

Committee Report

REGULAR CALENDAR

February 17, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Majority of the Committee on Election Law to
which was referred HB 468,**

**AN ACT relative to the definition of political advocacy
organization. Having considered the same, report the
same with the following resolution: RESOLVED, that it
is INEXPEDIENT TO LEGISLATE.**

Rep. Joe Sweeney

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

Committee:	Election Law
Bill Number:	HB 468
Title:	relative to the definition of political advocacy organization.
Date:	February 17, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill modifies the definition of political advocacy organization for purposes of political expenditure and contribution laws. It seeks to decrease the expenditure reporting limit from \$5,000 to \$2,500 which is contrary to the direction of costs and expenditures in campaigns. It requires the registration of any entity that purchases campaign material costing more than \$2,500 that is distributed in the 60 day period before an election in which a candidate or measure is mentioned, regardless of whether there is a specific reference to a vote. The majority of the Election Law Committee believes that there are significant issues of organization and enforceability with this proposed legislation. The types of free speech that would be covered is too broad; for example, it was agreed that a voter's guide would be covered. The reduction from \$5,000 to \$2,500 in spending as the reporting threshold is a significant change that could hurt smaller advocacy groups that may not have a formal organization in a position to comply with the legislation. Finally the enforceability issues led the majority of the committee to agree that the bill was not a benefit to our campaign structure.

Vote 11-9.

Rep. Joe Sweeney
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Election Law

HB 468, relative to the definition of political advocacy organization. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Joe Sweeney for the **Majority** of Election Law. This bill modifies the definition of political advocacy organization for purposes of political expenditure and contribution laws. It seeks to decrease the expenditure reporting limit from \$5,000 to \$2,500 which is contrary to the direction of costs and expenditures in campaigns. It requires the registration of any entity that purchases campaign material costing more than \$2,500 that is distributed in the 60 day period before an election in which a candidate or measure is mentioned, regardless of whether there is a specific reference to a vote. The majority of the Election Law Committee believes that there are significant issues of organization and enforceability with this proposed legislation. The types of free speech that would be covered is too broad; for example, it was agreed that a voter's guide would be covered. The reduction from \$5,000 to \$2,500 in spending as the reporting threshold is a significant change that could hurt smaller advocacy groups that may not have a formal organization in a position to comply with the legislation. Finally the enforceability issues led the majority of the committee to agree that the bill was not a benefit to our campaign structure. **Vote 11-9.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

February 17, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Minority of the Committee on Election Law to
which was referred HB 468,**

**AN ACT relative to the definition of political advocacy
organization. Having considered the same, and being
unable to agree with the Majority, report with the
recommendation that the bill OUGHT TO PASS.**

Rep. Connie Lane

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee:	Election Law
Bill Number:	HB 468
Title:	relative to the definition of political advocacy organization.
Date:	February 17, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

NH election law requires that independent political organizations involved in NH elections, but not associated with a candidate, must register with and report their activities to the Secretary of State. The committee received compelling testimony and evidence of a recurring problem where, within 60 days of recent elections, some unregistered organizations sent out mailings which clearly identified candidates for office. These mailings clearly challenged candidates and political positions. Previously, some of these organizations have avoided registration by claiming that their materials were related to political "issues" rather than to individual "political candidates." The bill closes this loophole. The bill requires an organization that pays for distribution of a communication, within 60 days of an election, that refers to a candidate or to the success or defeat of a measure, and costs \$2,500.00 or more, to register and report as required for other political organizations. This bill does not limit free speech, it only discloses who is speaking.

Rep. Connie Lane
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Election Law

HB 468, relative to the definition of political advocacy organization. **OUGHT TO PASS.**

Rep. Connie Lane for the **Minority** of Election Law. NH election law requires that independent political organizations involved in NH elections, but not associated with a candidate, must register with and report their activities to the Secretary of State. The committee received compelling testimony and evidence of a recurring problem where, within 60 days of recent elections, some unregistered organizations sent out mailings which clearly identified candidates for office. These mailings clearly challenged candidates and political positions. Previously, some of these organizations have avoided registration by claiming that their materials were related to political “issues” rather than to individual “political candidates.” The bill closes this loophole. The bill requires an organization that pays for distribution of a communication, within 60 days of an election, that refers to a candidate or to the success or defeat of a measure, and costs \$2,500.00 or more, to register and report as required for other political organizations. This bill does not limit free speech, it only discloses who is speaking.

Original: House Clerk

Cc: Committee Bill File

Archived: Thursday, April 22, 2021 11:18:25 AM

From: [Miriam Simmons](#)

Sent: Thursday, April 22, 2021 9:58:00 AM

To: [Miriam Simmons](#)

Subject: Com. Reports HB 468 EMAIL

Response requested: No

Importance: Normal

From: Barbara Griffin <Barbara.Griffin@leg.state.nh.us>

Sent: Sunday, February 28, 2021 12:04 PM

To: Miriam Simmons <miriam.simmons@leg.state.nh.us>

Cc: Pam Smarling <Pam.Smarling@leg.state.nh.us>; Joe Sweeney <Joe.Sweeney@leg.state.nh.us>

Subject: Com. Reports 263 468

For Joe Sweeney

468 BLURB:

This bill modifies the definition of political advocacy organization for purposes of political expenditure and contribution laws. It seeks to decrease the expenditure reporting limit from \$5000 to \$2500 which is contrary to the direction of costs and expenditures in campaigns. IT requires registration of those publishers of campaign material spending more that \$2500 in the 60 day period before the election also restricts publication of campaign material 60 days before an election in which a candidate or measure is mentioned, regardless of whether there is a specific reference to a vote. The majority of the Election Law Committee believes that there are significant issues of organization and enforceability with this proposed legislation. The types of free speech that would be covered is too broad; for example it was agreed that a voter guide would be covered. The reduction from \$5000 in spending as the reporting threshold to \$2500 is a significant change that could hurt smaller advocacy groups that may not have a formal organization in a position to comply with the legislation. Finally the enforcebilyt issues helped the majority of the committee agree that the bill was not a benefit to our campaign structure.

