

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 2589**

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H. P. 2054 House of Representatives, March 18, 1974  
Reported by Mr. Ross from Committee on Election Laws and printed under  
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E. LOUISE LINCOLN, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

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**AN ACT Placing Certain Limits on Campaign Donations and Expenditures  
by Candidates for Political Office.**

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

Sec. 1. R. S., T. 21, § 1391, repealed and replaced. Section 1391 of Title 21 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1391. Purpose; legislative finding of fact; applicability

The Legislature finds and declares that it is in the best interests of the people of the State of Maine to place certain limits on expenditures by or on behalf of candidates for political office. The Legislature, while recognizing the right of the citizens of the State of Maine to support the political candidates of their choice and while recognizing the right of those candidates to present their views to the citizens, also is cognizant that abuses in the election process can occur through the expenditure of disproportionate sums of money to influence the minds of the voters and further recognizes that an attempt should be made to correct these abuses and to equalize presentations in order that citizens may have a more balanced view of the positions and platforms of political candidates. The Legislature further finds that the expenditure of large sums of money by any one individual or organization results in undue influence over the electoral process. The Legislature desires to minimize the effects of these problems and therefore, the Legislature further finds that the imposition of certain expenditure limits, which it feels,

after careful study, are properly limited to the end sought to be achieved, will not result in the abridgement of any constitutional freedoms of the citizens or candidates, such as freedom of speech, and will not interfere with the right of those persons to participate fully in the election process.

Any references in this chapter to the promotion or defeat of a candidate includes the promotion or defeat of a party, principal, initiative or referendum question.

Sec. 2. R. S., T. 21, § 1395, sub-§ 1, amended. Subsection 1 of section 1395 of Title 21 of the Revised Statutes is amended to read as follows:

1. **Limitation.** This does not prohibit contributions to a candidate, political committee or party by a person other than a treasurer or candidate, or the spending of his own money by any person, except as otherwise provided herein.

Sec. 3. R. S., T. 21, § 1395, sub-§§ 3 and 4, repealed and replaced. Subsections 3 and 4 of section 1395 of Title 21 of the Revised Statutes, as enacted by chapter 207 of the public laws of 1971 and as amended, are repealed and the following enacted in place thereof:

3. **Limitations on expenditures.** The following provisions shall govern expenditures by candidates for the offices of Governor, United States Senator, United States Representatives and candidates for other political offices.

A. **Primary election.** No candidate for the office of Governor, United State Senator, United States Representative or candidate for other political office in a primary election shall make or authorize expenditures on behalf of such candidacy in excess of 25¢ multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding general election for such office.

B. **General election.** No candidate for the office of Governor, United States Senator, United States Representative or candidate for other political office in a general election shall make or authorize expenditures on behalf of such candidacy in excess of 50¢ multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding general election for such office.

“Other political office” means all political offices other than Governor, United States Senator and United States Representative.

4. **Limitation on expenditures from personal funds.** No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination or election to political office, whether in a primary election or general election in excess of:

A. \$35,000 in the case of a candidate for the office of Governor or United States Senator;

B. \$25,000 in the case of a candidate for United States Representative; or

**C.** \$5,000 in the case of candidates for political offices other than those mentioned in paragraphs **A** and **B**.

The totals mentioned in this subsection are cumulative with respect to the primary and general elections and are to be included in the totals allowable under subsection 3.

For the purposes of this subsection, "immediate family" means a candidate's spouse, any child, parent, grandparent, brother or sister of the candidate and the spouse of such persons.

**Sec. 4.** R. S., T. 21, § 1395, sub-§ 4-A, additional. Section 1395 of Title 21 of the Revised Statutes, as amended, is further amended by adding a new subsection 4-A to read as follows:

**4-A.** Expenditures defined. For the purposes of this subsection, "expenditures" means a purchase, payment, distribution, loan, advance, deposit, gift of money or the gift of or use of corporate facilities or personnel or property, the gift of or use of anything of value, the transfer of funds, except for an arm's-length loan of money made by a national or state bank or credit union in accordance with applicable laws and except for the provision of services to a candidate rendered without compensation by individuals volunteering their time on behalf of a candidate or political committee. Expenditures shall further include, but not be limited to, all moneys or other valuable things expended for political advertising and mailings and funds dispensed by or on behalf of a candidate.

**Sec. 5.** R. S., T. 21, § 1395, sub-§ 9, repealed and replaced. Subsection 9 of section 1395 of Title 21 of the Revised Statutes, as enacted by chapter 207 of the public laws of 1971, is repealed and the following enacted in place thereof:

**9.** Accept contributions; authorize expenditures. No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of this section.

