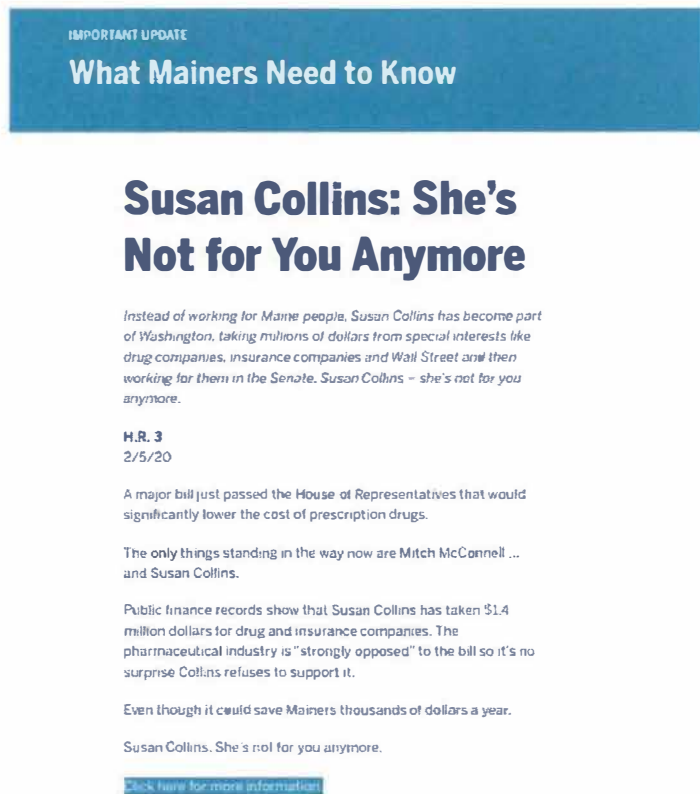
Sara Gideon for Maine, Home Page (Feb. 5, 2020), at: <https://saragideon.com>.



The screenshot shows the Sara Gideon for Maine website. At the top left is the Sara Gideon logo. At the top right is a menu icon labeled 'MENU'. Below the logo is a large banner image with the text 'Putting Maine First'. Underneath the banner, there is a section titled 'WE CAN WIN TOGETHER.' with a sub-heading 'EMAIL'. Below this is a text input field containing the placeholder text 'example@email.com'. Below the email field is a sub-heading 'ZIP CODE' and a text input field containing the placeholder text 'Enter 5 digit zip'. Below these fields is a blue button labeled 'I'm in.'. Below the button is a dark red banner with the text 'Important Update' and 'What Mainers Need to Know'.

**Exhibit A**

Sara Gideon for Maine, Important Update (Feb 5, 2020), at: <https://saragideon.com/update/>.



The screenshot shows the 'Important Update' page. At the top is a blue banner with the text 'IMPORTANT UPDATE' and 'What Mainers Need to Know'. Below the banner is the main heading 'Susan Collins: She's Not for You Anymore'. Below the heading is a paragraph of text: 'Instead of working for Maine people, Susan Collins has become part of Washington, taking millions of dollars from special interests like drug companies, insurance companies and Wall Street and then working for them in the Senate. Susan Collins - she's not for you anymore.' Below this paragraph is the sub-heading 'H.R. 3' and the date '2/5/20'. Below the date is a paragraph of text: 'A major bill just passed the House of Representatives that would significantly lower the cost of prescription drugs.' Below this paragraph is another paragraph of text: 'The only things standing in the way now are Mitch McConnell ... and Susan Collins.' Below this paragraph is another paragraph of text: 'Public finance records show that Susan Collins has taken \$1.4 million dollars for drug and insurance companies. The pharmaceutical industry is "strongly opposed" to the bill so it's no surprise Collins refuses to support it.' Below this paragraph is another paragraph of text: 'Even though it could save Mainers thousands of dollars a year.' Below this paragraph is a final paragraph of text: 'Susan Collins. She's not for you anymore.' At the bottom of the page is a blue button labeled 'Click here for more information'.