Joe

Rep. Joe Sweeney

Rockingham 8 | Town of Salem

Joe.Sweeney@leg.state.nh.us

C: (603) 327-7184

Archived: Thursday, April 22, 2021 11:18:25 AM
From: David Cote
Sent: Thursday, February 18, 2021 1:13:18 PM
To: Miriam Simmons
Subject: Re: Minority Report for HB 468
Response requested: No
Importance: Normal

Yes. Thanks Miriam. So are the others.

Sent from my iPhone

On Feb 18, 2021, at 12:58 PM, Miriam Simmons <miriam.simmons@leg.state.nh.us> wrote:

Minority HB 468

Is this statement reviewed and approved for me to enter?

Miriam

From: Connie Lane <Connie.Lane@leg.state.nh.us>
Sent: Wednesday, February 17, 2021 4:48 PM
To: Barbara Griffin <Barbara.Griffin@leg.state.nh.us>
Cc: David Cote <david.cote@leg.state.nh.us>; Miriam Simmons <miriam.simmons@leg.state.nh.us>; Pam Smarling <Pam.Smarling@leg.state.nh.us>
Subject: Minority Report for HB 468

**HB 468, relative to the definition of political advocacy.
MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY:
OUGHT TO PASS.**

Rep. Connie Lane for the Minority. NH election law requires that independent political organizations involved in NH elections, but not associated with a candidate, must register with and report their activities to the Secretary of State. The committee received compelling testimony and evidence of a recurring problem where, within 60 days of recent elections, some unregistered organizations sent out mailings which clearly identified candidates for office. These mailings clearly challenged candidates and political positions. Previously, some of these organizations have avoided registration by claiming that their materials were related to political "issues" rather than to individual "political candidates." The bill corrects this loophole. The bill requires an organization that pays for distribution of a communication, within 60 days of an election, that refers to a candidate or to the success or defeat of a

measure, and costs \$2,500.00 or more, to register and report as required for other political organizations. This bill does not limit free speech, it only discloses who is speaking.

Regards,
Representative Connie Lane
Merrimack District 12

Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 468

BILL TITLE: relative to the definition of political advocacy organization.

DATE: February 17, 2021

LOB ROOM: Remote / Hybrid

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Sweeney

Seconded by Rep. Berry

Vote: 11-9

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Natalie Wells, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on Bill # HB 468

BILL TITLE: Relative to the Definition of political advocacy organization

DATE: 2-17-2021

LOB ROOM: 306

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. Sweeney Seconded by Rep. Berry Vote: 11/9

MOTION: (Please check one box)

- OTP OTP/A ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP OTP/A ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: ___ YES ___ NO

Minority Report? ___ Yes ___ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Rep. Natalie Wells, Clerk
Rep Natalie Wells, Clerk



2021 SESSION

Election Law

 Bill #: HB468 Motion: ITL AM #: _____ Exec Session Date: 2-19-2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Griffin, Barbara J. Chairman	✓		
MacDonald, Wayne D. Vice Chairman	✓		
Prudhomme-O'Brien, Katherine J.	✓		
Sweeney, Joe	✓		
Hayward, Peter T.	✓		
Mooney, Maureen C.	✓		
Torosian, Peter E.	✓		
Berry, Ross	✓		
Groen, Fenton	✓		
Qualey, James R.	✓		
Wells, Natalie J. Clerk	✓		
Cote, David E.		✓	
Ward, Gerald W.R.		✓	
Bergeron, Paul R.		✓	
Sandler, Gatt <i>Mannie Espitia</i>		✓	
Hamer, Heidi M.		✓	
Lane, Connie B.		✓	
Freitas, Mary C.		✓	
Hamblet, Joan L.		✓	
Muirhead, Russell		✓	
TOTAL VOTE:	11	9	

Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 468

BILL TITLE: relative to the definition of political advocacy organization.

DATE: February 5, 2021

LOB ROOM: LOB Hybrid **Time Public Hearing Called to Order:** 2:00 p.m.

Time Adjourned: 2:25 p.m.

(please circle if present)

Committee Members: Reps. B. Griffin, W. MacDonald, Wells, Prudhomme-O'Brien, Sweeney, Hayward, Mooney, Torosian, Berry, Groen, Qualey, Cote, Ward, Bergeron, Sandler, Hamer, Lane, Freitas, Hamblet and Muirhead

Bill Sponsors:

Rep. Lane

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Representative Connie Lane, Merrimack 12, Ward 2 Concord**

This lowers the threshold from \$5,000 to \$2,500 on what clarified disclosure. This bill is identical to SB106 that passed the Senate, passed the House on a voice vote and then vetoed by the Governor. It passed the house on roll call, then tabled due to COVID.

***Honorable Senator Reubens** Urges committee for OTP. This bill helps close loopholes, voters know where money comes from. See more testimony.

Olivia Zink – Supports HB 468, creates transparency of independent expenditures, closes loopholes on groups on the left and the right. We need to know who is trying to influence our elections.

- **Comment– Rep Barbara Griffin:** These limits set a long time ago to increase the amounts. Your bill actually decreases to trigger. \$2,500 can go a long way in a small race. In the past on this discussion, publications from town officials or LWV would put out certain information 60 days before an election.
- **Answer** – The way this bill is designed to catch too wide. If you spent \$2,500 on various district, name candidate, that organization would have to file. See the letter I sent to Senator Soucy.

Joe Hannon – VP GO-NH I think we not need black out times. There are issues that come up during that 60 days. It is lowering the bar and is hurting small organizations. I urge you to ITL this bill.

