

# MAINE STATE LEGISLATURE

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L.D. 1196

DATE: 5-19-03

(Filing No. S-205)

LEGAL AND VETERANS AFFAIRS

Reported by: Majority

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 402, L.D. 1196, Bill, "An Act To Clarify the Definition of Independent Expenditures Under the Election Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 21-A MRSA §1014-B, sub-§2, ¶D, as enacted by PL 2001, c. 416, §1, is amended to read:

D. If the call is an independent expenditure, as defined in section 1019 1019-B, that a candidate has not approved the call must be disclosed during each call.

Sec. 2. 21-A MRSA §1019, as amended by PL 2001, c. 465, §1, is repealed.

Sec. 3. 21-A MRSA §1019-B is enacted to read:

§1019-B. Reports of independent expenditures

1. Independent expenditures: definition. For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

COMMITTEE AMENDMENT

2           B. Is presumed in races involving a candidate who is  
3           certified as a Maine Clean Election Act candidate under  
4           section 1125, subsection 5 to be any expenditure made to  
5           design, produce or disseminate a communication that names or  
6           depicts a clearly identified candidate and is disseminated  
7           during the 21 days, including election day, before a primary  
8           election; the 21 days, including election day, before a  
9           general election; or during a special election until and on  
10           election day.

12           2. Rebutting presumption. A person presumed under this  
13           section to have made an independent expenditure may rebut the  
14           presumption by filing a signed written statement with the  
15           commission within 48 hours of making the expenditure stating that  
16           the cost was not incurred with the intent to influence the  
17           nomination, election or defeat of a candidate, supported by any  
18           additional evidence the person chooses to submit. The commission  
19           may gather any additional evidence it deems relevant and material  
20           and must determine by a preponderance of the evidence whether the  
21           cost was incurred with intent to influence the nomination,  
22           election or defeat of a candidate.

24           3. Report required; content; rules. A person, party  
25           committee, political committee or political action committee that  
26           makes independent expenditures aggregating in excess of \$100  
27           during any one candidate's election shall file a report with the  
28           commission. In the case of a municipal election, a copy of the  
29           same information must be filed with the municipal clerk.

30           A. A report required by this subsection must be filed with  
31           the commission according to a reporting schedule that the  
32           commission shall establish by rule that takes into  
33           consideration existing campaign finance reporting  
34           requirements and matching fund provisions under chapter 14.  
35           Rules adopted pursuant to this paragraph are routine  
36           technical rules as defined in Title 5, chapter 375,  
37           subchapter 2-A.

38           B. A report required by this subsection must contain an  
39           itemized account of each contribution or expenditure  
40           aggregating in excess of \$100 in any one candidate's  
41           election, the date and purpose of each contribution or  
42           expenditure and the name of each payee or creditor. The  
43           report must state whether the contribution or expenditure is  
44           in support of or in opposition to the candidate and must  
45           include, under penalty of perjury, as provided in Title  
46           17-A, section 451, a statement under oath or affirmation  
47           whether the contribution or expenditure is made in  
48           cooperation, consultation or concert with, or at the request  
49           of the candidate.  
50           of the candidate.

2           or suggestion of, the candidate or an authorized committee  
3           or agent of the candidate.

4           C. A report required by this subsection must be on a form  
5           prescribed and prepared by the commission. A person filing  
6           this report may use additional pages if necessary, but the  
7           pages must be the same size as the pages of the form.

8  
9           **Sec. 4. 21-A MRSA §1020-A, sub-§5-A, ¶A,** as enacted by PL  
10          2001, c. 714, Pt. PP, §1 and affected by §2, is amended to read:

11           A. Five thousand dollars for reports required under section  
12          1017, subsection 2, ~~paragraphs~~ paragraph B, C, D, E or H;  
13          section 1017, subsection 3-A, ~~paragraphs~~ paragraph B, C, D  
14          or F; section 1017, subsection 4; and section ~~1019~~ 1019-B,  
15          subsection 3;

16  
17          **Sec. 5. 21-A MRSA §1125, sub-§9,** as enacted by IB 1995, c. 1,  
18          §17, is amended to read:

19           **9. Matching funds.** When any campaign, finance or election  
20          report shows that the sum of a candidate's expenditures or  
21          obligations, or funds raised or borrowed, whichever is greater,  
22          alone or in conjunction with independent expenditures reported  
23          under section ~~1019~~ 1019-B, exceeds the distribution amount under  
24          subsection 8, the commission shall issue immediately to any  
25          opposing Maine Clean Election Act candidate an additional amount  
26          equivalent to the reported excess. Matching funds are limited to  
27          2 times the amount originally distributed under subsection 8,  
28          paragraph A or C, whichever is applicable.'

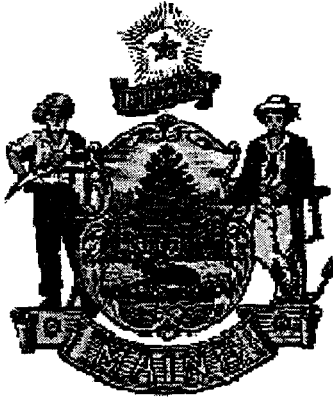
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### SUMMARY

35          This amendment is the majority report. It replaces the  
36          bill. It expands the scope of reporting for independent  
37          expenditures in races involving a Maine Clean Election Act  
38          candidate by stating that an expenditure made for a communication  
39          that names or depicts a clearly identified candidate that is  
40          made 21 days before a primary or general election is considered  
41          an independent expenditure. Reporting requirements for this  
42          provision would be required after \$100 is spent on such an  
43          expenditure. It clarifies which expenditures trigger matching  
44          funds under the Maine Clean Election Act.

FISCAL NOTE REQUIRED  
(See attached)

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 1196**

**An Act To Clarify the Definition of Independent Expenditures Under the  
Election Laws**

**LR 0972(02)**

**Fiscal Note for Bill as Amended by Committee Amendment *A.S. 205***

**Committee: Legal and Veterans Affairs**

**Fiscal Note Required: Yes**

**Majority Report**

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**Fiscal Note**

Potential current biennium savings - Other Special Revenue Funds

**Fiscal Detail and Notes**

Increasing the reporting threshold for independent expenditures, which can trigger the release of matching funds to candidates that are qualified to receive funds from the Maine Clean Elections Fund, may have the effect of lowering the disbursement of matching funds from the fund. The amount will depend on the actual independent expenditures of future candidates and can not be determined at this time.