# SUSAN COLLINS – SHE’S NOT FOR YOU ANYMORE

*Instead of working for Maine people, Susan Collins has become part of Washington, taking millions of dollars from special interests like drug companies, insurance companies and Wall Street and then working for them in the Senate. Susan Collins – She’s not for you anymore.*

## H.R.3

A major bill just passed the House of Representatives that would significantly lower the cost of prescription drugs.

The only things standing in the way now are Mitch McConnell ... and Susan Collins.

Public finance records show that Susan Collins has taken \$1.4 million dollars for drug and insurance companies. The pharmaceutical industry is "strongly opposed" to the bill so it's no surprise Collins refuses to support it.

Even though it could save Mainers thousands of dollars a year.

Susan Collins. She's not for you anymore.

## MITCH MCCONNELL HAS PLEDGED TO BLOCK ACTION ON A SWEEPING HOUSE-PASSED BILL THAT WOULD LOWER PRESCRIPTION DRUG COSTS FOR MILLIONS OF AMERICANS

## SUSAN COLLINS HAS SAID SHE SUPPORTS MITCH MCCONNELL

**POLITICO:** "Collins Said She Supports Mitch McConnell As GOP Leader, Which Is All Some Colleagues Need To Hear." "For others, winning the majority is far more important than playing nice in the Senate's shrinking center. Collins said she supports Mitch McConnell as GOP leader, which is all some colleagues need to hear." [POLITICO, [8/26/19](#)]

## DEC. 2019: HOUSE PASSED PRESCRIPTION DRUG REFORM BILL THAT WOULD LOWER PRESCRIPTION DRUG PRICES FOR MILLIONS OF AMERICANS

## SUSAN COLLINS HAS TAKEN \$1.4 MILLION FROM THE DRUG AND INSURANCE INDUSTRIES

**1995-2020: Susan Collins Has Taken More Than \$1.4 Million From The Drug And Insurance Industries.** [Center for Responsive Politics, accessed [2/4/20](#)]

## DEC. 2019: HOUSE PASSED A BILL THAT WOULD CAP OUT-OF-POCKET COSTS FOR MEDICARE BENEFICIARIES, ALLOW DRUG PRICING NEGOTIATION, AND CRACK DOWN ON PHARMACEUTICAL COMPANIES

**HEADLINE:** "The House Just Passed An Ambitious Bill To Lower Prescription Drug Prices." [Vox, [12/12/19](#)]

**HEADLINE:** "House Passes Bill To Lower Prescription Drug Costs." [CBS News, [12/12/19](#)]

**New York Times:** "The High-Profile Measure Would Curb The Price Of Prescription Drugs And Extend More Benefits To Medicare Beneficiaries." "The high-profile measure would curb the price of prescription drugs and extend more benefits to Medicare beneficiaries." [New York Times, [12/12/19](#)]

- **House-Passed Prescription Drug Reform Bill Capped Out-Of-Pocket Costs For Medicare Beneficiaries At \$2,000.** "The bill, known as H.R. 3 — a numerical designation that reflects its position on Democrats' priority list — would make significant changes to the federal Medicare program, which provides health coverage to older Americans. It passed largely on party lines, 230 to 192, and includes provisions to create new vision, dental and hearing benefits, and caps out-of-pocket drug costs for Medicare beneficiaries at \$2,000." [New York Times, [12/12/19](#)]
- **House-Passed Prescription Drug Reform Bill Allowed For DHHS To Negotiate The Prices Of Up To 250 Prescription Drugs, Including Insulin.** "The central — and most contentious — provision of the measure that passed Thursday is its language enabling the Department of Health and Human Services, which administers Medicare, to negotiate the price of up to 250 commonly used drugs, including insulin. It would also require the manufacturers to offer the agreed-on prices to private insurers, giving it huge reach." [New York Times, [12/12/19](#)]

- **House-Passed Prescription Drug Reform Bill “Would Require Pharmaceutical Manufacturers To Pay Rebates To Medicare If The Price Of Their Drugs Increased Faster Than Inflation.”** “And it would require pharmaceutical manufacturers to pay rebates to Medicare if the price of their drugs increased faster than inflation — another provision loathed by drug makers.” [New York Times, [12/12/19](#)]