Hearing adjourned 2:25pm.

Respectfully submitted,
Representative Natalie Wells
Committee Clerk

PUBLIC HEARING ON HB 468

BILL TITLE: relative to the definition of political advocacy organization.

DATE: February 5, 2021

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Connie Lane

Joe Hannon

* Hon. Jim Rubens

* GREG MOORE

Olivia Zink

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING on Bill # HB-468

BILL TITLE: Relative to the definition of political advocacy organization.
DATE: 2-5-21

ROOM: 306

Time Public Hearing Called to Order: 2:00pm

Time Adjourned: 2:25pm

(please circle if present)

7

Committee Members: Reps. B. Griffin, W. MacDonald, Wells, Prudhomme-O'Brien, Sweeney, Hayward, Mooney, Torosian, Berry, Groen, Qualey, Cote, Ward, Bergeron, Sandler, Hamer, Lane, Freitas, Hamblet and Muirhead

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

* Rep. Connie Lane.

Joe Hannon

* Hon. Jim Rubens

* GREG MOORE

Olivia Zink

ELECTION LAW
PUBLIC HEARING ON HB 489

DATE: 2/5/21

TESTIMONY

Open: 2:00pm

Closed: 2:45pm

Relative to the definition of political advocacy organization

***Representative Connie Lane, Merrimack 12, Ward 2 Concord**

This lowers the threshold from \$5,000 to \$2,500 on what clarified disclosure. This bill is identical to SB106 that passed the Senate, passed the House on a voice vote and then vetoed by the Governor. It passed the house on roll call, then tabled due to COVID.

***Honorable Senator Reubens** Urges committee for OTP. This bill helps close loopholes, voters know where money comes from. See more testimony.

Olivia Zink – Supports HB 468, creates transparency of independent expenditures, closes loopholes on groups on the left and the right. We need to know who is trying to influence our elections.

Comment– Rep Barbara Griffin: These limits set a long time ago to increase the amounts. Your bill actually decreases to trigger. \$2,500 can go a long way in a small race. In the past on this discussion, publications from town officials or LWV would put out certain information 60 days before an election.

Answer – The way this bill is designed to catch too wide. If you spent \$2,500 on various district, name candidate, that organization would have to file. See the letter I sent to Senator Soucy.

Joe Hannon – VP GO-NH I think we not need black out times. There are issues that come up during that 60 days. It is lowering the bar and is hurting small organizations. I urge you to ITL this bill.

Adjourned 2:25pm.

Respectfully submitted,

Representative Natalie Wells

House Remote Testify

Election Law Committee Testify List for Bill HB468 on 2021-02-05

Support: 90 Oppose: 8 Neutral: 0 Total to Testify: 6

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>1</u>
Lane, Connie	connie.lane@leg.state.nh.us	603.491.7379	An Elected Official	Merrimack 12	Support	Yes (5m)	2
Hannon, Joe	joehannon4nh@gmail.com	603.418.5531	A Member of the Public	GO-NH	Oppose	Yes (3m)	2
Hoell, JR	jr@jrhoell.com	603.315.9002	A Member of the Public	Myself and New Hampshire Firearms Coalition	Oppose	Yes (3m)	2
Rubens, Jim	JimRubens@gmail.com	603.359.3300	A Member of the Public	American Promise	Support	Yes (3m)	2
Zink, Olivia	olivia@opendemocracy.me	603.661.8621	A Lobbyist	Open Democracy Action	Support	Yes (0m)	1
Moore, Greg	gmoore@afphq.org	603.303.9297	A Lobbyist	Americans for Prosperity-New Hampshire	Oppose	Yes (0m)	1
hatch, sally	sallyhatch@comcast.net	603.724.7448	A Member of the Public	Myself	Support	No	1
Damon, Claudia	cordsdamon@gmail.com	603.226.4561	A Member of the Public	Myself	Support	No	1
Garen, June	jzanesgaren@gmail.com	603.393.8134	A Member of the Public	Myself	Support	No	1
Jacome, Jan	Janjake22@gmail.com	603.234.3910	A Member of the Public	Myself	Support	No	2
Spencer, Louise	kentstusa@aol.com	603.491.1795	A Member of the Public	Myself	Support	No	1
Podlipny, Ann	apodlipny57@comcast.net	603.370.1914	A Member of the Public	Myself	Support	No	2
Corell, Elizabeth	Elizabeth.j.corell@gmail.com	603.545.9091	A Member of the Public	Myself	Support	No	2
Garland, Ann	annhgarland@gmail.com	603.678.8143	A Member of the Public	Myself	Support	No	2
Verschueren, Jim	jd.verschueren@gmail.com	603.978.0398	A Member of the Public	Myself	Support	No	2
Torpey, Jeanne	jtorp51@comcast.net	603.493.8262	A Member of the Public	Myself	Support	No	2
Dodge, Corinne	corinnedodge@hotmail.com	603.432.5759	A Member of the Public	Myself	Support	No	2
Wazir, Safiya	s.wazir@leg.state.nh.us	603.333.0594	An Elected Official	Myself and my Constituents	Support	No	2
Anderson, Keryn	kerynlanderson@gmail.com	603.731.6425	A Member of the Public	Myself	Support	No	2
Weston, Joyce	jweston14@roadrunner.com	603.276.0862	An Elected Official	Myself	Support	No	2
Schmidt, Rep Jan	tesha4@gmail.com	603.880.6060	An Elected Official	Myself	Support	No	2
McWilliams, Rebecca	rebecca.mcwilliams@leg.state.nh.us	603.227.6494	An Elected Official	Merrimack 27	Support	No	2
Murphy, Nancy	murphy.nancya@gmail.com	603.424.0254	A Member of the Public	Myself	Support	No	2
Straiton, Marie	M.straiton@comcast.net	693.496.2717	A Member of the Public	Myself	Support	No	2
Hackmann, Kent	hackmann@uidaho.edu	603.934.3225	A Member of the Public	Myself	Support	No	2
Waterman, Raymond	prwaterman@aol.com	603.424.3692	A Member of the Public	Myself	Support	No	2
Waterman, Patricia	prwaterman@aol.com	603.424.3692	A Member of the Public	Myself	Support	No	2
Huyett, Ian	IHuyett@NHCornerstone.org	603.228.4794	A Lobbyist	Cornerstone	Oppose	No	2
Wheeler, Dave	Dave@davewheeler.org	603.765.2893	A Member of the Public	New Hampshire Firearms Coalition	Oppose	No	2
McGinley, Shannon	s.mcginley@icloud.com	603.674.1717	A Member of the Public	Myself	Oppose	No	2
Lord, Kit	kitlord@yahoo.com	603.942.5374	A Member of the Public	Myself	Support	No	2
Von Karls, Claire	cvonkarls1@gmail.com	603.823.5948	A Member of the Public	Myself	Support	No	2
King, Mark	mark.king@leg.state.nh.us	603.998.2400	An Elected Official	Myself	Support	No	2
Bouldin, Amanda	amanda.bouldin@leg.state.nh.us	603.494.8689	An Elected Official	Hillsborough District 12	Support	No	2
Bouldin, Andrew	andrew.bouldin@leg.state.nh.us	603.397.7526	An Elected Official	Hillsborough District 12	Support	No	2
Carter, Lilian	lcarter0914@gmail.com	603.560.7047	A Member of the Public	Myself	Support	No	2
Fellows, Sallie	sallie@myfairpoint.net	603.271.3600	An Elected Official	Myself	Support	No	2
Hampton, Doris	dandmhamp38@gmail.com	603.783.4418	A Member of the Public	Myself	Support	No	2
Ford, Susan	Sueford06@gmail.com	8235609	A Member of the Public	Myself	Support	No	2
Campbell, Karen	klynncampbell50@gmail.com	310.707.8572	A Member of the Public	Myself	Support	No	2
Maskwa, Donna	donna.maskwa@gmail.com	603.502.8606	A Member of the Public	Myself	Support	No	2
Almy, Susan	susan.almy@comcast.net	603.448.4769	An Elected Official	Myself	Support	No	2
Kelley, Mary	midgekelly1@gmail.com	603.320.7237	A Member of the Public	Myself	Support	No	2
Rettew, Annie	abrettew@gmail.com	603.651.7000	A Member of the Public	Myself	Support	No	2
Leavitt, Deborah	daleavitt77@comcast.net	603.343.4493	A Member of the Public	Myself	Support	No	2

