

Testimony from Minnesota Citizens Concerned for Life
In Opposition to SF 2384
MN Senate Elections Committee
2023-2024 Regular Session
April 3, 2024

The First Amendment of our Constitution protects both our freedom of speech and our freedom to associate with others, and our courts, including the U.S. Supreme Court, have consistently ruled that those two rights in conjunction prohibit a state from limiting the fundamental right of a non-profit advocacy organization to comment on the votes, statements, or actions of public officials¹.

The change to the definition of independent expenditure in Section 6 of this bill would directly violate those rights.

Court case after court case has recognized that a group of citizens who freely associate as a non-profit corporation, like MCCL, have an almost unlimited right to comment on the votes, statements, and actions of public officials. To limit that right, which lines 4.19 through 4.21 would do by adding a definition of independent expenditure that includes expression outside of express advocacy, would gut that protection, and so would quickly be found unconstitutional.

Supporters of that section might state that it doesn't limit our right to free speech – all we need do is form an independent expenditure committee, which the state would “allow” to say or write the same content.

But courts have repeatedly and consistently equated “electioneering communication,” which can be regulated, with “express advocacy.” When communication is not express advocacy, as is the case with the very subjective words “promotes, support, attacks,” on line 4.19, such non-electioneering communication cannot under our federal Constitution be regulated at the heightened level of political communication. In other words, a corporation is allowed to so communicate without using a political committee.

This very point was made clear in the dicta of the 2012 8th Circuit Court case, MCCL v. Swanson, in which we prevailed on free speech grounds against another very restrictive Minnesota law attempting to deprive non-profit advocacy groups of our rights to free speech².

MCCL is resolved to continue to defend our rights to free speech and association. Any attempt to re-define what constitutes an independent expenditure would be an irresponsible expenditure of

¹ Citizens United v. FEC, 558 U.S. 310 (2010)

² Minnesota Citizens Concerned for Life, Inc. v. Swanson, 692 F.3d 864 (8th Cir. 2012)

public funds, having little to no chance of ultimately being upheld in court. Case after case has resulted in the same outcome for those attempting to restrict corporate speech.

We respectfully ask you to reject such unconstitutional and irresponsible action to limit the free speech of Minnesota citizens by removing lines 4.19 through 4.21 in Section 6, Subd. 18.