## HOUSE-PASSED PRESCRIPTION DRUG REFORM BILL COULD SAVE MAINERS THOUSANDS OF DOLLARS ANNUALLY

**HEADLINE: “House Bill Could Lower Patients’ Prescription Drug Spending By Thousands Of Dollars.”** [Center for American Progress, [12/9/19](#)]

**Congressional Budget Office Estimated That The House-Passed Prescription Drug Reform Bill Would Save Taxpayers \$5 Billion Over 10 Years.** “CBO and JCT estimate that enacting the current version of H.R. 3 would increase direct spending by about \$40 billion and increase revenues by about \$46 billion over the 2020-2029 period. The net effect would be to reduce unified federal deficits by about \$5 billion over that 10-year period.” [Congressional Budget Office, [12/10/19](#)]

**Congressional Budget Office Estimated That The House-Passed Prescription Drug Reform Bill Would Lower Health Insurance Costs For Employers And Lower Employer Insurance Premiums.** “The CBO also found that the House bill would lower health insurance costs for employers and increase federal revenue by about \$45 billion because employer insurance premiums would decline, and those savings would manifest in increased taxable wages.” [Washington Post, [12/12/19](#)]

**House Ways & Means Committee: House-Passed Prescription Drug Reform Bill Was Estimated To Save Mainers With Arthritis And Diabetes \$30,000/Year, Mainers With Breast Cancer By \$45,000/Year, Mainers With Leukemia By \$66,300/Year, And Mainers With Prostate Cancer By \$72,100/Year.** “According to Ways & Means Committee analysis, The ‘Lower Drug Costs Now Act’ (H.R. 3), could lower medication costs for Mainers with: Arthritis by \$30,000 a year; Diabetes by \$15,000 a year; Asthma by \$1,100 a year; Breast cancer by \$45,000 a year; Leukemia by \$66,300 a year; Prostate cancer by \$72,100 a year.” [News Center Maine, [1/6/20](#)]

## DRUG COMPANIES “LOATHED” AND WERE “STRONGLY OPPOSED” TO THE HOUSE-PASSED PRESCRIPTION DRUG BILL

**Drug Companies “Strongly Oppose[d]” The House-Passed Prescription Drug Reform Bill And The Senate Version Of The Bill.** “Pharmaceutical makers strongly oppose both the House bill and the Senate bill, which was drafted in the Finance Committee.” [New York Times, [12/12/19](#)]

- **CBS: “The Pharmaceutical Industry Is Strongly Opposed To The Bill.”** [CBS News, [12/12/19](#)]

**House-Passed Prescription Drug Reform Bill Included A Provision “Loathed By Drug Makers.”** “And it would require pharmaceutical manufacturers to pay rebates to Medicare if the price of their drugs increased faster than inflation — another provision loathed by drug makers.” [New York Times, [12/12/19](#)]

## MITCH MCCONNELL HAS REFUSED TO TAKE IT UP IN THE SENATE AND COLLINS HAS NOT YET COSPONSORED THE SENATE VERSION OF THE HOUSE-PASSED BILL

**Feb. 2020: Susan Collins Was Not A Cosponsor Of The Grassley/Wyden Senate Version Of The House Bill.** “The legislation is expected to save the government about \$4 billion over a decade, a far cry the savings from Speaker Pelosi’s House-cleared drug pricing bill or Sens. Chuck Grassley and Ron Wyden’s drug pricing plan, S. 2543 (116).” [Congress.gov, S.2543, [9/25/19](#); POLITICO, [12/17/19](#)]

- **The Senate Version Of The House-Passed Prescription Drug Bill Was Sponsored By Grassley And Wyden.** “The Senate bill, sponsored by Senators Charles E. Grassley, Republican of Iowa, and Ron Wyden, Democrat of Oregon, does not contain those provisions. But like the House bill, it would cap out-of-pocket expenses and require drug companies to pay rebates to Medicare if they raised prices faster than inflation.” [New York Times, [12/12/19](#)]

**Mitch McConnell “Ruled Out Any Action” On A House-Passed Drug Pricing Bill To Allow The Federal Government To Negotiate Lower Prices For Some Drugs.** “The House last week approved Speaker Nancy Pelosi’s sweeping drug pricing legislation, which would allow the U.S. government to negotiate lower prices for certain drugs. That bill is also unlikely to be taken up in the Senate, where McConnell has previously ruled out any action on it.” [CNBC, [12/18/19](#)]

