



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

Commission Meeting 06/22/2022  
Agenda Item #6

To: Commission  
From: Commission Staff  
Date: June 14, 2022  
Re: Request by U.S. Term Limits for an Independent Expenditure Determination

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U.S. Term Limits is a 501(c)(4) tax exempt organization headquartered in Florida that advocates for congressional term limits through an amendment to the U.S. Constitution. According to filings with the Commission, on May 23, 2022 U.S. Term Limits reportedly began spending money for mailings to Maine residents in seven legislative districts. The mailings contain some advocacy on the term limits issue but also prominently feature nine legislative candidates who were in contested Republican primary elections for the Legislature. U.S. Term Limits filed an incomplete independent expenditure report that disclosed the costs of the mailings, including a breakdown of the total costs per candidate. Even though the report is designed for communications that advocate for or against candidates, the organization claims that the communications neither supported or opposed the candidates. Because the mailings were sent in the last four weeks before the June 14, 2022 primary election, under Maine Election Law U.S. Term Limits is required to file a complete independent expenditure report (including a statement of support or opposition) unless the organization demonstrates that the payments were not intended to influence the nomination, election or defeat of any candidates. U.S. Term Limits seeks that determination from the Commission.

### **Relevant Law**

Independent expenditure reports generally. Independent expenditures (IEs) are payments for communications to voters (e.g., mailings, advertisements, and digital or telephone messages) advocating for or against candidates made by political parties, political action

committees (PACs), and other organizations or individuals. Any person making a single IE over \$250 per candidate must file an IE report disclosing the amounts spent on the communications, which specific candidate(s) were supported or opposed, and an affidavit confirming the expenditure was made independently of any candidate. In the last 60 days before an election, IE reports must be filed within one or two calendar days of making the expenditure. The law requiring independent expenditure reports is set out in 21-A M.R.S. § 1019-B and Chapter 1, § 10 of the Commission Rules (attached). 94-270 CMR Ch. 1, § 10.

Definition of an IE. During most parts of an election year, an IE is a payment made to design, produce or disseminate a communication that “expressly advocates” the election or defeat of a candidate. 21-A M.R.S. § 1019-B(1)(A). As described below, the definition of express advocacy is narrow and must include explicit phrases such as “Vote for Smith!” or “Re-Elect Jill Scott.”

Under paragraph (1)(B) of the IE statute, the IE definition is much broader during the 28 days prior to a primary election, and between Labor Day and the general election. During those two time periods, if a communication merely names or depicts a clearly identified candidate, an IE report must be filed unless the spender demonstrates to the Commission that the communication was not intended to influence the nomination, election, or defeat of a candidate. 21-A M.R.S. § 1019-B(1)(B). In 2003, the Legislature expanded the IE definition by inserting a version of paragraph (1)(B), recognizing that is easy for political organizations to design positive or negative communications about a candidate that will influence voters but do not contain express advocacy phrases such as “Vote for Smith!” P.L. 2003, ch. 448.<sup>1</sup>

Requesting a Commission Determination. A person disseminating a communication naming or depicting a candidate during these time periods may request a determination

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<sup>1</sup> From 2003-2021, paragraph 1(B) imposed a “presumption” of an IE, but the presumption terminology was removed from the paragraph in a rewrite of the IE statute in P.L. 2021, ch. 132. The procedure is essentially the same, but there is no longer a presumption in the law. The Commission staff is in the process of updating its forms, guidance and rules to reflect this 2021 law change.

by the Commission that the payment for the communication is not an IE by submitting a signed statement that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. 21-A M.R.S. § 1019-B(2). The statement must be submitted within seven days of disseminating the communication. The Commission may gather any additional evidence it determines relevant and “shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.” 21-A M.R.S. § 1019-B(2).

Deadline to File IE Report. The deadlines for filing IE reports are set out in the Commission’s Rules. 21-A M.R.S. § 1019-B(4), 94-270 CMR Ch. 1, § 10(3). This year, any person that made an IE in excess of \$250 per candidate between April 15 and May 31, 2022 was required to file an IE report within two calendar days.

Definition of Clearly Identified. “Clearly Identified” means the candidate’s name, or a photograph or drawing of a candidate, appears in a communication or the identity of the candidate is apparent by unambiguous reference. 21-A M.R.S. § 1012(1).

Definition of Express Advocacy. “Express Advocacy” means any communication that uses phrases such as: “vote for the Governor,” “reelect your Representative,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for Senate District 1,” “Jones for House of Representatives,” “Jean Smith in 2002;” or communications that are susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate. The full definition in the Commission’s rules is attached. 94-270 CMR Ch. 1 § 10(2)(B).

### **Independent Expenditure Report filed by U.S. Term Limits**

*Initial IE Report.* On May 25, 2022, the Commission received a partially completed IE report from U.S. Term Limits that was filled out by hand and submitted by email from Ashley Bennett, a former Executive Assistant for the organization. One schedule of the report lists the details for five expenditures made to a Pennsylvania consulting firm that

handles direct mail. It appears that payments were made on five different dates: May 23, May 25, May 27<sup>th</sup>, June 1<sup>st</sup> and June 3<sup>rd</sup>. Since three of these dates are *after* this initial report was submitted, these may represent anticipated expenditure or mailing dates. The expenditure amounts in the original report were not disclosed correctly, which we take to be a good-faith mistake.

Within the report, U.S. Term Limits provided five different lists of candidates that apparently correspond with the five expenditures. A total of nine candidates were listed, all in contested Republican primary elections for the Maine Senate or the Maine House of Representatives:

<b>House or Senate District</b>	<b>Candidate(s) Listed in IE Reports</b>
HD 37	Reagan Paul
HD 79	John Andrews
HD 86	Greg Foster
HD 98	Guy Lebida, Joseph Galleta
HD 99	Michael Lawler, Stephen Davis
SD 10	Peter Lyford
SD 16	Michael Perkins

In the column of the report that directs the filer to indicate whether the communications were in support or opposition to the candidates, U.S. Term Limits indicated that the communications were “neither.”

*Amended IE Report.* Emma Burke advised Ms. Bennett that the report did not conform to legal requirements because it lacked a statement of support or opposition for each candidate and an itemization of amounts spent per candidate. On May 31, U.S. Term Limits submitted an amended report. This version of the report contained the required itemizations and spending totals. U.S. Term Limits left the support/oppose column blank. The total cost of the mailings was \$17,448.

### **Request for a Commission Determination**

On May 31, 2022, U.S. Term Limits also submitted five form statements (attached) seeking a Commission determination that the expenditures were not intended to influence the nomination, election or defeat of the candidates. The organization did not attach any supporting information to the form statements.

### **Explanations Provided by U.S. Term Limits**

Because U.S. Term Limits did not provide any information to support its request, Political Committee and Lobbyist Registrar Emma Burke sent an email seeking explanations of the purpose, audience, and timing of the mailings, which we believed would be relevant to your determination. U.S. Term Limits responded as follows. The organization's full email response is attached for your consideration.

(1) As to purpose of the mailings, U.S. Term Limits responded:

These advertisements were part of a genuine issue advocacy campaign to raise awareness of the issue of Congressional term limits, and to bring awareness to the position of various officeholders and public figures on that issue.

We recommend looking at the organization's website ([www.termlimits.org](http://www.termlimits.org)) for more information about U.S. Term Limits' activities to promote congressional term limits. One of its strategies is to promote resolutions in state legislatures that would call for a national constitutional convention. A resolution for this purpose was considered by the Maine Legislature in 2021 (H.P. 467). U.S Term Limits provided further explanation by comparing the mailings to radio advertisements that were at issue in a 2007 U.S. Supreme Court decision holding that the Federal Election Commission's application of a federal campaign finance law was unconstitutional, FEC v. Wisconsin Right to Life, Inc., 551 U.S. 449 (2007):

Like the advertisements considered by the Supreme Court's Wisconsin Right to Life decision, these issue "ads are plainly not the functional equivalent of express advocacy. First, their content is consistent with that

of a genuine issue ad: The ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.” FEC v. Wis. Right to Life, Inc., 551 U.S. 449, 470 (2007).

(2) The organization did not respond to the question seeking a description of the population receiving the mailings and whether registered Republicans received them in the same proportion as registered Democrats and unenrolled voters.

