



**To: Senate Committee on Government Operations**  
**Fr: VPIRG Executive Director Paul Burns**  
**Dt: March 29, 2023**  
**Re: H.429 – Misc. Elections**

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Chair Hardy and Members of the Committee, thank you for the opportunity to testify today. For the record, my name is Paul Burns and I am the executive director of the Vermont Public Interest Research Group (VPIRG). VPIRG has operated as a 501(c)(4) nonprofit in Vermont for 51 years. Since 1975, we have also had a 501(c)(3) charitable nonprofit organization called Vermont Public Interest Research and Education Fund. Several years ago, we made the decision to engage in political campaigns, launching VPIRG Votes and later VPIRG Votes Action Fund, a coordinated political committee, and an independent expenditure committee, respectively. I share this background in order to provide full disclosure before moving to my testimony on the elections legislation you are considering.

As much as any organization in Vermont, VPIRG has been actively involved in policy matters concerning elections, campaign finance, disclosure, and related issues over the past several decades.

With that history in mind, I'd like to encourage this committee to look at H.429 as a vehicle to advance strong public policy aimed at improving our elections. As it stands now, there are certainly elements of H.429 that VPIRG favors. There is at least one section that we oppose. And other parts on which we have taken no position.

But in the limited time I have today, I would like to begin by urging you to add a new section to the bill to address the issue of corporate money in elections. VPIRG has long-supported a prohibition on direct corporate contributions to candidates and political parties. Our strong preference is for political contributions to come, ultimately, from real human beings.

The Vermont Senate has passed legislation several times in recent years that would have required that political contributions to candidates or parties come only from individuals (human beings), political committees, or political parties. This would prevent corporations – whether they are for profit or nonprofit – from making direct contributions to candidates or parties.

According to data from the National Conference of State Legislatures, 22 states completely prohibit corporations from contributing to political campaigns. The federal government has also banned direct corporate contributions to federal candidates for more than 100 years.

As you know, Vermont currently treats corporations the same way that it treats human beings in terms of the political contributions each is allowed to make. But corporations are not human beings, and should not be afforded the same opportunities to influence elections.

We believe that because H.429 already contains a provision dealing with campaign finance, a section dealing with corporate contributions would be both appropriate and germane. As noted, the idea is not new. Consider the words of President Teddy Roosevelt on the topic of corporate contributions (from his 1905 annual address to Congress):

***All contributions by corporations to any political committee or for any political purpose should be forbidden by law; directors should not be permitted to use stockholders' money for such purposes; and, moreover, a prohibition of this kind would be, as far as it went, an effective method of stopping the evils aimed at in corrupt practices acts. Not only should both the National and the several State Legislatures forbid any officer of a corporation from using the money of the corporation in or about any election, but they should also forbid such use of money in connection with any legislation save by the employment of counsel in public manner for distinctly legal services.***

President Roosevelt's remarks, repeated again in his 1906 address to Congress, led to the passage of the Tillman Act in 1907, which prohibited corporations from making monetary contributions to national political campaigns for the first time.

It is well known that corporations have certain advantages over people – such as limited liability and unlimited life – as a matter of public policy. But these advantages were intended to encourage the marketplace to flourish. They were not intended to be used by corporations in order to exercise undue influence over the political process.

Admittedly, it's not just corporate money that corrupts our political process. Big money from individuals is certainly problematic as well. But while the Supreme Court has limited our options in terms of curtailing contributions from individuals, the Court has repeatedly found that bans on direct corporate contributions to candidates and political parties stand on firm constitutional ground.

Most recently, the Supreme Court declined to hear the case of *1A Auto, Inc. vs Sullivan* in May of 2019. That case involved a challenge to the constitutionality of the state law in Massachusetts banning corporate contributions to state and local campaigns. The ban there had been previously upheld in 2018 by the Supreme Judicial Court in Massachusetts. The court ruled, "Experience confirms that, if corporate contributions were allowed, there would be a serious threat of quid pro quo corruption. . . . [As] the Supreme Court noted that, . . . 'the deeply disturbing' political scandals of the 1970s 'demonstrate[d] that the problem is not an illusory one.'"<sup>1</sup>

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<sup>1</sup> [https://www.supremecourt.gov/DocketPDF/18/18-733/74162/20181205100404265\\_Appendix.pdf](https://www.supremecourt.gov/DocketPDF/18/18-733/74162/20181205100404265_Appendix.pdf)

The decision by the Supreme Court not to hear the case out of Massachusetts leaves intact the ability of state and the federal government to regulate direct political contributions from corporations.