**Vox: In The Senate, “Majority Leader Mitch McConnell Is Prioritizing Confirming Judges Over Passing Bills.”**

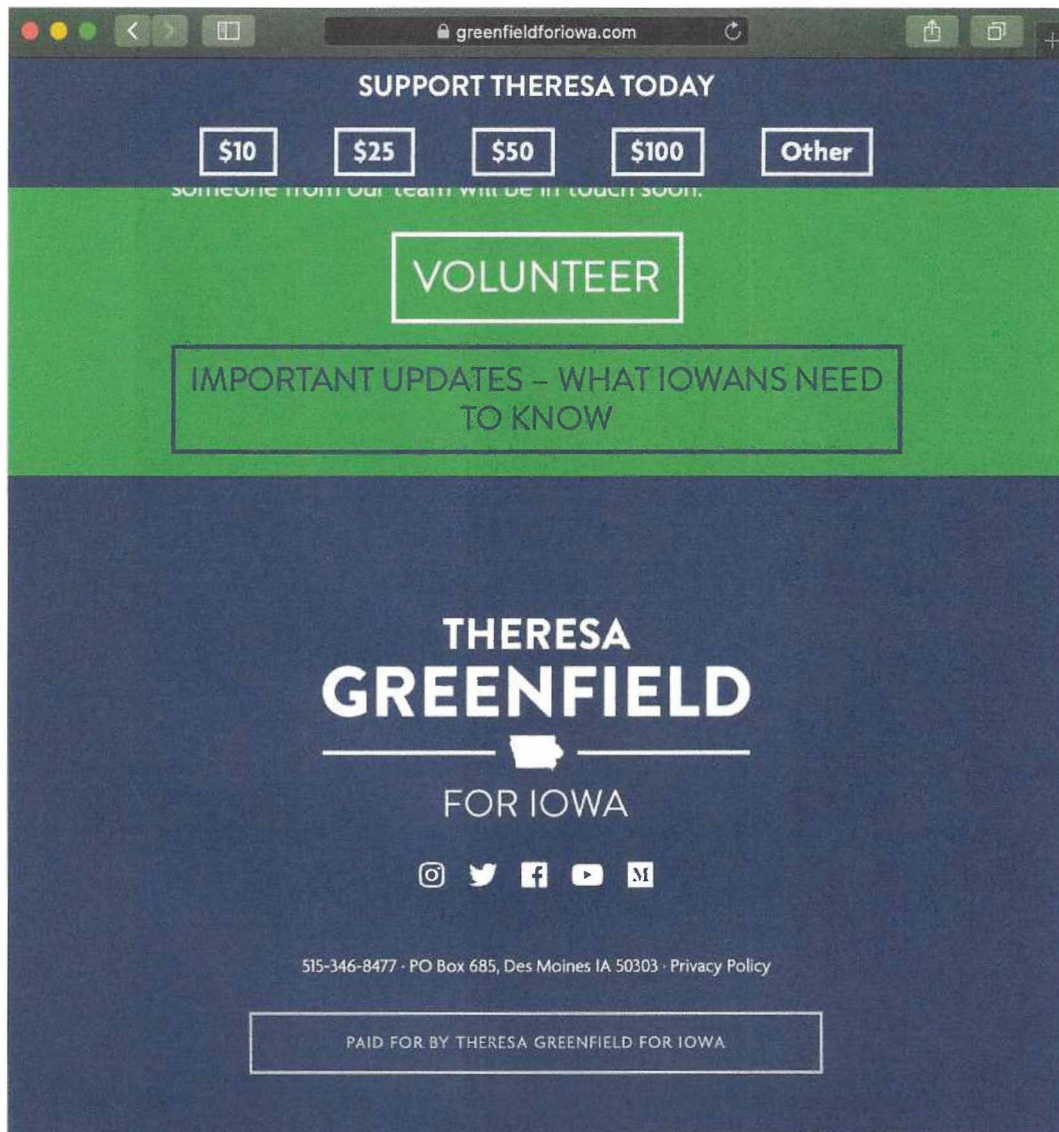
“Trump may want to look to the Republican-controlled Senate instead. Democrats in the House have been passing bills at a rapid clip; as of November 15, the House has passed nearly 400 bills, not including resolutions. But the House Democratic Policy and Communications Committee estimates 80 percent of those bill have hit a snag in the Senate, where Majority Leader Mitch McConnell is prioritizing confirming judges over passing bills.” [Vox, [11/29/19](#)]