Frayse, Michael	mikefraysse@gmail.com	310.218.7349	A Member of the Public	Myself	Support	No	2
Gillis, Kim	kgillis@live.com	603.892.4271	A Member of the Public	Myself	Support	No	2
Campbell, Karolyn	kkcampbell43@yahoo.com	603.818.3919	A Member of the Public	Myself	Support	No	2
Reed, Barbara	moragmcp83@outlook.com	603.352.5015	A Member of the Public	Myself	Support	No	2
Tentarelli, Liz	LWVnewhampshire@gmail.com	603.763.9296	A Member of the Public	Myself	Support	No	2
Bouchard, Donald	donaldjbouchard@gmail.com	603.622.0388	An Elected Official	Myself	Support	No	2
Martin, Jill	jillwmar@gmail.com	240.481.5116	A Member of the Public	Myself	Support	No	2
Hatcher, Phil	phil.hatcher@gmail.com	603.988.8034	A Member of the Public	Myself	Support	No	2
Hennessey, Martha	Martha.hennessey@gmail.com	603.643.8640	A Member of the Public	Myself	Support	No	2
Richman, Susan	susan7richman@gmail.com	603.868.2758	A Member of the Public	Myself	Support	No	2
Hinebauch, Melissa	melhinebauch@gmail.com	603.224.4866	A Member of the Public	Myself	Support	No	2
Blanchard, Sandra	sandyblanchard3@gmail.com	603.724.3768	A Member of the Public	Myself	Support	No	2
Bunker, Lisa	lisabunkernh@gmail.com	207.985.2053	An Elected Official	Myself	Support	No	2
Farnum, Ellen	Ellenlynnfarnum@gmail.com	603.986.6620	A Member of the Public	Myself	Support	No	2
Farnum, William	williamwfarnum@gmail.com	603.986.0994	A Member of the Public	Myself	Support	No	2
Ackerson, Judith	ackerjack45@gmail.com	603.369.0574	A Member of the Public	Myself	Support	No	2
Ackerson, Kenneth	ken.ackerson14@gmail.com	603.273.1593	A Member of the Public	Myself	Support	No	2
Yacopucci, William	wdycpp@gmail.com	603.707.2211	A Member of the Public	Myself	Support	No	2
Anastasia, Patricia	patti.anastasia@gmail.com	603.818.9991	A Member of the Public	Myself	Support	No	2
Lawrence, Carol	Carollawrence46@yahoo.com	603.934.6368	A Member of the Public	Myself	Support	No	2
Coon, Kate	kate2coon@gmail.com	339.793.0686	A Member of the Public	Myself	Support	No	2
Aube, Maureen	mdaube@metrocast.net	603.934.2206	A Member of the Public	Myself	Support	No	2
Lobdell, Sara	slobdell@antioch.edu	973.464.0703	A Member of the Public	Myself	Support	No	2
Cotton, Bev	bevcott@gmail.com	603.529.3456	A Member of the Public	Myself	Support	No	2
Emus, Joanne	jremus0322@aol.com	603.465.9722	A Member of the Public	Myself	Support	No	2
Spielman, Kathy	jspielman@comcast.net	603.397.7879	A Member of the Public	Myself	Support	No	2
Spielman, James	jspielman@comcast.net	603.868.1626	A Member of the Public	Myself	Support	No	2
Mangipudi, Latha	Latha.Mangipudi@leg.state.N.H.us	603.891.1239	An Elected Official	Hills35	Support	No	2
Beihl, Deputy Director, Brian	brian@opendemocracy.me	603.620.8300	A Lobbyist	Open Democracy Action	Support	No	2
Bagshaw, Joseph	bagshaw.joseph@gmail.com	603.447.2697	A Member of the Public	Myself	Support	No	2
Lightfoot, Jean	JnLightfoot@comcast.net	702.596.9317	A Member of the Public	Myself	Support	No	2
Bundy, Linda	n_bundy@mcttelecom.com	603.588.2254	A Member of the Public	Myself	Support	No	2
Jones, Jennifer	jennjones123@hotmail.com	603.734.4123	A Member of the Public	Myself	Support	No	2
King, Marcia	mchking@gmail.com	603.924.3109	A Member of the Public	Myself	Support	No	2
King, Charles	mchking@gmail.com	603.924.3109	A Member of the Public	Myself	Support	No	2
Moore, Susan	susan.moore.franconia@gmail.com	603.823.8050	A Member of the Public	Myself	Support	No	2
Perry, Bob	perry4nh@gmail.com	603.715.4474	A Member of the Public	Myself	Support	No	2
Diamond, Jim	jiminoregon@gmail.com	503.984.2775	A Member of the Public	Myself	Support	No	2
McLeod, Martha	MMcLeod823@gmail.com	603.491.0542	A Member of the Public	Myself	Oppose	No	2
Monsein, Marilyn	msquared3@gmail.com	603.823.5325	A Member of the Public	Myself	Support	No	2
Huberman, Anne	Anne.Huberman@gmail.com	603.924.0842	A Member of the Public	Myself	Support	No	2
Perencevich, Ruth	rperence@comcast.net	603.225.7641	A Member of the Public	Myself	Support	No	2
Gilman, Representative Julie	julie.gilman@leg.state.nh.us	603.957.1348	An Elected Official	Town of Exeter	Support	No	2
Sayess, Polina	psayess@gmail.com	603.988.8796	A Member of the Public	Myself	Support	No	2
Frey, Gina	ginagfrey@gmail.com	603.554.8850	A Member of the Public	Myself	Support	No	2
Frey, Kevin	ginagfrey@gmail.com	603.554.8850	A Member of the Public	Myself	Support	No	2
Bruce, Susan	susanb.red@mac.com	603.730.7078	A Member of the Public	Myself	Support	No	2
DiCicco, Harriet	Hfckd1@gmail.com	603.525.3594	A Member of the Public	Myself	Support	No	2
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	2
French, Elaine	frenche961@gmail.com	603.616.6630	A Member of the Public	Myself	Support	No	2
Beene, Holly	holly.beene@yahoo.com	682.225.2425	A Member of the Public	Myself	Oppose	No	2
French, Robert	ref.design@outlook.com	603.444.0268	A Member of the Public	Myself	Support	No	2
Phillips, Betsey	bphill36@gmail.com	603.869.0127	A Member of the Public	Myself	Support	No	2