(3) When asked about the timing of the mailings, U.S. Term Limits responded:

These advertisements coincide with the end of the legislative session on May 9, 2022, when these officeholders and public figures are generally more available to interact with their constituents. As the Supreme Court has noted, legislators “often return to their districts during recess, precisely to determine the views of their constituents; an ad run at that time may succeed in getting more constituents to contact the Representative while he or she is back home. In any event, a group can certainly choose to run an issue ad to coincide with public interest . . .” FEC v. Wis. Right to Life, Inc., 551 U.S. 449, 472-73(2007). “Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions.” Buckley v. Valeo, 424 U.S. 1, 42 (1976) (per curiam) Here, these ads directly relate to raising awareness of the issue of Congressional term limits. “Discussion of issues cannot be suppressed simply because the issues may also be pertinent in an election. Where the First Amendment is implicated, the tie goes to the speaker, not the censor.” FEC v. Wis. Right to Life, Inc. 551 U.S. at 474. This distinction is especially important here where USTL’s social welfare mission is so longstanding and nationally and focused. USTL is not based in Maine, and its issue advocacy efforts are non-partisan.

### **Staff Observations on Mailings Received by the Commission**

As of the date of this memo (June 14), the Commission had received photographs of two of the mailings that were addressed to a resident of Harpswell, Maine. The photos were emailed to the Commission by someone active in Maine campaigns who contacted Commission to ask whether U.S. Term Limits had registered as a political action committee. The two mailings relate to Michael Lawler and Stephen Davis, who are opponents in the Republican primary election in House District 99.<sup>2</sup>

*Lawler mailer.* The language in the Lawler mailer contains objective elements that any reasonable person would view as positive in tone. He is referred to as a “leader in the fight for congressional term limits” and states his “leadership is appreciated.” Both sides of the card contain the language “Thank You/Michael Lawler,” indicating he has done something positive. Most of the content of the postcard is about Mr. Lawler and his leadership on the issue. One graphic urges recipients to support congressional term limits by visiting the U.S. Term Limits’ website to learn more about the organization’s strategy and sign a national online petition, but that is a minor portion of the mailing.

*Stephen Davis mailer.* The language in the Davis mailer contains objective elements that any reasonable person would view as negative in tone. The mailer contains a disparaging comment about “politicians” that is attributed to Mark Twain. It notes in bold type that “Stephen Davis HAS NOT signed the U.S. Term Limits pledge.” The mailing asks recipients to tell Stephen Davis to “Stop putting the swamp and special interests ahead of the people of Maine” and provides his telephone number. The Davis mailer also contains a similar graphic to support congressional term limits.

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<sup>2</sup> On the morning of June 15, 2022, U.S. Term Limits provided images of the other mailings. They are among the attached materials, but their content is not discussed in this memo.

## **Discussion and Staff Recommendation**

Because the mailings name specific legislative candidates and were disseminated within the last four weeks before the June 14, 2022 primary election, U.S. Term Limits' expenditures are IEs unless the organization "demonstrates ... that the expenditure was not intended to influence the nomination, election or defeat of the candidate[s]." 21-M.R.S. § 1019-B(1)(B). The Commission is required to "determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate." 21-M.R.S. § 1019-B(2).

Even though we are campaign finance regulators, the Commission staff recognizes that not all paid communications mentioning officeholders or candidates have a primary purpose of influencing elections. For example, in Maine some policy organizations publish legislative scorecards to highlight whether a Legislator has voted positively or negatively on a selection of bills, as part of a broader effort to pressure the Legislature. In this particular matter, however, some objective characteristics of the mailings do not support U.S. Term Limits' request:

- 1) The explanation for the purpose of the mailings by U.S. Term Limits does not elucidate why the mailings exclusively featured candidates in contested Republican primary elections. If the goal was to raise awareness of the issue of congressional term limits and highlight candidates' positions, why exclude other Republican legislative candidates? (The majority of 2022 Republican candidates for the Legislature were unopposed in their primary elections.) Was it a coincidence that the nine candidates selected for these mailings were in opposed primaries?
- 2) Based on U.S. Term Limits' requests for a Commission determination, it appears these mailings were disseminated within the last 22 days before the June 14, 2022 primary election. The explanation for this timing offered by U.S. Term Limits is that the mailings "coincide with the end of the legislative session on May 9, 2022, when these officeholders and public figures are generally more available to interact with their constituents." This explanation seems to be copied and pasted from the rationale expressed by the Wisconsin Right to Life organization in its

2007 constitutional challenge to federal law. This explanation is not a good fit for U.S. Term Limits' mailings because *only two* of the candidates are sitting Legislators. The other seven candidates did not serve in the 130<sup>th</sup> Legislature and were not tied up with legislative business through May 9, 2022. These seven candidates would presumably be equally available to be contacted by their neighbors during any month in the March-October election season. When asked by the Commission staff, U.S. Term Limits did not provide a convincing non-electoral explanation for why these mailings were sent during the last 22 days before a primary election. Perhaps U.S. Term Limits can produce more information on this point at the June 22, 2022 meeting.

- (3) U.S. Term Limits conspicuously did not respond to the Commission staff's question: "describe the population that is receiving these mailings. Are registered Republicans receiving them in the same proportion as registered Democrats or unenrolled voters?" The population selected to receive these mailings could be very relevant to their purpose. For example, if the mailings targeted Republican voters, that would be consistent with an intent to influence the Republican primary elections. You may wish to follow up on this question.
- (4) As noted above, the content of the Lawler and Davis mailings contain objective language that any reasonable person would view as positive and negative characterizations of the candidates. Mr. Lawler is a "leader" on term limits. His "leadership is appreciated." Both sides of the mailer thank Mr. Lawler, indicating he has done something positive. In contrast, the mailing for his opponent, Stephen Davis, states that he is "putting the swamp and special interests ahead of the people of Maine." These positive and negative portrayals of candidates distributed to voters just before a primary election are consistent with an intent to influence voting.

Because the Commission is considering this item after the June 14 primary election, it is not under any specific time pressure to reach a determination. The Commission staff would be pleased to gather any additional information that you deem relevant and material, as permitted by statute. You may also wish to discuss with your counsel any litigation risks that this matter may present.

### **Other Compliance Issues**

The Commission should be aware that a determination that the mailers were intended to influence the June 14, 2022 Republican primary elections could lead to additional compliance issues. If the Commission wishes to move in this direction, it may be appropriate to pursue these issues at a subsequent meeting because U.S. Term Limits just identified its legal counsel for this matter and the specific legal violations were not identified by Commission staff in correspondence sent to U.S. Term Limits.

- One issue is whether U.S. Term Limits has filed a complete IE report on time. If you reach the conclusion that these mailings were intended to influence the June 14 primary election, you may wish to provide the organization with an opportunity to file a complete IE report consistent with the Commission's determination.
- If these mailings costing more than \$17,000 were for the purpose of influencing the June 14 primary elections, it seems likely that U.S. Term Limits qualified as a political action committee under 21-A M.R.S. § 1052(5)(A)(1) and should have registered and filed a campaign finance report.
- The mailings did not contain a statement of U.S. Term Limits' top three funders that is required for independent expenditure communications under 21-A M.R.S. § 1014(2-B) or a statement whether the candidates authorized the mailings, arguably required under 21-A M.R.S. § 1014(2-A).

Thank you for your consideration of this matter.



Commission on Governmental Ethics and Election Practices  
 Mail: 135 State House Station, Augusta, Maine 04333  
 Office: 45 Memorial Circle, Augusta ME, 04333

Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)  
 Phone: 207-287-4179  
 Fax: 207-287-6775

**INDEPENDENT EXPENDITURES AFFIDAVIT**

**AFFIDAVIT**

STATE OF Florida

COUNTY OF Brevard

I, ASHLEY BENNETT, being duly sworn, attest that I, or the organization that I am affiliated with, made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.

[Signature]  
 Signature of Affiant

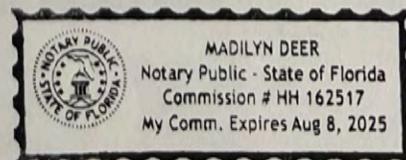
5/25/22  
 Date

I certify that on the date set forth below, the individual named above did appear personally before me and that I did identify this applicant by: (a) comparing his/her physical appearance with the photograph on the identifying document presented by the applicant and with the photograph affixed thereto, and (b) comparing the applicant's signature made in my presence on this form with the signature on his/her identifying document.