**Kaiser Health News: After The House Passed Prescription Drug Reform To Allow Medicare To Negotiate Drug Prices With Drugmakers, Mitch McConnell “Said He Will Not Allow It To Get A Vote In The Senate.”** “Klobuchar and former Mayor Pete Buttigieg of South Bend, Indiana, also endorsed empowering Medicare to negotiate lower prices with drugmakers — the proposal at the heart of the drug plan unveiled last year by Speaker Nancy Pelosi and other House Democratic leaders. However, that idea is deeply unpopular with congressional Republicans, who describe it as government interference in the free market. While the bill passed the House in December, Sen. Mitch McConnell of Kentucky, the Republican leader, has said he will not allow it to get a vote in the Senate, killing its chances, at least for now.” [Kaiser Health News, [1/15/20](#)]



Exhibit B

Theresa Greenfield for Iowa, Home Page, available at <https://greenfieldforiowa.com> (last accessed Mar. 9, 2020).



## Exhibit B

Theresa Greenfield for Iowa, Important Update, available at <https://greenfieldforiowa.com/important-update/> (last accessed Mar. 9, 2020).



At this early stage of the race for Senate, Iowa voters need to hear about Theresa Greenfield's compelling personal story and how she'll fight to take on the special interests in Washington – for us.

Theresa Greenfield grew up working hard on her family's farm during the farm crisis. While expecting her second child, Greenfield's husband, a union electrician, was killed on the job in a tragic accident. Raising two young boys on her own, Social Security was critical to saving her family. She put herself through college working multiple jobs and rose to become the president of a small business. Greenfield is running for U.S. Senate to take on a corrupt Washington. Greenfield refuses corporate PAC money and will fight to protect Social Security and make health care affordable for us.

For more information, click [here](#) or [here](#).



## THERESA GREENFIELD BACKGROUND

*Theresa Greenfield grew up working hard on her family's farm during the farm crisis. While expecting her second child, Greenfield's husband, a union electrician, was killed on the job in a tragic accident. Raising two young boys on her own, Social Security was critical to saving her family. She put herself through college working multiple jobs and rose to become the president of a small business. Greenfield is running for U.S. Senate to take on a corrupt Washington. Greenfield refuses corporate PAC money and will fight to protect Social Security and make health care affordable for us.*

### THERESA GREENFIELD GREW UP WORKING HARD ON HER FAMILY'S FARM DURING THE FARM CRISIS

**Greenfield Grew Up On A Family Farm.** "But Democrats are impressed by Greenfield's retail political skills and say her background as a businesswoman who grew up on a family farm positions her well in the state." [Politico, [6/24/19](#)]

**Greenfield Worked Hard On Her Family's Farm, Flagging, Tanking And Mapping The Fields As Well As Feeding Hogs And Bailing Hay.** "I'm Theresa Greenfield and I remember, flagging, tanking, and mapping the fields. And at 16 negotiating with other farmers. One farmer even refused to deal with me, because I was a girl. My dad wouldn't stand for it. He said there are no boy jobs or girl jobs, just jobs that need to get done. Growing up on a family farm in a small town of 500 you had to pull your own weight but we also had to look out for each other. Our family our friends our communities we sure did during the farm crisis. It was all hands on deck. Feeding the hogs, bailing the hay, but also working off the farm at a local panning factory and as a waitress just to survive. I learned if you worked hard you got a fair shot. And I sure did. I'm a proud farm kid with farm kid values." [YouTube. Theresa Greenfield for Iowa, [6/3/19](#)] (VIDEO)

### WHILE EXPECTING HER SECOND CHILD, GREENFIELD'S HUSBAND, A UNION ELECTRICIAN, WAS KILLED ON THE JOB IN A TRAGIC ACCIDENT

