

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1610

I.B. 1

House of Representatives, April 11, 2023

**An Act to Prohibit Campaign Spending by Foreign Governments
and Promote an Anticorruption Amendment to the United States
Constitution**

Transmitted to the Clerk of the 131st Maine Legislature by the Secretary of State on April 10, 2023 and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 21-A MRSA §1064** is enacted to read:

3 **§1064. Foreign government campaign spending prohibited**

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

6 A. "Contribution" has the meanings given in section 1012, subsection 2 and section
7 1052, subsection 3.

8 B. "Electioneering communication" means a communication described in section
9 1014, subsection 1, 2 or 2-A.

10 C. "Expenditure" has the meanings given in section 1012, subsection 3 and section
11 1052, subsection 4.

12 D. "Foreign government" includes any person or group of persons exercising sovereign
13 de facto or de jure political jurisdiction over any country other than the United States
14 or over any part of such country and includes any subdivision of any such group and
15 any group or agency to which such sovereign de facto or de jure authority or functions
16 are directly or indirectly delegated. "Foreign government" includes any faction or body
17 of insurgents within a country assuming to exercise governmental authority, whether
18 or not such faction or body of insurgents has been recognized by the United States.

19 E. "Foreign government-influenced entity" means:

20 (1) A foreign government; or

21 (2) A firm, partnership, corporation, association, organization or other entity with
22 respect to which a foreign government or foreign government-owned entity:

23 (a) Holds, owns, controls or otherwise has direct or indirect beneficial
24 ownership of 5% or more of the total equity, outstanding voting shares,
25 membership units or other applicable ownership interests; or

26 (b) Directs, dictates, controls or directly or indirectly participates in the
27 decision-making process with regard to the activities of the firm, partnership,
28 corporation, association, organization or other entity to influence the
29 nomination or election of a candidate or the initiation or approval of a
30 referendum, such as decisions concerning the making of contributions,
31 expenditures, independent expenditures, electioneering communications or
32 disbursements.

33 F. "Foreign government-owned entity" means any entity in which a foreign
34 government owns or controls more than 50% of its equity or voting shares.

35 G. "Independent expenditure" has the meaning given in section 1019-B, subsection 1.

36 H. "Public communication" means a communication to the public through
37 broadcasting stations, cable television systems, satellite, newspapers, magazines,
38 campaign signs or other outdoor advertising facilities, Internet or digital methods,
39 direct mail or other types of general public political advertising, regardless of medium.

40 I. "Referendum" means any of the following:

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

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

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

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

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

11 (6) Any county or municipal referendum.

12 **2. Campaign spending by foreign governments prohibited.** A foreign government-
13 influenced entity may not make, directly or indirectly, a contribution, expenditure,
14 independent expenditure, electioneering communication or any other donation or
15 disbursement of funds to influence the nomination or election of a candidate or the initiation
16 or approval of a referendum.

17 **3. Solicitation or acceptance of contributions from foreign governments**
18 **prohibited.** A person may not knowingly solicit, accept or receive a contribution or
19 donation prohibited by subsection 2.

20 **4. Substantial assistance prohibited.** A person may not knowingly or recklessly
21 provide substantial assistance, with or without compensation:

22 A. In the making, solicitation, acceptance or receipt of a contribution or donation
23 prohibited by subsection 2; or

24 B. In the making of an expenditure, independent expenditure, electioneering
25 communication or disbursement prohibited by subsection 2.

26 **5. Structuring prohibited.** A person may not structure or attempt to structure a
27 solicitation, contribution, expenditure, independent expenditure, electioneering
28 communication, donation, disbursement or other transaction to evade the prohibitions and
29 requirements in this section.

30 **6. Communications by foreign governments to influence policy; required**
31 **disclosure.** Whenever a foreign government-influenced entity disburses funds to finance
32 a public communication not otherwise prohibited by this section to influence the public or
33 any state, county or local official or agency regarding the formulation, adoption or
34 amendment of any state or local government policy or regarding the political or public
35 interest of or government relations with a foreign country or a foreign political party, the
36 public communication must clearly and conspicuously contain the words "Sponsored by"
37 immediately followed by the name of the foreign government-influenced entity that made
38 the disbursement and a statement identifying that foreign government-influenced entity as
39 a "foreign government" or a "foreign government-influenced entity."

40 **7. Due diligence required.** Each television or radio broadcasting station, provider of
41 cable or satellite television, print news outlet and Internet platform shall establish due
42 diligence policies, procedures and controls that are reasonably designed to ensure that it

1 does not broadcast, distribute or otherwise make available to the public a public
2 communication for which a foreign government-influenced entity has made an expenditure,
3 independent expenditure, electioneering communication or disbursement in violation of
4 this section. If an Internet platform discovers that it has distributed a public communication
5 for which a foreign government-influenced entity has made an expenditure, independent
6 expenditure, electioneering communication or disbursement in violation of this section, the
7 Internet platform shall immediately remove the communication and notify the commission.

8 **8. Penalties.** The commission may assess a penalty of not more than \$5,000 or double
9 the amount of the contribution, expenditure, independent expenditure, electioneering
10 communication, donation or disbursement involved in the violation, whichever is greater,
11 for a violation of this section. In assessing a penalty under this section, the commission
12 shall consider, among other things, whether the violation was intentional and whether the
13 person that committed the violation attempted to conceal or misrepresent the identity of the
14 relevant foreign government-influenced entity.

