



Testimony before the Joint Standing Committee on Veterans and Legal Affairs

LD 793 – An Act To Limit Campaign Independent Expenditures

March 22, 2017

Senator Mason, Representative Luchini, and members of the Joint Standing Committee on Veterans and Legal Affairs:

Thank you for the opportunity to testify on LD 793 – An Act To Limit Campaign Independent Expenditures.

My name is Anna Kellar. I am the Program Director 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.

LD 793 would impose a limit on the amount of money that can be spent on independent expenditures. Independent expenditures for a candidate for Governor would be limited to \$7,500; independent expenditures for a candidate for State Senator would be limited to \$5,000; and independent expenditures for a candidate for State Representative would be limited to \$2,500.

We appreciate Representative Dillingham and the co-sponsors for bringing this bill forward, as it raises important issues. We have a democracy where the people have the power to make the ultimate decisions about who is going to govern them. But with political power on the line, there is a strong temptation to use large amounts of money to tip the balance in favor of one candidate or another. When the money drowns out the voices of the public, it becomes a threat to our democracy.

We therefore salute Representative Dillingham for working to address this issue because it is a very important one.

A bit of legal and historical background will shed light on our position on LD 793. In the years after the Watergate scandals of the 1970's, many people wanted to put strict limits on political campaign spending. They wanted strict limits on contributions, on what candidates could spend, and on what independent entities could spend. These limits were intended to protect and restore the idea of government of, by and for the people, instead of the moneyed special interests.

But in a series of landmark decisions, the courts struck down many of these limits. In the now-famous *Buckley v Valeo* decision, the Court set in motion a chain of money-equals-speech

jurisprudence that has continued to develop through the last quarter century preventing any practical limits on spending limits or independent expenditures. The courts said, in effect, that if you want to enact spending limits in order to protect government of, by and for the people, the only option is to create a public funding system. With a voluntary, optional public funding system, the state can include limitations on those participants who chose it that otherwise would get struck down.

And that is how we got our Clean Election system. That is also why those of us who share Representative Dillingham's goals are so strongly committed to public funding.

So what is our position on this bill? If the courts would allow some kind of spending limitation, we would support them. Too often, independent expenditures allow money to gain a big advantage in a political campaign, especially in Maine where we have a tradition of relatively low campaign spending by candidates.

We would not want to close the door entirely on independent expenditures, because it is a form of political involvement that contributes to the public discussion. But we would support some limits. One approach we would consider supporting would be to enact some ironclad protections that truly and completely separate "independent expenditures" from the candidates that are mentioned. This would address the situation where expenditures are made in a way that creates the impression of special interest favoritism, even though technically "independent."

As written, it is easy to foresee how the specific limits in this bill would immediately run into legal problems. Until the courts are open to accepting a different interpretation, we think this approach would not go very far.

(We also did not understand from the bill's language whether the limitations are intended to be per-person, or whether they would apply in the aggregate to all persons making independent expenditures.)

So we truly appreciate Representative Dillingham for bringing this forward, as it is important to continue working on everything possible to live up to the ideal of a government of, by and for the people.

Thank you for the opportunity to testify.