



THE BUCKEYE INSTITUTE

Keeping the NGO Trojan Horse at Bay

Interested Party Testimony
Ohio Senate General Government Committee
Ohio Senate Bill 268

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Chair Roegner, Vice Chair Gavarone, Ranking Member Blackshear, and members of the Committee, thank you for the opportunity to testify regarding **Ohio Senate Bill 268**.

My name is Greg R. Lawson, and I am a senior research fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

Senate Bill 268 offers a well-targeted, commonsense reform to bring greater transparency to Ohio’s administrative rulemaking process, particularly when state agencies rely on model rules developed by regulatory-focused nongovernment organizations (NGO).

Ohio has a comparatively robust regulatory oversight structure, with internal checks and balances designed to keep bureaucratic burdens in check through the **Joint Committee on Agency Rule Review** (JCARR). Additionally, state policymakers have admirably and successfully **pared back** unnecessary regulatory restrictions without jeopardizing public safety. Those successes are well worth guarding. Given the **Ohio Administrative Code**’s considerable reach, state officials should remain vigilant to ensure that new regulatory provisions and model rules are drafted in the light of day.

NGOs often admirably provide state agencies with deep subject-matter and technical expertise, insight into the needs and preferences of regulated stakeholders, and opportunities for regulators to discuss complex issues among themselves. But as The Buckeye Institute explained in its report, ***Beware the Trojan Horse of Rulemaking Nongovernment Organizations***, NGOs can also act as “Trojan Horses” when they write model regulations that state regulators adopt—sometimes verbatim—with little public visibility into the drafters, the interests represented, or the alternatives rejected along the way.

Senate Bill 268 does not prohibit agencies from listening to external subject matter experts or collaborating with other states. It simply ensures public transparency when those outside influences shape Ohio policy.

Nowhere is transparency needed more than in Ohio’s securities regulatory context. The Ohio Department of Commerce’s Division of Securities has a close working relationship with the **North American Securities Administrators Association** (NASAA). Ohio’s securities commissioner has held leadership roles within that organization, for example, and has been the principal liaison between state securities regulators and the Securities and Exchange Commission. But the commissioner faced public **pushback** when the Division of Securities tried to adopt NASAA policies outside the JCARR process. Ultimately, JCARR **recommended** resubmitting those policies for formal rulemaking, but only after stakeholders raised concerns. Other securities policies have sometimes advanced through informal staff bulletins, interpretive letters, and citations to NASAA policy statements, with little advance notice and no meaningful opportunity for public comment. That pattern matters for at least two reasons.

First, by the time NGO-derived regulatory frameworks appear in Ohio’s formal rulemaking record, many critical policy choices have already been made elsewhere, usually at national NGO-

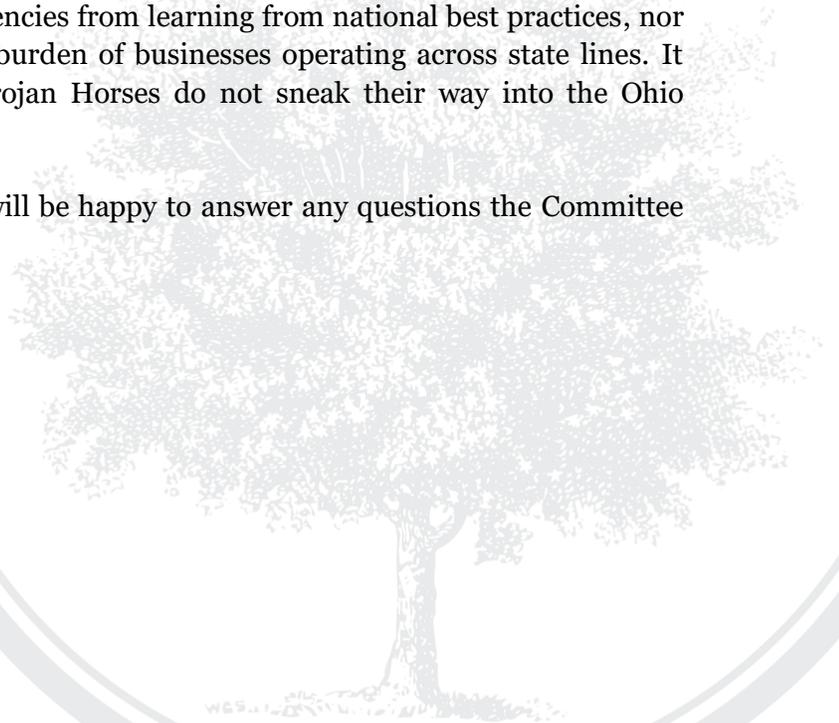
sponsored gatherings. Although there sometimes may be public comment periods for these national groups, the opportunity for interested Ohio parties to comment only happens at the end of a process that began and ended in private conference rooms and working groups they never attended.

Second, the NGO-driven content is not always merely narrow, technical adjustments. As The Buckeye Institute's report notes, some NGOs have considered incorporating environmental, social, and governance and diversity, equity, and inclusion elements into their **regulatory frameworks**. Reasonable people may argue in good faith over the desirability or scope of those approaches, but the transparency problem remains the same: when NGO structures resolve major values-oriented questions without effective oversight by elected officials, they side-step transparent rulemaking.

Senate Bill 268 closes that loophole by requiring state agencies to disclose when proposed rules originate in whole or in part from model regulations and, if so, which NGO helped draft them. Those requirements give legislators, stakeholders, and citizens an early warning that external influencers are shaping Ohio law. Making agency communications with NGOs subject to Ohio's public records law will help ensure that the "upstream" deliberations affecting Ohio rules are not held in secret. And Senate Bill 268 rightly requires any model language drafted by an NGO and not subject to the **Administrative Procedures Act** to comply with relevant notice, hearing, and evaluation requirements so that policymakers better understand how the model language will affect stakeholders. But the bill wisely does not extend these requirements to model legislation submitted to the General Assembly. When outside groups propose legislative language, those ideas must move through an inherently public process that includes committee hearings, testimony from all sides, amendments in the open, and recorded votes by elected officials.

The bill's reforms closely align with The Buckeye Institute's recommended safeguards designed to ensure that state sunshine laws cover communications between regulators and NGO personnel, and that the General Assembly exercises oversight by never automatically adopting NGO-drafted rules without thorough examination. Senate Bill 268 embraces those principles while preserving legitimate collaboration. It does not bar agencies from learning from national best practices, nor does it prevent model rules that ease the burden of businesses operating across state lines. It simply insists on transparency so that Trojan Horses do not sneak their way into the Ohio Administrative Code.

Thank you for your time and attention. I will be happy to answer any questions the Committee might have.



About The Buckeye Institute

Founded in 1989, The Buckeye Institute is an independent research and educational institution – a think tank – whose mission is to advance free-market public policy in the states.

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