



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

To: Commission
From: Jonathan Wayne, Executive Director
Date: May 22, 2025
Re: Procedures for 2025 Report on Constitutional Amendments

On November 7, 2023, Maine voters approved Question 2, which proposed a new section of Maine Election Law forbidding foreign governments from making expenditures or contributions to influence candidate or ballot question elections in Maine (please see section 2 of first attachment). The question also directed the Commission to issue an annual report on proposals in the U.S. Congress to amend the federal constitution to allow for greater regulation of how money is raised and spent to influence elections:

For 7 consecutive years beginning on July 31, 2023, the Commission on Governmental Ethics and Election Practices shall issue a report, following public comment, identifying anticorruption amendment proposals introduced in Congress, and the members of Maine's Congressional Delegation sponsoring such proposals. Recognizing that that Commissioners have different priorities and in the 2024 report I included a "legal landscape" section using my own judgment that was not directed by the Commission, I thought I should share my preliminary plans. My thoughts are I would:

- research any constitutional amendments proposed in Congress since the last report and include copies of those printed resolutions in the report without analysis,
- invite public comment from anyone I can identify as an interested person, including people who have signed up for our interested persons list (this includes news and opinion writers, people active in politics, etc.),
- not hold a public hearing, consistent with last year's procedures,
- not include a legal landscape section of the report because of a lack of significant judicial developments since the 2024 report, and
- not summarize the comments from the public but rather attach them to the report.

If you have any other directions, please let me know. Thank you.

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

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

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

§1064. Foreign government campaign spending prohibited

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

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

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

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

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

E. "Foreign government-influenced entity" means:

(1) A foreign government; or

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

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

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

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

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

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

I. "Referendum" means any of the following:

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

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

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

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

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

(6) Any county or municipal referendum.

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

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

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

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

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

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

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

7. Due diligence required. Each television or radio broadcasting station, provider of cable or satellite television, print news outlet and Internet platform shall establish due diligence policies, procedures and controls that are reasonably designed to ensure that it does not broadcast, distribute or otherwise make available to the public a public communication for which a foreign government-influenced entity has made an expenditure, independent expenditure, electioneering communication or disbursement in violation of this section. If an Internet platform discovers that it has distributed a public communication for which a foreign government-influenced entity has made an expenditure, independent expenditure, electioneering communication or disbursement in violation of this section, the Internet platform shall immediately remove the communication and notify the commission.

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

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

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

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

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

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

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

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

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

2. Reaffirmation of the Maine Resolution. The Maine Resolution is hereby reaffirmed and clarified to call on each member of Maine's Congressional Delegation to actively support and promote an effective anticorruption amendment to the United States Constitution to secure the following principles and rights:

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

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

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



SUMMARY

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

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

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

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

4. It directs each television or radio broadcasting station, provider of cable or satellite television, print news outlet and Internet platform to establish due diligence policies to prevent the distribution of communications for which foreign government-influenced entities have made prohibited expenditures, independent expenditures, electioneering communications or disbursements and further directs an Internet platform to, upon discovery, immediately remove any such communications from its platform.

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

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

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

Report on Congressional Proposals to Amend the U.S. Constitution

Regulation of Financing of Political Campaigns

**Maine Commission on Governmental
Ethics and Election Practices
135 State House Station
Augusta, Maine
July 24, 2024**

Introduction

On November 7, 2023, Maine voters approved Question 2, which proposed a new section of Maine Election Law prohibiting foreign governments and entities that they control or influence from spending money to influence candidate or ballot question elections in Maine.¹ Eighty-six percent of Mainers who voted on the question approved of the initiative.

Question 2 contained a second section which called on members of Maine’s congressional delegation “to actively support and promote” an “anticorruption amendment” to the U.S. Constitution that would allow for greater regulation of how political campaigns are financed. The question directed the Commission to issue an annual report on proposals in the U.S. Congress to amend the Constitution, including whether they have been sponsored by Maine’s federal representatives:

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

The Commission has identified six congressional resolutions introduced during the 118th Congress (2023-2024) proposing relevant constitutional amendments. This report:

- provides a thumbnail sketch of the legal landscape which has led some elected officials and policy organizations to advocate for a constitutional amendment concerning campaign finance,
- summarizes the proposals in Congress, noting which have been co-sponsored by members of Maine’s congressional delegation, and
- describes comments received by the Commission which are attached in the appendix.