Testimony



HOUSE COMMITTEE RESEARCH OFFICE
New Hampshire House of Representatives
4th Floor, Legislative Office Building
Concord, NH 03301
(603) 271-3600

Pam Smarling, Senior Committee Researcher
(603) 271-3387; Pam.Smarling@leg.state.nh.us

To: Rep. Barbara J. Griffin, Chairman, House Election Law Committee

From: Pam Smarling, Senior Committee Researcher
House Committee Research

Date: February 3, 2021

RE: HB 468, relative to the definition of political advocacy organization.

You asked:

When were requirements for political advocacy organizations to register and file financial reports first adopted in NH?

What was the disposition of bills filed in previous years that were similar to HB 468? How did these bills differ from each other?

SUMMARY

SB 120 (2014) made several revisions to the NH campaign finance laws. One significant change in the bill was to define 'political advocacy organization' and require these organizations to register with the Secretary of State and file receipt and expenditure reports if they spend more than \$5,000 in a calendar year to pay for a communication that is 'functionally equivalent' to express advocacy. Financial reports filed by these organizations are required to identify donors by name and address unless the organization is tax exempt under a specified category. Tax-exempt organizations may disclose donor information but are not required to do so.

Legislation to revise the definition of 'political advocacy organization' was filed in 2017 (2 identical bills) and in 2019 and 2020 (2 bills identical to HB 468). All four of these bills focused on communications distributed within 60 days prior to a primary or general election. SB 106 (2019) passed both the Senate and the House and was vetoed by the Governor. This memorandum contains summaries of the provisions and the final disposition of these bills.

SB 120 (2014)

Sen. Jeb Bradley was the prime sponsor of SB 120 (2014). He noted in the Senate hearing that the new definition clarifies what constitutes a non-express electioneering communication by using a definition in federal law that is used in many other states and has been found to be clear and enforceable. The bill was intended to ensure that third party expenditures over \$5,000 are reported so that the voting public understands who is advocating for or against an issue or a candidate.

Disclosure Exemption for Certain Tax-Exempt Entities

Under RSA 664:3,V, (adopted in SB 120, 2014):

“Any political committee or political advocacy organization that is exempt from taxation under sections 501(c)(4), 501(c)(5), or 501(c)(6) of the United States Internal Revenue Code of 1986 may disclose, but shall not be required to disclose in its itemized statement of receipts, the identity of its donors.”

