

Testimony of Sharon Toborg before the Senate Government Operations Committee
on H.474 – An act relating to miscellaneous changes to election law
April 11, 2025

Thank you for the opportunity to testify on H.474. By way of background, I have been treasurer of political committees in Vermont for nearly 30 years, including for the Vermont Right to Life Political Committee, the Vermont Right to Life Fund for Independent Political Expenditures, and Vermonters for Good Government Public Question Committee. In addition, I provided testimony in *Randall v. Sorrell*, a case decided by the U.S. Supreme Court in 2006 that overturned numerous Vermont campaign finance laws, as well as *Vermont Right to Life Fund for Independent Political Expenditures v. Sorrell*, the federal district court case that established that Vermont's contribution limits to political action committees that only make independent expenditures was unconstitutional. Over the years, I have also advised numerous candidates for legislative and local office as to Vermont's campaign finance laws and how to meet their reporting obligations.

Clear, easily understood, and equitably applied campaign finance laws enable individuals to confidently and fairly participate in the political process as candidates and advocates, and not be dissuaded from participating by the fear of penalties for violations of the law.

Concerningly, H.474 contains several provisions that would complicate campaign finance law and would create confusion if enacted. It also misses opportunities to clarify certain aspects of current law to insure better understanding of requirements and reporting of information.

Let's start with Section 15 of the bill, and the elimination of the stand-alone definition of "independent-expenditure only political committee" and the creation of a definition of "public question committee."

Public question and independent expenditures are two distinct things. Combining both concepts in one definition is nonsensical. A public question is, "an issue that is before the voters for a binding decision." These are things like school budgets, charter changes, or constitutional amendments. They have nothing to do with the election or defeat of candidates for office. Independent expenditures, on the other hand deal specifically with advocating for the election or defeat of candidates. Furthermore, the proposed definition of public question campaign completely ignores the fact that there are political committees that make both independent expenditures as well as make contributions to candidates. The proposed definition does not account for this reality.

Rep. Chea Waters Evans was asked by this Committee about the reasoning behind the creation of this definition. She indicated that changing the language would require additional disclosure of the name of the treasurer for "that kind of campaign." However, that is just incorrect. This new definition would have zero impact on the circumstances under which a campaign treasurer's name must be disclosed.

It is important to keep a stand-alone definition of “independent expenditure only political committee,” as such committees are not subject to contribution limits. That is the salient point. With the exception of contribution limits, independent expenditure only political committees are subject to all the same reporting and disclosure requirements as any other PAC.

I strongly urge this Committee to correct these problems by:

- **restoring a definition of “Independent expenditure only political committee (page 12)**
- **eliminating the definition of “Public question campaign” (page 14)**
- **reverting back to “independent expenditure only political committee” instead of changing to “public question campaign” (pages 13 and 14)**

How should “independent expenditure only political committee” be defined? The current definition states:

“Independent expenditure-only political committee” means a political committee that conducts its activities entirely independent of candidates; does not give contributions to candidates, political committees, or political parties; does not make related expenditures; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures.

However, the language of the statute is not being enforced. According to the Secretary of State’s office, “So long as they avoid coordinating their expenditures with candidates for election,” a political committee can claim independent expenditure only status, even if it conducts activities in conjunction with candidates, or is closely related to a political committee that make contributions to candidates. The definition should be changed to reflects that reality. Might I suggest the following:

“Independent expenditure-only political committee” means a political committee that only makes independent expenditures as defined by 52 U.S.C. § 30101

It should also be put explicitly into statute that independent expenditure only political committees are not subject to contribution limits, as that is currently not clear unless one is well acquainted with legislative history. 17 V. S. A. § 2942 should be amended to read:

§ 2942. Exceptions

The contribution limitations established by this subchapter shall not apply to contributions to a political committee made for the purpose of advocating a position

on a public question, including a constitutional amendment, nor to an independent expenditure only political committee.

Next, let's examine the implications of the changes to the definition of "political committee" on page 13 of the bill. Under this proposed language, any donor who makes the maximum contribution to a candidate for the legislature would meet the definition of a PAC. Individuals whose donations to candidates or PACs aggregate to \$1000 or more would be classified as political committees and obligated to file campaign finance reports. Is that what you intend? Not only would it be unconstitutional, it would represent an overwhelming increase in the number of people required to file disclosures. During the 2023-2024 campaign cycle, there were almost 1,700 contributions of \$1000 or more. These donations are already reported by the recipients of the contributions; making them reportable by the donors as well serves no purpose other than to discourage people from donating.

This problem can be resolved by rejecting the proposed change from "and" to "or" on page 13 of the bill, and having the definition continue to require that, to be a political committee, one must accept contributions of \$1000 or more **AND** make expenditures of \$1000 or more.

Regarding 17 V.S.A. §2970. This section should not be repealed. However, it should be amended to avoid the confusion that allowed certain political committees to hide the names of their donors during the 2022 election cycle.

A political committee that raises and spends \$1000 or more to advocate a position on a public question is required to follow the PAC filing schedule, and disclose both donations and expenditures. In 2022 there was at least one organization that raised and spent \$1000 or more advocating a position on a public question that did not file as a PAC nor disclose its donors. A campaign finance complaint was filed, but the Attorney General's office indicated that, due to ambiguity in the law disclosure of donors would not be required. The ambiguity can be eliminated by amending §2970 as follows:

§ 2970. Campaign reports; other entities; public questions

(a) ~~Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, A single source~~ that makes expenditures of \$1,000.00 or more during the election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days before, 10 days before, and two weeks after the election with the Secretary of State.

(b) As used in this section, "election cycle" means:

(1) in the case of a public question in a general or local election, the period that begins 38 days after the general or local election prior to the one in which the public question is posed and ends 38 days after the general or local election in which the public question is posed; or

(2) in the case of a public question in a special election, the period that begins on the date the special election for the public question was ordered and ends 38 days after that special election.

This bill as it stands right now has some poorly crafted provisions that absolutely need correcting, and I hope the proposals I've offered will help you do that.