¹ The language on the ballot was “Do you want to ban foreign governments and entities that they own, control, or influence from making campaign contributions or financing communications for or against candidates or ballot questions?”

In the report, the Commission has gathered information that is intended to assist in future policy discussions, but the Commission does not take any position on the amendments.

Legal Landscape

Modern campaign finance law in the United States consists of disclosure requirements and limits and prohibitions on spending or contributing money to influence elections. These laws have been enacted by the federal and state governments and vary significantly by jurisdiction. Decisions by the U.S. Supreme Court have had a substantial impact on the power of governments to regulate money in elections.

Key statutory features

Since the 1970s, federal and state governments have sought to regulate the raising and spending of money by candidates, the committees of political parties, and other financially active groups often referred to in law as “political committees” or “political action committees.” Campaign finance laws sometimes include:

- limits on the dollar amount of cash or in-kind contributions,
- prohibitions on contributions from certain sources (e.g., corporations, labor organizations, foreign nationals, or government contractors),
- limits or prohibitions on other expenditures to influence elections (these have often been subjected to particularly close scrutiny by the courts),
- attribution requirements in campaign advertising and other paid communications to voters,
- registration and financial reporting requirements for candidates, political parties, and political committees, and
- an option for candidates to participate in public campaign financing programs.

Selected judicial developments

Court decisions have invalidated or limited the scope of some federal or state campaign finance laws by concluding that the laws interfered with protected First Amendment freedoms of expression and association. This area of law is complex and difficult to summarize in a report of this scope. Nonpartisan discussions of these court decisions are available from the Congressional Research Service, the Federal Election Commission, and other sources.² This section highlights selected holdings in five important court decisions to illustrate how judicial interpretation of the First Amendment of the U.S. Constitution has restricted the authority of the federal and state governments to limit money in elections.

In *Buckley v. Valeo*, the U.S. Supreme Court considered 1974 amendments to the Federal Election Campaign Act (FECA) that required financial reporting in federal elections and attempted to place limits on contributions and spending by different actors in the election process. 424 U.S. 1 (1976). Among other findings, the Court determined that limits on spending by candidates and independent groups reduce the quantity of expression about political candidates and were not justified by the governmental interests of preventing corruption or equalizing the relative ability of different individuals and groups to influence elections. *Id.* at 45, 48-49, 55-56. The Court invalidated these spending limits in FECA. *Id.* at 58-59.

Buckley, however, upheld limits in FECA on the amounts that could be contributed to candidates and political committees. *Id.* at 58-59. The Court held that contribution limits entail “only a marginal restriction upon the contributor’s ability to engage in free communication.” *Id.* at 20-21. The Court upheld the contribution limits because they reduce “the actuality and appearance of corruption resulting from large individual financial contributions.” *Id.* at 26.

In *First National Bank of Boston v. Bellotti*, the U.S. Supreme Court invalidated a Massachusetts law that prohibited banks and some business corporations from making expenditures to influence a state referendum, unless the referendum materially affected

² <https://crsreports.congress.gov/product/pdf/R/R45320>, <https://crsreports.congress.gov/product/pdf/R/R41542>, <https://www.fec.gov/legal-resources/court-cases/>.

the bank or corporation's property, business or assets. 435 U.S. 765, 795 (1978). The Court observed that the First Amendment protects the free discussion of matters of public concern and "the inherent worth of the speech in terms of its capacity for informing the public does not depend upon the identity of its source, whether corporation, association, union or individual." *Id.* at 776-77. It found that "speech that otherwise would be within the protection of the First Amendment" does not "lose[] that protection simply because its source is a corporation" *Id.* at 784.

