

STATE OF MAINE

In House _____

WHEREAS, it appears to the House of Representatives of the 131st Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on such questions; and

WHEREAS, the First Amendment of the United States Constitution guarantees that Congress shall make no law abridging the freedom of speech or the right to petition the Government for a redress of grievances; and

WHEREAS, the Constitution of Maine, Article I, Section 4 similarly provides that every citizen may freely speak, write and publish sentiments on any subject, being responsible for the abuse of this liberty; and

WHEREAS, the act of lobbying an elected official has been recognized by the United States Supreme Court as an act of free speech and petitioning of the Government, and thus protected by the First Amendment, *Buckley v. Valeo*, 424 U.S. 1, 48 (1976); and

WHEREAS, the United States Supreme Court has ruled that the protected nature of this activity is not altered by the fact that the speech is on behalf of others for a fee, *Riley v. National Federation of the Blind of North Carolina*, 487 U.S. 781, 801 (1988); and

WHEREAS, the United States Supreme Court has ruled that without specific justification, the United States Constitution does not tolerate the loss of First Amendment freedoms, even for minimal periods of time, *National Treasury Employees Union v. United States*, 927 F.2d 1253, 1254 (D.C. Cir. 1991) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); and

WHEREAS, there is a question within the House of Representatives with respect to Legislative Document 1357 regarding the prohibition of compensated lobbying for one year after employment by former executive branch employees and officers who are citizens of Maine; now, therefore, be it

ORDERED, that, in accordance with the provisions of the Constitution of Maine, the House of Representatives respectfully requests the Justices of the Supreme Judicial Court to give the House of Representatives their opinion on the following questions of law:

Question 1. Is compensated lobbying of elected officials by Maine citizens considered protected free speech under the Constitution of Maine, Article I, Section 4, similar to the First Amendment of the United States Constitution?

Question 2. If the answer to Question 1 is in the affirmative, is the restriction of certain citizens of Maine from compensated lobbying of elected officials for any period of time a violation of their right to free speech under the Constitution of Maine, Article I, Section 4?

Question 3: If the answer to Question 1 is in the affirmative, is the restriction of certain citizens of Maine from compensating those who are restricted from lobbying elected officials

for any period of time a violation of their right to free speech under the Constitution of Maine, Article I, Section 4?

SPONSORED BY: _____

(Representative KESSLER, C.)

TOWN: South Portland