This exemption applies to entities exempt from taxation under the IRS code:

- 501(c)(4) - Civic Leagues, Social Welfare Organizations, and Local Associations of Employees
- 501(c)(5) - Labor, Agricultural and Horticultural Organizations
- 501(c)(6) - Business Leagues, Chambers of Commerce, Real Estate Boards

Legislation to Revise the Definition of Political Advocacy Organization

2017 Legislative Session

Bills with identical provisions were introduced in the House and the Senate in 2017. The Senate passed SB 33 in 2017. Both bills were retained in the House in 2017 and killed in 2018.

HB 533, relative to political advocacy organizations.

Sponsors: Rep. M. Smith, Rep. Lovejoy, Rep. Murray, Rep. Cushing,
Rep. Backus, Rep. LeBrun, Sen. Feltes

SB 33, relative to the definition of political advocacy organization.

Sponsors: Sen. Bradley, Sen. Carson, Sen. Innis

Provisions of SB 33 and HB 533:

revised definition of political advocacy organization to mean any entity that

- makes expenditures of \$5,000 or more in a calendar year
- includes any political committee, whether or not their primary purpose is to promote or defeat a candidate
- making a communication that refers to a clearly identified candidate or candidates regardless of whether the communication expressly advocates a vote for or against a candidate
- when the communication is publicly distributed within 60 days before a primary or general election to an audience that includes members of the electorate for the office sought by the candidate or one or more of the candidates.

Disposition of SB 33

- Senate Election Law and Internal Affairs Committee report, ITL 3-2
- Passed Senate on roll call vote 14-9, 2017
- Retained in the House 2017, Referred for Interim Study in 2018, Tabled in the House, roll call vote 162-155, 2018
- **Died on the Table in the House**

Disposition of HB 533

- Retained in House 2017
- Committee report after being retained: Refer for Interim Study, vote 18-2, Consent Calendar
- Laid on the Table, roll call vote 162-155; **Killed in the House 2018**

2019 and 2020 Legislative Session

Bills identical to HB 468 (2021) were introduced in the Senate in 2019 and in the House in 2020. These bills were very similar but not identical to the 2017 legislation.

SB 106, (New Title) relative to the definition of political advocacy organization.
Sponsor: Sen. Feltes

HB 1525, relative to the definition of political advocacy organization.
Sponsors: Rep. Lane, Rep. Huot, Rep. Gay, Rep. Higgins, Sen. Fuller Clark

Provisions of SB 106 and HB 1525: differences from 2017 bills noted in bold and italics

revised definition of political advocacy organization to mean any entity that:

- makes expenditures of **\$2,500** or more in a calendar year (*\$5,000 in 2017 bills*)
- includes any political committee, whether or not their primary purpose is to promote or defeat a candidate **or a measure or measures** (*measures not included in 2017*)
- making a communication that refers to a clearly identified candidate or candidates regardless of whether the communication expressly advocates a vote for or against a candidate **or a measure or measures** (*measures not included in 2017*)
- when the communication is publicly distributed within 60 days before a primary or general election to an audience that includes members of the electorate for the office sought by the candidate or one or more of the candidates.
- ***'expenditures' in this section does not include expenses for candidate forums, including but not limited to, spending for advertisements, marketing or event expenses.*** (*provision not included in 2017 bills*)

Disposition of SB 106 (2019)

- Senate Election Law and Municipal Affairs Committee report: Ought to Pass with Amendment, vote 3-2
- Passed Senate with Amendment, roll call vote, 24-0
- House Election Law Committee report: Ought to Pass, 20-0, Consent Calendar
- Passed House, voice vote
- Vetoed by Governor, July 10, 2019; **Veto Sustained in the Senate**, roll call vote 15-9, September 19, 2019

Governor's Veto Message Regarding Senate Bill 106

By the authority vested in me, pursuant to part II, Article 44 of the New Hampshire Constitution, on July 10, 2019, I have vetoed Senate Bill 106, relative to the definition of political advocacy organization.

This bill would force organizations who seek to foster discussion on important issues of the day to register as a political advocacy organization. Registration would be required even if the organization does not expressly advocate the success or defeat of a candidate in an election. Such an expansion of government regulation of speech is unnecessary and would have a chilling effect on our citizens' rights to advocate for and support causes which are important to them.

For the reasons stated above, I have vetoed Senate Bill 106.
Respectfully submitted,

Christopher T. Sununu
Governor

Disposition of HB 1525 (2020)

- House Election Law Committee report: Ought to Pass, vote 13-7, Regular Calendar
- Passed House, roll call vote, 198-124
- Introduced and Laid on the Table in the Senate, June 16, 2020; **Died on the Table in the Senate**

If I can provide further information on this, please let me know.



February 5, 2021

The Honorable Barbara Griffin, Chairwoman
Election Law
Legislative Office Building, Room 308
Concord, NH 03301

TESTIMONY in SUPPORT of HB 468

Dear Chairwoman Griffin and members of the Election Law Committee,

In 2019, SB 106, passed in the Senate 24-0 and this committee passed it 20-0 and put it on the consent calendar, it was vetoed by the governor. HB 1525 last year was lost due to COVID. I have been working on getting to increase Disclosure of NH laws for the last 10 years. I have seen baby steps and we are asking you to take the next baby step to ensure that everyone spending money to influence the election must register and report.

This bill closes a loophole. It creates more transparency when it comes to independent expenditures and electioneering communications. Most people know this as PAC spending. An independent expenditure is a political campaign communication which expressly advocates the election or defeat of a clearly identified candidate. This is a simple change to New Hampshire's disclosure laws and HB 468 will close an important loophole.

HB 468, clarifies the Definitions of Political Advocacy Organization.

Currently the definition says functionally equivalent to express advocacy. This bill strikes functionally equivalent to express advocacy and ADDS clearly identified candidate or candidates.