In *Citizens United v. Federal Election Commission*, the Court invalidated a federal law that prohibited corporations and labor unions from using their general treasury funds to make independent expenditures to promote or oppose candidates. 588 U.S. 310, 365-66 (2010). The Court found that prohibiting independent spending by corporations, unions, and other associations interfered with the open marketplace of ideas: "By suppressing the speech of manifold corporations, both for-profit and nonprofit, the Government prevents their voices and viewpoints from reaching the public and advising voters on which persons or entities are hostile to their interests." *Id.* at 354.

The Court rejected the idea that speech could be limited based on the wealth of the speaker and also rejected the proposition that the political speech of corporations and other associations could be treated differently under the First Amendment because they are not natural persons. *Id.* at 343, 350.

As a consequence of *Citizens United*, for-profit and nonprofit corporations may now spend their general funds on independent expenditures to influence candidate elections. Until *Citizens United*, corporations and labor unions could make independent expenditures only through political action committees they formed that received funds from restricted sources such as corporate employees or labor union members.

Shortly afterward, in *SpeechNow.org v. Federal Election Commission*, the U.S. Court of Appeals for the District of Columbia ruled that the U.S. government cannot limit the amount of contributions to groups that only make independent expenditures and do not contribute to candidates. 599 F.3d 686, 696 (D.C. Cir. 2010). Because these groups are acting independently of candidates, the Court held that contributions to the groups "cannot corrupt" the candidates who benefit from the communications. *Id.* at 694.

Although *SpeechNow* is not binding precedent in Maine, the Federal Election Commission now advises that “[p]olitical committees that make only independent expenditures (Super PACs) ... may solicit and accept unlimited contributions”³

In *McCutcheon v. Federal Election Commission*, the U.S. Supreme Court invalidated an aggregate limit of \$48,600 on the amount that an individual can contribute to all federal candidates combined. 572 U.S. 185, 227 (2013). In so holding, the Court clarified that “only one legitimate governmental interest” justified restricting campaign financial activity. *Id.* at 206. That interest is preventing *quid pro quo* corruption (money given to obtain official acts) and the appearance of corruption. *Id.* at 207. Limits on the size of contributions cannot be justified by other governmental interests that may seem desirable, such as preventing the influence and access that officials may give to large contributors. *Id.*

Judicial oversight of campaign finance law continues to evolve but the current legal landscape includes these features: (1) limits on election spending are disfavored by the courts, (2) the rationales that governments may offer to successfully defend contribution limits have been pared back, (3) political committees that are acting independently of candidates may spend unlimited amounts on advertising and some courts have further held that donors are entitled to give unlimited amounts for these purposes, and (4) corporations and other associations have the same First Amendment rights to influence elections as individuals. These developments have led some elected officials and advocacy organizations supportive of stricter limits on election spending to conclude that amending the U.S. Constitution is necessary to effectuate a constitutional reset.

³ <https://www.fec.gov/help-candidates-and-committees/taking-receipts-pac/contributions-to-super-pacs-and-hybrid-pacs/>.

Proposed Constitutional Amendments

The Commission has identified six proposals in the 118th Congress (2023-2024) that are relevant to this report:

[House Joint Resolution 13](#) (Sponsor: Rep. Adam B. Schiff, 1/9/2023)

[Senate Joint Resolution 3](#) (Sponsor: Sen. Jon Tester, 1/22/2023)

[House Joint Resolution 48](#) (Sponsor: Rep. Pramila Jayapal, 3/30/2023)

[House Joint Resolution 54](#) (Sponsor: Rep. Pramila Jayapal, 4/10/2023)

[House Joint Resolution 78](#) (Sponsor: Rep. James P. McGovern, 6/22/2023)

[Senate Joint Resolution 45](#) (Sponsor: Sen. Jeanne Shaheen, 9/14/2023)

Text and analysis

The text of the amendments is copied on the following pages, along with some brief analysis by the Commission. Because U.S. Representative Pramila Jayapal introduced similar resolutions within two weeks, her earlier proposal is omitted.

Senate Joint Resolution 45

(Sponsor: Sen. Jeanne Shaheen, 9/14/2023)

Section 1. To advance democratic self-government and political equality, and to protect the integrity of government and the electoral process, Congress and the States may regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections.

Section 2. Congress and the States shall have power to implement and enforce this article by appropriate legislation, and may distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.