**Greenfield's First Husband Was A Journeyman Lineman And IBEW Union Member Who Was Killed On The Job.** "Her first husband was a journeyman lineman and IBEW (electrical workers union) member who was killed on the job. At the time of his death, Greenfield was just 24 years old with a one-year-old son and four months pregnant with another. Social security, workers' compensation and help from her family kept her on her feet during that time, allowing her to go back to college to train for a new career track to take care of her family." [Iowa Starting Line, [2/3/18](#)]

**Greenfield Was Just 24 Years Old With A One-Year-Old Son And Another Child On The Way When Her First Husband Passed Away.** "Her first husband was a journeyman lineman and IBEW (electrical workers union) member who was killed on the job. At the time of his death, Greenfield was just 24 years old with a one-year-old son and four months pregnant with another. Social security, workers' compensation and help from her family kept her on her feet during that time, allowing her to go back to college to train for a new career track to take care of her family." [Iowa Starting Line, [2/3/18](#)]

### RAISING TWO YOUNG BOYS ON HER OWN, SOCIAL SECURITY WAS CRITICAL TO SAVING HER FAMILY

**Social Security Helped Greenfield's Family Stay On Their Feet.** "Her first husband was a journeyman lineman and IBEW (electrical workers union) member who was killed on the job. At the time of his death, Greenfield was just 24 years old with a one-year-old son and four months pregnant with another. Social security, workers' compensation and help from her family kept her on her feet during that time, allowing her to go back to college to train for a new career track to take care of her family." [Iowa Starting Line, [2/3/18](#)]

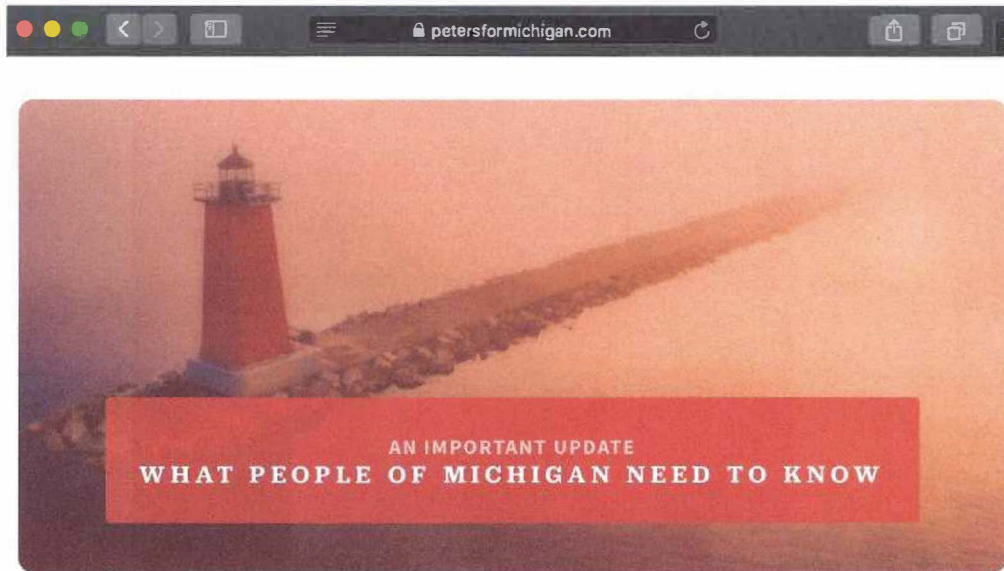
**Greenfield: "One Of The Things That Saved Our Family Was Social Security."** "Greenfield tied her life story to larger political issues in the video. She recounts being a young mother when her first husband died in an electrical accident while working for the Interstate Power Company in Minnesota. At the time, she had a 13-month-old boy, and was pregnant with her second son. 'One of the things that saved our family was Social Security,' Greenfield said." [Little Village Mag, [6/3/19](#)]

### SHE PUT HERSELF THROUGH COLLEGE WORKING MULTIPLE JOBS AND ROSE TO BECOME THE PRESIDENT OF A SMALL BUSINESS

**Greenfield Put Herself Through School With Help Of Financial Aid And Multiple Part-Time Jobs.** "From the Greenfield campaign's June 5 news release: [...] When the farm crisis of the 1980s hit rural families like Theresa's, she

## Exhibit C

Peters for Michigan, Home Page, available at <https://petersformichigan.com> (last accessed Mar. 9, 2020).



