

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 479

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H.P. 353

House of Representatives, February 16, 2021

### **An Act To Ban Foreign Campaign Contributions and Expenditures in Maine Elections**

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Received by the Clerk of the House on February 11, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink, reading "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BAILEY of Gorham.  
Cosponsored by Senator MIRAMANT of Knox and  
Representatives: BELL of Yarmouth, CARLOW of Buxton, COREY of Windham,  
DOUDERA of Camden, EVANGELOS of Friendship, HASENFUS of Readfield,  
McCREIGHT of Harpswell, WOOD of Portland.

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

2               **Sec. 1. 21-A MRSA §1006** is enacted to read:

3       **§1006. Contributions, expenditures and participation by foreign nationals**

4               **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6               A. "Ballot measure" means any of the following:

7                       (1) A people's veto referendum under the Constitution of Maine, Article IV, Part  
8 Third, Section 17;

9                       (2) A direct initiative of legislation under the Constitution of Maine, Article IV,  
10 Part Third, Section 18;

11                      (3) A popular vote on an amendment to the Constitution of Maine under the  
12 Constitution of Maine, Article X, Section 4;

13                      (4) A referendum vote on a measure enacted by the Legislature and expressly  
14 conditioned upon ratification by a referendum vote under the Constitution of  
15 Maine, Article IV, Part Third, Section 19;

16                      (5) The ratification of the issue of bonds by the State or any state agency; and

17                      (6) Any county or municipal referendum.

18               B. "Contribution" has the same meaning as in section 1012, subsection 2.

19               C. "Covered activity" means an activity prohibited under subsection 2 or 3.

20               D. "Design, produce or disseminate" means to write, draft or illustrate, including by  
21 graphic design or photograph; to record or edit audio or video communications; to  
22 create computer programs or digital tools to produce or distribute communications; to  
23 engage in public relations activities to increase the publicity or potential audience of a  
24 communication; and to poll, perform data analytics, develop or purchase mailing or  
25 social media lists or engage in other activities that support the distribution of a  
26 communication.

27               E. "Electioneering communication" means a communication described in section 1014,  
28 subsection 1, 2 or 2-A.

29               F. "Expenditure" has the same meaning as in section 1012, subsection 3.

30               G. "Foreign national" includes:

31                      (1) A foreign principal as defined in 22 United States Code, Section 611(b) (2020)  
32 and any agent or separate segregated fund of a foreign principal;

33                      (2) An individual who is:

34                               (a) Not a citizen of the United States;

35                               (b) Not a national of the United States as defined in 8 United States Code,  
36 Section 1101(a)(22); and

37                               (c) Not an individual lawfully admitted for permanent residence as defined in  
38 8 United States Code, Section 1101(a)(20); and

1           (3) A firm, partnership, corporation, association, organization or other entity:

2           (a) With respect to which a foreign owner or a person described in  
3           subparagraph (1) or (2) holds, owns, controls or has direct or indirect beneficial  
4           ownership of at least 5% of the entity's total equity or outstanding voting  
5           shares;

6           (b) With respect to which 2 or more foreign owners or persons described in  
7           subparagraph (1) or (2), in combination, hold, own, control or have a direct or  
8           indirect beneficial ownership of at least 20% of the entity's total equity or  
9           outstanding voting shares, excluding interests held in a widely held, diversified  
10           fund;

11           (c) That is exempt from taxation under Section 501(c)(4) of the Internal  
12           Revenue Code of 1986 and with respect to which at least 20% of the income  
13           received by the entity in the most recent taxable year derives from one or more  
14           foreign nationals; or

15           (d) With respect to which a foreign owner or a person described in  
16           subparagraph (1) or (2) participates directly or indirectly in decisions to engage  
17           in a covered activity.

18           H. "Foreign owner" means a firm, partnership, corporation, association, organization  
19           or other entity, with respect to which a person described in paragraph G, subparagraph  
20           (1) or (2) holds, owns, controls or otherwise has a direct or indirect beneficial  
21           ownership in at least 50% of the entity's total equity or outstanding voting shares,  
22           excluding interests held in a widely held, diversified fund.

23           I. "Independent expenditure" has the same meaning as in section 1019-B, subsection 1.

24           J. "Initiate" has the same meaning as in section 1052, subsection 4-B.

25           K. "Widely held, diversified fund" means a pooled investment, including a common  
26           trust fund of a financial institution, mutual fund or limited partnership:

27           (1) That has more than 100 investors;

28           (2) That invests no more than 5% of its value in the securities of a single issuer,  
29           other than the Federal Government;

30           (3) That invests no more than 20% of its value in any one economic or geographic  
31           sector; and

32           (4) For which no investor or immediate family member of an investor may exercise  
33           control over the financial interests held by the pooled investment, including by  
34           exercising the pooled investment's authority as the holder of corporate securities.

