



## AMERICANS FOR PROSPERITY. MINNESOTA

Wednesday, March 13<sup>th</sup>, 2019

Members of the House Elections Subcommittee,

On behalf of Americans for Prosperity, the nation's largest free market grassroots organization, and activists across the state of Minnesota, I urge you to vote "No" on the provisions of HF1603 that impose limits on Minnesota's free speech rights. Specifically, we urge removal of the portions of this bill that originated in HF2050, now engrossed in Article 2, sections 6, 17, 23, and 25-28 of the DE1 amendment. Americans for Prosperity stands firmly in support of the right of all Americans to participate in civic engagement and these provisions would only serve to limit discourse and undermine free speech.

The ability to think, speak, and engage allows all individuals to challenge social, scientific, and political issues that affect their lives and their communities. Free to choose to privately come together, people can join causes they believe in without fear of intervention or retaliation by those in government. This protects all voices, especially the marginalized.


The sections of Article 2 of the DE1 amendment (listed above) would chill protected speech by mandating the disclosure of donors who give to organizations to support their general missions. These donors may never see, hear, or be made aware of the communications this bill seeks to regulate, but who may, nevertheless, be associated with them. For example, if someone donates to an organization because of the work they do in criminal justice reform, this provision would force them to take ownership of everything the organization is involved in.

Donors will be deterred from donating to good causes for fear their names may end up on a government registry because those organizations took positions on legislation or issues—positions with which those donors may even disagree. It would create new and burdensome reporting requirements for organizations, regulate a stunningly broad amount of speech, and enable harassment of citizens based on their beliefs.

In addition to our broad opposition to the idea that Americans need to register with the government any time they take advantage of their First Amendment rights, there are numerous specific issues with the proposed language:

- On changing the definition of "express advocating": Under current Minnesota law, advocacy groups are governed by an objective, bright-line test (i.e. use of words such as "vote for" or "elect") in determining what will be subject to reporting requirements. This bill, however, abandons this language for a subjective, overbroad standard that will lead to increased uncertainty. Instead of accepting the risk of a drawn-out legal fight, many organizations will simply choose to stay on the sidelines.
- On requiring binary characterization of officeholders in electioneering communications: This provision forces speakers to adopt an intent for their communication that they may not have, making any communication in which the focus is clearly on an issue or piece of legislation, but may mention an officeholder, inherently political. In effect, an organization simply engaging on a piece of legislation will be forced to declare support or opposition to a certain lawmaker or candidate. For example, an organization dedicated to increasing literacy that runs a tv ad asking parents to contact their representative and ask her to vote "yes" on a school funding bill would be forced to take a position on that representative by declaring their communication "positive" or "negative" towards her—even when their speech was clearly focused on the issue of funding. Speakers have the right to determine the intent of their own speech without government putting words in their mouth or requiring burdensome paperwork or registration.

<sup>1</sup>Through broad-based grassroots outreach, *Americans for Prosperity (AFP)* is driving long-term solutions to the country's biggest problems. AFP activists engage friends and neighbors on key issues and encourage them to take an active role in building a culture of mutual benefit, where people succeed by helping one another. AFP recruits and unites activists in 35 states behind a common goal of advancing policies that will help people improve their lives.

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- On electioneering communication “targeting”: This provision regulates all mediums of communication, inevitably sweeping in communications that are never intended for election activity. This broad definition would subject a book publisher or blogger to report their activity to the state if their book or post merely mentioned a candidate or officeholder—such as a book or post on how a bill becomes law that mentions the current Governor – and happened to be distributed close to an election and could reach a relatively small number of people in the state.

Transparency is good for government accountability and oversight, but individuals have a right to privacy. Just as Americans have the right to cast ballots in private, we have the right to support causes, join groups and make donations without being monitored by the government. Seventy-three percent of registered voters agree that the government has no right to know what groups or causes they support. We should hold our government accountable without violating citizens’ privacy or burdening civic groups working to improve the lives of their fellow Americans.

History shows these freedoms protect minority voices – those fighting against injustices entrenched in the status quo. There’s a long tradition in the U.S., going all the way back to our founding, of anonymous philanthropy as well as anonymous writing on matters of public interest. The advancement of civil rights was made possible, in part, by the ability of individuals with views that ran counter to the status quo to privately join together. When Alabama tried to force the NAACP to reveal its member lists during Jim Crow, the Supreme Court held that the First Amendment protects private associations from being exposed to threats, intimidation and violence. Even today, people who have made even modest donations to groups that expressed unpopular views have lost their jobs and faced harassment when their affiliations were leaked.

Those in power shouldn’t force individuals to register their beliefs, their donations, or their associations. The requirement to disclose donors’ names puts their safety at risk and will result in a country that allows government-facilitated intimidation to control our legislative process and public discourse. Some donors want to be anonymous for religious reasons, others because of security concerns, others because they worry about harassment or boycotts of their businesses. Many people simply won’t give to a group that can’t guarantee the security of their private information.

We should be making it easier, not harder, for people to participate in civic life. Our society is enriched by the civic engagement of diverse organizations clarifying and amplifying their supporters’ voices. Yet too often, these types of requirements are designed to make it harder to critique those in power and shield the political class from the voices of everyday citizens who want to make their viewpoints known to their elected officials. While the lobbyists and the well-connected will still find a way to play their inside game, everyday citizens who want to make their voices heard on issues they care about would have their voices taken away.

Through nonpartisan broad-based grassroots outreach, Americans for Prosperity is driving long-term solutions to the country’s biggest problems. AFP activists engage friends and neighbors on key issues and encourage them to take an active role in building a culture of mutual benefit and advancing policies that will help people improve their lives. On policy areas ranging from criminal justice and education reforms to protecting taxpayers and fighting against corporate welfare and cronyism, we are working to break down barriers to opportunity so that all Minnesotans can pursue their own unique version of the American Dream.

Thank you for the opportunity to share the concerns behind our opposition to above-mentioned provisions found in HF1603 (as amended by DE1). Please don’t hesitate to reach out if you have questions, need more information, or if you would like to discuss the issue further.

Sincerely,



Jason Flohrs  
State Director  
Americans for Prosperity – Minnesota