Bill as Introduced

SB 303- AS AMENDED BY THE SENATE

3/9/00 3615s

2000 SESSION

00-2713
03/01

SENATE BILL ***303***

AN ACT relative to campaign contributions by business organizations.

SPONSORS: Sen. Below, Dist 5; Sen. Russman, Dist 19; Sen. Trombly, Dist 7

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill eliminates the prohibition on political contributions by business organizations which have established certain segregated accounts for voluntary contributions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 303- AS AMENDED BY THE SENATE

3/9/00 3615s

00-2713
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to campaign contributions by business organizations.

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

1 New Paragraph; Definition; "Segregated Accounts." Amend RSA 664:2 by inserting after paragraph XVII the following new paragraph:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's employees, officers, shareholders, directors, partners, or members for political purposes.

2 Prohibited Political Organizations; Business Organizations. RSA 664:4, I is repealed and reenacted to read as follows:

I. By any business organization, officer, director, executive, agent, partner or employee acting in behalf of such business organization. This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee as defined in RSA 664:2 that operates independently of the business organization to be used for making political contributions and expenditures if the fund consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner or member of the business organization. The provisions of this section shall not apply to sole proprietorships.

3 Repeal. RSA 664:4, II, relative to prohibited political contributions by partnerships, is repealed.

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

Amendments

Rep. Reeves, Hills. 37
April 24, 2000
2000-4213h
03/09

Amendment to SB 303

Amend the title of the bill by replacing it with the following:

AN ACT relative to campaign finance reporting requirements and permissible campaign contributions by business organizations.

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Political Expenditures and Contributions; Definitions; Segregated Accounts; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's employees, officers, shareholders, directors, partners, or members for political purposes.

XIX. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-4 to read as 5-7, respectively:

2 Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity [~~expressly~~] advocating the election or defeat of a clearly identified candidate which are ***not*** made [~~without cooperation or consultation~~] ***in conjunction or coordination*** with any candidate, or any authorized committee or agent of such candidate, and which are not made in [~~concert~~] ***coordination*** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

3 Elections; Political Expenditures and Contributions; Reports; Reporting by Political

Committee; Reporting by Candidates. RSA 664:6-7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate $500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts of contributions and expenditures made since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statement are filed and itemized all receipts of contributions and expenditures made since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which is received after the statement under this paragraph is filed and prior to the day of primary election.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements if such statements are filed, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday on week after the primary election; the Wednesdays 4 weeks, 2

weeks, and immediately preceding the general election; and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which are received after the statement under this paragraph is filed and prior to the day of the general election.

V. Any political committee whose receipt of contributions or expenditures in the aggregate do not exceed $500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed $500, the committee shall file a statement at the next reporting deadline.

VI. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee, which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate, may choose, at the time of registering under RSA 663:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed $500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, I-VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, clerks, assistant clerks, and sergeants-at-arms of the house and senate shall

report contributions and expenditures exceeding $500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

4 New Sections: Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b.

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding $25 shall include disclosure information. The disclosure information shall include the name; address; employer, business organization, or primary source of income; principal place of business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed $100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII, shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

2000-4213h

AMENDED ANALYSIS

This bill defines segregated accounts and coordinated expenditures and changes the definition of independent expenditure. This bill describes the reporting requirements for political committees and candidates and defines the content of mandatory campaign finance disclosure reports. This bill requires the secretary of state to maintain an electronic database of certain finance disclosure records. This bill also eliminates the prohibition on political contributions by business organizations which have established certain segregated accounts for voluntary contributions.

Rep. Clegg, Hills. 23
April 24, 2000
2000-4216h
03/09

Amendment to SB 303

Amend the title of the bill by replacing it with the following:

AN ACT relative to campaign finance reporting requirements, availability of voter checklists on computer disks, and permissible campaign contributions by business organizations.

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Political Expenditures and Contributions; Definitions; Segregated Accounts; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's employees, officers, shareholders, directors, partners, or members for political purposes.

XIX. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-4 to read as 6-8, respectively:

2 Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity [~~expressly~~] advocating the election or defeat of a clearly identified candidate which are ***not*** made [~~without cooperation or consultation~~] ***in conjunction or coordination*** with any candidate, or any authorized committee or agent of such candidate, and which are not made in [~~concert~~] ***coordination*** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

3 Elections; Political Expenditures and Contributions; Reports; Reporting by Political

Committee; Reporting by Candidates. RSA 664:6-7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate $500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts of contributions and expenditures made since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statement are filed and itemized all receipts of contributions and expenditures made since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which is received after the statement under this paragraph is filed and prior to the day of primary election.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements if such statements are filed, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday on week after the primary election; the Wednesdays 4 weeks, 2

weeks, and immediately preceding the general election; and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which are received after the statement under this paragraph is filed and prior to the day of the general election.

V. Any political committee whose receipt of contributions or expenditures in the aggregate do not exceed $500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed $500, the committee shall file a statement at the next reporting deadline.

VI. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee, which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate, may choose, at the time of registering under RSA 663:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed $500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, I-VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, clerks, assistant clerks, and sergeants-at-arms of the house and senate shall

report contributions and expenditures exceeding $500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

4 New Sections: Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b.

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding $25 shall include disclosure information. The disclosure information shall include the name; address; employer, business organization, or primary source of income; principal place of business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed $100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII, shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

5 Voters and Checklists, Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

I. The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors shall furnish one or more copies of the most recent checklist to any person requesting

such copies. If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall b furnished copies in any of those forms according to his preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist, except that in no event shall the fee for paper copies of any single town or ward checklist be less than $5 nor more than $25 per checklist. [~~The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it.~~] The fee shall be for the use of the town or city.

II. If a town or city maintains a voter checklist on computer files, a person may request a copy of such files on computer disk or tape. For purposes of this paragraph, the checklist shall include all registered voters in a town or city. The fee charged for copies of the checklist on computer disk or tape shall not be less than $5 nor more than $25.

Amend the bill by replacing section 8 with the following:

8 Effective Date.

I. Section 5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

2000-4216h

AMENDED ANALYSIS

This bill defines segregated accounts and coordinated expenditures and changes the definition of independent expenditure. This bill describes the reporting requirements for political committees and candidates and defines the content of mandatory campaign finance disclosure reports. This bill requires the secretary of state to maintain an electronic database of certain finance disclosure records. This bill also eliminates the prohibition on political contributions by business organizations which have established certain segregated accounts for voluntary contributions. This bill also addresses the availability and cost of obtaining copies of voter checklists on computer disks.

Rep. Clegg, Hills. 23
April 25, 2000
2000-4233h
03/01

Amendment to SB 303

Amend the title of the bill by replacing it with the following:

AN ACT relative to campaign finance reporting requirements, availability of voter checklists on computer disks, and permissible campaign contributions by business organizations.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Political Expenditures and Contributions; Definitions; Segregated Accounts; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's, labor union's, or group of labor unions' employees, officers, shareholders, directors, partners, or members for political purposes.

XIX. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

2 Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity [~~expressly~~] advocating the election or defeat of a clearly identified candidate which are ***not*** made [~~without cooperation or consultation~~] ***in conjunction or coordination*** with any candidate, or any authorized committee or agent of such candidate, and which are not made in [~~concert~~] ***coordination*** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

3 Elections; Political Expenditures and Contributions; Reports; Reporting by Political Committee; Reporting by Candidates. RSA 664:6-7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general

operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate $500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts of contributions and expenditures made since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statement are filed and itemized all receipts of contributions and expenditures made since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which is received after the statement under this paragraph is filed and prior to the day of primary election.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements if such statements are filed, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday on week after the primary election; the Wednesdays 4 weeks, 2 weeks, and immediately preceding the general election; and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which are received after

the statement under this paragraph is filed and prior to the day of the general election.

V. Any political committee whose receipt of contributions or expenditures in the aggregate do not exceed $500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed $500, the committee shall file a statement at the next reporting deadline.

VI. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee, which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate, may choose, at the time of registering under RSA 663:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed $500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, I-VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, clerks, assistant clerks, and sergeants-at-arms of the house and senate shall report contributions and expenditures exceeding $500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

4 New Sections: Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b.

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding $25 shall include disclosure information. The disclosure information shall include the name; address; employer, business organization, or primary source of income; principal place of business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed $100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII, shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

5 Voters and Checklists, Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

I. The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors shall furnish one or more copies of the most recent checklist to any person requesting such copies. If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall b furnished copies in any of those forms according to his preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist,

except that in no event shall the fee for paper copies of any single town or [~~ward~~] ***city*** checklist be less than $5 nor more than $25 per checklist. [~~The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it.~~] The fee shall be for the use of the town or city.

II. If a town or city maintains a voter checklist on computer files, a person may request a copy of such files on computer disk or tape. For purposes of this paragraph, the checklist shall include all registered voters in a town or city. The fee charged for copies of the checklist on computer disk or tape shall not be less than $5 nor more than $25.

6 Prohibited Political Organizations; Business Organizations. RSA 664:4, I is repealed and reenacted to read as follows:

I. By any business organization, officer, director, executive, agent, partner or employee acting in behalf of such business organization. This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee as defined in RSA 664:2 that operates independently of the business organization to be used for making political contributions and expenditures if the fund consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner or member of the business organization. The provisions of this section shall not apply to sole proprietorships.

7 Political Expenditures and Contributions; Prohibited Political Contributions; Segregated Account Exception. Amend RSA 664:4, III to read as follows:

III. By any labor union or group of labor unions, or by any officer, director, executive, agent or employee acting in behalf of such union or group of unions; or by any organization representing or affiliated with any such union or group of unions, or by any officer, director, executive, agent or employee acting in behalf of such organization. ***This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee, as defined in RSA 664:2, V, that operates independently of the labor union to be used for making political contributions and expenditures if the fund consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner or member of the labor union.***

8 Repeal. RSA 664:4, II, relative to prohibited political contributions by partnerships, is repealed.

9 Effective Date. This act shall take effect upon its passage.

2000-4233h

AMENDED ANALYSIS

This bill defines segregated accounts and coordinated expenditures and changes the definition of independent expenditure. This bill describes the reporting requirements for political committees and candidates and defines the content of mandatory campaign finance disclosure reports. This bill requires the secretary of state to maintain an electronic database of certain finance disclosure records. This bill eliminates the prohibition on political contributions by business organizations which have established certain segregated accounts for voluntary contributions. This bill also addresses the availability and cost of obtaining copies of voter checklists on computer disks.

Rep. Clegg, Hills. 23
April 27, 2000
2000-4269h
03/09

Amendment to SB 303

Amend the title of the bill by replacing it with the following:

AN ACT relative to campaign finance reporting requirements, availability of voter checklists on computer disks, and permissible campaign contributions by business organizations.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Political Expenditures and Contributions; Definitions; Segregated Accounts; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's, labor union's, or group of labor unions' employees, officers, shareholders, directors, partners, or members for political purposes.