The statements on this document are subscribed and sworn to before me by the applicant on this 25<sup>th</sup> day of May, 2022.

Notary Public Signature: MADILYN DEER

My Notary Commission Expires: 08/08/2025



**Schedule B-IE-2**  
**PAYMENTS AND OBLIGATIONS**

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (☐) the box next to the expenditure type.
- Duplicate as needed.

EXPENDITURE TYPES			
APP	Apparel (t-shirts, hats, embroidery, etc.)	PER	Personnel and campaign staff, consulting, and independent contractors
CON	Contribution to party committee, non-profit, other	PHO	Phones (phone banking, robocalls, and texts)
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	POL	Polling and survey research
EVT	Campaign and fundraising events (venue/booth rental, entertainment, supplies, etc.)	POS	Postage for US Mail and mailbox fees
FOD	Food for campaign events or volunteers, catering	PRO	Professional services (graphic design, legal services, web design)
HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	RAD	Radio ads and production costs only
LIT	Printed campaign materials (palmcards, signs, stickers, flyers etc.)	TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)
MHS	Mail house and direct mail (design, printing, mailing, and postage)	TRV	Travel (mileage and lodging, etc.)
OFF	Office supplies, rent, utilities, internet service, phone minutes/data	TVN	TV/Cable ads, production, and media buyer costs only
ONL	Social medial and online advertising only	WEB	Website and internet costs (website domain and registration, etc.)
OTH	Other and fees (bank, contribution, and money order fees, etc.)		

Date of Expenditure	Payee, Address, Zip Code	Expenditure Type	☑	Amount
5/23/22	Gold Spark 307 Fourth Avenue 14th Floor	MHS		\$1410.52
5/25/22	Pittsburg PA 15222	MHS		\$1410.52
5/27/22	↓	MHS	☑	1542.53
6/1/22		MHS	☑	
6/3/22		MHS	☑	

A. Expenditures for this page ⇒ 5

B. Total for all other Schedule B-IE-2 pages (if any) ⇒ 0

C. Total independent expenditures for this reporting period (A+B).  
This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒ 5

**Schedule B-IE-1**

**CANDIDATE(S) SUPPORTED/OPOSED**

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates
- Duplicate as needed

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
HD37	Reagan Paul	Neither	
HD79	John Andrews	↓	
HD86	Greg Foster		
HD98	Guy Urbida		
HD99	Michael Lawler		
SD10	Peter Lyford		
SD16	Michael Perkins		
	Above candidates are included in Expenditure on 5/23/22		
		TOTAL:	61410.52

Total expenditures for all candidates this reporting period.  
This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒ 5

**Schedule B-IE-1**  
**CANDIDATE(S) SUPPORTED/OPOSED**

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates
- Duplicate as needed

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
HD37	Reagan Paul	Neither	
HD79	John Andrews	 ↓	
HD86	Greg Foster		
HD98	Guy Lebida		
HD99	Michael Lawler		
SD10	Peter Welford		
SD16	Michael Perkins		
ABOVE CANDIDATES ARE INCLUDED IN EXPENDITURE ON			
			5/25/22
		TOTAL	6,410.52

Total expenditures for all candidates this reporting period.  
This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒ 5





**Schedule B-IE-1**

**CANDIDATE(S) SUPPORTED/OPOSED**

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates
- Duplicate as needed

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
MD98	Joseph Gralketta	Neither	
MD99	Stephen Davis	↓	
Above candidates are included in expenditure for 6/3/22			
Total:			1,542.53
<p><b>Total expenditures for all candidates this reporting period.</b>  <b>This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒</b></p>			5

**THANK YOU**

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**MICHAEL LAWLER**

**FOR SUPPORTING  
CONGRESSIONAL TERM LIMITS**

*Please email Michael Lawler  
at [mikelawler@mac.com](mailto:mikelawler@mac.com),  
and thank him  
for supporting term limits.*

Ethics Note: This same mailer was disseminated naming and depicting John Andrews, Guy Lebida, Peter Lyford, and Michael Perkins



★ ★ ★ ★ ★  
**THANK YOU,**

**MICHAEL LAWLER,**

for supporting  
term limits  
on the U.S. Congress.

**YOUR LEADERSHIP  
IS APPRECIATED.**

**SUPPORT  
CONGRESSIONAL  
TERM LIMITS.**

To learn more about our strategy and to sign  
the national petition for term limits on Congress  
visit [www.termlimits.com/status2](http://www.termlimits.com/status2)

**LEADER IN  
THE FIGHT FOR  
CONGRESSIONAL  
TERM LIMITS**

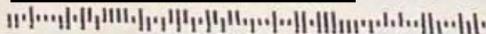
TKU\_HD99\_2

PAID FOR BY U.S. TERM LIMITS

2955 Pineda Plaza Way, Ste 226, Melbourne, FL 32940

NON-PROFIT ORG  
U.S. POSTAGE  
PAID  
TMG

\*\*\*\*\*AUTO\*\*5-DIGIT 04011  
0000899 05 T2 03





**"Politicians and diapers must be**

**CHANGED OFTEN...**

Ethics Note: This same mailer was disseminated naming Joseph Galletta

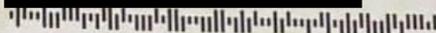
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PAID FOR BY U.S. TERM LIMITS  
2955 Pineda Plaza Way, Ste 226, Melbourne, FL 32940

NON PROFIT ORG  
U.S. POSTAGE  
PAID  
TMG

0000899 T2 P2

\*\*\*\*\*AUTO\*\*5-DIGIT 04011



...and for the

**SAME REASON."**

-Mark Twain

**Washington is broken.**

Career politicians need to be sent home.

Stephen Davis **HAS NOT** signed  
the U.S. Term Limits pledge.

**TELL STEPHEN DAVIS:**

Stop putting the swamp and special interests  
ahead of the people of Maine.

Call Davis: (207) 837-3720

To learn more about our strategy and to sign  
the national petition for term limits on Congress  
visit [www.termlimits.com/status2](http://www.termlimits.com/status2)

**SUPPORT CONGRESSIONAL TERM LIMITS.**

To learn more about our strategy and to sign the national petition  
for term limits on Congress visit [www.termlimits.com/status4](http://www.termlimits.com/status4)



TKU HD99 2

NON-PROFIT ORG  
U.S. POSTAGE  
PAID  
TMG

STATE REPRESENTATIVE  
**JOHN ANDREWS**

**THANK YOU**  
★ FOR ★  
**SUPPORTING**  
**CONGRESSIONAL**  
**TERM LIMITS**

Please call Rep. John Andrews at  
(207) 739-9075, and thank him  
for supporting term limits on Congress.



Thank you,

**Rep. John Andrews,**

for supporting term limits  
on the U.S. Congress.

Your leadership is appreciated.

