

2011 SENATE JUDICIARY

SB 2319

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2319
2/2/11
Job #13887

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to campaign contributions and independent expenditures

Minutes:

There is attached written testimony

Senator Nething – Chairman

Senator Schneider – District 42 – Introduces the bill – See written testimony

Al Jaeger – Secretary of State – Opposes the bill as it is but explains there is an amendment.

Committee looks over the proposed amendment.

John Bjornson – Legislative Council – Explains the bill and the proposed amendments. Says this bill is to address what they Supreme Court did a year ago. He explains the Supreme Court decision. Intent of this is to require disclosure.

Jim Silrum – Deputy Secretary of State – He answers questions about political committees. He says they have just seen the amendment and need time to look it over and work with it. He said in fairness the prime sponsor of this bill put this bill forward and the Secretary of State's office's initial review of it was too opposed it whole heartedly because it seemed as if the door was being opened for contributions from corporations to be given to political action committees who then could give it to candidates who were going to be on the ballot. Since they visited with sponsor and saw what was intended they will work with the sponsor.


Close the hearing on 2319

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2319
2/14/11
Job #14494

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to campaign contributions and independent expenditures

Minutes:

Senator Nething – Chairman

Senator Nething proposes a study resolution for a group of election bills. This will be one of the bills that will be included in the resolution.

Committee adjourns

Committee meets again

Senator Olafson moves a do not pass

Senator Sitte seconds

Discussion

Senator Nelson asks Senator Olafson if he met with the sponsors. He replied he did and also the Sec. of State's Office and they did come up with some other alternatives and amendments. He says there was discussion between the Sec. of State's Office and Senator Schneider.

Roll call vote

5 yes, 1 no

Motion carries

Senator Nething will carry

Date: 2/14/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2319

Senate Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Olafson Seconded By Senator Sitte

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson		X
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 5 No 1

Absent _____

Floor Assignment Senator Nething

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2319: Judiciary Committee (Sen. Nething, Chairman) recommends DO NOT PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2319 was placed on the
Eleventh order on the calendar.

2011 TESTIMONY

SB 2319

①

TESTIMONY OF SEN. MAC SCHNEIDER (DISTRICT 42 – GRAND FORKS)
SENATE JUDICIARY COMMITTEE
SENATE BILL 2319

Mr. Chairman, members of the committee, I am the sponsor of Senate Bill 2319, legislation which would require disclosure of “independent expenditures” by corporations and unions.

This legislation comes in response to last year’s United States Supreme Court decision in Citizens United v. Federal Election Commission. While it is difficult to simplify this nearly-200 page decision, the Court in Citizens United overturned a provision of federal campaign finance law that prohibited corporations and unions from making **independent expenditures** which fund political advertisements that advocate for the election or defeat of federal candidates. However, the Court did not reach the issue of whether corporations or unions may **directly** contribute to candidates or political parties.

The members of this committee have no doubt seen political advertisements paid for by corporate or union independent expenditures in the past cycle. They are often vicious political advertisements that end with an innocuous tagline, “paid for by Americans for Good Government” or the like. Even though there has only been a half of a political cycle since the Citizens United decision, the top five spenders doled out over \$300 million in independent expenditures during the 2009-2010 election alone. See attached graph from the Wall Street Journal.

Because the Citizens United decision was based upon the First Amendment, state laws – including North Dakota’s -- which prohibit this type of speech by corporations or unions are almost certainly void. While there is nothing North Dakota can do to overturn this decision, the Supreme Court made clear that provisions requiring disclosure of corporate or union contributions would be constitutional. Senate Bill 2319 seeks to impose this type of disclosure upon corporations and unions who would otherwise seek to anonymously influence public debate in North Dakota.

Given the complexity of the Court’s ruling and how to best update the Century Code in response, this legislation was far from perfect as introduced. However, the Secretary of State’s office and John Bjornson have been extremely cooperative in working with me to improve the bill, and I would like to offer at the outset some amendments that we have developed over the last several days.

Before I turn it over to John to discuss the specifics of the bill and the amendments in particular, I would like to emphasize one point: Requiring disclosure of corporate and union contributions would be good for democracy, but it would not benefit or harm one political party over the other. As the attached graph shows, the biggest spender when it comes to independent expenditures is AFSCME, a public-sector union. The second biggest is the U.S.

Chamber of Commerce. There is nothing stopping these organizations from dropping tens of thousands of dollars – maybe hundreds of thousands – entirely anonymously (or under the guise of a benign-sounding name) into election contests in North Dakota on behalf of candidates of either party. That is why both deeply “red” and deeply “blue” states around the country have taken steps to require disclosure in this manner.