XIX. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

2 Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity [~~expressly~~] advocating the election or defeat of a clearly identified candidate which are ***not*** made [~~without cooperation or consultation~~] ***in conjunction or coordination*** with any candidate, or any authorized committee or agent of such candidate, and which are not made in [~~concert~~] ***coordination*** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

3 Elections; Political Expenditures and Contributions; Reports; Reporting by Political Committee; Reporting by Candidates. RSA 664:6-7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general

operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate $500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the period under paragraph I if a statement is filed and shall itemize all receipts of contributions and expenditures made since the cutoff of that statement up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements under paragraphs I and II if such statement are filed and itemized all receipts of contributions and expenditures made since the cutoff of the statement under paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which is received after the statement under this paragraph is filed and prior to the day of primary election.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements if such statements are filed, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday one week after the primary election; the Wednesdays 4 weeks, 2 weeks, and immediately preceding the general election; and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution or contributions exceeding $500 in the aggregate which are received after

the statement under this paragraph is filed and prior to the day of the general election.

V. Any political committee whose receipt of contributions or expenditures in the aggregate do not exceed $500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed $500, the committee shall file a statement at the next reporting deadline.

VI. Any political committee which has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee, which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate, may choose, at the time of registering under RSA 663:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed $500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, I-VI, excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, clerks, assistant clerks, and sergeants-at-arms of the house and senate shall report contributions and expenditures exceeding $500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

4 New Sections: Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b.

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding $25 shall include disclosure information. The disclosure information shall include the name; address; employer, business organization, or primary source of income; principal place of business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed $100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII, shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

5 Voters and Checklists, Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

I. The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors shall furnish one or more copies of the most recent checklist to any person requesting such copies. If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall b furnished copies in any of those forms according to his preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist,

except that in no event shall the fee for paper copies of any single town or [~~ward~~] ***city*** checklist be less than $5 nor more than $25 per checklist. [~~The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it.~~] The fee shall be for the use of the town or city.

II. If a town or city maintains a voter checklist on computer files, a person may request a copy of such files on computer disk or tape. For purposes of this paragraph, the checklist shall include all registered voters in a town or city. The fee charged for copies of the checklist on computer disk or tape shall not be less than $5 nor more than $25.

6 Prohibited Political Organizations; Business Organizations. RSA 664:4, I is repealed and reenacted to read as follows:

I. By any business organization, officer, director, executive, agent, partner or employee acting in behalf of such business organization. This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee as defined in RSA 664:2, V that operates independently of the business organization to be used for making political contributions and expenditures if the fund consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner or member of the business organization. The provisions of this section shall not apply to sole proprietorships.

7 Political Expenditures and Contributions; Prohibited Political Contributions; Segregated Account Exception. Amend RSA 664:4, III to read as follows:

III. By any labor union or group of labor unions, or by any officer, director, executive, agent or employee acting in behalf of such union or group of unions; or by any organization representing or affiliated with any such union or group of unions, or by any officer, director, executive, agent or employee acting in behalf of such organization. ***This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee, as defined in RSA 664:2, V, that operates independently of the labor union to be used for making political contributions and expenditures if the fund consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner or member of the labor union.***

8 Repeal. RSA 664:4, II, relative to prohibited political contributions by partnerships, is repealed.

9 Effective Date. This act shall take effect upon its passage.

2000-4269h

AMENDED ANALYSIS

This bill defines segregated accounts and coordinated expenditures and changes the definition of independent expenditure. This bill describes the reporting requirements for political committees and candidates and defines the content of mandatory campaign finance disclosure reports. This bill requires the secretary of state to maintain an electronic database of certain finance disclosure records. This bill eliminates the prohibition on political contributions by business organizations which have established certain segregated accounts for voluntary contributions. This bill also addresses the availability and cost of obtaining copies of voter checklists on computer disks.

Rep. Clegg, Hills. 23
Rep. Letourneau, Rock. 13
Rep. Reeves, Hills. 37
Rep. Buckley, Hills. 44
Rep. Clemons, Hills. 31
Rep. Rollo, Straf. 10
May 5, 2000
2000-4383h
03/04

Amendment to SB 303

Amend the title of the bill by replacing it with the following:

AN ACT relative to campaign finance reporting requirements, availability of voter checklists on computer disks, and permissible campaign contributions by business organizations.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Political Expenditures and Contributions; Definitions; Segregated Accounts; Coordinated Expenditure. Amend RSA 664:2 by inserting after paragraph XVII the following new paragraphs:

XVIII. "Segregated accounts" mean accounts funded by contributions solicited from a business organization's, labor union's, or group of labor unions' employees, officers, shareholders, directors, partners, or members for political purposes.

XIX. "Coordinated expenditure" means an expenditure by a political party, a political committee of a political party, or other entity, on behalf of a candidate or candidate's committee in a state primary or general election with the consent of the candidate. Any expenditure that is not an independent expenditure or direct expenditure shall be considered to be a coordinated expenditure.

2 Political Expenditures and Contributions; Definitions; Independent Expenditures. Amend RSA 664:2, XI to read as follows:

XI. "Independent expenditures" means expenditures by a person, political committee, or other entity [~~expressly~~] advocating the election or defeat of a clearly identified candidate which are ***not*** made [~~without cooperation or consultation~~] ***in conjunction or coordination*** with any candidate, or any authorized committee or agent of such candidate, and which are not made in [~~concert~~] ***coordination*** with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. As used in this paragraph, "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

3 Elections; Political Expenditures and Contributions; Reports; Reporting by Political

Committee; Reporting by Candidates. RSA 664:6 and 664:7 are repealed and reenacted to read as follows:

664:6 Reporting by Political Committee.

I. Any political committee whose receipts of contributions or whose expenditures, including, without limitation, coordinated and independent expenditures on behalf of candidates and general operating expenditures of the committee, in support of or in opposition to a candidate, measure, or political party, exceed in the aggregate $500, shall file with the secretary of state an itemized statement, in accordance with the provisions of RSA 664:7-b. The statement shall be signed by the chairperson and treasurer of the political committee and shall list each contribution, in alphabetical order by the last name of the contributor, with the amount of the contribution, the date it was received, all of the information as is set forth in RSA 664:7-b, and the aggregate total for each election for each contributor. The statement shall be filed not later than the Wednesday 12 weeks immediately preceding a primary election, before 5 o'clock in the afternoon, and shall cover the period from the day of the committee registration up to and including the Monday before the statement is due. The statement shall contain the date of each expenditure, the name and address of the person or entity to whom each expenditure was made, the name of the candidate in whose behalf or against whom each expenditure was made, the amount of each expenditure, the purpose of each expenditure, and the aggregate amount of all previous expenditures.

II. An itemized statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday 3 weeks immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statement filed pursuant to paragraph I, if any, and shall itemize all receipts of contributions and expenditures made since the cutoff of the statement filed pursuant to paragraph I up until the Monday preceding the filing of the statement under this paragraph.

III. A statement in the same form as in paragraph I shall be filed with the secretary of state not later than the Wednesday immediately preceding a primary election, before 5 o'clock in the afternoon. The statement shall summarize the statements filed pursuant to paragraphs I and II, if any, and itemize all receipts of contributions and expenditures made since the cutoff of the statement filed pursuant to paragraph II up until the Monday preceding the filing of the statement under this paragraph. In addition to the reporting requirements contained in this section, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution, contributions or expenditures exceeding $500 in the aggregate that are received after the statement under this paragraph is filed and prior to the day of primary election. No more than one report to the secretary of state shall be required within a 24 hour period.

IV. An itemized statement in the same form as in paragraph I, summarizing the previous statements, if any, and itemizing all receipts of contributions and expenditures made since the cutoff of the previous report up until the Monday preceding the filing of the statement, shall be filed with

the secretary of state before 5 o'clock in the afternoon on each of the following days: the Wednesday one week after the primary election; the Wednesdays 4 weeks, 2 weeks, and immediately preceding the general election; and the Wednesday 2 weeks after the general election. In addition to the reporting requirements contained in this section, during the last week before the general election, the secretary of state shall be notified by the fiscal agent within 24 hours of any contribution, contributions, or expenditures exceeding $500 in the aggregate that are received after the statement under this paragraph is filed and prior to the day of the general election. No more than one report to the secretary of state shall be required within a 24 hour period.

V. Any political committee whose receipt of contributions or expenditures in the aggregate do not exceed $500 for a reporting period need not file. However, when a committee's accumulated receipts of contributions or expenditures for an election in the aggregate exceed $500, the committee shall file a statement at the next reporting deadline.

VI. Any political committee that has any outstanding debt, obligation, or surplus following the election shall file reports at least once every 6 months thereafter in the same form as in paragraph I until the obligation or indebtedness is entirely satisfied or surplus deleted, at which time a final report shall be filed.

VII. Copies of the statements required by paragraphs I through VI of the state committee of a political party shall be filed with the secretary of state in sufficient numbers so as to provide a copy for the state committee of each party on the ballot, which they may obtain by application to the secretary of state.

VIII. Any national political party committee of a party as defined in RSA 652:11 may make contributions or expenditures on behalf of state candidates without complying with the requirements of paragraphs I through VI, provided that the total contribution or expenditure made in behalf of a candidate or political committee in this state whether directly or indirectly does not exceed the limit for personal contributions in RSA 664:4.

IX. The provisions of this paragraph shall apply only to a political committee for an individual candidate who is seeking a federal office whose holder is chosen by the voters of this state only. Such a committee, which is required by federal law to file with the federal government reports relative to receipts of contributions and expenditures in support of such one candidate, may choose, at the time of registering under RSA 663:3, I, to file with the secretary of state copies of reports made to the federal government in accordance with the timetable established by federal laws for such reports in lieu of complying with the other reporting requirements of this section.

664:7 Reporting by Candidates.

I. Each candidate at the primary or general election for governor, councilor, state senator, representative to general court, or county officer, who receives contributions or makes expenditures in the aggregate that exceed $500, shall file statements before and after an election in like manner and detail as prescribed in RSA 664:6, I-VI, excepting, however, the expenditures of political

committees of the party to which the candidate belongs in elections other than primaries.

II. Candidates for the offices of speaker of the house, president of the senate, secretary of state, state treasurer, clerks, assistant clerks, and sergeants-at-arms of the house and senate shall report contributions and expenditures exceeding $500 in the aggregate in like manner and detail as prescribed in RSA 664:6, I, except that the filing of statements for these offices shall be limited to the Wednesdays one week and 3 weeks after the general election and the Wednesday one week after the election for these offices.

III. The candidate shall report all contributions received and expenditures made for the purpose of exploring or promoting such candidacy in the first report filed.

4 New Sections: Elections; Political Expenditures and Contributions; Reports; Form of Contributions; Content of Disclosure Reports; Campaign Finance Disclosure Record. Amend RSA 664 by inserting after section 7 the following new sections:

664:7-a Form of Contributions. No contribution may be accepted unless accompanied by the disclosure information set forth in RSA 664:7-b.

664:7-b Content of Disclosure Reports. All contributions reported pursuant to RSA 664:6 or RSA 664:7 shall be listed on forms or other means prescribed by the secretary of state. The listing for each contribution exceeding $25 shall include disclosure information. The disclosure information shall include the name; home or post office address; employer, business organization, or primary source of income; post office address of employer or business; and occupation of the contributor. Contributions shall be categorized as in-state or out-of-state. A summary of the contribution totals by category shall be included with each scheduled report. The report shall also list the aggregate total received from each contributor whose total contributions exceed $100 and the contributor's disclosure information. All expenditures, as defined in RSA 664:2, IX and XVII, shall be reported in similar detail on forms or other means prescribed by the secretary of state.