Section 3. Nothing in this article shall be construed to grant Congress or the States the power to abridge the freedom of the press.

Section 1 of the proposed amendment would authorize the federal and state governments to set reasonable limits on the raising and spending of money to influence elections. It sets out three governmental interests that could be used to justify those limits: (1) advancing democratic self-government, (2) promoting political equality, and (3) protecting the integrity of government and the electoral process. This would expand the permissible justifications for limiting campaign finance activity beyond preventing *quid pro quo* corruption and its appearance.

Section 2 authorizes the U.S. Congress and states to distinguish between natural persons and corporations or other artificial entities created under law (e.g., limited liability companies or partnerships). It authorizes governmental jurisdictions to prohibit corporations and other associations from spending money to influence elections. This section would override holdings in *Bellotti* and *Citizens United*, discussed above.

Section 3 confirms that the limitations and prohibitions in the amendment should not be understood to authorize the abridgement of press freedoms.

House Joint Resolution 13

(Sponsor: Rep. Adam B. Schiff, 1/9/2023)

Section 1. Congress and the States may regulate and impose reasonable viewpoint-neutral limitations on the raising and spending of money by candidates and others to influence elections.

Section 2. Congress and the States may regulate and enact systems of public campaign financing, including those designed to restrict the influence of private wealth by offsetting the raising and spending of money by candidates and others to influence elections with increased public funding.

Section 3. Congress and the States shall have power to implement and enforce this article by appropriate legislation, and may distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.

Section 4. Nothing in this article shall be construed to grant Congress or the States the power to abridge the freedom of the press.

The proposed amendment in House Joint Resolution 13 contains some of the same elements as Senate Resolution 45 (e.g., authorizing limits on campaign contributions and expenditures and different treatment of corporate entities), but is distinct in that it does not specify any public objectives that governments may use to justify contribution and spending limits.

The proposed amendment would authorize public campaign financing programs, including those that provide a higher level of funding for participating candidates who are outspent by their opposing candidates or independent expenditures. This provision would override a U.S. Supreme Court decision that impacted public campaign finance programs in Arizona, Maine, and other states. *Arizona Free Enterprise PAC v. Bennett*, 564 U.S. 721 (2011).

House Joint Resolution 78

(Sponsor: Rep. James P. McGovern, 6/22/2023)

Section 1. To advance democratic self-government and political equality, and to protect the integrity of government and the electoral process, the right of citizens of the United States to vote in elections in which campaign contributions and spending are subject to enforceable limits as set forth in this article, shall not be abridged by the United States.

Section 2. In any calendar year, no person may spend or contribute more than one hundred dollars for the purpose of influencing any other person's election for the office of Representative, Senator, President, or Vice President; nor spend for the purpose of influencing elections, including such person's own election, for the offices of Representative, Senator, President, or Vice President, or contribute to candidates for such offices, their campaigns, or political parties, more than an aggregate total of one thousand dollars; provided that Congress may by law prescribe lower limits and may periodically increase the amounts set forth in this section, but only to the extent required by changes in the value of money.

Section 3. No corporation or other entity created by law shall contribute or spend any amount for the purpose of influencing any election for the office of Representative, Senator, the President, or the Vice President; but a political party or candidate's campaign may spend the amounts prescribed by law.

Section 4. Not later than sixty days after the ratification of this article, Congress shall enact legislation as follows:

To limit the amounts that candidates, their campaigns for the offices of Representative, Senator, President, or Vice President, and political parties may spend on such candidacies.

To provide public funding for all candidates who qualify for any primary, general, or special election ballot for Representative, Senator, President, or Vice President in any State or in the District constituting the seat of Government of the United States, equaling at least

eighty percent of the amount that may be spent; but for candidates for President or Vice President, Congress shall prescribe by law the manner in which such amount shall be apportioned based on the States or District wherein such person qualifies.

To require disposition to the Treasury of any unspent campaign funds after each election, without compensation.

To enforce, with civil and criminal penalties, the limits and prohibitions in this article.

Section 5. After one year from the ratification of this article, no Senator or Representative shall receive any compensation or other emoluments from the United States during or for any period of time in office in either House during which the legislation required by section 4 shall not have been in effect.

