

NEW YORK
STATE
SENATE

ALBANY, NEW YORK 12247



To the Honorable Members of the United States Congress:

Today, the United States faces a growing crisis of accountability in government. It is a crisis that worsens with each election, and threatens to undermine the political legitimacy that is at the very core of our democratic republic. Enormous, unprecedented levels of spending used to influence our elections, including spending by artificial entities, is undermining electoral competition and the accountability to the electorate.

The evidence is clear. Spending by unions, “super PACs,” trade associations and 501c(4) organizations drove federal election spending to more than \$6 billion in the 2012 presidential contest. In New York, spending by out-of-state organizations was 15 times higher in 2012 than in 2008. Much of the tremendously high spending to date has been in the form of attack ads from unnamed sources.

Incredibly, recent media reports cite individuals associated with Hillary Clinton’s 2016 Presidential Campaign claiming that they intend to raise up to \$2.5 billion for that race alone!

It is vitally important that all Americans maintain faith in their electoral system. We cannot allow exorbitant campaign spending by unions, corporations and wealthy individuals to diminish that faith. Unfortunately, recent voting trends demonstrate that this may be the case. Voter turnout nationwide in 2014 was the lowest in 74 years. It’s probable that much of this American voter disenchantment derives from this pervasive negative advertising in campaigns.

We believe that the large influx of campaign money relates directly to the U.S. Supreme Court’s 2010 *Citizens United v. Federal Election Commission* decision, among others. The *Citizens United* decision declared that artificial entities – unions, corporations, and associations – have the same rights as The People with regard to election spending. This decision effectively toppled dozens of state and federal laws - and decades of judicial precedent that allowed regulation of expenditures in political campaigns.

Bound by these rulings, a federal district judge reluctantly struck down our New York State law that limited contributions to super PACs. In New York and other states, these decisions have effectively extinguished states’ rights to regulate their own elections for federal office. They have also forced individuals and organizations to spend enormous sums of money to convey their political message out of fear that their political or philosophical opponents will occupy that space should they demur.

While it is not our role as legislators to pass judgment on rulings of the Supreme Court, it is our absolute duty to appropriately address the consequences of such decisions when we judge them harmful to our state. In this case, the *Citizens United* ruling has eliminated our ability to protect something as essential to our state's well-being as our election process. Article V of the United States Constitution provides the means for remedy. This is not uncharted territory - seven times in our history, constitutional amendments have been passed to rectify the impact of Supreme Court decisions, and our role as a state legislature is to debate and ratify such amendments. Article V of the U.S. Constitution empowers the people, the states, and the Congress to use the amendment process to protect republican self-government. Such an amendment, limited in its scope to focus on campaign funding, is sorely needed now.

The following is the language which should be proposed as an amendment to the Constitution of the United States. It would become valid as part of the Constitution when ratified by the legislatures of three-fourths of the several States: "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, unions, corporations, and 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."

Tremendous support exists for such action. On Election Day 2012, more than 6 million voters across the United States faced ballot measures, including statewide initiatives in Montana and Colorado, calling for a constitutional amendment to restrict money and the power of artificial entities in the political sphere. All of these proposed resolutions passed with overwhelming, nonpartisan support, averaging 75 percent of voters in favor. In all, 16 states and Washington, D.C., as well as more than 550 local municipalities across the nation, have called for a constitutional amendment to overturn *Citizens United* and related cases. Twenty municipalities in New York State, representing nearly 10 million people, have also called for such an amendment.

New York and all states, as well as the United States Congress, should have the power to limit, by law, the influence of money in its political systems, as provided in Article 1, Section 4 of the Constitution. Therefore, we, the undersigned members of the New York State Senate, call upon the United States Congress to move forward an amendment to the United States Constitution that will undo the effects of *Citizens United*. This constitutional amendment must: (1) establish that artificial entities created by the laws of any state, the United States, or any foreign state are not entitled to the same rights and protections as natural persons under the Constitution; and (2) assure the power of the federal, state, and local governments to regulate and limit, as well as require full source disclosure, of all money spent for the purpose of influencing elections.

There is no more critical foundation to our government than to ensure citizens' confidence in free and fair elections. Please act now to ensure that these bedrocks of our nation continue long into the future of this great state and nation.