35           **2. Contributions and expenditures by foreign nationals prohibited. A foreign**  
36           national may not make, directly or indirectly:

37           A. A contribution for the purpose of promoting, supporting, opposing or defeating the  
38           nomination or election of any person to state, county or municipal office;

39           B. A contribution to a party committee;

40           C. An expenditure or independent expenditure for an electioneering communication;

1 D. An expenditure to design, produce or disseminate a communication that promotes,  
2 supports or opposes the nomination or election of any person to state, county or  
3 municipal office or a political party; or

4 E. An expenditure to promote, support, oppose or defeat the initiation of a ballot  
5 measure or to promote, support, oppose or defeat any ballot measure. For purposes of  
6 this paragraph, "expenditure" has the same meaning as in section 1052, subsection 4.

7 **3. Dissemination of campaign material by foreign nationals prohibited.** A foreign  
8 national may not disseminate or republish, in whole or in part, any written, graphic,  
9 Internet, digital or broadcast campaign material authorized by a candidate or a candidate's  
10 authorized political committee under section 1013-A, subsection 1, paragraph B or their  
11 agents.

12 **4. Acceptance of contributions or expenditures from foreign nationals prohibited.**  
13 A person may not intentionally, knowingly or recklessly:

14 A. Solicit, accept or receive a contribution described in subsection 2, paragraph A or  
15 B from a foreign national; or

16 B. Accept an expenditure or independent expenditure described in subsection 2,  
17 paragraph C, D or E from a foreign national.

18 **5. Substantial assistance prohibited.** A person may not, intentionally, knowingly or  
19 recklessly:

20 A. Provide substantial assistance, with or without compensation, in the making,  
21 solicitation, acceptance or receipt of a contribution prohibited by this section; or

22 B. Provide substantial assistance, with or without compensation, in the making or  
23 acceptance of an expenditure or independent expenditure prohibited by this section.

24 **6. Broadcaster duties.** Each television or radio broadcasting station, provider of cable  
25 or satellite television and Internet platform shall establish due diligence policies,  
26 procedures and controls that are reasonably designed to ensure that it does not broadcast,  
27 distribute or otherwise make available to the public communications for which a foreign  
28 national has made an expenditure or independent expenditure in violation of subsection 2,  
29 paragraph C, D or E.

30 If an Internet platform discovers that it has distributed a communication for which a foreign  
31 national has made an expenditure or independent expenditure in violation of subsection 2,  
32 paragraph C, D or E, the Internet platform shall immediately remove the communication  
33 from its platform and notify the commission.

34 **7. Communications by foreign nationals to influence policy; required disclosure.**  
35 Whenever a foreign national expends funds to finance a communication not otherwise  
36 prohibited by this section with the intent to influence the public or any state, county or local  
37 official or agency regarding the formulation, adoption or amendment of any state or local  
38 government policy or regarding the political or public interest of or government relations  
39 with a foreign country or a foreign political party, the communication must clearly and  
40 conspicuously contain the words "Sponsored by," immediately followed by the name of  
41 the foreign national that made the expenditure and a statement identifying that foreign  
42 national as a "foreign individual," a "foreign official," a "foreign government," a "foreign  
43 corporation," or a "foreign entity."

For purposes of this subsection, "communication" includes a communication through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers or other nonperiodical publications.

## SUMMARY

This bill provides that a foreign national may not:

1. Make, directly or indirectly, a contribution to influence the nomination or election of any person to state, county or municipal office or a contribution to a party committee;
2. Make, directly or indirectly, an expenditure or independent expenditure for an electioneering communication or to design, produce or disseminate a communication for the purpose of influencing the nomination or election of any person to state, county or municipal office;
3. Make, directly or indirectly, an expenditure for the purpose of influencing the initiation or outcome of a state or local ballot measure; or
4. Disseminate or republish campaign materials authorized by a candidate or a candidate's authorized political committee.

The bill provides that a person may not:

1. Solicit, accept or receive, or provide substantial assistance in the making, solicitation, acceptance or receipt of, a contribution that a foreign national is prohibited from making under the bill; or
2. Accept, or provide substantial assistance in the making or acceptance of, an expenditure or independent expenditure that a foreign national is prohibited from making under the bill.

The bill directs each television or radio broadcasting station, provider of cable or satellite television and Internet platform to establish due diligence policies to prevent the distribution of communications for which foreign nationals have made prohibited expenditures or independent expenditures and further directs an Internet platform to, upon discovery, immediately remove any such communications from its platform.

Finally, the bill requires, whenever a foreign national expends money to finance a communication to influence government officials or the public on issues of state or local policy or foreign relations, that the communication include a clear and conspicuous statement naming the foreign national as a sponsor of the communication.