664:7-c Campaign Finance Disclosure Record.

I. Disclosure reports required under RSA 664:6 and RSA 664:7 of candidates for governor and any disclosure reports filed by candidates for United States senator and representative to Congress may be filed in electronic format. The secretary of state shall enter these reports into an electronic campaign finance disclosure record. The secretary of state shall ensure that these disclosure reports are available through the official internet site of the state of New Hampshire. Such reports shall also be available for paper or electronic copying at a reasonable cost.

II. The secretary of state shall compile and maintain separate cumulative disclosure reports filed under this subdivision by political committees, political committees of political parties, and candidates for executive councilor, state senator, state representative, county office, and the offices referenced in RSA 664:7, II.

5 Voters and Checklists, Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

I. The checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors shall furnish one or more copies of the most recent checklist to any person requesting such copies. If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall be furnished copies in any of those forms according to his ***or her*** preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist, except that in no event shall the fee for paper copies of any single town or [~~ward~~] ***city*** checklist be less than $5 nor more than $25 per checklist. [~~The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it.~~] The fee shall be for the use of the town or city.

II. If a town or city maintains a voter checklist on computer files, a person may request a copy of such files on computer disk or tape. For purposes of this paragraph, the checklist shall include all registered voters in a town or city. The fee charged for copies of the checklist on computer disk or tape shall not be more than $25.

6 Prohibited Political Organizations; Business Organizations. RSA 664:4, I is repealed and reenacted to read as follows:

I. By any business organization, officer, director, executive, agent, partner or employee acting in behalf of such business organization. This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee as defined in RSA 664:2, III that operates independently of the business organization to be used for making political contributions and expenditures if the account consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner, or member of the business organization. The provisions of this section shall not apply to sole proprietorships.

7 Political Expenditures and Contributions; Prohibited Political Contributions; Segregated Account Exception. Amend RSA 664:4, III to read as follows:

III. By any labor union or group of labor unions, or by any officer, director, executive, agent or employee acting in behalf of such union or group of unions; or by any organization representing or affiliated with any such union or group of unions, or by any officer, director, executive, agent or employee acting in behalf of such organization. ***This shall not prohibit the establishment or administration of a separate, segregated account which shall constitute a political committee, as defined in RSA 664:2, III, that operates independently of the labor union to be used for making political contributions and expenditures if the account consists only of voluntary contributions solicited from an individual who is an employee, officer, shareholder, director, partner, or member of the labor union.***

8 Repeal. RSA 664:4, II, relative to prohibited political contributions by partnerships, is repealed.

9 Effective Date. This act shall take effect upon its passage.

Speakers

10:00AM

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 303 Date 4/18/00

Committee Election Law

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one) Pro	Con

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 303 Date 5/2/00 Amendment

Committee Election Law

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con

Hearing Minutes

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON SB303

BILL TITLE: urging the federal government to consider the impacts on New Hampshire and the smaller states of interstate waste legislation.

DATE: April 18, 2000

LOB ROOM: 308 **Time Public Hearing Called to Order:** 10:00am

Time Adjourned: 11:06am

(please circle if present)

Committee Members: Reps. Arndt, Horton, Flanagan, Stritch, Gibbons, Desrosiers, Clegg, Letourneau, F. Davis, Young, M. Nowe, Reeves, Desmarais, J. Clemons, Buckley, G. Brown, Weatherspoon, Konys, D. Cote, Rolfe, Splaine, Rodrigue and M. Ouellette.

Bill Sponsors: Sen. Below, Sen. Russman, Sen. Trombly

TESTIMONY

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

* **Sen. Below** – spoke in support of SB303 which would prohibit political contributions directly from the corporate treasury, but would allow contributions from segregated accounts. Sen. Below reviewed the US District Court decision in Kennedy v. Gardner and answered questions.

Peter Spaulding, Executive Councilor, spoke in support of this legislation, which would re-establish the status quo before the court decision. He also answered questions.

* **Steve Blackledge – NHPRIG** spoke in support of SB303, which passed unanimously in the Senate on a voice vote. He spoke about the role of Gov. Robert P. Bass in 1911, in signing the bill to prohibit corporate contributions. He explained that Judge Steven McAuliffe found fault with the language of the law not the concept of corporate contribution prohibition.

Ellen Dube, Office of the Secretary of State stated that her office strongly supported SB303. She suggested that the committee might like to treat unions the same as corporations in this legislation. She also suggested looking closely at federal law to see if parts should be added to the NH bill. She felt that large contributions could be successfully tracked in NH.

* **Sam Mekrut, Executive Director of the NH Citizens Alliance** spoke in support of SB303.

Anne Campbell, League of Women Voters, spoke in support of SB303, which she felt was a step in campaign finance reform.

Claire Ebel, NHCLU, supported the bill but had some concerns. She felt that some clarifications were needed in language in RSA 664:4 and RSA 664:3. Business organizations need to be called a political action committee (PAC).

Sen. Below spoke a second time and said that Line 10 of the bill clearly states that a segregated account for a business organization will be considered as a PAC. He also answered additional questions.

Respectfully submitted,

Francis W. Davis

Francis W. Davis, Clerk

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON SB303

BILL TITLE: [New Title] relative to campaign contributions by business organizations.

DATE: 4-18-2000

LOB ROOM: 308 Time Public Hearing Called to Order: 10:00 AM

Time Adjourned: 11:06 AM

(please circle if present)

Committee Members: Reps. Arndt, Horton, Flanagan, Stritch, Gibbons, Desrosiers, Young, Clegg, Letourneau, F. Davis, Boriso, M. Nowe, Reeves, J. Clemons, Buckley, G. Brown, Weatherspoon, Konys, D. Cote, Rollo, Splaine, Rodrigue and M. Ouellette.

Bill Sponsors: Sen. Below, Sen. Russman, Sen. Trombly

TESTIMONY

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

* SENATOR BELOW SPOKE IN SUPPORT OF SB303 WHICH WOULD PROHIBIT POLITICAL CONTRIBUTIONS DIRECTLY FROM THE CORPORATE TREASURY, BUT WOULD ALLOW CONTRIBUTIONS FROM SEGREGATED ACCOUNTS. SENATOR BELOW REVIEWED THE U.S. DISTRICT COURT DECISION IN KENNEDY V. GARDNER AND ANSWERED QUESTIONS.

EXECUTIVE COUNCILOR, PETER SPAULDING, SPOKE IN SUPPORT OF THIS LEGISLATION, WHICH WOULD RE-ESTABLISH THE STATUS QUO BEFORE THE COURT DECISION. HE ALSO ANSWERED QUESTIONS.

* STEVE BLACKLEDGE [redacted] (NHPIRG) SPOKE IN SUPPORT OF SB303, WHICH PASSED UNANIMOUSLY IN THE SENATE ON A VOICE VOTE. HE SPOKE ABOUT THE ROLE OF GOVERNOR ROBERT P. BASS IN 1911, IN SIGNING THE BILL TO PROHIBIT CORPORATE CONTRIBUTIONS. HE EXPLAINED THAT JUDGE McAULIFFE FOUND FAULT WITH THE LANGUAGE OF THE LAW NOT THE CONCEPT OF CORPORATE CONTRIBUTION PROHIBITION.

ELLEN DUBE, OFFICE OF SEC. OF STATE, STATED THAT HER OFFICE STRONGLY SUPPORTED SB 303. SHE SUGGESTED THAT THE COMMITTEE MIGHT LIKE TO TREAT UNIONS THE SAME AS CORPORATIONS IN THIS LEGISLATION. SHE ALSO SUGGESTED LOOKING CLOSELY AT FEDERAL LAW TO SEE IF ~~PARTS~~ PARTS [redacted] SHOULD BE ADDED TO THE N.H. BILL. SHE FELT THAT LARGE CONTRIBUTIONS COULD BE SUCCESSFULLY TRACKED IN N.H.

* SAM MEKRUT, EXECUTIVE DIRECTOR OF NH CITIZENS ALLIANCE SPOKE IN SUPPORT OF SB 303.

ANNE CAMPBELL, LEAGUE OF WOMEN VOTERS, SPOKE IN SUPPORT OF SB 303, WHICH SHE FELT WAS A STEP IN CAMPAIGN FINANCE REFORM.

CLAIRE EBEL, NHCLU, SUPPORTED THE BILL BUT HAD SOME CONCERNS. SHE FELT THAT SOME ~~CHANGES~~ CLARIFICATIONS WERE NEEDED IN LANGUAGE IN RSA 664:4 AND RSA 664:3. BUSINESS ORGANIZATIONS NEED TO BE CALLED A POLITICAL ACTION COMMITTEE.

SENATOR BELOW SPOKE A SECOND TIME AND SAID THAT LINE 10 OF THE BILL CLEARLY STATES THAT A SEGREGATED ACCOUNT FOR A BUSINESS ORGANIZATION WILL BE CONSIDERED AS A POLITICAL COMMITTEE. HE ALSO ANSWERED ADDITIONAL QUESTIONS.

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON SB303 Amendment

BILL TITLE: [New Title] relative to campaign contributions by business organizations.

DATE: May 02, 2000

LOB ROOM: 308 **Time Public Hearing Called to Order:** 10:00am

Time Adjourned: 10:58am

(please circle if present)

Committee Members: Reps. Arndt, Horton, Flanagan, Stritch, Gibbons, Desrosiers, Clegg, Letourneau, F. Davis, Young, M. Nowe, Reeves, Desmarais, J. Clemons, Buckley, G. Brown, Weatherspoon, Konys, D. Cote, Rollo, Splaine, Rodrigue and M. Ouellette.

Bill Sponsors: Sen. Below, Sen. Russman, Sen. Trombly

TESTIMONY

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

Rep Clegg spoke in support of amendment 2000-4233h. This amendment provides for full disclosure. It also would limit the amount that a city could charge for a voter checklist to $25.00. In response to questions, he reported that he had not spoken to the sponsors. The amendment also added a section on labor unions. Questioned were raised about copy machine and postage meters. Volunteers make telephone calls and do not ask for reimbursement. Questions were also raised about meaning of "administration" on Page 5, Line 25.

Sen. Below, sponsor, supported the bill but raised a number of concerns about the changes in this amendment. This amendment changes the disclosure information, including addition of primary source of income. He felt that technical violations could be created by these changes, especially under RSA664:7. He felt that this should have been brought in as a separate bill, not as an amendment to SB303. He was also concerned about the language on 24-hr. disclosure on contributions of more than $500. He also thought that there was a loophole which would allow national parties to funnel contributions through the state parties. He would accept Part 1 of the amendment, with language changes in Page 1, Lines 21-28.

Rep. Lefebvre spoke briefly about election concerns. He was concerned about loopholes as a result of reinterpretations.

Secretary of State, Wm. Gardner, spoke about the need to fix the corporate contribution section, but was concerned about adding the other changes. He also expressed concern about the use of the word "administration" on Page 5, Line 25. He felt that this could open up the contribution process. In response to a question he stated that HB1331 allowed giving directly from the corporate treasury.