Mr. Chairman, the Supreme Court has said that corporations and unions have a right to free speech. But it has also said that we are entirely free to require that they stand up and be counted. Thank you for your consideration of this bill. I would be happy to answer any questions.

Top spenders in the 2009-10 election*

AFSCME

Large labor union of government employees; spending money to help Democrats.

\$87.5 MILLION

U.S. Chamber of Commerce

Largest U.S. business lobby; spending money primarily on TV ads in support of Republicans.

75

American Crossroads and Crossroads GOP

Related organizations created this year with the help of Karl Rove and Ed Gillespie to help Republican candidates.

65

Service Employees International Union

Labor union is spending money to help Democrats.

44

National Education Association

Labor union is spending money to help Democrats.

40

Sources: AFSCME; Center for Responsive Politics; WSJ reporting.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2319

- Page 1, line 1, after "to" insert "create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to campaign contributions and independent expenditures; to"
- Page 1, line 1, replace "16.1-08.1-03.3, 16.1-08.1-03.5" with "16.1-08.1-03.12"
- Page 2, line 8, after "office" insert ", securing the amendment, passage, or defeat of any legislation by the legislative assembly."
- Page 3, line 9, after "measure" insert ", securing the amendment, passage, or defeat of any legislation by the legislative assembly."
- Page 4, overstrike lines 1 through 3
- Page 4, line 4, overstrike "d." and insert immediately thereafter "c."
- Page 4, line 4, replace "political committee" with "person"
- Page 4, line 5, replace "e." with "d."
- Page 4, line 8, remove the overstrike over "e."
- Page 4, line 8, remove "f."
- Page 4, remove lines 27 and 28
- Page 5, remove lines 1 through 29
- Page 6, remove lines 1 through 30
- Page 7, remove lines 1 through 31
- Page 8, remove lines 1 through 31
- Page 9, remove lines 1 through 30
- Page 10, replace lines 1 through 19 with:

"SECTION 2. AMENDMENT. Section 16.1-08.1-03.12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.12. Contribution statements of political organizations.

1. ~~An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527].~~ A political committee not otherwise specifically covered by the reporting requirements of this chapter which solicits or receives contributions or makes independent expenditures for political purposes, shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date the contribution was received and the

amount of each donation from a corporation, cooperative corporation, limited liability company, or association regardless of whether the donation was made for a political purpose. The statement must also include the amount of each reportable expenditure and the date the expenditure was made.

2. A preelection statement must be filed no later than the twelfth day before a primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election.
3. A year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January of the following year.
4. Even if such an ~~organization~~ committee has not received any contributions or made any expenditure in excess of two hundred dollars during the reporting period, the ~~organization~~ committee shall file a statement as required by this chapter.
5. A statement filed according to this section during the reporting period must show the following:
 - a. The gross total of all contributions and donations received and expenditures made in excess of two hundred dollars;
 - b. The gross total of all contributions and donations received and expenditures made of two hundred dollars or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
6. The ~~organization~~ committee shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, that contributed five thousand dollars or more in the aggregate during the reporting period.

SECTION 3. A new section to chapter 16.1-08.1 of the North Dakota Century Code is created and enacted as follows:

Independent expenditures - Expenditures to aid political committees - Reports - Penalty.

1. A corporation, cooperative corporation, limited liability company, or association that makes an independent expenditure or expends more than two hundred dollars in the aggregate to aid or support a political committee shall file a statement with the secretary of state within forty-eight hours after making the expenditure. The statement must include:
 - a. The full name of the corporation, cooperative corporation, limited liability company, or association;
 - b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
 - c. The name and telephone number of the individual completing the report;

- d. The name of the recipient of the expenditure;
 - e. The amount of the expenditure;
 - f. The total amount of all expenditures made for political purposes or to political committees since the beginning of the calendar year;
 - g. The printed name and signature of the individual completing the report, attesting to the report being true, complete, and correct; and
 - h. The date on which the report was signed.
2. A corporation, cooperative corporation, limited liability company, or association that makes an independent expenditure for an advertisement or other communication shall append to or include in each advertisement or communication a disclaimer that clearly and forthrightly:
- a. Identifies the corporation, cooperative corporation, limited liability company, or association making the independent expenditure for that advertisement or communication;
 - b. States the principal business address of the corporation, cooperative corporation, limited liability company, or association; and
 - c. States that the advertisement or communication is independently funded and not made in consultation with any candidate, party, or political committee.
3. It is a class A misdemeanor for an officer or director of any corporation, cooperative corporation, limited liability company, or association to violate this section or to counsel or consent to any violation, including the filing of a false report or the willful failure to file a report required by this section."

Renumber accordingly