**LEADER IN THE  
FIGHT FOR  
CONGRESSIONAL  
TERM LIMITS**

**SUPPORT  
CONGRESSIONAL  
TERM LIMITS.**

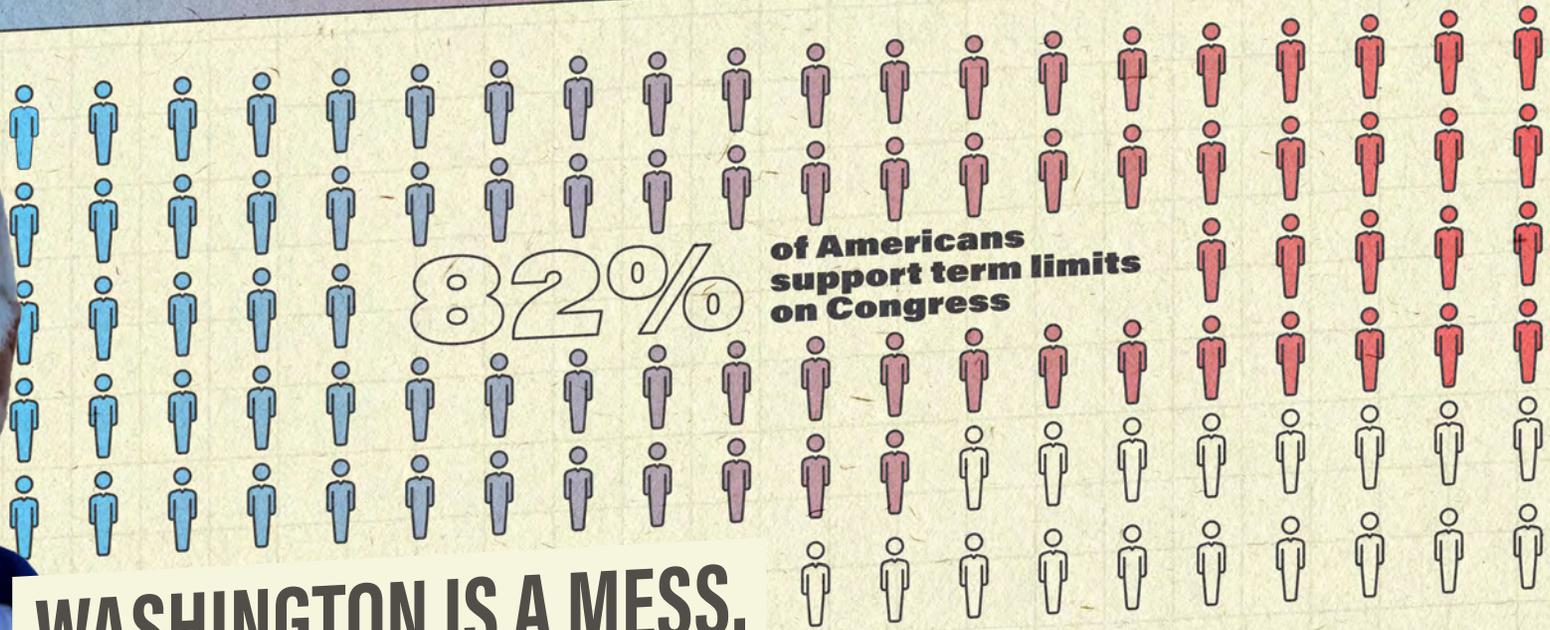
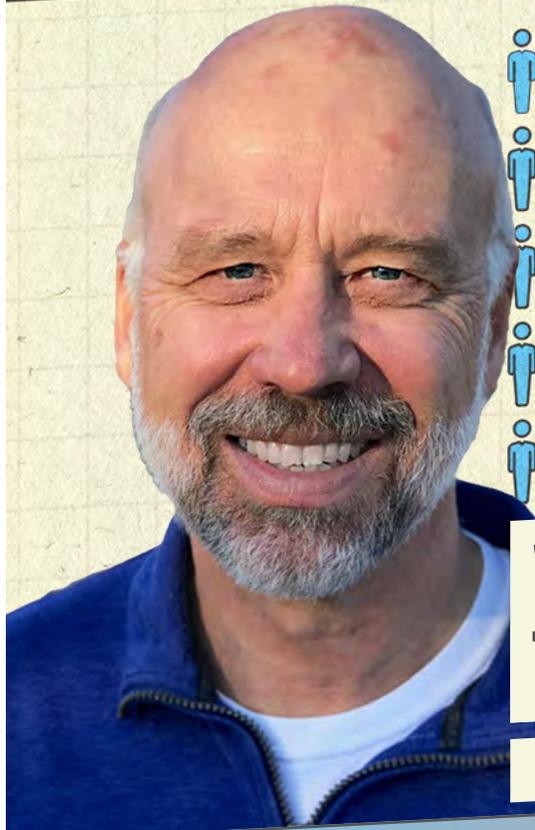
To learn more about our strategy and to sign  
the national petition for term limits on Congress  
visit [www.termlimits.com/status1](http://www.termlimits.com/status1)

TKU\_HD79\_1

PAID FOR BY U.S. TERM LIMITS

2955 Pineda Plaza Way, Ste 226, Melbourne, FL 32940

Ethics Note: This same mailer was  
disseminated naming and depicting Guy  
Lebida, Michael Lawler, Peter Lyford, and  
Michael Perkins

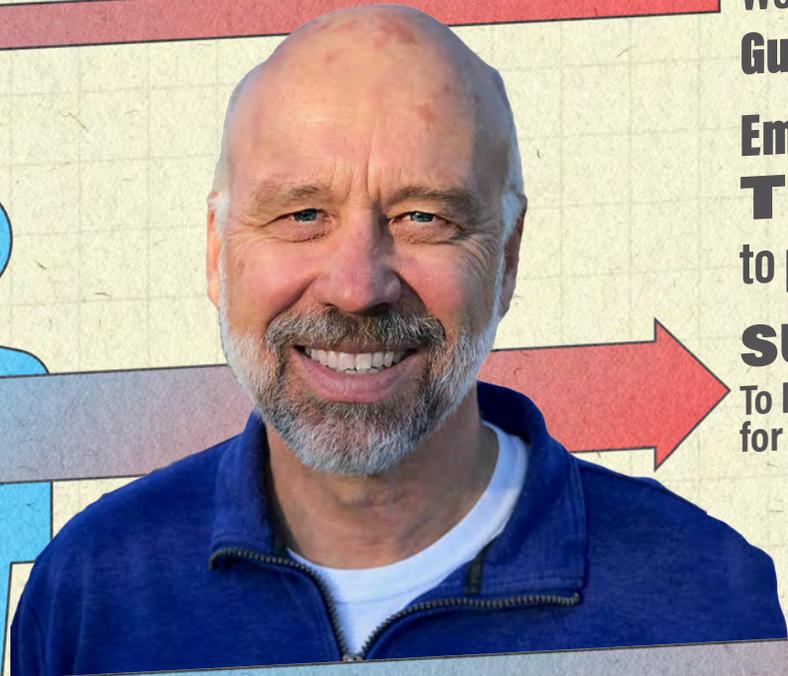


**WASHINGTON IS A MESS.  
THERE IS SO MUCH DIVISIVENESS.**

We need fresh faces in Congress to get work done.



**GUY LEBIDA HAS SIGNED THE TERM LIMITS PLEDGE  
BECAUSE HE KNOWS THERE IS A PROBLEM IN WASHINGTON.**



We need more courageous people like  
**Guy Lebida** to take on the Washington elites.

Email Guy Lebida at [guylebida@gmail.com](mailto:guylebida@gmail.com), and tell him  
**THANK YOU** for signing the U.S. Term Limits pledge  
to put term limits on Congress.

**SUPPORT CONGRESSIONAL TERM LIMITS.**

To learn more about our strategy and to sign the national petition  
for term limits on Congress visit [www.termlimits.com/status5](http://www.termlimits.com/status5)

