

TO: The Honorable Craig Hickman  
The Honorable Laura Supica, Co-Chairs  
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: Wednesday, April 5, 2023

RE: L.D. 1221 – An Act to Make Changes to the Distribution Amounts to Certain Maine Clean Election Act Candidates in Contested General Elections

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Good afternoon Senator Hickman and Representative Supica and members of the Veterans and Legal Affairs Committee.

My name is Paul Lavin. I'm a resident of Winthrop. I am here today as a volunteer for Maine Citizens for Clean Elections. I am testifying in opposition to LD 1221.

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 and campaign finance laws that serve the public interest. We are proud of our national reputation. But we are all Mainers, and our nonpartisan mission has always been with and for the people of this state.

The Maine Clean Election Act has been in effect since the 2000 election cycle. A majority of candidates choose to use the program. Since 2002, 5186 candidates have run for the House or Senate in Maine. Approximately 58.3 percent of those candidates have been Clean Elections candidates. Those candidates agree to abide by spending limits and make numerous other binding commitments about how they will conduct their campaigns. In exchange, they are able to qualify for a limited amount of public funding.

Before considering cuts in available funding it would be useful to review the history of the funding amounts. The amounts in the Clean Election Act's first election cycle were calibrated to be 25 percent less than the average amount spent in the 1996 and 1998 cycles. Over the years the Legislature has slightly modified the distribution amounts. The Legislature trimmed distribution amounts by five percent in 2008 and an additional five percent in 2011. Amounts have also occasionally been increased slightly to account for inflation. Due to a court decision, supplemental funds were not available in 2012 and 2014. This decreased the total amount of funding for which candidates were eligible, and consequently participation rates decreased. A new supplemental funding system took effect in 2016, which somewhat restored participation rates.

Candidates, advocates, and the Ethics Commission have long agreed that the program should provide the opportunity to qualify for enough funding to run a competitive race, but not so much as to waste money or give participating candidates an unfair advantage. The maximum contested general election funding for 2022 Senate candidates was \$60,000 and the maximum funding for 2022 House candidates was \$15,000. This does not include a small amount of seed money that candidates may raise.

It is important to note that most candidates do not qualify for the maximum amount. But when a candidate is in a highly competitive race, they may need the maximum amount in order to get the candidate's message out to voters.

LD 1221 would severely impact candidates' ability to reach voters. It would cut the maximum distribution for House candidates by 45.3 percent and Senate candidates by 46.6 percent. The impact is most troubling in hotly contested races. In 2022, the top 30 House Clean Elections candidates spent on average \$17,288. LD 1221 would deprive them of about half of their current funding. The same holds true in the Senate. The top 15 Senate Clean Elections candidates spent on average \$69,848 in 2022. LD 1221 would leave them with less than half of their usual funding. Please see attached chart.<sup>1</sup>

Many people would like to see a law reducing the amount of money spent on campaigns. But the Supreme Court ruled in *Buckley v. Valeo* that campaign spending is a protected right under the First Amendment. So the Legislature may not enact any law that brings down spending for both privately and publicly funded candidates. Cutting spending only for publicly funded candidates would not be equitable. It would render the Clean Elections program viable only for those running in safe districts.

Finally, cutting the distribution amounts could have unintended consequences by increasing the power of outside groups making independent expenditures. We do not wish to see any changes that would increase the power of undisclosed money, and we believe that the public feels the same way.

