

TESTIMONY OF ANTHONY L. IARRAPINO, ESQ. ON BEHALF OF THE
VERMONT PUBLIC INTEREST GROUP¹ AND
IN SUPPORT OF S.322

VERMONT SENATE JUDICIARY COMMITTEE MARCH 11, 2026

Consideration of S.322 comes at a moment when the integrity of the American political process, once the envy of nations across the world, has never been more imperiled. There are many causes of this peril, but most can be summarized by a quote from the Watergate era classic film *All the President's Men*: “Follow the money.”

Recent public opinion polling² confirms that “nearly 8 in 10 Americans (79%) agreed that large independent expenditures (the technical name for political ads that are not coordinated with a candidate) by wealthy donors and corporations in elections give rise to corruption or the appearance of corruption. This included 84% of Democrats, 74% of Republicans, and 79% of independents.” Relatedly, “more than 3 in 4 Americans (76%) — including 84% of Democrats, 68% of Republicans, and 77% of independents — agreed that ‘the appearance of wealthy donors or corporations gaining influence over or access to elected officials causes me to lose faith in this democracy.’ ”³

The U.S. Supreme Court opened the floodgates for unlimited “independent expenditure” corporate cash in the electoral process by striking down a federal campaign finance law regulating corporate electoral spending on grounds that the law violated the First Amendment in *Citizens United v. Federal Elections Commission*.⁴ Because that case was decided on First Amendment grounds, many—myself included—believed that the only way to combat the corrosive effects of corporate independent expenditures was to amend the U.S. Constitution. In fact, as early as 2012—just two years after *Citizens United* was decided—the Vermont General Assembly adopted J.R.S. 11⁵ calling for such a constitutional amendment by a tripartisan vote of 92-40 in the House and 26-3 in the Senate.

¹ I am an attorney and registered lobbyist testifying on behalf of the Vermont Public Interest Research Group (VPIRG). I am also a long-time sustaining member of VPIRG. In my private practice, I have represented numerous for-profit and nonprofit corporations and limited liability companies in a range of general corporate law matters. I have also represented numerous corporations, labor unions, political actions committees and a major political party in campaign finance law compliance matters. The views expressed herein are personal and are expressed solely on behalf of VPIRG and not of any other past or present client.

² <https://issueone.org/press/new-polling-citizens-united-money-in-politics-reforms/>

³ Id.

⁴ 558 U.S. 310 (2010).

⁵ <http://www.leg.state.vt.us/docs/2012/resolutn/JRS011.pdf>

In the years since, however, experts in corporate and constitutional law⁶ have helped bring to light an alternative remedy for the ill of unlimited corporate cash plaguing our democratic process: clarifying, through amendment of state corporate law, that the powers state corporate law grants to corporations does not include the power of political speech.

S.322 provides that much needed remedy in a manner that is consistent with the U.S. Constitution as currently written and even as interpreted by the U.S. Supreme Court in *Citizens United* and other related opinions. By passing S. 322, the General Assembly would exercise its longstanding authority to define the powers available to artificial legal persons such as corporations and limited liability companies that exist solely as a result of charters granted by state law. This authority predates the U.S. Constitution and was thus reserved to states like Vermont by the Constitution's Tenth Amendment.⁷ S. 322 thus rests on the bedrock principle, long honored by the U.S. Supreme Court, that corporations and other business entities are creatures of state law and possess only those powers granted to them by the state laws under which they were created.

Furthermore, the Vermont Constitution Ch. II § 69 confirms the authority of the General Assembly to alter or repeal general laws dealing with the organization of Vermont corporations, which is what S. 322 propose to do. That reservation of state power is also reflected in statutes such as 11A V.S.A. § 1.02⁸, which states that “any act creating, continuing, altering, or renewing a corporation or body politic may be repealed by the General Assembly, **as the public good requires**; and any such act may be altered or amended by the General Assembly, **as the public good requires.**”

In 2026, can there really be any question that the public good requires less corrupting corporate cash in our political process?

⁶ E.g., David Simpson “Does Federalism Provide a Means to Circumvent *Citizens United*”, U.C. Business Law Journal Vol.20 p. 253, 256 (2020); Vincent S.J. Buccola, “States Rights Against Corporate Rights” Columbia Bus. Law Rev. 595 (2017), available at <https://www.ssrn.com/abstract=2781514>

⁷ See Simpson, supra at 256-257, detailing U.S. Supreme Court precedent confirming state corporate chartering authority.