AGR\_HD98\_5

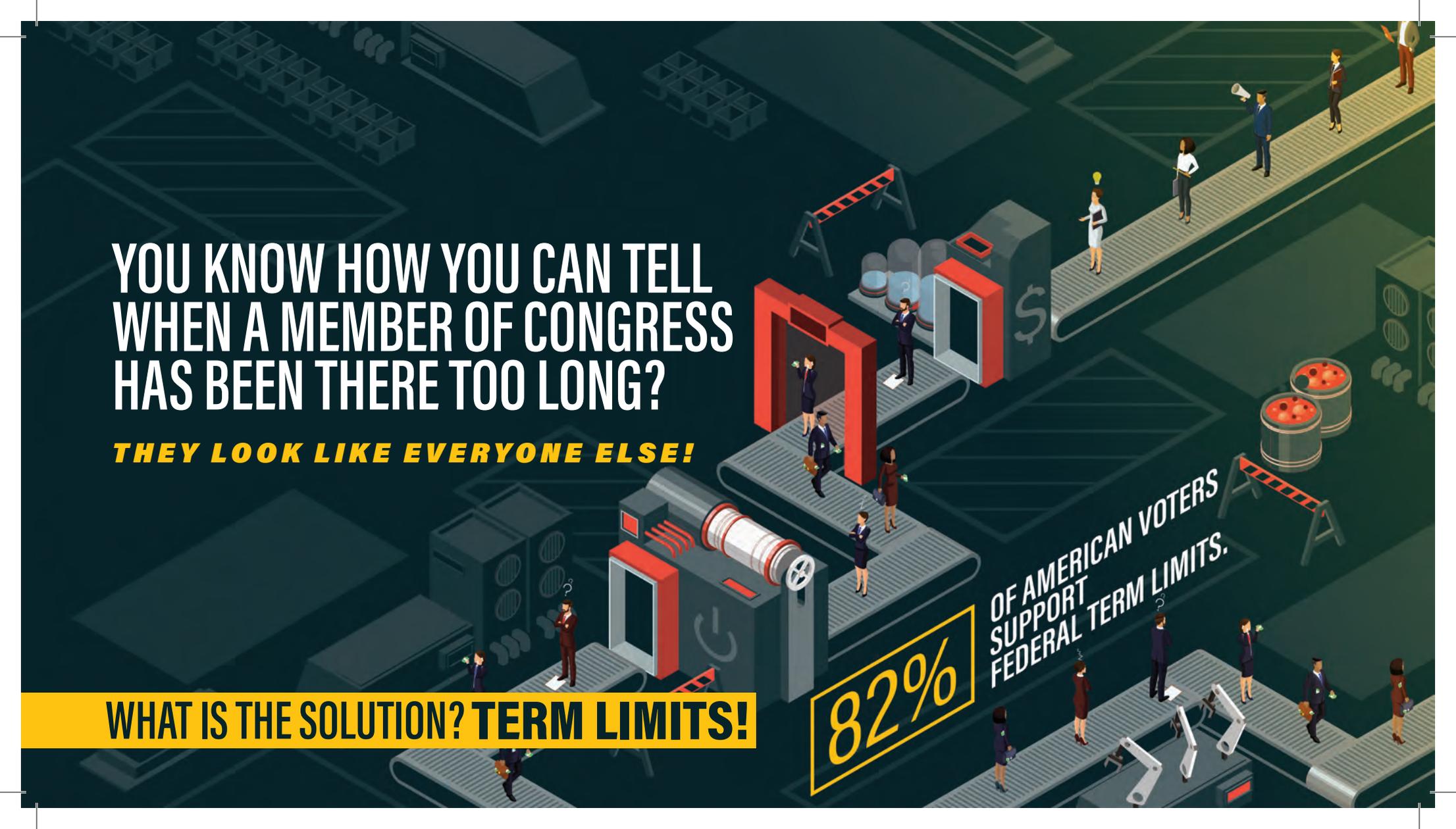
PAID FOR BY U.S. TERM LIMITS

2955 Pineda Plaza Way, Ste 226, Melbourne, FL 32940



Ethics Notes: This same mailer was  
disseminated naming and depicting Michael  
Lawler

**The time is now.  
We need to term limit Congress!**



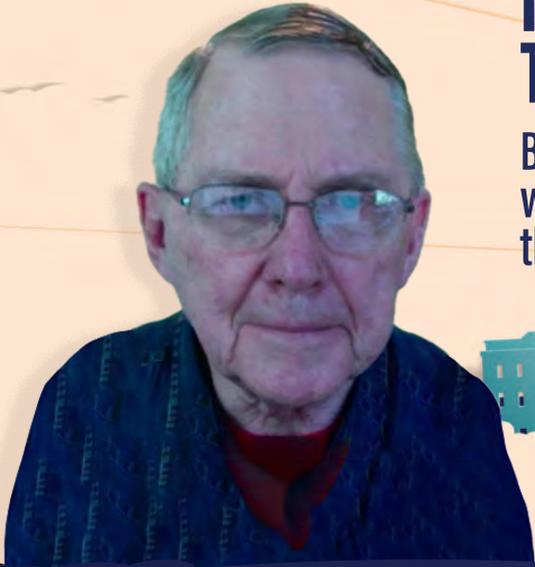
**YOU KNOW HOW YOU CAN TELL  
WHEN A MEMBER OF CONGRESS  
HAS BEEN THERE TOO LONG?**

***THEY LOOK LIKE EVERYONE ELSE!***

**WHAT IS THE SOLUTION? TERM LIMITS!**

**82%**

**OF AMERICAN VOTERS  
SUPPORT  
FEDERAL TERM LIMITS.**



# MICHAEL LAWLER HAS SIGNED THE TERM LIMITS PLEDGE.

Because of people like him,  
we can have hope  
that Washington will change.



MAC\_HD99\_3

Email Michael Lawler at [mikelawler@mac.com](mailto:mikelawler@mac.com),  
and tell him **THANK YOU** for signing the U.S. Term Limits  
pledge to put term limits on Congress.

## SUPPORT CONGRESSIONAL TERM LIMITS.

To learn more about our strategy and to sign the national petition  
for term limits on Congress visit [www.termimits.com/status3](http://www.termimits.com/status3)

PAID FOR BY U.S. TERM LIMITS  
2955 Pineda Plaza Way, Ste 226, Melbourne, FL 32940



Ethics Note: This same mailer was  
disseminated naming and depicting  
Guy Lebida

**Sent:** Wednesday, May 25, 2022 3:09 PM  
**To:** Commission, Ethics <[Ethics.Commission@maine.gov](mailto:Ethics.Commission@maine.gov)>  
**Subject:** Independent Expenditure Report

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hello - Please see the attached copy of US Term Limits' Independent Expenditure Report. I've popped the original in the mail, however I'm not sure how timely it will arrive.

1

Thank you!

Ashley

--

Ashley Bennett

Executive Assistant

U.S. Term Limits

2

On Wed, May 25, 2022 at 4:42 PM Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

Hi Ashley,

Thanks for sending this along, but this report, unfortunately, does leave me with a lot of questions.

Could you please describe to me what the direct mail pieces look like, that name or identify the candidates included in the IE report, but does not oppose or support them? Usually writing 'neither' is not a correct response. An IE either directly supports or opposes identified candidates.

I am also confused about the prospective expenditures. If an order has been placed, then you use the date the order was placed as the date of the IE. Therefore, it is not really possible to have dates a couple weeks in the future.

There are also no amounts listed on each candidate row, which is required. It may be best to send me some images of what the mailers look like, or a good description of them, so I can best guide you as to what you need to file with this office.

Thank you.

**Emma J. Burke** (she/her)

Political Committee & Lobbyist Registrar

Maine Ethics Commission

(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

---

**From:** Ashley Bennett <[abennett@termlimits.com](mailto:abennett@termlimits.com)>

---

**From:** Ashley Bennett <[abennett@termlimits.com](mailto:abennett@termlimits.com)>  
**Sent:** Thursday, May 26, 2022 9:43 AM  
**To:** Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)>  
**Subject:** Re: Independent Expenditure Report

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

3

Hi!

Yes, our lawyer has answer the question regarding if our mailers are in support or opposition of a candidate to other states as well. Our mailers simply indicate if a candidate is in support of congressional term limits. We are not making an endorsement for a candidate. It is voter education for the voters to make an informed decision on what candidates support the issue. Other states have accepted that.

There was a note on the form that we could indicate if an expenditure will be made in the future, which is why I indicated that on the form. These expenditures have not been made, but are planned to be made on the dates and for the amounts indicated on the form. I was quite pleased when I saw that provision, as you could see, we have several expenditures there, and it's rather difficult to get to a notary numerous times (and expensive). I thought that the streamline of the process was a nice change from other states that we work with. If that's not actually the case, please let me know.

The amounts for the mailers were on the form that gave the dates for each batch. In addition, I wrote the total for those batches. I can send you an excel spreadsheet with the amounts for each candidate broken down if that helps?

I'll attach an example of one of our mailers that we distribute across the country. I would love whatever support you can give! Each state is so vastly different with their reporting, and what the requirements are, so if a step was missed, please don't hesitate to let me know.

Thank you!

Ashley

4

On Thu, May 26, 2022 at 2:05 PM Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

Hi Ashley,

Thanks so much for the information. I have discussed this with my team, and unfortunately, you will need to file another IE that has been filled out properly.

Statute requires that you designate whether the expenditure is to support or oppose a candidate. If US Term Limits truly feels these expenditures are not meant to either support or oppose the named candidates, then you could file a presumption rebuttal with our office that would need to be approved by our Commission. I would caution, however, that the rebuttal may not be successful as it appears all the named candidates are in contested primaries alongside the timing of the mailers. You also need to specify on the report the amount per candidate spent. We cannot accept totals per page or per date. Again, this is a statutory requirement. However, leaving the future IEs in there is fine – that guidance was a mistake on my part.

Another very important factor – US Term Limits has now spent more than \$2,500 influencing a Maine election, which means it needs to register as a PAC in Maine. You can register a PAC directly on our website at [www.mainecampaignfinance.com](http://www.mainecampaignfinance.com). Once you are registered, you must file an initial campaign finance report within seven days. You will be required to file regularly scheduled campaign finance reports throughout the rest of 2022.

Please let me know what US Term Limits sees as its next steps. Thank you.