15 **9. Violations.** Notwithstanding section 1004, a person that knowingly violates
16 subsections 2 through 5 commits a Class C crime.

17 **10. Rules.** The commission shall adopt rules to administer the provisions of this
18 section. Rules adopted under this subsection are routine technical rules as defined in Title
19 5, chapter 375, subchapter 2-A.

20 **11. Applicability.** Notwithstanding section 1051, this section applies to all persons,
21 including candidates, their treasurers and authorized committees under section 1013-A,
22 subsection 1; party committees under section 1013-A, subsection 3; and committees under
23 section 1052, subsection 2.

24 **Sec. 2. Accountability of Maine's Congressional Delegation to the people** 25 **of Maine with respect to federal anticorruption constitutional amendment.**

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

28 **A.** "Actively support and promote" means to sponsor or cosponsor in Congress a joint
29 resolution proposing pursuant to the United States Constitution, Article V an anticorruption
30 constitutional amendment, and to advance such constitutional amendment by engaging,
31 working and negotiating with others in Congress, the State of Maine and the United States
32 in good faith and without respect to party partisanship to secure passage of such
33 constitutional amendment in Congress so that Maine and the several states may consider
34 ratification of such constitutional amendment.

35 **B.** "Anticorruption constitutional amendment" means a proposed amendment to the
36 United States Constitution that is consistent with the principles of the Maine Resolution
37 and the reaffirmation of the Maine Resolution.

38 **C.** "The Maine Resolution" means the joint resolution, Senate Paper 548, adopted by
39 the 126th Legislature of the State of Maine on April 30, 2013 calling for an amendment to
40 the United States Constitution to "reaffirm the power of citizens through their government
41 to regulate the raising and spending of money in elections."

42 **2. Reaffirmation of the Maine Resolution.** The Maine Resolution is hereby
43 reaffirmed and clarified to call on each member of Maine's Congressional Delegation to

1 actively support and promote an effective anticorruption amendment to the United States
2 Constitution to secure the following principles and rights:

3 A. That governmental power derives from the people, and influence and participation
4 in government is a right of all the people and under the Constitution of Maine and the
5 United States Constitution, should not be allocated or constrained based on the use of
6 wealth to influence the outcome of elections and referenda; and

7 B. That Maine and the several states, and Congress with respect to federal elections,
8 must have the authority to enact reasonable limits on the role of money in elections and
9 referenda to secure the rights of the people of Maine to free speech, representation and
10 participation in self-government; the principles of federalism and the sovereignty of the
11 State of Maine and the several states; and the integrity of Maine elections and referenda
12 against corruption and foreign influence.

13 **3. Accountability.** For 7 consecutive years beginning on July 31, 2023, the
14 Commission on Governmental Ethics and Election Practices shall issue a report, following
15 public comment, identifying anticorruption amendment proposals introduced in Congress,
16 and the members of Maine's Congressional Delegation sponsoring such proposals.

17 SUMMARY

18 This initiated bill makes the following changes to the election laws.

19 1. It prohibits a foreign government-influenced entity from making, directly or
20 indirectly, a contribution, expenditure, independent expenditure, electioneering
21 communication or any other donation or disbursement of funds to influence the nomination
22 or election of a candidate or the initiation or approval of a referendum. It prohibits a person
23 from knowingly or recklessly providing substantial assistance, with or without
24 compensation, in the making of an expenditure, independent expenditure, electioneering
25 communication or disbursement in violation of this prohibition. It prohibits a person from
26 knowingly soliciting, accepting or receiving a contribution or donation in violation of this
27 prohibition and prohibits a person from knowingly or recklessly providing substantial
28 assistance, with or without compensation, in the making, solicitation, acceptance or receipt
29 of a contribution or donation in violation of this prohibition.

30 2. It prohibits a person from structuring or attempting to structure a solicitation,
31 contribution, expenditure, independent expenditure, electioneering communication,
32 donation, disbursement or other transaction to evade the prohibitions and requirements in
33 the initiated bill.

34 3. It requires, whenever a foreign government-influenced entity disburses funds to
35 finance a public communication to influence the public or government officials on issues
36 of state or local policy or foreign relations, that the communication include a clear and
37 conspicuous statement naming the foreign government-influenced entity as a sponsor of
38 the communication.

39 4. It directs each television or radio broadcasting station, provider of cable or satellite
40 television, print news outlet and Internet platform to establish due diligence policies to
41 prevent the distribution of communications for which foreign government-influenced
42 entities have made prohibited expenditures, independent expenditures, electioneering

1 communications or disbursements and further directs an Internet platform to, upon
2 discovery, immediately remove any such communications from its platform.

3 5. It provides that the Commission on Governmental Ethics and Election Practices
4 may assess a penalty of not more than \$5,000 or double the amount of the contribution,
5 expenditure, independent expenditure, electioneering communication, donation or
6 disbursement involved in the violation, whichever is greater, for a violation of the initiated
7 bill.

8 6. The initiated bill also calls on each member of Maine's Congressional Delegation
9 to actively support and promote an effective anticorruption amendment to the United States
10 Constitution to reaffirm the power of citizens through their government to regulate the
11 raising and spending of money in elections.

12 7. For 7 consecutive years beginning July 31, 2023, the initiated bill requires the
13 Commission on Governmental Ethics and Election Practices to issue a report, following
14 public comment, identifying anticorruption amendment proposals introduced in Congress
15 and the members of Maine's Congressional Delegation sponsoring such proposals.