Section 6. The judicial power of the United States shall extend to all suits by citizens of the United States arising under this article, including suits brought directly under this article to enforce its provisions.

Section 7. The States shall have power to implement and enforce reasonable regulations on the raising and spending of money by candidates and others to influence State or local elections, including but not limited to the limits and prohibitions in this article.

Section 8. This article shall not be construed to grant Congress or the States the power to abridge the freedom of the press.

This proposed amendment takes a more restrictive approach of declaring that “no person” may contribute or spend more than \$100 in a year to influence any federal candidate’s election. The amendment would also prohibit corporations and other entities created by law from contributing or spending money to influence federal candidate elections. Within 60 days of enactment of the amendment, Congress would be required to establish spending limits that would apply to parties and federal candidates and a public campaign financing program sufficient to cover 80% of spending by federal candidates. The amendment also authorizes contribution and spending limits in state candidate elections.

[House Joint Resolution 54](#)

(Sponsor: Rep. Pramila Jayapal, 4/10/2023)

Section 1. The rights and privileges protected and extended by the Constitution of the United States are the rights and privileges of natural persons only. An artificial entity, such as a corporation, limited liability company, or other entity, established by the laws of any State, the United States, or any foreign state shall have no rights under the Constitution and are subject to regulation by the People, through Federal, State, or local law. The privileges of an artificial entity shall be determined by the People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

Section 2. Federal, State, and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, to ensure that all citizens, regardless of their economic status, have access to the political process, and that no person gains, as a result of that person's money, substantially more access or ability to influence in any way the election of any candidate for public office or any ballot measure. Federal, State, and local governments shall require that any permissible contributions and expenditures be publicly disclosed. The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.

Section 3. This amendment shall not be construed to abridge the right secured by the Constitution of the United States of the freedom of the press.

Section 1 of the proposed amendment declares that corporations and other legal entities created by law have no rights under the U.S. Constitution. This would have a broad effect of reversing *Citizens United* and laws that grant other constitutional rights to corporations (e.g., due process or Sixth Amendment rights). Section 2 would *require* federal, state, and local governments to regulate, limit, or prohibit contributions and expenditures to avoid disparities in access to the political process. Federal, state and local jurisdictions would also be required to mandate the disclosure of campaign finances.

Senate Joint Resolution 3 (Sponsor: Sen. Jon Tester, 1/22/2023)

Section 1. The rights enumerated in this Constitution and other rights retained by the people shall be the rights of natural persons.

Section 2. As used in this Constitution, the terms ‘people’, ‘person’, and ‘citizen’ shall not include a corporation, a limited liability company, or any other corporate entity established by the laws of any State, the United States, or any foreign state.

Section 3. A corporate entity described in section 2 shall be subject to such regulation as the people, through representatives in Congress and State representatives, may determine reasonable, consistent with the powers of Congress and the States under this Constitution.

Section 4. Nothing in this article shall be construed to limit the rights enumerated in this Constitution and other rights retained by the people, which are unalienable.

The amendment proposed in Senate Joint Resolution 3 declares that (1) the rights enumerated in the U.S. Constitution are the rights of natural persons, and (2) references to “people,” “person,” and “citizen” in the Constitution do not include corporations or other legally created entities. The amendment is not directed at election activities in particular and would only override the judicial decisions discussed above to the extent they apply to corporate entities.

Support by Members of Maine’s Congressional Delegation

The following table indicates which U.S. Representatives and Senators from Maine have co-sponsored the amendments.

	Maine Co-Sponsors
House Joint Resolution 13 (Sponsor: Rep. Adam B. Schiff, 1/9/2023)	Rep. Jared F. Golden, Rep. Chellie Pingree
Senate Joint Resolution 3 (Sponsor: Sen. Jon Tester, 1/22/2023)	
House Joint Resolution 48 (Sponsor: Rep. Pramila Jayapal, 3/30/2023)	
House Joint Resolution 54 (Sponsor: Rep. Pramila Jayapal, 4/10/2023)	Rep. Chellie Pingree
House Joint Resolution 78 (Sponsor: Rep. James P. McGovern, 6/22/2023)	
Senate Joint Resolution 45 (Sponsor: Sen. Jeanne Shaheen, 9/14/2023)	Sen. Angus S. King, Jr.