**Emma J. Burke** (she/her)

Political Committee & Lobbyist Registrar

Maine Ethics Commission

(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

**From:** [Ashley Bennett](#)  
**To:** [Burke, Emma](#)  
**Subject:** Re: Independent Expenditure Report  
**Date:** Thursday, May 26, 2022 17:34:22

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7 I saw on the website that if we register as a PAC, I can submit reports online. Does that mean I won't need to do the paper form? I did forward that information over to our attorney for guidance, but trying to plan accordingly.

Thank you for the help!

On Thu, May 26, 2022 at 4:54 PM Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

6 That is fine assuming you will file another IE for June 1 and June 3 once you know the amounts?

**Emma J. Burke** (she/her)

Political Committee & Lobbyist Registrar

Maine Ethics Commission

(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

---

**From:** Ashley Bennett <[abennett@termlimits.com](mailto:abennett@termlimits.com)>

**Sent:** Thursday, May 26, 2022 3:45 PM

**To:** Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)>

**Subject:** Re: Independent Expenditure Report

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

5 Thanks! Can you confirm if I filled out form B-IE-2 correctly? I understand that I'll need to indicate each candidate and specific amount on B-IE-1.

Ashley

**From:** [Burke, Emma](#)  
**To:** [Ashley Bennett](#)  
**Subject:** RE: Independent Expenditure Report  
**Date:** Friday, May 27, 2022 09:17:00

---

8

Yes that's right, if you register as a PAC all of your reports are filed online.

**Emma J. Burke** (she/her)  
Political Committee & Lobbyist Registrar  
Maine Ethics Commission  
(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

---

**From:** Ashley Bennett <[abennett@termlimits.com](mailto:abennett@termlimits.com)>  
**Sent:** Thursday, May 26, 2022 5:34 PM  
**To:** Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)>  
**Subject:** Re: Independent Expenditure Report

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

I saw on the website that if we register as a PAC, I can submit reports online. Does that mean I won't need to do the paper form? I did forward that information over to our attorney for guidance, but trying to plan accordingly.

Thank you for the help!

On Thu, May 26, 2022 at 4:54 PM Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

That is fine assuming you will file another IE for June 1 and June 3 once you know the amounts?

**Emma J. Burke** (she/her)  
Political Committee & Lobbyist Registrar  
Maine Ethics Commission  
(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

---

**From:** Ashley Bennett <[abennett@termlimits.com](mailto:abennett@termlimits.com)>  
**Sent:** Thursday, May 26, 2022 3:45 PM  
**To:** Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)>  
**Subject:** Re: Independent Expenditure Report

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Thanks! Can you confirm if I filled out form B-IE-2 correctly? I understand that I'll need to indicate each candidate and specific amount on B-IE-1.

Ashley

**From:** [Ashley Bennett](#)  
**To:** [Burke, Emma](#)  
**Subject:** Re: Independent Expenditure Report  
**Date:** Tuesday, May 31, 2022 15:30:18  
**Attachments:** [USTL RebuttalIE Report.pdf](#)

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**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

9

Good Afternoon,

Please see the attached rebuttal form and IE Report submitted at the advisement of U.S. Term Limits' attorney. I have mailed the original documents.

Thank you!  
Ashley

On Fri, May 27, 2022 at 9:17 AM Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

Yes that's right, if you register as a PAC all of your reports are filed online.

**Emma J. Burke** (she/her)

Political Committee & Lobbyist Registrar

Maine Ethics Commission

(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)

---

**From:** Ashley Bennett <[abennett@termlimits.com](mailto:abennett@termlimits.com)>

**Sent:** Thursday, May 26, 2022 5:34 PM

**To:** Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)>

**Subject:** Re: Independent Expenditure Report

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

I saw on the website that if we register as a PAC, I can submit reports online. Does that mean I won't need to do the paper form? I did forward that information over to our attorney for guidance, but trying to plan accordingly.



**INDEPENDENT EXPENDITURES AFFIDAVIT**

**AFFIDAVIT**

STATE OF Florida

COUNTY OF Brevard

I, Asnley Bennett, being duly sworn, attest that I, or the organization that I am affiliated with, made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.

[Signature]

Signature of Affiant

5/31/22

Date

I certify that on the date set forth below, the individual named above did appear personally before me and that I did identify this applicant by: (a) comparing his/her physical appearance with the photograph on the identifying document presented by the applicant and with the photograph affixed thereto, and (b) comparing the applicant's signature made in my presence on this form with the signature on his/her identifying document.

The statements on this document are subscribed and sworn to before me by the applicant on this 31<sup>st</sup> day of May, 2022.

Notary Public Signature: [Signature]

My Notary Commission Expires: 10/7/2023













**Schedule B-IE-2**

**PAYMENTS AND OBLIGATIONS**

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (☐) the box next to the expenditure type.
- Duplicate as needed.

**EXPENDITURE TYPES**

APP	Apparel (t-shirts, hats, embroidery, etc.)	PER	Personnel and campaign staff, consulting, and independent contractors
CON	Contribution to party committee, non-profit, other	PHO	Phones (phone banking, robocalls, and texts)
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	POL	Polling and survey research
EVT	Campaign and fundraising events (venue/booth rental, entertainment, supplies, etc.)	POS	Postage for US Mail and mailbox fees
FOD	Food for campaign events or volunteers, catering	PRO	Professional services (graphic design, legal services, web design)
HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	RAD	Radio ads and production costs only
LIT	Printed campaign materials (palmcards, signs, stickers, flyers etc.)	TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)
MHS	Mail house and direct mail (design, printing, mailing, and postage)	TRV	Travel (mileage and lodging, etc.)
OFF	Office supplies, rent, utilities, internet service, phone minutes/data	TVN	TV/Cable ads, production, and media buyer costs only
ONL	Social media and online advertising only	WEB	Website and internet costs (website domain and registration, etc.)
OTH	Other and fees (bank, contribution, and money order fees, etc.)		

Date of Expenditure	Payee, Address, Zip Code	Expenditure Type	✓	Amount
5/23/22	Cold Spark 807 Fourth Avenue Pittsburg, PA 15222	MHS		6,410.52
5/25/22	Cold Spark 807 Fourth Avenue Pittsburg, PA 15222	MHS		6,410.52
5/27/22	Cold Spark 807 Fourth Avenue Pittsburg, PA 15222	MHS		1,542.53
6/1/22	Cold Spark 807 Fourth Avenue Pittsburg, PA 15222	MHS	✓	1,542.53
6/3/22	Cold Spark 807 Fourth Avenue Pittsburg, PA 15222	MHS	✓	1,542.53

A. Expenditures for this page ⇒ 17,448.63

B. Total for all other Schedule B-IE-2 pages (if any) ⇒ -

C. Total independent expenditures for this reporting period (A+B).  
This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒ 17,448.63



## Statement to Rebut Presumption of Independent Expenditure

Under 21-A M.R.S. § 1019-B, an expenditure to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election, or from Labor Day to a general election day is presumed to be an independent expenditure. The individual or organization making the expenditure may attempt to rebut the presumption by filing this form. Any documents, statements, or other evidence (e.g., a copy of a printed communication or a script of a recorded communication) supporting the rebuttal may be attached to this form. To rebut the presumption, this form must be filed with the Ethics Commission within 7 days of disseminating the communication. The form may be filed by faxing it to (207) 287-6775 or by sending a scanned copy to ethics@maine.gov, provided that the Commission receives the original within 5 days.

Individual/Organization making the expenditure:

US Term Limits

Contact person:

Ashley Bennett, Executive Assistant

Contact's mailing address:

2955 Pivada Plaza Way Suite 2200

Melbourne FL 32940

Contact's telephone number(s):

321-478-4235

Candidates named or depicted:  
(use additional pages if necessary)

Rogan Paul, John Andrews,

Craig Foster, Guy Lebida, Michael Lawler,

Peter Lyford, Michael Perkins

Payee or creditor (including address):

Cold Spark

307 Ford Avenue, Pitsburg PA 15222

Type of communication:

mail

Date of dissemination:

5/23/22

The above expenditure was not incurred with the intent to influence the nomination, election, or defeat of a candidate.