#### ABOUT GARY

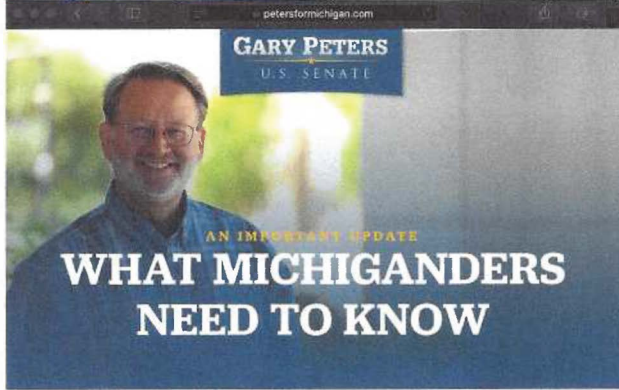
Senator Gary Peters grew up in Michigan where his father, a WWII veteran, worked as a public school teacher. His mother worked as a nurse's aide and union steward with the SEIU. Gary saw how hard his parents worked to provide for him and his two sisters, and they instilled in him the importance of determination, fairness, and integrity.

Gary is a graduate of Alma College. While raising a family and working a full-time job, he took night classes and earned an M.A. in Philosophy from Michigan State University, a J.D. from Wayne State University Law School, and an M.B.A. in Finance from the University of Detroit Mercy.

For more than 20 years, Gary was a successful businessman. As a financial advisor, he helped families plan for their retirement and save for their children's college education. Though Gary loved the work he did, he felt the need to serve his community.



Exhibit C: Peters for Michigan, What Michiganders Need to Know, available at <https://petersformichigan.com/what-michiganders-need-to-know/> (last accessed Mar. 9, 2020).



February 26, 2020 — What Michiganders in Detroit, Flint, and Lansing should know:

John James is Betsy DeVos' handpicked candidate for Senate – John James stands to benefit from [redacted] from the DeVos family towards a Super PAC set up to attack Gary Peters; and says Betsy DeVos is doing a " [redacted]" job as Secretary of Education. He supports her agenda, even though she proposed cutting \$9 billion dollars in funding for education – including over \$100 million for Michigan's neighborhood public schools. On whether [redacted] have gotten better, DeVos has [redacted]: "I don't know. Overall, I – I can't say overall."

For more information, click [HERE](#).

November 1, 2019 — What Michiganders from all parts of the state need to know:

Senator Gary Peters served as a Lieutenant Commander in the U.S. Navy Reserve, was a qualified Seabee combat warfare specialist, and after the September 11th attacks – Gary volunteered to serve again. Now, while others in Washington are playing partisan politics, Gary is keeping Michigan safe. As a leader on the Homeland Security Committee and a member of the Armed Services Committee, Gary has made border security his top priority with the passage of key security bills he wrote and has led efforts to boost Michigan's defense industry. It's why he was named one of the most effective and bipartisan members of the US Senate.

For more information, click [HERE](#).

June 3, 2019 – Gary served as a Lieutenant Commander in the U.S. Navy Reserve and was a qualified Seabee combat warfare specialist. Soon after the September 11th attacks, Gary volunteered to serve again. Now as Senator, Gary is aggressively working to protect our national security and is a leader on the Homeland Security Committee and on the Armed Services Committee. He led the passage of key security bills and voted for stronger border security and tougher action against ISIS.

He voted to give our troops a pay raise and has led efforts to boost Michigan's growing defense industry that employs tens of thousands in the state.

For more information, click [HERE](#).

PHOTOS – JUNE 3, 2019.

VIDEO – SEPTEMBER 9, 2019



CONTRIBUTE NOW

GARY PETERS

U.S. SENATE

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DETROIT, MI 48244

Senator Peters was a Lieutenant Commander in the U.S. Navy Reserves. Use of his military rank, job titles, insignia and photographs in uniform does not imply endorsement by the Department of the Navy or the Department of Defense.