Steve Blackledge, NHPIRG, commended the sub-committee for bringing in the legislation on labor union contributions. His group supports the concept of full disclosure. He recommended deleting "or

administration" on Lines 14 and 25 on Page 5 of the amendment. He expressed a willingness to work on the language of the amendment.

Respectfully submitted,

Francis W. Davis

Francis W. Davis, Clerk

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON SB303 AMENDMENT

BILL TITLE: [New Title] relative to campaign contributions by business organizations.

DATE: May 02, 2000

LOB ROOM: 308 **Time Public Hearing Called to Order:** 10:00 AM

Time Adjourned: 10:58 AM

(please circle if present)

Committee Members: Reps. (Arndt) (Horton) (Flanagan) Stritch, (Gibbons) Desrosiers, (Clegg) Letourneau, (F. Davis) (Young) (M. Nowe) Reeves, Desmarais, (J. Clemons) Buckley, (G. Brown) (Weatherspoon) (Konys) (D. Cote) (Rollo) (Splaine) Rodrigue and M. Ouellette.

Bill Sponsors: Sen. Below, Sen. Russman, Sen. Trombly

TESTIMONY

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

REP. CLEGG SPOKE IN SUPPORT OF AMENDMENT 2000-4233h. THIS AMENDMENT PROVIDES FOR FULL DISCLOSURE. IT ALSO WOULD LIMIT THE AMOUNT THAT A CITY COULD CHARGE FOR A VOTER CHECKLIST TO $25.00. IN RESPONSE TO QUESTIONS, HE REPORTED THAT HE HAD NOT SPOKEN TO THE SPONSORS. THE AMENDMENT ALSO ADDED A SECTION ON LABOR UNIONS. QUESTIONS WERE RAISED ABOUT COPY MACHINES AND POSTAGE METERS. VOLUNTEERS MAKE PHONE CALLS AND DONT ASK FOR REIMBURSEMENT. QUESTIONS WERE ALSO RAISED ABOUT MEANING OF "ADMINISTRATION" ON PAGE 5, LINE 25.

SENATOR BELOW SUPPORTED THE BILL, BUT RAISED A NUMBER OF CONCERNS ABOUT THE CHANGES IN THIS AMENDMENT. THIS AMENDMENT CHANGES THE DISCLOSURE INFORMATION, INCLUDING ADDITION OF PRIMARY SOURCE OF INCOME. HE FELT THAT TECHNICAL VIOLATIONS COULD BE CREATED BY THESE CHANGES, ESPECIALLY UNDER RSA 664:7. HE FELT THAT THIS SHOULD HAVE BEEN BROUGHT IN AS A SEPARATE BILL, NOT AS AN AMENDMENT TO SB303. HE WAS ALSO CONCERNED ABOUT THE LANGUAGE ON 24 HOUR DISCLOSURE ON CONTRIBUTIONS OF MORE THAN $500.00. HE ALSO THOUGHT THAT THERE WAS A LOOPHOLE WHICH WOULD ALLOW NATIONAL PARTIES TO FUNNEL CONTRIBUTIONS THROUGH THE STATE PARTIES. HE WOULD ACCEPT PART I OF THE AMENDMENT, WITH LANGUAGE CHANGES IN PAGE 1, LINES 21-28.

REP. LEFEBVRE SPOKE BRIEFLY ABOUT ELECTION CONCERNS. HE WAS CONCERNED ABOUT LOOPHOLES AS A RESULT OF REINTERPRETATIONS.

SEC. OF STATE GARDNER SPOKE ABOUT THE NEED TO FIX THE CORPORATE CONTRIBUTION SECTION, BUT WAS CONCERNED ABOUT ADDING THE OTHER CHANGES. HE ALSO EXPRESSED CONCERN ABOUT THE USE OF THE WORD "ADMINISTRATION" ON PAGE 5, LINE 25. HE FELT THAT THIS COULD OPEN UP THE CONTRIBUTION PROCESS. IN RESPONSE TO A QUESTION HE STATED THAT HB 1331 ALLOWED GIVING DIRECTLY FROM THE CORPORATE TREASURY.

STEVE BLACKLEDGE, NHPIRG, COMMENDED THE SUB-COMMITTEE FOR BRINGING IN THE LEGISLATION ON LABOR UNION CONTRIBUTIONS. HIS GROUP SUPPORTS THE CONCEPT OF FULL DISCLOSURE. HE RECOMMENDED DELETING "OR ADMINISTRATION" ON LINES 14 & 25 OF PAGE 5 OF THE AMENDMENT. HE EXPRESSED A WILLINGNESS TO WORK ON THE LANGUAGE OF THE AMENDMENT.

Sub-Committee Minutes

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON SB303

BILL TITLE: [New Title] relative to campaign contributions by business organizations.

DATE: April 25, 2000

Subcommittee Members: Reps. Letourneau, Clegg, Reeves, Buckley and Rollo

Comments and Recommendations: Rep. Clegg introduced an amendment (4216h) and explained what this amendment was about. This amendment is a duplication of a House Bill that passed the House and Senate back in 1998 and died in Committee of Conference. The exception is a new Section II Line 9 on page 5. Rep. Buckley raised the issue that it may not be clear enough.

Several committee members observed that the word "ward" was still in language and that this needed to be changed to "city". There was a discussion concerning the original bill. The committee Assistant explained that the language is included in the amendment. All committee members were satisfied. The discussion turned to the original bill. We need to add labor unions and/or organized labor.

Rep. Reeves also introduced an amendment (4213h). Chairman Letourneau directed Rep. Clegg to have the amendment redrafted. Motion by Rep. Buckley, seconded by Rep. Clegg to accept the new amendment. No one opposed.

Amendments:

Sponsor: Rep. Clegg	OLS Document #:	2000	4126h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Failed

Seconded by Rep.

Vote:

Amendments:

Sponsor: Rep. Reeves	OLS Document #:	2000	4213h
Sponsor: Rep.	OLS Document #:		

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Failed

Vote:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Robert J. Letourneau

Respectfully submitted,

Rep. Robert J. Letourneau
Rep. Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON SB303

BILL TITLE: **[New Title] relative to campaign contributions by business organizations.**

DATE:

Subcommittee Members: Reps. Letourneau, Clegg, Reeves, Buckley, Kelly

Comments and Recommendations:

Amendments:

Sponsor: Rep. Clegg OLS Document #: 4216h Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____

Respectfully submitted,

Rep. Robert J. Letourneau

Subcommittee Chairman/Clerk

4-25-00

Election Law

Sub-Committee 11:00 AM

Rep Clegg introduced amendment & explained what the ~~amend~~ amend was about. This amendment is an exact duplication of a HB that passed the house & Senate in 98 and died in Comm Conference: the exception ~~was~~ is on new Section II on line 9 page 5. Rep Beckly raised the issue that it may not be clear enough.

The discussion then turned to the ~~ballot~~ issue. We need to add Labor Union + or Organized Labor

Rep moved the bill
2nd Clegg none opposed

11:40

Rep Clegg
Rep Reeves
Rep Rollo
Rep Beckly
Rep Letourneau

Several members observed that the word "word" was still in language that needed to be changed to "city".

There was a discussion concerning the original bill. Committee asst explained that the language is included in the amendment all members were satisfied

HOUSE COMMITTEE ON ELECTION LAW

SUBCOMMITTEE WORK SESSION ON SB303

BILL TITLE: [New Title] relative to campaign contributions by business organizations.

DATE: May 04, 2000

Subcommittee Members: Reps. Letourneau, Clegg, Rollo, Reeves, Buckley

Comments and Recommendations: Chairman Letourneau opened the meeting at 8:40am and asked Rep. Clegg to explain point by point the corrections needed.

Motion by Rep. Clegg, seconded by Rep. Rollo to accept the following changes: Delete Item 2 on Page 1 in its entirety; last paragraph except "expenditures"; Page 2, Item 5, no change; Page 3, VIII, removed bold print language. Meeting adjourned at 9:05am

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Robert J. Letourneau

Rep. Subcommittee Chairman/Clerk

Testimony

U.S. District Court, NH #98-608-M
Kennedy v. Gardner, excerpts from Order dated 12/23/99

Hampshire's statute is properly construed, by inferring discrete limiting provisions, it easily passes constitutional muster.

Defendants' suggestion might represent a workable and effective fix of the statute's inherent deficiencies if this court were free to legislate for New Hampshire, but it is not. That part of New Hampshire's campaign finance law at issue in this case, as drafted by the legislature, is nothing like either the Michigan statute or the federal statute, and it simply cannot survive constitutional scrutiny given its plain language and the Supreme Court's reasonably clear explanation of the extent to which the First Amendment protects corporate political speech.

Discussion

I. Preliminary Matters.

A. Types and Sources of Political Contributions.

Generally, corporate political contributions come from two different sources. One is the corporation's operating or treasury accounts. Money in that type of account is derived from corporate business activities, such as the sale of goods and services or the sale of corporate stock. It is generally

accepted that a corporation's ability to amass such funds reflects its business acumen, but not popular support (or even the support of its shareholders) for its political views. See, e.g., Federal Election Commission v. Mass. Citizens For Life, Inc., 479 U.S. 238, 258 (1986) ("The resources in the treasury of a business corporation, however, are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas.").



The other potential source of corporate political contributions is a "segregated account." Typically, segregated accounts are funded by contributions solicited from corporate officers, directors, employees, and shareholders. These accounts also represent corporate money, but money that does reflect some degree of popular support for the corporation's political goals and ideas.

political speech subject to permissible regulation, (i.e., that the ban only applies by its terms to corporate political contributions made from treasury funds) is untenable. First, defendants' suggested words of limitation are nowhere to be found in the statute. The statute contains no hint at all that corporate political contributions from segregated accounts are permissible. Nor does RSA 664 even mention "segregated accounts" or "segregated funds." And, the phrase "no contribution" - meaning no "payment, gift, subscription, assessment, contract, payment for services, dues, advance, forbearance or loan" - hardly requires an exhaustive search for meaning.

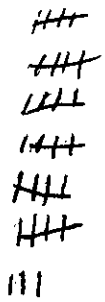
That defendants might agree the statute must, constitutionally, permit corporate political contributions from segregated accounts, does not, of course, make it so. The legislature could well have both meant exactly what it said, and said exactly what it meant. Lewis Carroll's egg notwithstanding, the meaning of words is not so elastic as to accommodate any and all convenient interpretations.[3] The legislature is entitled to

[3] "When I use a word," Humpty Dumpty said, in a rather scornful tone, "it means just what I choose it to mean - neither more nor less."

"The question is," said Alice, "whether you can make

Defendants' reargument does little more than invite this federal court to rewrite New Hampshire's statute to meet First Amendment requirements - a rather inescapable irony given recent local events and times. With respect, however, the court must decline defendants' collective invitation, however well-intentioned, to rewrite RSA 664:4,I.

There is, of course, a simple solution to this simple problem, but it is not found in judicial lawmaking or executive policies of casual enforcement of the State's campaign finance laws. The solution lies with the legislature. If, as defendants seem to believe, New Hampshire's General Court did not mean what it said or did not say what it meant, and, when it banned any corporate political contributions, direct or indirect, it actually intended to permit corporations to make some discrete political contributions to candidates, political committees, and political parties from segregated accounts, then the General Court can easily and effectively amend the statute to reflect its actual (constitutional) intent.





