



Testimony before the Joint Standing Committees on Appropriations and Financial Affairs and
Veterans and Legal Affairs

In Opposition to LD 390, An Act Making Unified Appropriations and Allocations for the
Expenditures of State Government, General Fund and Other Funds and Changing Certain
Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal
Years Ending June 30, 2018 and June 30, 2019 (Rep. Gattine)

February 28, 2017

Senator Hamper, Representative Gattine, Senator Mason, Representative Luchini, and
members of the Joint Standing Committees on Appropriations and Financial Affairs and
Veterans and Legal Affairs:

Thank you for the opportunity to testify on LD 390, An Act Making Unified Appropriations and
Allocations for the Expenditures of State Government, General Fund and Other Funds and
Changing Certain Provisions of the Law Necessary to the Proper Operations of State
Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019.

My name is Andrew Bossie. I am the Executive Director of Maine Citizens for Clean Elections.

Maine Citizens for Clean Elections has been the leading campaign finance organization in Maine
for over twenty years and one of the nation's most respected state-based organizations
advocating for democratically funded elections. We are proud of our national reputation, but
we are all Mainers, and our mission has always been with and for the people of this state.

We are opposed to LD 390 for the following reasons.

In 2015, for the second time in 20 years, the voters of Maine, by a 10-point margin, reaffirmed
their support for publicly-funded elections for candidates to the Maine legislature and
governorship. In doing so, they endorsed returning to essentially the same funding levels
enacted by voters in 1996, along with increased transparency of private political money and
increased penalties for violating Maine's election laws. Furthermore, voters reinstated the
Clean Elections gubernatorial program previously suspended by the legislature in 2013.

With the program restored to the strength before the U.S. Supreme Court struck down the law's matching funds provision, candidate confidence and participation in the Clean Election program is again on the rise. Attached to my testimony is a chart showing participation rates since the program began. Participation by candidates in both parties, as well as by unenrolled candidates, and for both bodies has increased. We believe it is likely to increase again during the 2018 campaign.

What we have not seen, despite predictions to the contrary, is a rush by many candidates to qualify for and receive the maximum funding possible. In fact, only four percent of House candidates and 15% of Senate candidates 'maxed out.' Furthermore, roughly \$300,000 was returned to the fund by candidates who decided they did not need all they had qualified for.

The 2018 election campaign will be the first campaign since 2010 in which candidates for governor will be able to qualify for public funds for their campaigns. It is impossible to know how many candidates will choose to run using Clean Elections, but we believe the estimates used by the Ethics Commission are reasonable and prudent, based on the history of participation of gubernatorial candidates in 2002, 2006, and 2010.

We believe it is imperative to adequately fund the program and to implement what the voters of Maine sought. In 2015 the voters approved not just the supplemental funding program, but also a way to pay for it. This is very significant to your decision and a sufficient level of funding is essential to honor the will of the voters.

We are occasionally asked, "What if the fund runs out of money?" Our first response is: This has never happened in the history of the program, and we think it is unlikely to happen in 2018 if the commission's recommendations are followed. Our second response is: The law contemplates the possibility that the fund might become exhausted and, therefore, allows Clean Elections candidates to raise the balance of funds for which they qualified from private sources. Clearly, this is not a desirable outcome, and we urge that you properly fund the program so that this does not ensue. We believe that the request before you is a conservative one that is likely to be more than sufficient to meet demand.

Critics of the program sometimes introduce a 'strawman' argument which goes something like this: The Clean Elections program was supposed to reduce the amount of private money in Maine politics, yet the amounts of private money have gone up. Clean Elections is not working.

The problem with this argument is that it assumes that Clean Elections was designed to reduce overall political spending. That goal is likely beyond the reach of a program like Maine's Clean Elections program. MCEA was designed to reduce the influence of private, special-interest

money on candidates for office and to make them less beholden to those special interests once in office. We believe it has and continues to achieve that goal. We interviewed many of the candidates who used Clean Elections funding in 2016 and won their races. They told us that they used the program in most cases because they preferred it to having to ask special interests for money, knowing those special interests would likely expect something in return. And many told us they did this even though it is hard to work to raise the necessary \$5 qualifying contributions.

We do not believe that *all* contributions made with private money are inherently bad or that they necessarily exert undue influence on candidates once they are in office. We have examined many campaign finance reports by privately-funded candidates over the years. The variance among them as to where the contributions come from is dramatic.

Some candidates' campaigns are funded almost entirely with money from PACs and groups who employ lobbyists, while some rely almost entirely on relatively small contributions from voters within those candidates' districts. We applaud those candidates who rely on these small contributions from constituents. If all candidates funded their campaigns in this manner, the need for a Clean Elections program would not be as great. But, alas, that is not the case.

The program cannot control the amount of money spent independently of individual candidates' campaigns, the so-called Independent Expenditures or IEs. The use of these IEs has increased dramatically in recent years. Some argue wrongly that this is due to Clean Elections money displacing private money from campaigns and causing it to seek other ways of influencing elections. IEs have gone up dramatically, but not because of Clean Elections spending, but due to decisions of the U.S. Supreme Court, like *Citizens United*, and the elimination of triggered matching funds.

We hear justified complaints from all quarters about the increasing reliance on IEs, also known in many cases as "Dark Money" because of the difficulty one can encounter in trying to determine its sources. Unfortunately, the courts have made it extremely difficult to control this influx of undisclosed, often out-of-state, political money. But one thing that can be said about it is that candidates are not beholden to the Dark Money spenders if they choose to fund their own campaigns with Clean Elections funds. For this reason, the increasing participation in the program is a good thing for Maine people. Another benefit of the program that we learned in our post-election interviews is that it enables many candidates to run who would not or could not run for office otherwise.

For all these reasons, we urge you to support the funding request from the Maine Ethics Commission. Thank you.