⁸ There is a narrow exception to this rule for corporate charters granted prior to 1851, when Ch. 11 § 69 was added to the Vermont Constitution, but this narrow exception would likely pertain to only a small handful of artificial legal persons that have been in continuous existence in Vermont since the 19th century. VPIRG is unaware of any such corporations.

Though S. 322 seeks to solve a problem *Citizens United* created, it does not conflict *Citizens United* itself, nor to other cases upon which *Citizens United* relies. That is because *Citizens United* assumed that the corporations at issue possessed the power of political speech from the moment of their creation under broad grants of corporate powers endowing artificial legal persons with the same power as real live human beings. Vermont’s current corporate laws contain such broad grants which provide, among other things, that “every corporation has the same powers as an individual to do all things necessary and convenient to carry out its business and affairs...”⁹

As aptly and thoroughly explained by Tom Moore of the Center for American Progress,¹⁰ no U.S. Supreme Court case, including *Citizens United*, squarely holds that state like Vermont are prohibited from altering their corporate chartering laws to withhold from corporations the power of political speech. Nor do they hold that states are compelled by the Constitution to grant corporations political speech powers. Rather, those cases stand only for the proposition that powers granted by states in corporate charters cannot then be restricted through subsequent campaign finance laws.

S. 322 is fundamentally not a campaign finance law restriction on corporate political speech, it is repeal and alteration of corporate chartering laws upon which the claim to corporate political speech rights upheld in *Citizens United* rest. This concept is clearly reflected in the following finding from S. 322, explaining that the purpose of the law is “revoke any prior broad grants of powers to artificial legal persons that may be construed to authorize election activity or ballot-issue activity”¹¹

Some have misread *Citizens United* as a vindication not of corporate rights of political speech, but of the rights of individual shareholders who come together to express their political views through the jointly held resources in the corporation. This argument ignores the reality that those individuals have other means to exercise their First Amendment free speech right in the political process.

S. 322 would not infringe the collective exercise of those individual rights, including the right to make independent expenditures. Vermont campaign finance

⁹ 11A V.S.A. § 3.02.

¹⁰ “The Corporate Power Reset That Makes *Citizens United* Irrelevant” Available at <https://www.americanprogress.org/article/the-corporate-power-reset-that-makes-citizens-united-irrelevant/> This report has been submitted into evidence before this committee. I have reviewed this paper on behalf of VPIRG and fully endorse its legal analysis.

¹¹ S. 322, Section 1(d)(1).

law allows “any one or more individuals” to “accept[] contributions or make[] expenditures in any amounts within any two-year general election cycle for the purpose of supporting or opposing candidates, influencing an election, or advocating for or against a public question.”¹²

Moreover, S. 322 will still allow corporations to engage in certain limited practices that were generally accepted prior to *Citizens United* and that do not genuinely undermine our political process in the way that unlimited corporate spending does. Examples include the ability to publicly announce endorsement of preferred candidates and to lobby state and local legislatures when it comes to the fashioning of language in state constitutional amendments or charter changes.

S. 322 will also not interfere with legitimate business transactions that involve the electoral process. In a prior hearing, Senator Mattos wondered whether a print shop would be prohibited by S. 322 from printing election flyers that were being paid for by someone else to promote a candidate. The answer to this question is NO, it does not.

S. 322 does not prohibit corporations or other artificial legal persons from accepting fair market value payments for performing a legitimate business service or providing goods to a paying customer, even if those goods or services will ultimately be used for campaigning purposes. While S. 322 prohibits artificial legal persons from spending their corporate money to influence elections, it allows them to remain open for business when it comes to accepting the money of real human beings who are exercising their inalienable First Amendment speech rights in the electoral process.

The plague of unlimited corporate money in elections is not a uniquely Vermont problem, but neither is Vermont immune from this plague. In our federal system, Vermont and its sister states are empowered to enact laws that apply only in Vermont state and local elections. But if enough states like Vermont embrace their Tenth Amendment authority to clarify that corporations chartered under their laws lack the power of political speech, the cure will begin to take hold and spread so that our political system can begin the long and long overdue healing process.

Vermont corporate law empowers members of this Committee and your colleagues to do what the public good requires when it comes to altering or repealing general

¹² 17 V.S.A. § 2901(10).

corporate chartering laws. VPIRG urges you to advance the public good through passage of S. 322.

[end of testimony]