New Hampshire Citizens Alliance

Good morning. My name is Sam Mekrut and I am the executive director of NH Citizens Alliance, an organization with 6,000 members committed to social, economic and political justice. Campaign finance reform has been a central issue for our organization and its members since 1995.

I am here to testify in strong support of SB 303, a bill whose aim is to retain the long-standing ban on corporate contributions to political campaigns. NH banned such contributions nearly a century ago. It wasn't until the U.S. District Court ruled in September 1999 that the NH law's language was flawed (and therefore, unconstitutional) that the issue was revisited. The House responded with HB 1331 - a bill drafted by Representative Buckley and passed by this committee 14-1. Similarly, the Senate responded with SB 303.

Both bills were drafted and submitted to the legislature shortly after the Court's ruling. Since then, you and others have had time to study the language of the original law and to determine the best approach to not only limiting corporate contributions, but to maintaining a level playing field. Organizations, including labor unions that participate actively in elections, cannot contribute directly to political campaigns, but instead are allowed to create Political Action Committees whose contributions can be easily monitored. Whether you agree with PAC contributions is not the question here. The question is whether you believe that corporations should be treated the same as any other organization that chooses to engage in political campaigns.

HB 1331 limits the amount of money corporations could directly contribute to campaigns. But it does not re-create the level playing field intended under the original law. In passing HB 1331, and allowing corporations new avenues of contributing to campaigns that other groups are not afforded, we could open up NH's strong campaign finance laws to new challenges. SB 303, on the other hand, simply re-instates the original language, making it constitutional, and keeping in place the tradition that NH law has upheld since 1911.

SB 303 is in the best interest of NH citizens and in the best interest of democracy. I urge you vote ought to pass.

4 Park Street, Suite 403 s Concord, NH 03301
phone: (603) 225-2097 s fax: (603) 228-3360 s email: nhca@totalnetnh.net

CHAPTER 109.

AN ACT PROHIBITING CAMPAIGN CONTRIBUTIONS BY CORPORATIONS.

SECTION
1. Contributions prohibited.
2. Solicitation from corporation prohibited.
3. Penalty for violation.
4. Takes effect on passage.

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

SECTION 1. No corporation, incorporated under the laws of or doing business in this state and no officer, director, agent or employee of and acting in behalf of such corporation shall pay or contribute or authorize or direct to be paid or contributed any sum of money or any check, draft, note or other article of value, to any political party, committee or to any individual or corporation for the purpose or with the intention of having such money or any part thereof or such check, draft, note or other article of value or any part thereof expended or used for the purpose of aiding or promoting, or of preventing or opposing the nomination or election of any person to public office established by or under the authority of the constitution or laws of this state or of the United States, or expended or used for the purpose of promoting or antagonizing the interests of any political party. Contributions prohibited.

SECT. 2. No person shall solicit or receive the payment of any sum of money or the delivery of any check, draft, note or other article of value for the purposes specified in the preceding paragraph, from any corporation incorporated under the laws of or doing business in this state or from any officer, director, agent, or employee of such corporation and on its behalf. Solicitation prohibited.

SECT. 3. Any corporation violating any of the provisions of this act shall be punished by a fine of not exceeding three thousand dollars for each offense; and any individual violating any of the provisions of this act shall be punished by a fine of not exceeding one thousand dollars or by imprisonment not exceeding six months. Penalty.

SECT. 4. This act shall take effect upon its passage. Takes effect on passage.

[Approved April 6, 1911.]

BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW

direct line: 212-998-6748
deborah.goldberg@nyu.edu

February 23, 2000

VIA FACSIMILE AND
FIRST CLASS MAIL
Steven Blackledge, Program Director
NHPIRG
80½ North Main Street, Suite 201
Concord, NH 03301

Re: Constitutional Analysis of Proposed Amendments to Senate Bill 303

Dear Mr. Blackledge:

You have asked us to provide a constitutional analysis of two proposed amendments to Senate Bill 303, relating to campaign contributions by business organizations. Senator Clifton C. Below introduced these amendments — 2000-3380s and 3381s — in response to Judge Steven McAuliffe's recent decision in *Kennedy v. Gardner*, Civ. No. 98-608-M, slip op. (D.N.H. Dec. 23, 1999), declaring unconstitutional the state's ban on corporate political contributions made for the purpose of promoting the success or defeat of a candidate for state office. As is explained below, we believe that both 2000-3380s and 3381s would pass constitutional muster under existing Supreme Court precedent.[1]

Proposed amendment 2000-3380s would prohibit business organizations from making political contributions, while authorizing the establishment of separate, segregated accounts from which political contributions or independent expenditures could be made. The amendment also contains two exceptions from the general prohibition: one for "sole proprietorships" and another permitting certain nonprofit corporations to make "independent expenditures" without creating separate, segregated accounts for that purpose. Proposed amendment 2000-3381s is identical to 3380s, except it does not contain the exception for nonprofits.

Both proposed amendments represent thoughtful responses to Judge McAuliffe's ruling in that they permit corporations to set up "separate, segregated accounts" through which they may make otherwise proscribed political contributions. This procedure comports with the approach sanctioned by the U.S. Supreme Court in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990).

[1] Similarly, House Bill 1331, which would impose on corporations the same limitations on political contributions that currently apply to individuals, adequately addresses the deficiencies identified by Judge McAuliffe without creating any new constitutional infirmities.

The exemption for certain nonprofit corporations, contained in amendment 2000-3380s, appears to have been included in order to comply with the Supreme Court's decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) ("*MCFL*"). In *MCFL*, the Supreme Court ruled that the federal ban on independent expenditures made by corporations directly from their general treasuries, *see* 2 U.S.C. § 441b, violated the First Amendment of the United States Constitution when applied to a corporation that possesses the following three attributes: (1) it was formed for the express purpose of promoting political ideas and cannot engage in business activities; (2) it has no shareholders or other persons who have a claim on its assets or earnings; and (3) it was not formed by a business corporation or labor union and it has a policy not to accept contributions from such entities. The Court reached this decision despite the fact that such a corporation would be entitled to establish a separate segregated fund for political spending in the same manner as any for-profit corporation.

The decision in *MCFL* exempted certain nonprofit corporations from the requirement that they establish separate segregated funds as a prerequisite to making otherwise prohibited *independent expenditures*. If New Hampshire law prohibited independent expenditures from corporate treasury accounts, then the *MCFL* exception contained in 2000-3380s would be necessary to comply with current Supreme Court jurisprudence. As Judge McAuliffe observed, however, "nothing in New Hampshire's campaign finance law seems to prohibit corporations from making 'independent expenditures' of an unlimited amount from treasury funds to elect or defeat a candidate for state office." *Kennedy*, Civ. No. 98-608-M, slip op. at 13 n.1 (emphasis in original). Moreover, nothing in *MCFL* requires that nonprofit corporations be exempt from the federal requirement that they establish separate segregated funds in order to make otherwise proscribed political *contributions*. The exemption for nonprofit corporations in 2000-3380s is thus consistent with the First Amendment, but the exemption is not constitutionally required. Accordingly, either of the two proposed amendments should withstand constitutional challenge.

The sponsors of S.B. 303 and the two proposed amendments should be applauded for their swift and intelligent responses to Judge McAuliffe's decision. Please do keep us informed of the progress of this bill. If you have any remaining questions concerning the validity of the two amendments, or would like to discuss this matter further, do not hesitate to call.

Sincerely,

Deborah Goldberg
Deputy Director, Democracy Program

Lawrence Miller
Weil Gotshal & Manges LLP
Cooperating Counsel

H:\WP\Deborah\cfr\Blackledge.doc

The Keene Sentinel
New Hampshire's Oldest Newspaper ... *Guarding the Past, Tending Tomorrow* Established 1799
Wednesday, April 12, 2000

Steve Blackledge and Peter Spaulding

Campaign reform and the Legislature

CONCORD — Public support for campaign-finance reform is alive and well. The latest New Hampshire poll demonstrating popular support for the issue was conducted on Feb. 1, when voters turned out in droves to vote for a champion of campaign-finance reform, Sen. John McCain. The results of the primary show that New Hampshire voters support campaign-finance reform today, just as they did in the early 1900s.

It was in 1911 that Gov. Robert P. Bass — a Teddy Roosevelt-style Republican, a reformer —signed legislation that banned corporations from giving contributions to political candidates. At the time, corporations were a growing force on the American political landscape. Thus, there was genuine concern that corporate wealth would influence the outcomes of New Hampshire elections. And in perhaps the most small-d democratic state in the union, a state with a true citizen legislature, a state with 400 representatives, the idea of corporate wealth influencing elections was not popular.

Now corporations are wealthier and more powerful than in 1911, and today's mergers serve to increase size, power and wealth. To be sure, an aggressive competitive spirit is needed to compete in today's marketplace. And, for the most part, we the public respect the dog-eat-dog aggressiveness that breeds success in the business world. If we invest in a company, we want it to compete aggressively.

Unfortunately, when competitiveness in the business world transfers to the political arena, problems can arise. Companies prevent the passage of good public-interest laws, weaken bills that are sure to pass, and carve out loopholes to protect their interests.

For example, health maintenance organizations worked diligently and successfully to weaken Gov. Jeanne Shaheen's HMO reform bill before it finally passed. Public Service Company of New Hampshire and its parent company, Northeast Utilities, have been heavily involved in the issue of deregulating electric utilities and will stay involved as the issue is debated in the Legislature. PSNH and NU want a final agreement that will benefit them financially.

Companies compete by hiring top-notch lobbyists to represent their views. Good for them. But when companies, in addition to lobbying, use campaign contributions to elect candidates friendly to their issues, then the deck is truly stacked against the public. That's why then-governor Bass did the right thing in 1911 by prohibiting corporations from making contributions directly from the corporate treasury. The New Hampshire law, just like the federal law, meant that companies could give only if they were able to raise money through voluntary contributions from employees, shareholders, board members and the like.

So why are we writing about an 89-year-old law signed by a relatively obscure governor who is perhaps best known today for his grandson, Congressman Charles Bass?

Because at the same time the McCain candidacy was catching fire, a U.S. District judge struck down that 89-year old law, and with it a piece of New Hampshire's campaign-finance tradition.

Through his ruling, Judge Steven McAuliffe created a giant problem, insofar as corporations could now begin to flood New Hampshire elections with large campaign contributions.

How should this problem be addressed? McAuliffe wrote, "There is a simple solution to this simple problem ... the solution lies with the Legislature."

Thankfully, thus far legislators have listened and responded. State Sens. Clifton Below, Rick Russman and Rick Trombly introduced Senate Bill 303, legislation that would reinstate the ban on corporate contributions and address McAuliffe's perceived shortcomings with the law. On March 9 the full Senate, in a bipartisan move, unanimously voted to pass the bill. Now it's imperative that the House of Representatives show the same leadership.

In New Hampshire, the McCain vote showed vast, deep public support for campaign-finance reform. House members should turn that public support into legislative action by passing Senate Bill 303. For if we are to match the reforms of the Teddy Roosevelt-Robert Bass days, our first step must be to prevent an 89-year-old campaign finance law from being wiped off the books.

Public support, not corporate wealth, should determine who wins and who runs for office in New Hampshire.

