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Environment and Natural Resources Committee

Government Oversight Committee

**Testimony of Senator Richard Bennett
before the Joint Standing Committee on Veterans & Legal Affairs**

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LD 194, An Act To Prohibit Contributions, Expenditures and Participation by
Foreign Government-owned Entities To Influence Referenda

Senator Luchini, Representative Caiazzo and esteemed members of the Joint Standing Veterans & Legal Affairs, my name is Rick Bennett, I live in Oxford, and I have the honor of representing the people of the foothills and lakes region of western Maine in the State Senate. I am pleased to introduce LD 194, "*An Act To Prohibit Contributions, Expenditures and Participation by Foreign Government-owned Entities To Influence Referenda.*"

This Committee heard similar legislation proposed by Rep. Kent Ackley during the 129th Legislature, but, because of the pandemic, that bill never even had a vote in committee. I testified in favor of that legislation because I was shocked Maine had not already eliminated the ability of foreign interests to influence our elections. I remain concerned about this issue which is why I have sponsored the legislation before you.

The premise of this bill is simple. As foreign interests cannot contribute money to the elections of lawmakers,¹ they ought not to be able to contribute money to the elections to make laws. Why would we prohibit the indirect interference in policymaking by banning contributions by foreigners to candidates, but not close the staggering loophole of direct interference when our statutes are being changed?

This committee hears countless bills every session that aim to get money out of politics, yet, the problem of non-Maine money in our referendum process is enormous. My proposed legislation is a solution to this problem.

My bill is carefully tailored to focus on the most egregious threat – potential contributors who are owned or under the direct influence of a foreign government. Foreign governments seeking to influence U.S. policy should not be allowed to circumvent diplomatic channels by spending money to directly influence policymakers – whether the policymakers at issue are elected officials, or citizens standing in the place of the legislature exercising their initiative powers.

¹ In 1966 Congress banned foreign campaign contributions in any local, state or federal candidate elections. 52 U.S. Code § 30121.

The bill includes a ten percent ownership threshold. This is substantially lower than the threshold in Representative Ackley's bill from the 129th legislature, which applied only when a potential contributor's ownership was at least half foreign-based. It is very rare for a foreign entity to own a controlling interest, and indeed the ability of a shareholder to exercise absolute control of all corporate decisions should not be the test. The threshold should be set at a level where the foreign owner can readily influence internal corporate decisions. There is no doubt that a ten percent owner of a widely held corporation can have an immense impact on all aspects of the corporation's business affairs. That is why the ownership threshold should be far lower than fifty percent.

Finally, this bill is clearly constitutional. The opinion of Justice Brett Kavanaugh when he was a circuit judge is very clear on this point: "The government may exclude foreign citizens from activities 'intimately related to the process of democratic self-government.'" *Bluman v. Fed. Election Comm'n*, 800 F. Supp. 2d 281, 287 (D.D.C. 2011)

As I read over the weekend Mr. Petrocelli's testimony against this bill on behalf of the Maine Chamber of Commerce, I had this distressing thought: Our democracy is rotting. And nothing speaks to the rotteness more than our own state Chamber of Commerce, purportedly existing to help our own local businesses, using their political capital thus earned to shill for foreign governments. Nearly a year ago I wrote an op ed, which I attached to this testimony, where I express dismay that the Chamber of Commerce has joined in a lawsuit to stop the people of this state from speaking their voice in a public referendum. Now here they are, while muzzling the people of Maine, demanding a bullhorn funded by foreign corporations and foreign governments in our elections. Last week the Chamber was here before the Legislature slowing passage of our state budget for two days in order to extract beneficial tax treatment for large multinational companies, tax benefits so opaque that no company knew if and how they were benefiting. This week they are here to tell Maine people that they must to share their rights of self-determination to foreign governments.

The Chamber says they speak for 5,000 Maine businesses, implying that Maine businesses support foreign governments involvement in our elections. Have they polled their members on this question? More pointedly, how might these bills – which would staunch large flows of cash into Maine from beyond our national borders – affect the Chamber's own business model? How much money does the Chamber received from companies like CMP, Avangrid, Hydro-Quebec? Who are they really serving? If I were on this committee, I would look forward to asking Mr. Petrocelli such questions.

I urge this bill's immediate enactment as an emergency measure. We all know that the dangers this bill would address are real and present. Already millions have been spent by foreign entities in the looming fight to stop the appalling CMP Corridor which threatens to change forever the character of western Maine. This abuse must be halted in its tracks.

Thank you for your time and attention to this critical measure.

