

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 23

Introduced by Avery, 28.

Read first time January 17, 2013

Committee:

WHEREAS, the United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings (real people); and

WHEREAS, corporations are not mentioned in the United States Constitution and "The People" have never granted constitutional rights to corporations, nor have "We" decreed that corporations have authority that exceeds the authority of "We the People"; and

WHEREAS, corporations can and do make important contributions to our society using powerful advantages that government has wisely granted them, but the Legislature does not consider them real people; and

WHEREAS, United States Supreme Court Justice Hugo Black in a 1938 dissenting opinion stated, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations"; and

WHEREAS, the United States Supreme Court recognized in *Austin v. Michigan Chamber of Commerce* (1990) the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas"; and

WHEREAS, the United States Supreme Court in Citizens United v. Federal Election Commission (2010) reversed the decision in Austin v. Michigan Chamber of Commerce and the portion of McConnell v. Federal Election Commission (2003) that upheld bans on corporate and labor treasury funds for electioneering and presents a serious threat to self-government by rolling back previous bans on corporate spending in the electoral process and allows unlimited corporate spending to influence elections, candidate selection, policy decisions, and public debate; and

WHEREAS, the opinion of the four dissenting justices in Citizens United v. Federal Election Commission noted that corporations have special privileges not enjoyed by real people, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets, that allow them to spend huge sums on campaign messages that have little or no correlation with the beliefs held by real people; and

WHEREAS, the law obligates corporations to put profits for shareholders ahead of concerns for the greatest good of society while individual shareholders as real people balance their narrow self interest and the broader public interest when making political decisions; and

WHEREAS, corporations have used the artificial rights bestowed upon them by the courts to overturn democratically enacted laws that municipal, state, and federal governments passed to curb corporate abuse, thereby impairing local governments' ability to protect their citizens against corporate harms to the environment, to consumers, to workers, to independent businesses, and to local and regional economies; and

WHEREAS, the United States Supreme Court held in Buckley v. Valeo (1976) that the appearance of corruption justified some limits on contributions to candidates, but it wrongly rejected other fundamental interests that the citizens of Nebraska find compelling such as creating a level playing field and ensuring that all citizens, regardless of wealth, have an opportunity to have their political views heard; and

WHEREAS, federal courts in Buckley v. Valeo and in SpeechNow.org v. Federal Election Commission (2010) overturned spending and contribution limits on independent campaigns that helped level the political playing field because they concluded that the threat of corruption was only applicable to direct contributions to candidates; and

WHEREAS, the United States Supreme Court in First National Bank of Boston v. Bellotti (1978) and Citizens Against Rent Control v. City of Berkeley (1986) rejected limits on contributions to ballot measure campaigns because they concluded they posed no threat of candidate corruption; and

WHEREAS, United States Supreme Court Justice Stevens observed in Nixon v. Shrink Missouri Government PAC (2000) that "money is property, it is not speech"; and

WHEREAS, a February 2010 Washington Post-ABC News poll found that eighty percent of Americans oppose the United States Supreme Court ruling in Citizens United v. Federal Election Commission; and

WHEREAS, as state legislators, we have sworn to uphold the United States Constitution in our oath of office; and

WHEREAS, Article V of the United States Constitution empowers and obligates the people of the United States of America to use the constitutional amendment process to correct those egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy and the republican form of self-government.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature supports an amendment to the United States Constitution that would clarify several misinterpretations of the Constitution by divided actions of the United States Supreme Court that have culminated in the wrongly decided Citizens United v. Federal Election Commission. The amendment should make clear that corporations have only the privileges bestowed upon them by their charters and by state and federal law and the inalienable rights of the real people who are their shareholders or members. Further, the amendment shall clarify that: Money is property; it is not speech; and in order to ensure that all citizens, regardless of wealth, have an opportunity to express their views to their fellow citizens and to their government on a level playing field, the amount of speech that any one citizen may purchase should be limited to levels that do not overwhelm other citizens.

2. That a copy of this application be sent by the Clerk of the Legislature to the President of the United States Senate, to the Speaker of the United States House of Representatives, to each member of Nebraska's delegation to the United States Congress, and to the presiding officers of each house of the several state legislatures.