Steve Blackledge is the program director for the Concord-based N.H. Public Interest Research Group (NHPIRG). Republican Peter Spaulding, a member of the N.H. Executive Council, was the chair of Sen. John McCain's New Hampshire primary campaign.

CONCORD MONITOR

Opinion

Patch time

▶ Lawmakers need to repair a campaign finance loophole.

The state's campaign finance laws need an evenhanded and thorough reworking from top to bottom – which they may never get, given the political pressures that inevitably come to bear in this realm. Still, legislators can and should make a significant though limited repair this week.

Last year U.S. District Court Judge Steven McAuliffe ruled that the state's prohibition on corporate campaign contributions was overly broad. By striking the prohibition down, he left open the possibility that corporations could make unlimited contributions in state political races.

At first blush his ruling seemed to turn a century of campaign finance law on its head – corporate contributions having first been banned in the days of Teddy Roosevelt and the trust-busters.

As a subsequent ruling made clear, however, McAuliffe's concern was not the principle of the matter but the wording of state law. The fix is simple, the judge said, but one the Legislature and not he should make.

What's simple in a judge's mind, of course, is not necessarily simple in the halls of the State House. As a result, this week lawmakers will consider two options for fixing the same problem.

A House bill would allow corporate contributions but make them subject to the same limits as donations by individuals. A Senate bill would allow corporations to establish political action committees, or PACs, to raise and donate campaign contributions.

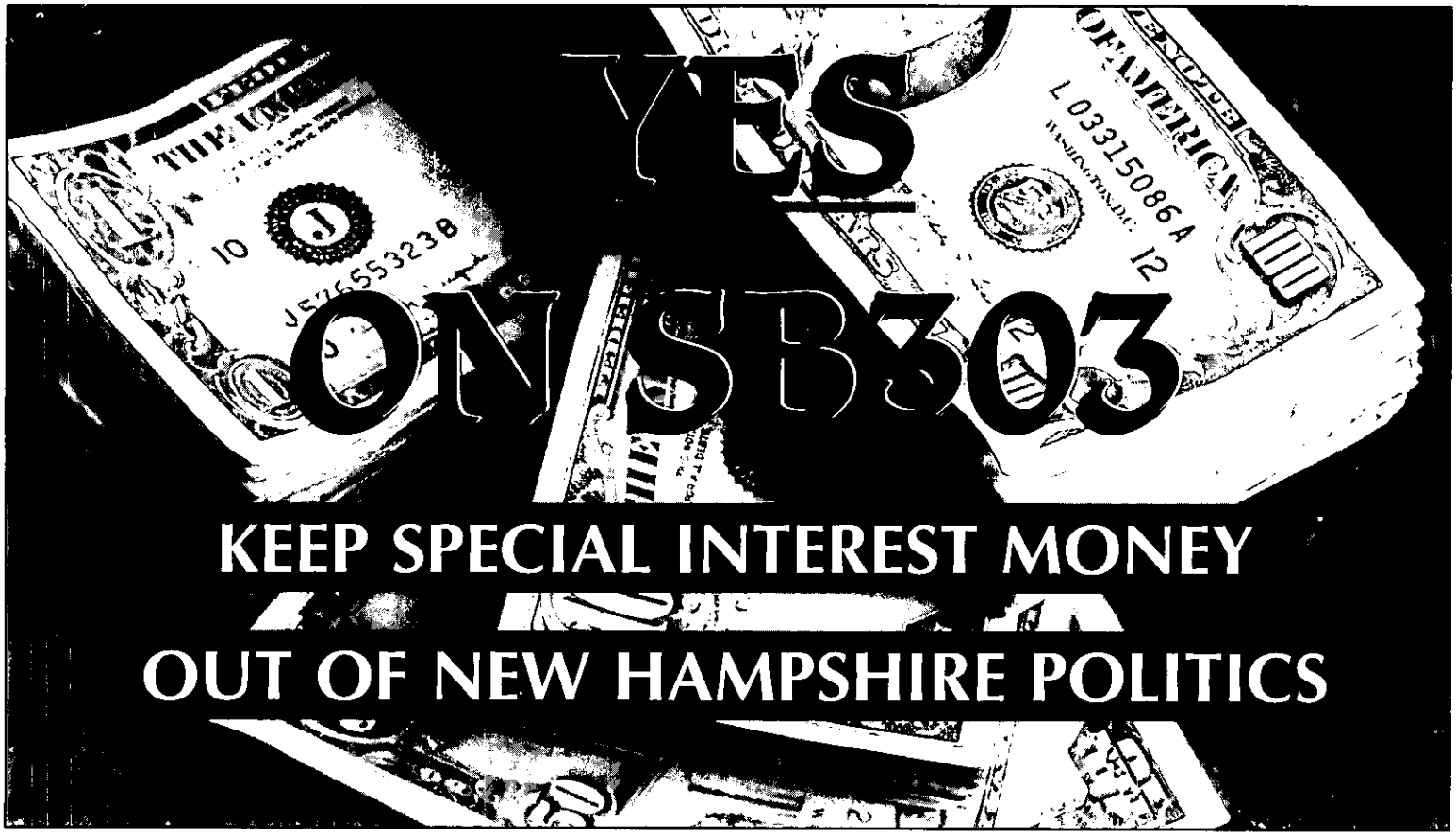
Either is better than nothing, but our preference is the Senate bill. First, it reflects the way state law was thought to work until McAuliffe ruled that its language was flawed.

Second, it better reflects a long-standing principle of campaign finance law: that direct corporate contributions should be prohibited because the wealth companies accrue through doing business is not necessarily a reflection of their customers' political beliefs.

Requiring them to establish independent PACs means that they must raise their political money from other sources, presumably willing ones: their employees, officers, shareholders and so on.

PACs, of course, have issues all their own. But the notions that underlie them make sense.

Lawmakers should pass the Senate bill and patch what could otherwise become a gaping loophole come election time.



LEGISLATION IS NEEDED

This past fall, U.S. District Court Judge Stephen McAuliffe struck down a piece of New Hampshire's campaign finance tradition. Because Judge McAuliffe interpreted a state campaign finance law to prohibit both direct corporate contributions AND contributions from corporate political committees (PACs), he ruled that the law was overly broad. He also wrote, "there is a simple solution to this simple problem...the solution lies with the legislature". Senate Bill 303 addresses the court ruling by giving corporations the right to set up and contribute from political committees but keeps the ban on direct corporate contributions.

NEW HAMPSHIRE TRADITION

It was in 1911 that Governor Robert P. Bass, a Roosevelt Republican, signed the bill to prohibit corporate contributions. Until the recent court decision, this law had existed and worked well in New Hampshire for 89 years. The New Hampshire law was not unique. Twenty-two other states have banned corporate contributions. Furthermore, the federal government banned corporate contributions in 1907, making this not only a New Hampshire tradition, but an American tradition.

NHPIRG
New Hampshire Public Interest Research Group
603.229.3222 - phone, 603.229-3221 - Fax
www.pirg.org/nhpirg, nhpirg@pirg.org

SUPPORTED BY SUPREME COURT RULINGS

The Supreme Court has ruled that resources in the treasury of a business corporation are not an indication of popular support for the corporation's political ideas. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas. (FEC v. Mass. Citizens for Life, Inc.,1986).

NO SPECIAL INTEREST MONEY

Public support, not corporate wealth, should determine who runs for and who wins elected office in New Hampshire. Passing Senate Bill 303 will continue an 89 year tradition of keeping direct corporate contributions out of New Hampshire electoral politics. Failing to take action will allow corporate wealth to flood New Hampshire's electoral process.



For More Information: NHPIRG, 80 N. Main Street, Ste. 201, Concord, NH 03301

603.229.3222 - phone, 603.229-3221 - Fax; www.pirg.org/nhpirg, nhpirg@pirg.org

ATTORNEY GENERAL
STATE OF NEW HAMPSHIRE
33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

PHILIP T. McLAUGHLIN
ATTORNEY GENERAL

STEVEN M. HOURAN
DEPUTY ATTORNEY GENERAL

February 4, 2000

Hand Delivered

Honorable William M. Gardner
Secretary of State
State House
Concord, NH 03301

Re: Kennedy v. Gardner; USDC Docket # 98-608-M
Corporate Contributions

Dear Secretary Gardner:

As you are aware, the United States District Court issued an order in the referenced case finding RSA 664:4, I unconstitutional and unenforceable. I write to inform you that we have appealed the Court's decision to the First Circuit Court of Appeals.

In light of the Court's decision and pending appeal (and of course unless RSA 664:4 is amended by the legislature) the prohibition on corporate contributions contained in RSA 664:4, I is unenforceable. This, however, does not mean that corporations may make unlimited contributions to a candidate or political committee. Rather, as we informed the Court in our Motion To Alter or Amend Judgment, corporations are "persons," see RSA 21:9, subject to the contribution limits contained in RSA 664:4, V.

In the absence of RSA 664:4, I, corporations, as persons, are subject to the "person" contribution limits found in RSA 664:4, V. Please feel free to contact me should you have any questions.

Sincerely,

Jennifer Brooks Gavilondo
Assistant Attorney General
Civil Bureau

Hampshire's statute is properly construed, by inferring discrete limiting provisions, it easily passes constitutional muster.

Defendants' suggestion might represent a workable and effective fix of the statute's inherent deficiencies if this court were free to legislate for New Hampshire, but it is not. That part of New Hampshire's campaign finance law at issue in this case, as drafted by the legislature, is nothing like either the Michigan statute or the federal statute, and it simply cannot survive constitutional scrutiny given its plain language and the Supreme Court's reasonably clear explanation of the extent to which the First Amendment protects corporate political speech.

Discussion

I. Preliminary Matters.

A. Types and Sources of Political Contributions.

Generally, corporate political contributions come from two different sources. One is the corporation's operating or treasury accounts. Money in that type of account is derived from corporate business activities, such as the sale of goods and services or the sale of corporate stock. It is generally

accepted that a corporation's ability to amass such funds reflects its business acumen, but not popular support (or even the support of its shareholders) for its political views. See, e.g., Federal Election Commission v. Mass. Citizens For Life, Inc., 479 U.S. 238, 258 (1986) ("The resources in the treasury of a business corporation, however, are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas.").

The other potential source of corporate political contributions is a "segregated account." Typically, segregated accounts are funded by contributions solicited from corporate officers, directors, employees, and shareholders. These accounts also represent corporate money, but money that does reflect some degree of popular support for the corporation's political goals and ideas.

> Because persons contributing to such funds understand that their money will be used solely for political purposes, the speech generated accurately reflects contributors' support for the corporation's political views.

Austin v. Michigan Chamber of Commerce, 494 U.S. at 660-61.

A corporate political contribution qualifies as "political speech," protected by the First Amendment. See, e.g., Austin, 494 U.S. at 657 ("Certainly, the use of funds to support a political candidate is 'speech'; . . . The mere fact that the [plaintiff] is a corporation does not remove its speech from the ambit of the First Amendment.") (citing First National Bank of Boston v. Bellotti, 435 U.S. 765, 777 (1978)). Nevertheless, the distinction between contributions from "treasury funds" and those from "segregated accounts" is both meaningful and constitutionally significant. The Supreme Court has generally recognized that states have a compelling interest in prohibiting corporate political contributions from treasury funds. To date, however, the Court has not recognized any state interest sufficient to justify an absolute ban on either corporate contributions or independent expenditures made from segregated funds. See generally, Austin, supra.