This also adds a limit only to publicly distributed within 60 days before a primary or general election.

In the 2018 elections, I saw groups that clearly named a candidate, with the window of 60 days and spent \$2,500 but they didn't register or report. This change makes sure that ALL groups engaging in these electioneering activities will register and report.

Groups conducting large independent political campaigns to avoid registering with the secretary of state as "political advocacy organizations" as the law intended. These have been national groups conducting independent campaigns – estimated to spend millions on our NH primary and general elections. Because of this loophole, NH voters are being denied the right to know who these groups really are and how much they spend to defeat or elect their targeted candidates.

For the electoral process to be open and fair, it must also be transparent. It is an unfortunate reality that, in our society, waves of money can carry power and influence. The public must be able to dip their fingers into the flow of money to know where political contributions come from and the purpose these contributions serve.

The Supreme Court decision written for 2010's Citizens' United stresses that for their decision to be implemented fairly, disclosure must be open to the public. Written in the formal decision is the following statement;

"The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

Last minute mail bombardment and other dark money political strategies are in strict contradiction of the Supreme Court's intentions. The public is unable to make an informed decision if they do not know who they are arguing with. Political debate cannot be held in good faith if influencers are able to hide behind tidal waves of money. Though the NH Legislature seems to agree with that on face value, we have allowed an unfortunate loophole which must be closed. Closing this loophole involves altering the definition of election communication to include mailers which do specifically name candidates but do not specifically instruct the reader which direction to vote.

Making this simple change would strengthen the integrity of political debate within New Hampshire and ensure accountability within the election process.

Please vote OTP on HB 468.

Thank you,

Olivia Zink

Executive Director, Open Democracy Action

4 Park St., Suite 301, Concord, NH 03301

603-715-8197 cell: 603-661-8621

olivia@opendemocracy.me

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 14, 2019

The Honorable Donna Soucy
President of the Senate
State House Room 302
107 North Main Street
Concord NH 03301

Re: Campaign Finance

Dear Madam President:

This responds to your recent inquiry to Attorney General MacDonald regarding our State's campaign finance laws. Specifically, you asked this Office to address whether a for-profit corporate entity that makes \$5,000 or more in contributions within a calendar year is required to register as a political committee. Upon review, we conclude that the statute at issue, RSA 664:2, III (d), raises significant constitutional issues that would hinder this Office in enforcing any such registration requirement.

Generally, political committees that receive or expend certain threshold amounts are required to register with the Secretary of State and to report their receipts and expenditures. RSA 664:3; RSA 664:6. Registration paperwork "must be received by the secretary of state not later than 48 hours after the committee meets at least one of the criteria under RSA 664:2, III." RSA 664:3, I.

Under one such provision, RSA 664:2, III (d), a "political committee" means:

(d) Any organization that does not have as its major purpose to promote the success or defeat of a candidate or candidates or measure or measures but that makes expenditures that total \$5,000 or more in a calendar year;
or

(e) [...]

As used in this paragraph, "organization" includes, but is not limited to, one or more natural persons; entities formed under state law, except those entities qualified under section 501(c)(3) of the United States Internal

Revenue Code of 1986; committees formed by a candidate, exploratory campaign, or political party; and any other association of natural persons or entities formed under state law that is not registered as a business entity.

The Legislature has assigned the Attorney General with the enforcement of New Hampshire's election laws. As a general matter, the Attorney General has a duty to enforce and defend a statute unless it is patently illegal or unconstitutional. The statute at hand raises significant constitutional concerns.

The First Amendment of the United States Constitution protects free speech "in order to ensure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Nat. Org. for Marriage v. McKee*, 649 F.3d 34, 52 (1st Cir. 2011). An overly broad statute is unconstitutional if it burdens "a substantial amount of protected speech." *Id.*; *See also Buckley v. Valeo*, 424 U.S. 1, 80 (1976). Campaign finance disclosure requirements are subject to "exacting scrutiny, which requires a substantial relation between the disclosure requirement and a sufficiently important governmental interest." *McKee*, 649 F.3d at 55. In other words, campaign finance disclosure requirements must be "well tailored" to promote the State's interest in providing the electorate with information about where political campaign money comes from. *Id.* at 58.

The current definition of "organization" is clearly not "well tailored." The plain meaning of RSA 664:2, III provides that *one natural person* could meet the definition of an "organization." Therefore, under RSA 664:2, III (d), if a person expends more than \$5,000 during a calendar year, the law contemplates that he or she would be required to register as a political committee.

The statute also provides a *non-exhaustive* list of items that would constitute an "organization." *See Id.* ("organization" includes, but is not limited to[.]). Without expressly identifying what persons or entities are subject to registration, the definition exposes nearly everyone and everything as being potentially subject to the registration requirement. This expansive definition lacks a "substantial relation" to the informational interest in political campaign expenditures. For these reasons, the current definition of "organization" likely fails "exacting scrutiny" due to its overbreadth under the First Amendment.

Moreover, the Due Process Clause of United States Constitution prohibits laws that are overly vague, especially when important First Amendment rights are implicated. The underlying principle behind the vagueness doctrine is to "ensure that persons of ordinary intelligence have 'fair warning' of what a law prohibits [and to] prevent arbitrary and discriminatory enforcement of laws by requiring that they provide explicit standards for those who apply them[.]" *McKee*, 649 F.3d at 59; *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972).

It is not immediately apparent to a person of ordinary intelligence what entity or person qualifies as an "organization" and whether or not a "contribution" by a corporation is a type of "expenditure." Note also that the term "entities" appears twice in the definition of "organization," which is also a source of confusion with this law.

Each item in the list provided in the definition of “organization” is set apart by semicolons, which indicates separate categories of those subject to the definition. All “entities formed under state law, except [charitable organizations,]” satisfy the definition of “organization.” Most for-profit corporations and limited liability companies fall within the ambit of this definition as they are statutorily created entities.