  
Signature of authorized individual

5/31/22  
Date



### Statement to Rebut Presumption of Independent Expenditure

Under 21-A M.R.S. § 1019-B, an expenditure to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election, or from Labor Day to a general election day is presumed to be an independent expenditure. The individual or organization making the expenditure may attempt to rebut the presumption by filing this form. Any documents, statements, or other evidence (e.g., a copy of a printed communication or a script of a recorded communication) supporting the rebuttal may be attached to this form. To rebut the presumption, this form must be filed with the Ethics Commission within 7 days of disseminating the communication. The form may be filed by faxing it to (207) 287-6775 or by sending a scanned copy to ethics@maine.gov, provided that the Commission receives the original within 5 days.

Individual/Organization making the expenditure:

US Term Limits

Contact person:

Ashley Bennett, Executive Assistant

Contact's mailing address:

2955 Pivada Plaza Way Suite 2200

Melbourne FL 32940

Contact's telephone number(s):

321-478-4235

Candidates named or depicted: (use additional pages if necessary)

Ragan Paul, John Andrews,

Greg Foster, Guy Lebida, Michael Lawler,

Peter Lyford, Michael Perkins

Payee or creditor (including address):

Cold Spark

307 Ford Avenue, Parkburg PA 15222

Type of communication:

mailing

Date of dissemination:

5/25/22

The above expenditure was not incurred with the intent to influence the nomination, election, or defeat of a candidate.

  
Signature of authorized individual

5/31/22

Date



## Statement to Rebut Presumption of Independent Expenditure

Under 21-A M.R.S. § 1019-B, an expenditure to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election, or from Labor Day to a general election day is presumed to be an independent expenditure. The individual or organization making the expenditure may attempt to rebut the presumption by filing this form. Any documents, statements, or other evidence (e.g., a copy of a printed communication or a script of a recorded communication) supporting the rebuttal may be attached to this form. To rebut the presumption, this form must be filed with the Ethics Commission within 7 days of disseminating the communication. The form may be filed by faxing it to (207) 287-6775 or by sending a scanned copy to ethics@maine.gov, provided that the Commission receives the original within 5 days.

Individual/Organization making the expenditure:

US Term Limits

Contact person:

Ashley Bennett, Executive Assistant

Contact's mailing address:

2955 Pivada Plaza Way Suite 2200

Mulbarne FL 32940

Contact's telephone number(s):

321-478-4235

Candidates named or depicted:  
(use additional pages if necessary)

Guy Ubida, Michael Lawler

Payee or creditor (including address):

Cold Spark

307 Ford Avenue, Pottsville PA 15222

Type of communication:

mailing

Date of dissemination:

5/27/22

The above expenditure was not incurred with the intent to influence the nomination, election, or defeat of a candidate.

Signature of authorized individual

5/31/22

Date



### Statement to Rebut Presumption of Independent Expenditure

Under 21-A M.R.S. § 1019-B, an expenditure to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election, or from Labor Day to a general election day is presumed to be an independent expenditure. The individual or organization making the expenditure may attempt to rebut the presumption by filing this form. Any documents, statements, or other evidence (e.g., a copy of a printed communication or a script of a recorded communication) supporting the rebuttal may be attached to this form. To rebut the presumption, this form must be filed with the Ethics Commission within 7 days of disseminating the communication. The form may be filed by faxing it to (207) 287-6775 or by sending a scanned copy to ethics@maine.gov, provided that the Commission receives the original within 5 days.

Individual/Organization making the expenditure:

US Term Limits

Contact person:

Benky Bennett, Executive Assistant

Contact's mailing address:

2955 Pineda Plaza Way Suite 2201

Melbourne FL 32940

Contact's telephone number(s):

321-478-4235

Candidates named or depicted: (use additional pages if necessary)

Joseph Giallitta, Stephen Davis

Payee or creditor (including address):

Cold Spark

307 Ford Avenue, Pitsburg PA 15222

Type of communication:

mailing

Date of dissemination:

6/1/22

The above expenditure was not incurred with the intent to influence the nomination, election, or defeat of a candidate.

Signature of authorized individual

5/31/22

Date



### Statement to Rebut Presumption of Independent Expenditure

Under 21-A M.R.S. § 1019-B, an expenditure to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election, or from Labor Day to a general election day is presumed to be an independent expenditure. The individual or organization making the expenditure may attempt to rebut the presumption by filing this form. Any documents, statements, or other evidence (e.g., a copy of a printed communication or a script of a recorded communication) supporting the rebuttal may be attached to this form. To rebut the presumption, this form must be filed with the Ethics Commission within 7 days of disseminating the communication. The form may be filed by faxing it to (207) 287-6775 or by sending a scanned copy to ethics@maine.gov, provided that the Commission receives the original within 5 days.

Individual/Organization making the expenditure:

US Term Limits

Contact person:

Ashley Bennett, Executive Assistant

Contact's mailing address:

2955 Pineda Plaza Way Suite 2201

Mulhorne FL 32940

Contact's telephone number(s):

321-478-4235

Candidates named or depicted: (use additional pages if necessary)

Guy Ubida, Michael Lawler

Payee or creditor (including address):

Cold Spark

307 Fout Avenue, Pitsburg PA 15222

Type of communication:

mail

Date of dissemination:

6/3/22

The above expenditure was not incurred with the intent to influence the nomination, election, or defeat of a candidate.

Signature of authorized individual

5/31/22

Date

these officeholders and public figures are generally more available to interact with their constituents. As the Supreme Court has noted, legislators “often return to their districts during recess, precisely to determine the views of their constituents; an ad run at that time may succeed in getting more constituents to contact the Representative while he or she is back home. In any event, a group can certainly choose to run an issue ad to coincide with public interest . . .” FEC v. Wis. Right to Life, Inc., 551 U.S. 449, 472-73(2007).

“Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions.” Buckley v. Valeo, 424 U.S. 1, 42 (1976) (*per curiam*) Here, these ads directly relate to raising awareness of the issue of Congressional term limits. “Discussion of issues cannot be suppressed simply because the issues may also be pertinent in an election. Where the First Amendment is implicated, the tie goes to the speaker, not the censor.” FEC v. Wis. Right to Life, Inc. 551 U.S. at 474.

This distinction is especially important here where USTL’s social welfare mission is so longstanding and nationally and focused. USTL is not based in Maine, and its issue advocacy efforts are non-partisan.

On Thu, Jun 2, 2022 at 10:22 AM Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

Hello Ashley,

1

Prior to the Commission hearing presumption rebuttal request, the Commission is authorized to ‘gather any additional evidence it determines relevant and material.’ Therefore, in expectation of information that will be helpful to the Commissioners review your rebuttal, please respond the following queries:

- Please express the purpose of the mailings, considering you are claiming they are not to influence the nominations or elections of the candidates named and depicted.
- Please describe the population that is receiving these mailings. Are registered Republicans receiving them in the same proportion as registered Democrats or unenrolled voters?
- Please state the time period in which the mailings are being sent. If the mailings were not intended to influence the primary election, why were they distributed in the 28 days before the June 14<sup>th</sup> primary election only depicting and naming candidates involved in contested primaries?

Please be detailed in your responses. If you could provide your responses to me no later than Monday, June 6<sup>th</sup>, I would greatly appreciate it.

Thank you!

**From:** [Ashley Bennett](#)  
**To:** [Burke, Emma](#)  
**Cc:** [Nick Tomboulides](#)  
**Subject:** Re: Presumption Rebuttal - Request for More Info  
**Date:** Monday, June 6, 2022 15:55:44

---

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hello,

2

Please see the below answers to your questions. For further communications, please contact Nick Tomboulides, Executive Director of U.S. Term Limits ([ntomboulides@termlimits.com](mailto:ntomboulides@termlimits.com)) as I am no longer with the company.

Ashley

---

Please express the purpose of the mailings, considering you are claiming they are not to influence the nominations or elections of the candidates named and depicted.

US Term Limits is a nonpartisan social welfare organization formed in 1992, which for the past three decades has been dedicated to its social welfare purpose of raising awareness of the issue of term limits across all levels of government.

Consistent with that longstanding social welfare mission, these advertisements were part of a genuine issue advocacy campaign to raise awareness of the issue of Congressional term limits, and to bring awareness to the position of various officeholders and public figures on that issue in support of USTL's exempt purposes as a 501(c)(4) social welfare organization.

Like the advertisements considered by the Supreme Court's *Wisconsin Right to Life* decision, these issue "ads are plainly not the functional equivalent of express advocacy. First, their content is consistent with that of a genuine issue ad: The ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office." *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 470 (2007).