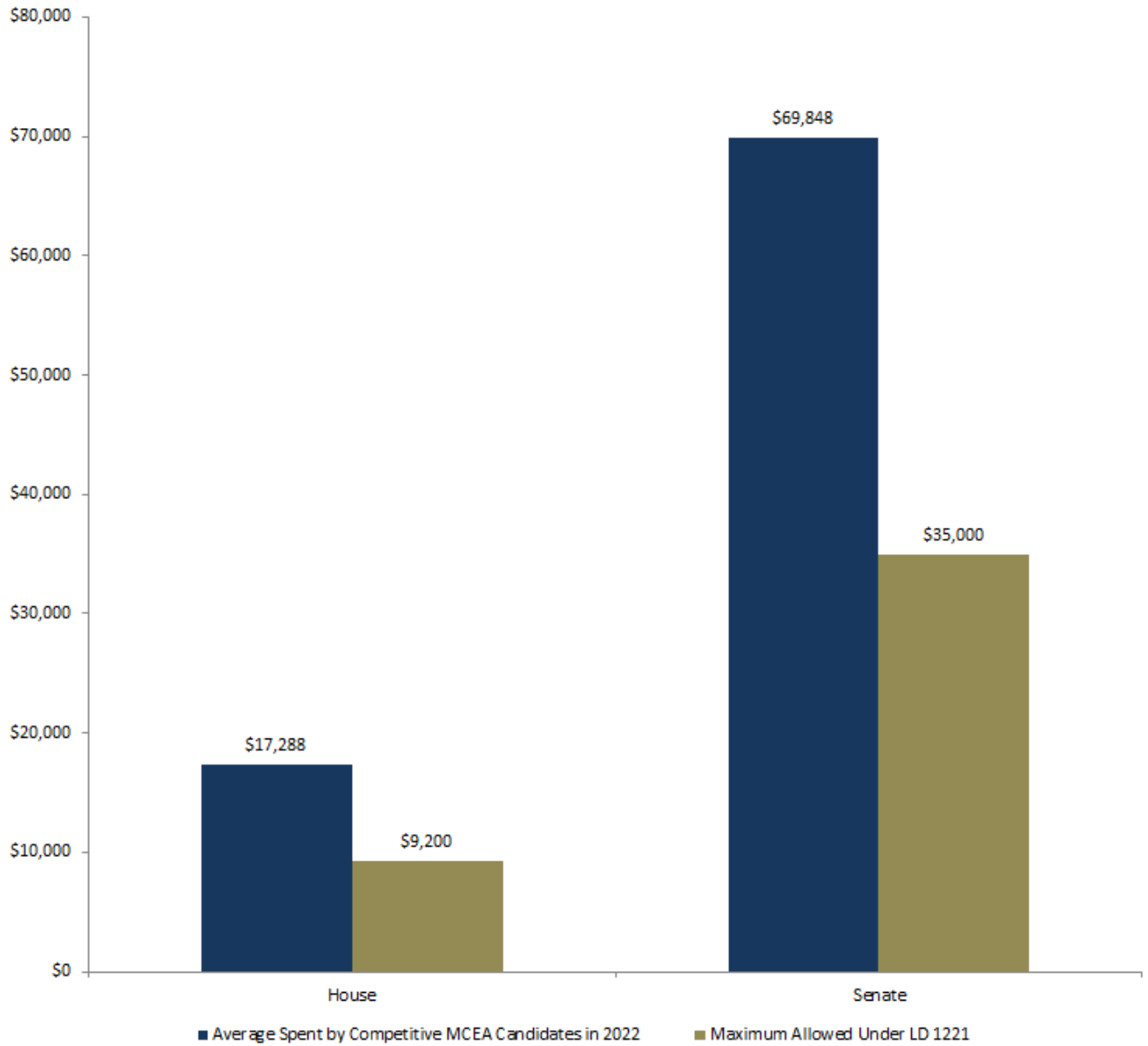
We oppose the draconian cuts in LD 1221. The Clean Elections program has been working well for House and Senate candidates, and for those of all political parties or no party. And it is popular with the public. We know of no justification for such a radical change. We urge the Committee to vote "ought not to pass" on LD 1221.

Thank you for the opportunity to testify. I would be happy to answer any questions.

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<sup>1</sup> LD 1221 would also potentially create confusion in the law by capping the maximum distribution without amending the supplemental funding allocation system which leads up to that maximum distribution.

### Impact of LD 1221 on Clean Election Candidates in Competitive Races



“Competitive” means top 15 Senate candidates or top 30 House candidates, by total spending. Maximum amounts assume full seed money.