



THE MAINE SENATE
131st Legislature

Testimony of Senator Richard A. Bennett
LD 1590, "An Act to Require Disclosure of Campaign Funding Sources."
26 April 2023

Senator Hickman, Representative Supica, and honorable members of the Joint Standing Committee on Veterans and Legal Affairs. I am Senator Rick Bennett of Oxford, and I have the honor of serving the people of 14 communities in Western Maine in the State Senate. I am here to introduce LD 1590, "An Act to Require Disclosure of Campaign Funding Sources."

This bill is an important step toward improved disclosure, transparency, and accountability. Currently, many individuals and entities who use large amounts of money to influence our political process remain hidden from public view. This is because a person determined to remain in the shadows can readily evade campaign finance reports by using non-profits or other entities as intermediaries. Even where the name of the intermediary is disclosed, it often reveals nothing about where the real money – and real influence – is coming from. This bill will end that practice by requiring disclosure of the real, original source of campaign spending. Others coming after me will address the bill in more detail.

For a democracy to function properly, voters require access to information that allows them to assess candidates for public office and to hold them accountable once elected. Our country's Founders recognized the importance of this and wrote the First Amendment to enable "we the people" to participate in informed debates and scrutinize our representatives and the election process that chooses them.

This democratic promise is threatened when wealthy special interest groups hide their actions behind organizations and shell corporations with benign and unrevealing names. The actual driving force behind the election spending – the person or entity with the interest in influencing the outcome – remains hidden from view.

The practice of organizations concealing their funding sources or adopting vague names is not unique to one political party or ideology. On the liberal side of the spectrum, there are groups named Priorities USA Action, Patriot Majority USA, the Alliance for Global Justice, and the Tides Foundation. On the conservative, we see names such as Crossroads GPS, Secure America Now, Americans for Job Security, The Center for Individual Freedom, and The American Action Network.

Since the *Citizens United* ruling, the practice of using "dark money" to finance campaign advertisements has increased dramatically. Candidate spending is disclosed, but this is often just a small part of the picture. Huge independent expenditures leave ordinary voters with inadequate knowledge about who is buying millions of dollars of media to elect their favorite candidates.

One of our greatest proponents of transparency was the late Justice Antonin Scalia. In a case on corporate spending he wrote that the “premise of the First Amendment is that the American people are neither sheep nor fools, and hence fully capable of considering both the substance of the speech presented to them and its proximate and ultimate source.”¹ In a 2010 case addressing disclosure of petition signatures, Justice Scalia wrote “Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed. For my part, I do not look forward to a society which, thanks to the Supreme Court, campaigns anonymously . . . hidden from public scrutiny and protected from the accountability of criticism. This does not resemble the Home of the Brave.”² I agree with these statements.

Existing laws mandate that individuals and corporations who purchase campaign ads reveal their identities, but wealthy special interests frequently bypass these regulations by channeling their money through intermediaries who then buy advertisements without disclosing the true source of the funding. This can lead to a “Russian Doll” phenomenon where each attempt to determine the true source runs into yet another vaguely named nonprofit or shell corporation funneling the money through from another source. The individual, organization or corporate mega donor who provided the original funds is not revealed to the public, or is only discovered through painstaking investigation long after the election ends.

It is past time to end the shell game. The people have the right to know not just the name of a contributor on a campaign finance report, but the original source of the funds used to make that contribution. At the very least, anyone acting as a conduit for exceptionally large contributions should be required to disclose the true sources of those donations.

LD 1590 aims to eliminate the current practice, enhance transparency, and restore balance to the system. It does not favor any specific candidate or group. Instead, it promotes openness and provides voters with the necessary information to make informed choices. Any contributor who prefers to maintain anonymity can make that choice, but their contributions cannot be used on political ads. The bill delivers real transparency without picking winners and losers and without infringing on anyone’s right to political speech. We have the tools to end the shell game.

I know that my constituents are aware of this phenomenon, and I’m sure the members of the Committee are also. An overwhelming majority of the public – 83 percent according to credible surveys – supports meaningful disclosure and the public’s right to know.

Where the person or entity that is truly funding campaign advertisements is no longer able to hide, we may also see a reduction in negative advertising.

Some other states are currently ahead of Maine in the effort to achieve real disclosure. Proposition 211 passed with 72.3 percent of the vote in Arizona last year, and Alaska has also passed a law to shine a light on dark money.

¹ *McConnell v. Federal Election Comm’n*, 540 U.S. 93 (2003).

² *Doe v. Reed*, 561 U.S. 186 (2010).

The nonpartisan Campaign Legal Center has some excellent resources examining this problem and possible solutions. For anyone who has constitutional questions, I recommend their white paper on transparency and the First Amendment.³ CLC demonstrates how disclosure is not only permissible under the First Amendment, but it advances and protects important First Amendment values by ensuring effective public access to information voters find important to their decision-making during election season. I also recommend www.stopsecretspending.org as a comprehensive source on the need for meaningful disclosure.

LD 1590 is a bill that everyone should be able to get behind.

Thank you, and I'd be happy to answer any questions.

³ <https://campaignlegal.org/document/transparency-and-first-amendment-how-disclosure-laws-advance-constitutions-promise-self>