The confusion is generated by the final clause in the definition of “organization,” which provides that “any other association of natural persons or entities formed under state law that is not registered as a business entity.” RSA 664:2, III (emphasis added). It is not immediately apparent what the Legislature meant by adopting this language. This provision seems to contemplate that persons or entities which form an “association,” such as a neighborhood watch group, may be required to register. Again, the boundaries of such an “association” lack definition, and potentially subject an “association” to the registration requirement without adequate notice to those entities.

Over the past election cycle, this definition has generated a significant amount of confusion among political campaigns and contributors alike. The text of the statute has confounded attorneys and compliance firms who are advising their clients on how to comply with this law. The crux of the issue that has been raised with this Office is that corporations were generally not aware that our law treats contributions as a form of political committee “expenditures.” They also fail to understand that for-profit corporations fall into the pool of “organizations” that are required to register. Due to the overbreadth and vagueness inherent in RSA 664:2, III (d), if this Office were to bring an enforcement action under that section, the State would almost certainly invite a constitutional challenge on the bases outlined above. Consequently, until and unless these issues are resolved by the Legislature, this Office will be significantly limited in its ability to enforce RSA 664:2, III (d).

This Office stands by ready to assist the Legislature in amending these statutes to allow this Office to exercise its enforcement functions in this area of the law.

Sincerely,



Matthew T. Broadhead
Assistant Attorney General
Election Law Unit
(603) 271-3650
matthew.broadhead@doj.nh.gov

cc: The Honorable William M. Gardner, Secretary of State

Archived: Monday, April 12, 2021 9:33:06 AM

From: [Olivia Zink](#)

Sent: Thursday, February 4, 2021 8:24:35 PM

To: ~House Election Law Committee

Subject: Testimony in support of HB 468

Importance: Normal

Attachments:

[2021 HB 468 Testimony.pdf](#) 



February 5, 2021

The Honorable Barbara Griffin, Chairwoman
Election Law
Legislative Office Building, Room 308
Concord, NH 03301

TESTIMONY in SUPPORT of HB 468

Dear Chairwoman Griffin and members of the Election Law Committee,

In 2019, SB 106, passed in the Senate 24-0 and this committee passed it 20-0 and put it on the consent calendar, it was vetoed by the governor. HB 1525 last year was lost due to COVID. I have been working on getting to increase Disclosure of NH laws for the last 10 years. I have seen baby steps and we are asking you to take the next baby step to ensure that everyone spending money to influence the election must register and report.

This bill closes a loophole. It creates more transparency when it comes to independent expenditures and electioneering communications. Most people know this as PAC spending. An independent expenditure is a political campaign communication which expressly advocates the election or defeat of a clearly identified candidate. This is a simple change to New Hampshire's disclosure laws and HB 468 will close an important loophole.

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Making this simple change would strengthen the integrity of political debate within New Hampshire and ensure accountability within the election process.

Please vote OTP on HB 468.

Thank you,

Olivia Zink
Executive Director, Open Democracy Action

4 Park St., Suite 301, Concord, NH 03301
603-715-8197 cell: 603-661-8621
olivia@opendemocracy.me

Archived: Monday, April 12, 2021 9:33:06 AM

From: [Greg Moore](#)

Sent: Friday, February 5, 2021 9:47:51 AM

To: ~House Election Law Committee

Subject: Materials to members regarding HB 468

Importance: Normal

Attachments:

[Letter to President Donna Soucy re RSA 664-2, III, d\(2\).pdf](#) 

Members of the Election Law Committee,

I am sharing this letter dated February 2019 from then-Attorney General MacDonald to then-Senate President Soucy as relevant to my testimony on HB 468, which will be heard later today.

Respectfully submitted,

Greg Moore | State Director | Americans for Prosperity – New Hampshire
m: 603.303.9297 | e: gmoore@afphq.org | twitter @gregmoorenh

Bill as
Introduced

HB 468 - AS INTRODUCED

2021 SESSION

21-0588

08/11

HOUSE BILL **468**

AN ACT relative to the definition of political advocacy organization.

SPONSORS: Rep. Lane, Merr. 12

COMMITTEE: Election Law

ANALYSIS

This bill modifies the definition of political advocacy organization for purposes of political expenditure and contribution laws.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the definition of political advocacy organization.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Political Expenditures and Contributions; Definition of Political Advocacy Organization.

2 Amend RSA 664:2, XXII to read as follows:

3 XXII. "Political advocacy organization" means any entity, ***including but not limited to,***
4 ***an organization described in RSA 664:2, III,*** that [~~spends \$5,000~~] ***makes expenditures of***
5 ***\$2,500*** or more in a calendar year to pay for [~~a communication that is functionally equivalent to~~
6 ~~express advocacy because, when taken as a whole, such communication is likely to be interpreted by~~
7 ~~a reasonable person only as advocating the election or defeat of]~~ ***communications that refer to a***
8 ***clearly identified candidate or candidates or the success or defeat of a measure or measures, [taking***
9 ***into account whether the communication involved mentions a candidacy or a political party, or takes***
10 ***a position on a candidate's character, qualifications, or fitness for office]*** ***and are publicly***
11 ***distributed within 60 days before a primary or general election to an audience that***
12 ***includes members of the electorate for the office sought by the candidate or one or more of***
13 ***the candidates, regardless of whether the communication or communications expressly***
14 ***advocate a vote for or against the candidate or candidates or for the success or defeat of a***
15 ***measure or measures. In this paragraph, expenditures do not include expenses for***
16 ***candidate forums, including, but not limited to, spending for advertisements, marketing,***
17 ***or event expenses.***

18 2 Effective Date. This act shall take effect 60 days after its passage.