Please describe the population that is receiving these mailings. Are registered Republicans receiving them in the same proportion as registered Democrats or unenrolled voters?

Please state the time period in which the mailings are being sent. If the mailings were not intended to influence the primary election, why were they distributed in the 28 days before the June 14th primary election only depicting and naming candidates involved in contested primaries?

These advertisements coincide with the end of the legislative session on May 9, 2022, when

**§1019-B. Reports of independent expenditures**

**1. Independent expenditures; definition.** For the purposes of this section, an "independent expenditure" means any expenditure made by a person, party committee or political action committee that is not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized political committee or an agent of either and that:

A. Is made to design, produce or disseminate any communication that expressly advocates the election or defeat of a clearly identified candidate; or [PL 2021, c. 132, §7 (AMD).]

B. Unless the person, party committee or political action committee making the expenditure demonstrates under subsection 2 that the expenditure was not intended to influence the nomination, election or defeat of the candidate, is made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day. [PL 2021, c. 132, §7 (AMD).]

[PL 2021, c. 132, §7 (AMD).]

**2. Commission determination.** A person, party committee or political action committee may request a determination that an expenditure that otherwise meets the definition of an independent expenditure under subsection 1, paragraph B is not an independent expenditure by filing a signed written statement with the commission within 7 days of disseminating the communication stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person, party committee or political action committee chooses to submit. The commission may gather any additional evidence it determines relevant and material and shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

[PL 2021, c. 132, §8 (AMD).]

**3. Report required; content; rules.**

[PL 2009, c. 524, §6 (RPR); MRSA T. 21-A §1019-B, sub-§3 (RP).]

**4. Report required; content; rules.** A person, party committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate's election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 558, §2 (AMD).]

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate. [PL 2015, c. 350, §6 (AMD).]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the

technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement. [PL 2013, c. 334, §16 (AMD).]

[PL 2019, c. 323, §17 (AMD).]

**5. Exclusions.** An independent expenditure does not include:

A. [PL 2021, c. 132, §9 (RP).]

B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting; [PL 2011, c. 389, §21 (NEW).]

C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and [PL 2011, c. 389, §21 (NEW).]

D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate. [PL 2011, c. 389, §21 (NEW).]

[PL 2021, c. 132, §9 (AMD).]

#### SECTION HISTORY

PL 2003, c. 448, §3 (NEW). PL 2007, c. 443, Pt. A, §20 (AMD). PL 2009, c. 366, §5 (AMD). PL 2009, c. 366, §12 (AFF). PL 2009, c. 524, §§6, 7 (AMD). PL 2011, c. 389, §§20, 21 (AMD). PL 2011, c. 389, §62 (AFF). PL 2011, c. 558, §2 (AMD). PL 2013, c. 334, §§15, 16 (AMD). IB 2015, c. 1, §§5, 6 (AMD). PL 2015, c. 350, §6 (AMD). PL 2019, c. 323, §§15-17 (AMD). PL 2021, c. 132, §§7-9 (AMD).

## Chapter 1: PROCEDURES

## SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. **General.** Any person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 per candidate in an election must file a report with the Commission according to this section.
2. **Definitions.** For purposes of this section, the following phrases are defined as follows:
  - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
  - B. "Expressly advocate" means any communication that
    - (1) uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!"; or
    - (2) is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.
  - C. "Independent expenditure" has the same meaning as in Title 21-A §1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.
3. **Reporting Schedules.** Independent expenditures in excess of \$250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following schedule:
  - A. *[Repealed]*
  - B. *[Repealed]*
    - (1) **60-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 60th day before the election is held and be complete as of the 61st day before the election.

- (2) **Two-Day Report.** From the 60<sup>th</sup> day through the 14<sup>th</sup> day before an election, a report must be filed within two calendar days of the expenditure.
- (3) **One-Day Report.** After the 14<sup>th</sup> day before an election, a report must be filed within one calendar day of the expenditure.

For purposes of the filing deadlines in this paragraph, if the expenditure relates to a legislative or gubernatorial election and the filing deadline occurs on a weekend, holiday, or state government shutdown day, the report must be filed on the deadline. If the expenditure relates to a county or municipal election, the report may be filed on the next regular business day.

- C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate.
  - D. A separate 24-Hour Report is not required for expenditures reported in an independent expenditure report.
  - E. An independent expenditure report may be provisionally filed by facsimile or by electronic mail to an address designated by the Commission, as long as the facsimile or electronic copy is filed by the applicable deadline and an original of the same report is received by the Commission within five calendar days thereafter.
4. **Multi-Candidate Expenditures.** When a person or organization is required to report an independent expenditure for a communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.
- A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the communication. If the approximate number of voters in each district who will receive the communication cannot be determined, the cost may be divided evenly among the districts in which voters are likely to receive the communication.

[NOTE: FOR EXAMPLE, IF CAMPAIGN LITERATURE NAMING SENATE CANDIDATE X AND HOUSE CANDIDATES Y AND Z ARE MAILED TO 10,000 VOTERS IN X'S DISTRICT AND 4,000 OF THOSE VOTERS RESIDE IN Y'S DISTRICT AND 6,000 OF THOSE VOTERS LIVE IN Z'S DISTRICT, THE ALLOCATION OF THE EXPENDITURE SHOULD BE REPORTED AS: 50% FOR X, 20% FOR Y, and 30% FOR Z.]

- B. If multiple county or legislative candidates are named or depicted in a communication, but voters in some of the candidates' electoral districts will not receive the communication, those candidates should not be included in the allocation.

[NOTE: FOR EXAMPLE, IF AN EXPENDITURE ON A LEGISLATIVE SCORECARD THAT NAMES 150 LEGISLATORS IS DISTRIBUTED TO VOTERS WITHIN A TOWN IN WHICH ONLY ONE LEGISLATOR IS SEEKING RE-ELECTION, 100% OF THE COST SHOULD BE ALLOCATED TO THAT LEGISLATOR'S RACE.]

5. **Rebuttable Presumption.** Under Title 21-A M.R.S.A. §1019-B(1)(B), an expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days before a primary election, the 35 days before a special election or from Labor Day to the general election will be presumed to be an independent expenditure, unless the person making the expenditure submits a written statement to the Commission within 48 hours of the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate.

A. The following types of communications may be covered by the presumption if the specific communication satisfies the requirements of Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) Printed advertisements in newspapers and other media;
- (2) Television and radio advertisements;
- (3) Printed literature;
- (4) Recorded telephone messages;
- (5) Scripted telephone messages by live callers; and
- (6) Electronic communications.

This list is not exhaustive, and other types of communications may be covered by the presumption.

B. The following types of communications and activities are not covered by the presumption, and will not be presumed to be independent expenditures under Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate, the candidate's immediate family, or a political committee;
- (2) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;
- (3) any communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;

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- (4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and
  - (5) other communications and activities that are excluded from the legal definition of “expenditure” in the Election Law.
- C. If an expenditure is covered by the presumption and is greater than \$250 per candidate per election, the person making the expenditure must file an independent expenditure report or a signed written statement that the expenditure was not made with the intent to influence the nomination, election or defeat of a candidate. The filing of independent expenditure reports should be made in accordance with the filing schedule in subsections 3(A) and 3(B) of this rule. Any independent expenditure of \$250 or less per candidate per election does not require the filing of an independent expenditure report or a rebuttal statement.
- D. If a committee or association distributes copies of printed literature to its affiliates or members, and the affiliates or members distribute the literature directly to voters, the applicable presumption period applies to the date on which the communication is disseminated directly to voters, rather than the date on which the committee or association distributes the literature to its affiliates or members.
- E. For the purposes of determining whether a communication is covered by the presumption, the date of dissemination is the date of the postmark, hand-delivery, or broadcast of the communication.
- F. An organization that has been supplied printed communications covered by the presumption and that distributes them to voters must report both its own distribution costs and the value of the materials it has distributed, unless the organization supplying the communications has already reported the costs of the materials to the Commission. If the actual costs of the communications cannot be determined, the organization distributing the communication to voters must report the estimated fair market value.
- G. If a person wishes to distribute a specific communication that appears to be covered by the presumption and the person believes that the communication is not intended to influence the nomination, election or defeat of a candidate, the person may submit the rebuttal statement to the Commission in advance of disseminating the communication for an early determination. The request must include the complete communication and be specific as to when and to whom the communication will be disseminated.