**Sec. 6.** R. S., T. 21, § 1395, sub-§ 9-A, additional. Section 1395 of Title 21 of the Revised Statutes, as amended, is further amended by adding a new subsection 9-A to read as follows:

**9-A.** Make or authorize expenditures. For the purposes of this section, "make or authorize expenditures on behalf of such candidacy" shall refer to expenditures made within 6 months immediately preceding the date of the election with reference to which the candidacy applies, whether primary or general.

**Sec. 7.** R. S., T. 21, § 1395, sub-§ 10-A, additional. Section 1395 of Title 21 of the Revised Statutes, as amended, is further amended by adding a new subsection 10-A to read as follows:

**10-A.** Federal law controlling. In the event that any of the provisions of this section are in conflict with applicable federal statutes relating to expenditures by political candidates, the federal statute shall be controlling.

**Sec. 8. R. S., T. 21, § 1397, sub-§ 2, amended.** Subsection 2 of section 1397 of Title 21 of the Revised Statutes, as amended, is further amended by adding at the end the following new sentence:

**In addition, a report must be filed with the Secretary of State within 45 days previous to any election showing the totals of the campaign to that date.**

**Sec. 9. R. S., T. 21, § 1397, sub-§ 2-A, additional.** Section 1397 of Title 21 of the Revised Statutes is amended by adding a new subsection 2-A to read as follows:

**2-A. State Auditor.** The State Auditor shall serve as a staff agency to the campaign reports committee in making investigations of any phase of the committee's work and shall have all necessary powers to carry out his responsibilities.

**Sec. 10. Effective date and transitional provisions.** This Act shall be operative as of July 1, 1974. Its provisions relating to expenditures in primary elections do not apply to the 1974 primary election but are intended to apply to expenditures after the above date made or authorized on behalf of candidates with respect to the general election. Any expenditures made after July 1, 1974 will be presumed to be made for the purpose of the general election. It is the Legislature's intention, notwithstanding the repeal of Title 21, section 1395, subsection 4, which relates to expenditures in primary campaigns, that primary candidates in the 1974 primaries shall be required to comply with the referenced section and file their report on the same basis as if the repealer did not occur.

The Legislature is aware that for the general election for 1974, since the House of Representatives has been redistricted and the districts for the election of district attorneys will be effective for the first time, the new statutory measure of expenditures which is based upon the number of votes cast for legally qualified candidates at the last preceding general election will not realistically apply. Therefore, for the purposes of the 1974 general election, the Legislature finds and declares that no more than \$3,750 may be expended by candidates for the House of Representatives. In the case of those persons seeking election in the general election for the offices of district attorney, their expenditures for election to the prosecutorial districts as described in Title 30, section 553-A, shall not exceed 50¢ multiplied by the total number of votes cast for all legally qualified candidates for county attorney for such offices in each of the counties comprising the prosecutorial districts for the general election year 1972.

#### STATEMENT OF FACT

The purpose of this legislation is to place certain limits on campaign donations and expenditures by candidates for political office. While citizens of the State of Maine have a right to support political candidates of their choice

and while those candidates have a right to present their views to the citizens, abuses in the election process can occur through undue influence asserted by the expenditure of large sums of money. This legislation is an attempt to correct this abuse and to equalize presentations in order that citizens may have a more balanced view of the positions and platforms of political candidates.

About 24 to 28 states have some form of restriction of total expenditures by candidates. Expenditure limitations have been placed upon personal funds of the candidate or his immediate family by the Federal Government under the provisions of 18 U.S.C.A. § 608.

To the extent that First Amendment rights are restricted by campaign finance regulations, the justification is that these rights of free speech, free press and free assembly are not absolutes when in conflict with other constitutional rights. If a deficiency is found by the Legislature to exist, as it has here, in the area of campaign financing and the remedial legislation is demonstrably a rational manner of combatting the deficiency, the constitutional right of the people to enjoy the elective franchise is being protected through the enactment of corrective laws such as this Act.

Although this type of legislation is, with one minor exception, constitutionally untried, it is not unique or novel. As previously pointed out, a number of states have experience with it and even in the excepted case involving an interpretation of a Massachusetts statute, the court felt that with a proper legislative basis and finding of fact, similar legislation might not have been constitutionally defective.

This legislation is viewed as a reasonable effort on the part of the Legislature to enact meaningful and necessary legislation in this area to curb campaign abuses and every effort has been taken to assure that if challenged, it will be determined to be constitutional.