**Does money actually have a corrupting effect on the political process?** Consider the words of former Gov. Howard Dean, who said in his 1997 inaugural address, **“Money does buy access, and we’re kidding ourselves and Vermonters if we deny it.”**

Some states, such as Connecticut, have endured terrible corruption scandals. One scandal there led to their governor, John Rowland, serving two prison terms on various corruption charges. It also led to the state’s adoption of a public financing program for elections and a ban on corporate contributions.

Connecticut also limits the number of PACs that a corporation can establish, something that could one day be added to this legislation if you thought that it made sense.

We do support the requirement that PACs carry the name of their corporate sponsor, if they have one. This is a step toward transparency that would help to address the problem of money flowing to PACs rather than direct contributions to candidates.

As I said earlier, when we created a PAC, we named it “VPIRG Votes” and in this respect it serves as a model of what the transparency requirement would mandate. We did this voluntarily because we think it makes sense for people to know if a political committee is associated with an existing corporate entity.

VPIRG believes that this would also be a good time to look at how we can improve Vermont’s system of public financing. We have had a system of public financing in place for certain statewide offices for more than 20 years now, but it is outdated and rarely used.

We support an update to our approach to public financing and the creation of incentives for small dollar contributions. We could begin with a study of the issue. This approach was also part of legislation that has passed the Senate before.

The goals of a study would be to identify ways to: 1) increase voter engagement and participation, 2) encourage candidates to court small dollar contributions from constituents in their district, 3) provide the means for more voters to donate to their preferred candidates, and 4) have high levels of public satisfaction.

We believe that it would make sense to combine that study of public financing, including the Democracy Dollars concept used in Seattle, with the limitations on corporate giving. We would be happy to provide further testimony or specific language on this if you’d like.

Finally, in terms of possible additions to H.429, we do support the concept of adding enforcement penalties for the late filing or failure to file candidate disclosure forms. I believe Christina Sivret of the State Ethics Commission has provided some language on this topic already.

Now, with respect to the bill (H.429) as passed by the House, I will say that we support the provisions in Sections 6-8 allowing for the voluntary filing and collection of candidates' demographic information. This is important so Vermont can better track how we're doing as a state when it comes to having people in office who provide a fair representation of the state as a whole. We believe that it's valuable to have various perspectives taking part in shaping local and state policies and priorities. Collecting this data will allow the state, individuals, organizations, and candidates to assess where we are and what improvements might be made. The fact that the data collection is voluntary should remove concerns about privacy.

We also support the careful approach to electronic ballot returns in Section 10. Here, we are admittedly trying to thread the needle between doing all we reasonably can to encourage and facilitate voting for people who face specific challenges when voting, and protecting the integrity of the election process. We have heard the compelling interests of the disability rights community who want better processes to allow for full and independent participation in voting. Electronic returns could be helpful for them as it could be for members of the military serving abroad.

We know that Vermont's Director of Elections has investigated this issue and has confidence in the integrity of the system. We also know there are highly reputable organizations you will hear from who have concerns about this approach. We are supportive of a limited use of electronic ballot returns, but would not support opening this process up further at this time.

There is one section of H.429 that VPIRG opposes as written. That is Section 3, related to campaign finance limits for statewide candidates. I want to note that this section is much improved from its initial form, but we believe it remains unnecessary.

Section 3 would allow statewide candidates to give up to \$60,000 to political parties. Currently, candidates are treated the same as other individuals and limited to giving no more than \$10,000 to political parties. We believe that \$10,000 is a substantial amount of money allowing for a substantial amount of influence over a party.

If we allow candidates to at a much higher level, it could become a loophole by which very wealthy individuals declare they are running for statewide office and then funnel very large contributions to a party. Even if the candidate uses contributions they have received from donors to make a large contribution to a party, that still gives that individual tremendous influence over the actions and decisions of the party. Simply put, we have not found the arguments in favor of this new category of donor to be compelling.

We have not taken a strong position on other provisions in H.429. We would be happy to provide further testimony on those provisions or other aspects of the bill at another time if that is useful. Once again, thank you for the opportunity to testify today.