Defendants' reargument does little more than invite this federal court to rewrite New Hampshire's statute to meet First Amendment requirements - a rather inescapable irony given recent local events and times. With respect, however, the court must decline defendants' collective invitation, however well-intentioned, to rewrite RSA 664:4,I.

There is, of course, a simple solution to this simple problem, but it is not found in judicial lawmaking or executive policies of casual enforcement of the State's campaign finance laws. The solution lies with the legislature. If, as defendants seem to believe, New Hampshire's General Court did not mean what it said or did not say what it meant, and, when it banned any corporate political contributions, direct or indirect, it actually intended to permit corporations to make some discrete political contributions to candidates, political committees, and political parties from segregated accounts, then the General Court can easily and effectively amend the statute to reflect its actual (constitutional) intent.

CHAPTER 109.

AN ACT PROHIBITING CAMPAIGN CONTRIBUTIONS BY CORPORATIONS.

SECTION
1. Contributions prohibited.
2. Solicitation from corporation prohibited.
3. Penalty for violation.
4. Takes effect on passage.

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

SECTION 1. No corporation, incorporated under the laws of or doing business in this state and no officer, director, agent or employee of and acting in behalf of such corporation shall pay or contribute or authorize or direct to be paid or contributed any sum of money or any check, draft, note or other article of value, to any political party, committee or to any individual or corporation for the purpose or with the intention of having such money or any part thereof or such check, draft, note or other article of value or any part thereof expended or used for the purpose of aiding or promoting, or of preventing or opposing the nomination or election of any person to public office established by or under the authority of the constitution or laws of this state or of the United States, or expended or used for the purpose of promoting or antagonizing the interests of any political party. Contributions prohibited.

SECT. 2. No person shall solicit or receive the payment of any sum of money or the delivery of any check, draft, note or other article of value for the purposes specified in the preceding paragraph, from any corporation incorporated under the laws of or doing business in this state or from any officer, director, agent, or employee of such corporation and on its behalf. Solicitation prohibited.

SECT. 3. Any corporation violating any of the provisions of this act shall be punished by a fine of not exceeding three thousand dollars for each offense; and any individual violating any of the provisions of this act shall be punished by a fine of not exceeding one thousand dollars or by imprisonment not exceeding six months. Penalty.

SECT. 4. This act shall take effect upon its passage. Takes effect on passage.

[Approved April 6, 1911.]

BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW

direct line: 212-998-6748
deborah.goldberg@nyu.edu

February 23, 2000

VIA FACSIMILE AND
FIRST CLASS MAIL
Steven Blackledge, Program Director
NHPIRG
80½ North Main Street, Suite 201
Concord, NH 03301

Re: Constitutional Analysis of Proposed Amendments to Senate Bill 303

Dear Mr. Blackledge:

You have asked us to provide a constitutional analysis of two proposed amendments to Senate Bill 303, relating to campaign contributions by business organizations. Senator Clifton C. Below introduced these amendments — 2000-3380s and 3381s — in response to Judge Steven McAuliffe's recent decision in *Kennedy v. Gardner*, Civ. No. 98-608-M, slip op. (D.N.H. Dec. 23, 1999), declaring unconstitutional the state's ban on corporate political contributions made for the purpose of promoting the success or defeat of a candidate for state office. As is explained below, we believe that both 2000-3380s and 3381s would pass constitutional muster under existing Supreme Court precedent.[1]

Proposed amendment 2000-3380s would prohibit business organizations from making political contributions, while authorizing the establishment of separate, segregated accounts from which political contributions or independent expenditures could be made. The amendment also contains two exceptions from the general prohibition: one for "sole proprietorships" and another permitting certain nonprofit corporations to make "independent expenditures" without creating separate, segregated accounts for that purpose. Proposed amendment 2000-3381s is identical to 3380s, except it does not contain the exception for nonprofits.

Both proposed amendments represent thoughtful responses to Judge McAuliffe's ruling in that they permit corporations to set up "separate, segregated accounts" through which they may make otherwise proscribed political contributions. This procedure comports with the approach sanctioned by the U.S. Supreme Court in *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990).

[1] Similarly, House Bill 1331, which would impose on corporations the same limitations on political contributions that currently apply to individuals, adequately addresses the deficiencies identified by Judge McAuliffe without creating any new constitutional infirmities.

The exemption for certain nonprofit corporations, contained in amendment 2000-3380s, appears to have been included in order to comply with the Supreme Court's decision in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) ("*MCFL*"). In *MCFL*, the Supreme Court ruled that the federal ban on independent expenditures made by corporations directly from their general treasuries, *see* 2 U.S.C. § 441b, violated the First Amendment of the United States Constitution when applied to a corporation that possesses the following three attributes: (1) it was formed for the express purpose of promoting political ideas and cannot engage in business activities; (2) it has no shareholders or other persons who have a claim on its assets or earnings; and (3) it was not formed by a business corporation or labor union and it has a policy not to accept contributions from such entities. The Court reached this decision despite the fact that such a corporation would be entitled to establish a separate segregated fund for political spending in the same manner as any for-profit corporation.

The decision in *MCFL* exempted certain nonprofit corporations from the requirement that they establish separate segregated funds as a prerequisite to making otherwise prohibited *independent expenditures*. If New Hampshire law prohibited independent expenditures from corporate treasury accounts, then the *MCFL* exception contained in 2000-3380s would be necessary to comply with current Supreme Court jurisprudence. As Judge McAuliffe observed, however, "nothing in New Hampshire's campaign finance law seems to prohibit corporations from making 'independent expenditures' of an unlimited amount from treasury funds to elect or defeat a candidate for state office." *Kennedy*, Civ. No. 98-608-M, slip op. at 13 n.1 (emphasis in original). Moreover, nothing in *MCFL* requires that nonprofit corporations be exempt from the federal requirement that they establish separate segregated funds in order to make otherwise proscribed political *contributions*. The exemption for nonprofit corporations in 2000-3380s is thus consistent with the First Amendment, but the exemption is not constitutionally required. Accordingly, either of the two proposed amendments should withstand constitutional challenge.

The sponsors of S.B. 303 and the two proposed amendments should be applauded for their swift and intelligent responses to Judge McAuliffe's decision. Please do keep us informed of the progress of this bill. If you have any remaining questions concerning the validity of the two amendments, or would like to discuss this matter further, do not hesitate to call.

Sincerely,

Deborah Goldberg

Deborah Goldberg
Deputy Director, Democracy Program

Lawrence Miller
Weil Gotshal & Manges LLP
Cooperating Counsel

H:\WP\Deborah\cfr\Blackledge.doc

The Keene Sentinel
New Hampshire's Oldest Newspaper ... *Guarding the Past, Tending Tomorrow* Established 1799
Wednesday, April 12, 2000

Steve Blackledge and Peter Spaulding

Campaign reform and the Legislature

CONCORD — Public support for campaign-finance reform is alive and well. The latest New Hampshire poll demonstrating popular support for the issue was conducted on Feb. 1, when voters turned out in droves to vote for a champion of campaign-finance reform, Sen. John McCain. The results of the primary show that New Hampshire voters support campaign-finance reform today, just as they did in the early 1900s.

It was in 1911 that Gov. Robert P. Bass — a Teddy Roosevelt-style Republican, a reformer —signed legislation that banned corporations from giving contributions to political candidates. At the time, corporations were a growing force on the American political landscape. Thus, there was genuine concern that corporate wealth would influence the outcomes of New Hampshire elections. And in perhaps the most small-d democratic state in the union, a state with a true citizen legislature, a state with 400 representatives, the idea of corporate wealth influencing elections was not popular.

Now corporations are wealthier and more powerful than in 1911, and today's mergers serve to increase size, power and wealth. To be sure, an aggressive competitive spirit is needed to compete in today's marketplace. And, for the most part, we the public respect the dog-eat-dog aggressiveness that breeds success in the business world. If we invest in a company, we want it to compete aggressively.

Unfortunately, when competitiveness in the business world transfers to the political arena, problems can arise. Companies prevent the passage of good public-interest laws, weaken bills that are sure to pass, and carve out loopholes to protect their interests.

For example, health maintenance organizations worked diligently and successfully to weaken Gov. Jeanne Shaheen's HMO reform bill before it finally passed. Public Service Company of New Hampshire and its parent company, Northeast Utilities, have been heavily involved in the issue of deregulating electric utilities and will stay involved as the issue is debated in the Legislature. PSNH and NU want a final agreement that will benefit them financially.

Companies compete by hiring top-notch lobbyists to represent their views. Good for them. But when companies, in addition to lobbying, use campaign contributions to elect candidates friendly to their issues, then the deck is truly stacked against the public. That's why then-governor Bass did the right thing in 1911 by prohibiting corporations from making contributions directly from the corporate treasury. The New Hampshire law, just like the federal law, meant that companies could give only if they were able to raise money through voluntary contributions from employees, shareholders, board members and the like.

So why are we writing about an 89-year-old law signed by a relatively obscure governor who is perhaps best known today for his grandson, Congressman Charles Bass?

Because at the same time the McCain candidacy was catching fire, a U.S. District judge struck down that 89-year old law, and with it a piece of New Hampshire's campaign-finance tradition.

Through his ruling, Judge Steven McAuliffe created a giant problem, insofar as corporations could now begin to flood New Hampshire elections with large campaign contributions.

How should this problem be addressed? McAuliffe wrote, "There is a simple solution to this simple problem ... the solution lies with the Legislature."

Thankfully, thus far legislators have listened and responded. State Sens. Clifton Below, Rick Russman and Rick Trombly introduced Senate Bill 303, legislation that would reinstate the ban on corporate contributions and address McAuliffe's perceived shortcomings with the law. On March 9 the full Senate, in a bipartisan move, unanimously voted to pass the bill. Now it's imperative that the House of Representatives show the same leadership.

In New Hampshire, the McCain vote showed vast, deep public support for campaign-finance reform. House members should turn that public support into legislative action by passing Senate Bill 303. For if we are to match the reforms of the Teddy Roosevelt-Robert Bass days, our first step must be to prevent an 89-year-old campaign finance law from being wiped off the books.

Public support, not corporate wealth, should determine who wins and who runs for office in New Hampshire.

Steve Blackledge is the program director for the Concord-based N.H. Public Interest Research Group (NHPIRG). Republican Peter Spaulding, a member of the N.H. Executive Council, was the chair of Sen. John McCain's New Hampshire primary campaign.

CONCORD MONITOR

Opinion

Patch time

▶ Lawmakers need to repair a campaign finance loophole.

The state's campaign finance laws need an evenhanded and thorough reworking from top to bottom – which they may never get, given the political pressures that inevitably come to bear in this realm. Still, legislators can and should make a significant though limited repair this week.

Last year U.S. District Court Judge Steven McAuliffe ruled that the state's prohibition on corporate campaign contributions was overly broad. By striking the prohibition down, he left open the possibility that corporations could make unlimited contributions in state political races.

At first blush his ruling seemed to turn a century of campaign finance law on its head – corporate contributions having first been banned in the days of Teddy Roosevelt and the trust-busters.

As a subsequent ruling made clear, however, McAuliffe's concern was not the principle of the matter but the wording of state law. The fix is simple, the judge said, but one the Legislature and not he should make.