Summary of Comments from the Public

In response to a May 9, 2024 invitation to comment, the Commission received 42 comments on the issue of amending the U.S. Constitution, which is a high-water mark for comments received by the Commission on any issue of public policy. Thirty-four of the comments were from Maine residents, and eight were from nonprofit policy organizations. All comments from Maine residents are in support of a constitutional amendment.

Comments from Maine Residents

The comments from Maine residents are highly individualized and speak to their personal concerns about the role of money in state and national politics. One common assertion is that the voices of regular people in Maine are being drowned out or silenced by special interest groups or wealthy donors.⁴ Commenters cite a distorting effect of money on elected officials, who (in one commenter’s opinion) “can no longer be depended on to

⁴ See, e.g., comments from David Trahan (Waldoboro), Connor Flotten (Brunswick), and Hon. Seth Berry (Bowdoinham).

act in the best interests of all of their constituents.”⁵ Comments from legislators in both major parties describe the negative effects of money in politics, such as an erosion of “civic trust and belief in our government” and a “poisoning [of] the well of democracy.”⁶

Another pervasive view in the comments is that money from outside the state is overwhelming Maine interests, sometimes with no clear picture of the sources of that money.⁷ Some commenters speak from their perspectives as owners of small businesses, expressing that everyday Mainers and small- and mid-sized businesses cannot compete for political influence with well-funded interests.⁸

Comments from Policy Organizations

The Commission received comments from the Institute for Free Speech and the Maine Policy Institute in opposition to a constitutional amendment. Taken together, these organizations warn that giving elected officials greater authority to regulate electoral speech will limit discussion of public policy and will lead to laws that protect incumbents. They question whether contribution limits in place since the 1970s have reduced corruption in state governments. They point to drafting ambiguities in the proposed amendments that will result in litigation. They observe that no Republican member of Congress has supported the amendments, so it is unlikely that two-thirds of the U.S. House of Representatives or Senate will approve of the amendments. Overall, they urge not tampering with the First Amendment.

The Commission received comments in support of an amendment from six nonprofit advocacy organizations. As an example of language that it favors, American Promise offers its “For our Freedom Amendment,” which incorporates four principles that arose from the organization’s engagement with experts and members of the public. Public

⁵ Shonna Davis (Ludlow), Lisa Leaverton (Orland), Peter Garrett (Winslow), and James Melloh, M.D. (South Portland).

⁶ State Senator Marianne Moore (Washington), State Representative Nathan M. Carlow (Buxton), State Senator Richard Bennett (Oxford), and State Senator Nicole Grohoski (Ellsworth).

⁷ Anne Winchester (Bristol), Steve Weems (Brunswick), and Colin Vettier (Portland, Maine).

⁸ Jim Delamater (Oxford) and Ryan Crowell (Raymond).

Citizen urges the enactment of a specific “Democracy for All” amendment, which is the language proposed in House Joint Resolution 13.

Among other points, Maine Citizens for Clean Elections urges the Maine Ethics Commission to write a comprehensive report that includes statements by members of Maine’s congressional delegation on the proposed amendments, so that voters can assess how active their representatives have been on this issue. Veterans for All Voters, Protect Maine Elections, and Represent.Us describe the erosion of public faith in democracy resulting from increased campaign spending and urge Maine’s representatives in Congress to support an amendment.

Conclusion

The comments from the public confirm that some Mainers are uneasy about the increasing amount of money in Maine state elections. The Commission appreciates the thoughtful and deeply held viewpoints expressed in the public’s comments to the Commission. Questions of how best to promote robust discussion of ideas and candidates, participation in the political system, and responsiveness by elected officials are not easy to resolve. In keeping with past practice and its role as Maine’s administrator of state campaign finance law, the Commission does not take any position on proposed amendments to federal law. It hopes that the information in this report will shed light on this important topic and looks forward to providing annual updates as required by Question 2.