PAID FOR BY PETERS FOR MICHIGAN

## JOHN JAMES IS BETSY DEVOS'S HANDPICKED CANDIDATE FOR SENATE; JOHN JAMES WILL BENEFIT FROM NEARLY ONE MILLION DOLLARS FROM THE DEVOS FAMILY

**Detroit News Headline: "Devos Family Pumps \$800,000 Into Super PAC Targeting Peters."** [Detroit News, [2/13/20](#)]

**Democrats Said The Devos Contributions Show Peters' Opponent Will Stand With Secretary Devos And Her Family.** "Democrats alleged the contributions show Peters' GOP opponent, Farmington Hills businessman John James, will stand with U.S. Secretary of Education Betsy DeVos and her family. But Republicans countered that the contributions revealed key donors see how vulnerable Peters is this year in his re-election bid." [Detroit News, [2/13/20](#)]

**Devos Family Members Were The Only Contributors To The Pro-James Super PAC Better Future MI Fund.** "Better Future MI Fund formed Oct. 31, according to a filing with the Federal Election Commission. The super PAC had to file its first campaign finance disclosure, covering the last two months of 2019, on Jan. 31. The super PAC's only contributors were, at that point, from six members of the DeVos family. Daniel and Pamella DeVos, listed as executives with RDV Corp., each contributed \$200,000. Cheri DeVos and her husband, Steve Ehmann, each gave \$100,000. And Doug and Maria DeVos each gave \$100,000." [Detroit News, [2/13/20](#)]

## DEVOS' FAMILY HAS ALSO Poured IN MONEY DIRECTLY TO JAMES' CAMPAIGN AND TO ANOTHER SUPER PAC THAT BACKED HIM IN 2018

**As Of June 2019, The DeVos Family Had Donated \$30,800 To The James Campaign During The 2020 Cycle.**

CONTRIBUTOR NAME	RECIPIENT	ELECTION	STATE	DATE	AMOUNT
Devos, Suzanne Cheryl	John James for Senate, Inc.	Primary	MI	6/30/19	\$2,800
Devos, Suzanne Cheryl	John James for Senate, Inc.	General	MI	6/30/19	-\$2,800
Devos, Suzanne Cheryl	John James for Senate, Inc.	Primary	MI	6/30/19	\$5,600
Devos, Pamella Ms.	John James for Senate, Inc.	Primary	MI	6/30/19	\$2,800
Devos, Pamella Ms.	John James for Senate, Inc.	General	MI	6/30/19	-\$2,800
Devos, Pamella Ms.	John James for Senate, Inc.	Primary	MI	6/30/19	\$5,600
Devos, Nicholas Mr.	John James for Senate, Inc.	Primary	MI	6/30/19	\$2,800
Devos, Maria	John James for Senate, Inc.	Primary	MI	6/30/19	\$2,800
Devos, Maria	John James for Senate, Inc.	General	MI	6/30/19	-\$2,800
Devos, Maria	John James for Senate, Inc.	Primary	MI	6/30/19	\$5,600
Devos, Douglas L	John James for Senate, Inc.	Primary	MI	6/30/19	\$2,800
Devos, Douglas L	John James for Senate, Inc.	General	MI	6/30/19	-\$2,800
Devos, Douglas L	John James for Senate, Inc.	Primary	MI	6/30/19	\$5,600
Devos, Daniel G Mr.	John James for Senate, Inc.	Primary	MI	6/30/19	\$2,800
Devos, Daniel G Mr.	John James for Senate, Inc.	General	MI	6/30/19	-\$2,800
Devos, Daniel G Mr.	John James for Senate, Inc.	Primary	MI	6/30/19	\$5,600
<b>TOTAL:</b>					<b>\$30,800</b>

[FEC, Accessed [8/14/19](#)]

**The DeVos Family Donated \$41,800 To The James Campaign In The 2018 Cycle.**

CONTRIBUTOR NAME	RECIPIENT	ELECTION	STATE	DATE	AMOUNT
Devos, Pamella	John James for Senate, Inc.	General	MI	11/5/18	\$2,700
Devos, Nicholas	John James for Senate, Inc.	General	MI	11/5/18	\$2,500