What's simple in a judge's mind, of course, is not necessarily simple in the halls of the State House. As a result, this week lawmakers will consider two options for fixing the same problem.

A House bill would allow corporate contributions but make them subject to the same limits as donations by individuals. A Senate bill would allow corporations to establish political action committees, or PACs, to raise and donate campaign contributions.

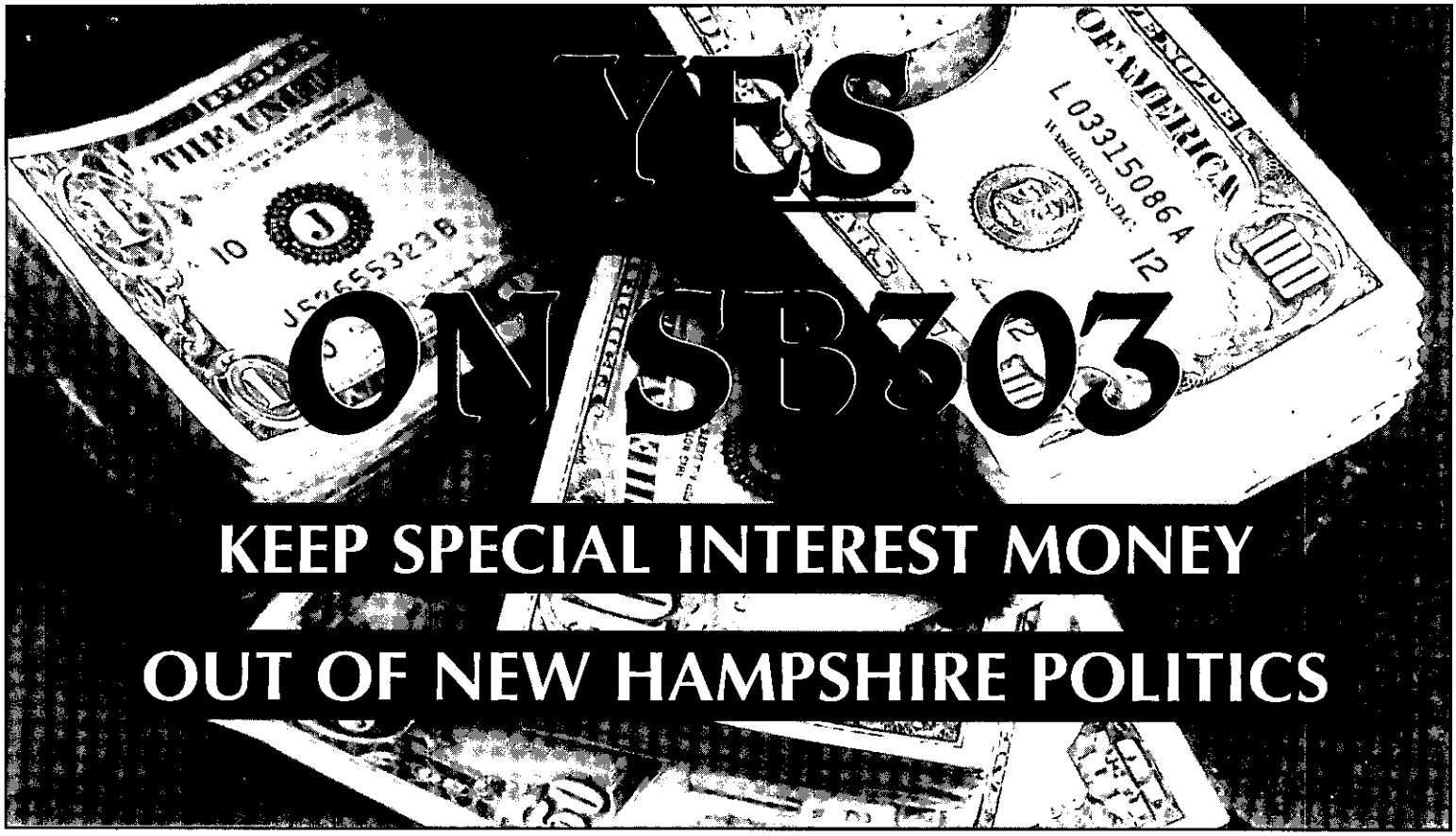
Either is better than nothing, but our preference is the Senate bill. First, it reflects the way state law was thought to work until McAuliffe ruled that its language was flawed.

Second, it better reflects a long-standing principle of campaign finance law: that direct corporate contributions should be prohibited because the wealth companies accrue through doing business is not necessarily a reflection of their customers' political beliefs.

Requiring them to establish independent PACs means that they must raise their political money from other sources, presumably willing ones: their employees, officers, shareholders and so on.

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Lawmakers should pass the Senate bill and patch what could otherwise become a gaping loophole come election time.



LEGISLATION IS NEEDED

This past fall, U.S. District Court Judge Stephen McAuliffe struck down a piece of New Hampshire's campaign finance tradition. Because Judge McAuliffe interpreted a state campaign finance law to prohibit both direct corporate contributions AND contributions from corporate political committees (PACs), he ruled that the law was overly broad. He also wrote, "there is a simple solution to this simple problem...the solution lies with the legislature". Senate Bill 303 addresses the court ruling by giving corporations the right to set up and contribute from political committees but keeps the ban on direct corporate contributions.

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For More Information: NHPIRG, 80 N. Main Street, Ste. 201, Concord, NH 03301

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Voting Sheets

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on SB303

BILL TITLE: **[New Title] relative to campaign contributions by business organizations.**

DATE: May 09, 2000

LOB ROOM: 308

Amendments:

Sponsor: Rep. Clegg — OLS Document #: 2000 4383h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

Note: Rep. Gibbons voted NO

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Letourneau

Seconded by Rep. Clemons

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Francis W. Davis

Rep. Francis W. Davis, Clerk

HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on SB303

BILL TITLE: **[New Title] relative to campaign contributions by business organizations.**

DATE: 5-9-2000

LOB ROOM:

Amendments:

GIBBONS NO.

Sponsor: Rep. CLEGG OLS Document #: 2000-4383h (Adopted)/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, (OTP/A), ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. LETOURNEAU

Seconded by Rep. CLEMONS

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____ (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Francis W. Davis

Rep. Francis W. Davis, Clerk

OFFICE OF THE HOUSE CLERK

2000 SESSION

ELECTION LAW

Bill #: SB 303 Title:

PH Date: / / Exec Session Date: 5 / 9 / 2000

Motion: OTP/A Amendment #: 2000-4383h

MEMBER	YEAS	NAYS
Arndt, Janet S, Chairman	✓	
Horton, Lynn C, V Chairman	✓	
Flanagan, Natalie S	✓	
Stritch, C Donald		
Gibbons, Paul A	✓	
Desrosiers, William J		
Clegg, Robert E	✓	
Letourneau, Robert J	✓	
Davis, Francis W, Clerk	✓	
Young, David A		
Nowe, Mary Lou		
Reeves, Sandra J	✓	
Desmarais, Vivian J	✓	
Clemons, Jane A	✓	
Buckley, Raymond	✓	
Brown, George F	✓	
Weatherspoon, Jackie K	✓	
Konys, Christine M	✓	
Cote, David E	✓	
Rollo, Michael S	✓	
Splaine, James R	✓	
Rodrigue, Robert R		
Ouellette, Mary M		
	17-0	

TOTAL VOTE:

Printed: 2/15/2000

Committee Report

COMMITTEE REPORT

COMMITTEE: **Election Law**

BILL NUMBER: **SB 303**

TITLE: [New Title] relative to campaign contributions by business organizations.

DATE: May 09, 2000 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

As amended, this bill is the work of a bipartisan subcommittee of Election Law. It also has the unanimous support from the Election Law Committee. The bill, as amended, is true campaign finance reform. A recent court decision declared New Hampshire's longstanding ban on corporate contributions unconstitutional. The judge also noted that a similar ban on union contributions was likely unconstitutional, but has yet to be challenged in court. This area is also addressed in this bill. During testimony on these bills, the Election Law Committee also heard a need to further refine our laws concerning campaign finance. The committee amendment provides that both corporate and union contributions must come from segregated accounts (PAC's). Neither can force employees or members to contribute to the PAC, nor can dues or deductions be placed in the PAC without the permission of the employee or member. Candidates under the amended bill will now be required to report all money received and expended. The bill also addresses the practice of not reporting certain contributions until after the election. In addition, the bill provides that all candidates must report any new contributions and expenditures within 24 hours during the week before the primary or general elections. As under current law, candidates who do not receive or spend $500 on the campaign would not have to file a report. Now voters will know who or what special interest is financing the campaign before they go to the ballot box. The committee also heard complaints about the costs of voter lists. With the advent of technology, lists are now computerized. The cost to copy the list onto disk or tape is far less than the old method of employees going to the copy machine. Under the amended version, no checklist of voters in a community will cost more than $25. The committee feels this amended bill is true campaign finance reform which members of both parties have been requesting for years. The voters should go to the ballot box with full knowledge of whose interests will be served. A knowledgeable voter means a better government.

Vote 17-0.

Rep. Robert J. Letourneau

FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Election Law

SB 303, [New Title] relative to campaign contributions by business organizations. OUGHT TO PASS WITH AMENDMENT

Rep. Robert J. Letourneau for Election Law: As amended, this bill is the work of a bipartisan subcommittee of Election Law. It also has the unanimous support from the Election Law Committee. The bill, as amended, is true campaign finance reform. A recent court decision declared New Hampshire's longstanding ban on corporate contributions unconstitutional. The judge also noted that a similar ban on union contributions was likely unconstitutional, but has yet to be challenged in court. This area is also addressed in this bill. During testimony on these bills, the Election Law Committee also heard a need to further refine our laws concerning campaign finance. The committee amendment provides that both corporate and union contributions must come from segregated accounts (PAC's). Neither can force employees or members to contribute to the PAC, nor can dues or deductions be placed in the PAC without the permission of the employee or member. Candidates under the amended bill will now be required to report all money received and expended. The bill also addresses the practice of not reporting certain contributions until after the election. In addition, the bill provides that all candidates must report any new contributions and expenditures within 24 hours during the week before the primary or general elections. As under current law, candidates who do not receive or spend $500 on the campaign would not have to file a report. Now voters will know who or what special interest is financing the campaign before they go to the ballot box. The committee also heard complaints about the costs of voter lists. With the advent of technology, lists are now computerized. The cost to copy the list onto disk or tape is far less than the old method of employees going to the copy machine. Under the amended version, no checklist of voters in a community will cost more than $25. The committee feels this amended bill is true campaign finance reform which members of both parties have been requesting for years. The voters should go to the ballot box with full knowledge of whose interests will be served. A knowledgeable voter means a better government Vote 17-0.

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Robert J. Letourneau
for the Committee

COMMITTEE REPORT

COMMITTEE: ELECTION LAW

BILL NUMBER: SB 303

TITLE:

DATE: SB 303 CONSENT CALENDAR: YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS W/ AMENDMENT

Amendment No. 2002-4353 h

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ INTERIM STUDY (Available only 2nd year of biennium)

STATEMENT OF INTENT:

COMMITTEE VOTE: 17-0

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep. _____
For the Committee

Rev. 07/30/99