

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

April 19, 2022

Members of the Finance, Ways & Means Subcommittee

RE: Senate Bill 1005/House Bill 1201: Campaigns and Campaign Finance

Dear Chairman Hicks and Members of the Committee:

On behalf of the National Rifle Association (NRA) and its hundreds of thousands of members in Tennessee, I write to express our strong opposition to Senate Bill 1005 (SB 1005) and House Bill 1201 (HB 1201). To be clear, we oppose this legislation as passed in the Senate and with today's proposed amendment #017654.

SB 1005/HB 1201 is akin to efforts by states like California and New York to compel 501(c)(4)s to turn over their private donor information. Disclosure of this type of information potentially can subject donors to unwarranted harassment.

If this legislation is enacted in this form (even with the proposed amendment), 501(c)(4)s will have a difficult time anticipating what agencies and courts will interpret it to mean.

The amended legislation provides that if 501(c)(4)s make qualifying expenditures, they must, "report expenditures, in accordance with § 2-10-105(c)(1) and (h)," and appoint a treasurer (something normally only required of political committees). As the law stands now, reports in accordance with § 2-10-105(c)(1) include disclosure of both expenditures and contributions. Even with the amendment, there is a danger a court could use the requirement to "report...in accordance with -105(c)(1)" to read a donor disclosure requirement into the amendment.

Further, the amended language also requires groups to "report expenditures, in accordance with [-105(h)]." Nothing in § 2-10-105(h) has anything to do with the reporting of expenditures. This language is unclear. This seems to open the door even wider for a court to read a donor disclosure requirement into the bill.

For purposes of Chapter 10, the definition of an expenditure is spending, "for the purpose of influencing a measure or the nomination for election or election of any person to public office..." Tenn. Code Ann. § 2-10-102(6)(A). Spending that would trigger the new requirements of this bill is not limited to spending for the purpose of influencing an election. Spending having nothing to do with elections, including but not limited to grassroots lobbying communications, could trigger the obligations to report and appoint a treasurer. This creates the very real prospect that groups like NRA could spend \$5,000 on a legislative communication or the like, incur the obligation to file reports and appoint a treasurer, and yet have no reportable "expenditures" under the relevant definition.

It is also unclear over what period of time the qualifying \$5,000 must be spent in order to trigger the obligations in the bill. Is it \$5,000 in a quarter? In a calendar year? Per election (primary, general, special, runoff, etc.)? Per election cycle? Or would a group have to keep track of qualifying spending for an indefinite period of years, and start filing reports once the aggregate spending reaches the threshold?

Finally, it is unclear how far into the future the obligation to report, and to maintain a treasurer registration, extends. Nothing in the bill seems to specify when the obligation to keep filing reports ends.

In summary, the bill (even with the amendments) fails to answer some of the most basic questions that it raises. If it is enacted, this legislation will be a mess for the Registry of Election Finance, the courts, and the regulated community, including NRA and countless other advocacy groups. Its final effects could be significantly different than what was intended.

For the foregoing reasons, the NRA respectfully opposes Senate Bill 1005/HB 1201.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Herriman", with a stylized flourish at the end.

Matt Herriman
Tennessee State Director
NRA-ILA