

Approved: 3-7-95
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT & GOVERNMENTAL STANDARDS .

The meeting was called to order by Vice-Chairperson Sen. Stan Clark at 1:30 p.m. on February 23, 1995 in Room 529-S of the Capitol.

All members were present except: Senator Martin, Excused

Committee staff present: Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Stacey Soldan, Committee Secretary

Conferees appearing before the committee: Debra Leib, Common Cause-Kansas
John Vratil, President-Elect; Kansas Bar Association
Don Linsey, United Transportation

Others attending: See attached list

SB 320--Relating to election campaign finance; concerning contributions

Debra Leib, Common Cause-Kansas, appeared before the committee to testify on **SB 320**. (attachment 1) She stated Common Cause of Kansas supported **SB 320**, a bill which prohibits contributions to candidates from all sources other than individuals and party committees. Discussion followed.

John Vratil, President-Elect, Kansas Bar Association, appeared before the committee to testify on **SB 320**. (attachment 2) He stated KBA requested introduction of **SB 320** and recommended passage of this bill. He stated that individuals' time and money are the real basis of politics. He stated that contributions from individuals are decreasing. The goal of this bill is to return Kansas politics to a system where the primary financing element of a candidate's campaign is a living, breathing human being with a check book and eliminating PACS, corporate and union contributions. Discussion followed.

Senator Tillotson stated that the Kansas Bar Association asked her to introduce **SB 320** and she is a supporter of the provisions in **SB 320**.

Don Linsey, United Transportation Union, appeared before the committee to testify on **SB 320**. He is an opponent to **SB 320**. He stated there are misconceptions of huge dollar amounts being contributed by labor unions.

Hearings were closed on **SB 320**.

Action on **SB 232**.

Brad Bryant appeared before the committee to answer questions concerning **SB 232** and how the advance voting bill would affect portions of **SB 232**. Senator Hardenburger briefly discussed the balloon which would change 15 days to 25 days for mailing notices to persons nominated for public office. (attachment 3) Discussion followed concerning NVRA and its impact on election laws. **SB 232** was amended to replace 14 days to 21 days for a notice to call and convene a convention to fill an office vacancy.

Senator Clark made a motion to pass **SB 320** as amended out of committee. Senator Ranson seconded the motion. The motion carried.

Meeting adjourned at 2:30 p.m..

The next meeting is scheduled for Tuesday, March 7, 1995.

**SENATE ELECTIONS, CONGRESSIONAL &
LEGISLATIVE APPORTIONMENT AND
GOVERNMENTAL STANDARDS COMMITTEE GUEST
LIST**

DATE: February 23, 1995

NAME	REPRESENTING
Brad Bryant	Sec. of State
Jennifer Crank Kentz	"
Rae Smith	
Jim Smith	United We Stand
Chip Wheeler	KS Society of Assn Execs
John Kratoch	Kansas Bar Assn.
Charlie Smithson	KCGSC
Paul E. Weller	KCGSC
DEBRA LEUB	COMMON CAUSE
David Owen	SEAK
Sen. Larry T. Tipton	
Shuli Rik	SWRT
Gondie Stewart	KS AFL-CIO
Don Simpson	UTU
Jes Cumpacher	Governor's Office
Maurice Peterson	KBA
Jennifer Yocha	State Treasurer

**Senate Committee on Elections, Congressional & Legislative Apportionment
and Governmental Standards**

Testimony on S.B. 320

Debra R. Leib, Executive Director
Kansas Common Cause

February 23, 1995

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 320 which prohibits contributions to candidates from all sources other than individuals and party committees.

Common Cause has long advocated fundamental change in our system of financing campaigns. The current crisis in public confidence reflects in large part the dominance of special interests which fund election campaigns. In Kansas as in many other states, the system of financing elections is patently unfair and discredited. Under the present system, special-interest campaign contributions are a vehicle for obtaining influence, or creating the appearance of influence, over government decision-makers in matters of importance to all citizens. While S.B. 320 substantially reduces the flow of special-interest money into campaigns, the proposed bill does not remedy the financial imbalance which exists between incumbents and challengers. Ironically, the restrictions as currently imposed in the bill may in fact increase the disparity.

Without a corresponding system of public funding for candidates, incumbents as well as challengers may be denied adequate resources necessary to communicate effectively with voters. In an effort to promote competitive elections free of the more egregious special-interest contributions, Common Cause would encourage this committee to amend S.B. 320 to ban all corporate and union contributions but limit the amount that PACs may contribute to candidates.

An aggregate PAC limit may take the form of either a percentage or dollar limit: PACs may contribute, for example, up to a pre-determined percentage of the total contributions received by a candidate or, alternatively, may contribute up to a total dollar amount to a candidate for a given race. In either case, the candidate would be prohibited from accepting more money from PACs than he or she accepts from individuals. An aggregate PAC limit would lessen the current dependence upon, and advantage to, special-interest money while encouraging the financial participation of individual citizens.

Until Kansas places a limit on the total amount of money that can be spent on an election and offers a substitute for special-interest contributions, democracy in Kansas will continue to deteriorate. Passage of an amended version of S.B. 320 -- prohibiting corporate and union contributions and limiting the total amount that PACs can contribute to candidates -- would go a long way toward restoring integrity to the electoral process and addressing the cynicism that prevails throughout the state.

Senate Elections
2-23-95
Attachment 1

Legislative Testimony

TO: Members, Senate Elections, Congressional, Legislative and
Governmental Standards Committee

FROM: John Vratil
President-Elect, Kansas Bar Association

SUBJ: SB 320; PAC, Corporate and Union contributions

DATE: February 22, 1995

Good afternoon. My name is John Vratil. I am a member of Lathrop & Norquist, a law firm in Overland Park. I am also President-elect of the Kansas Bar Association. The Board of Governors of the KBA asked for the introduction of this bill. We support it, and urge that you enact it.

We want to say from the outset that this bill contains our preference for how the law should look. In your deliberations, if you see that this bill does not quite do what we suggest be done here, please amend it to more accurately effect our purpose.

Background

The vast majority of political candidates need the support of others when running for public office. The public believes that candidate campaigns are financed by special interests.

Individuals who give their time and money to campaigns are the basis from which politics springs. Yet, individual Kansans represent less and less of the total sums given to campaigns. Corporate, PAC and Union contributions have been the quick way to raise these sums.

Goal

Our goal with this legislation is to return Kansas politics to a system where the primary financing element of *candidate campaigns* is a living breathing human being with a personal checking account. That goal can be accomplished only by eliminating *direct* PAC, corporate and labor union contributions to candidate campaigns.

Reasons

Former U.S. Senate Majority Leader George Mitchell said of the recent 103rd Congress:

“The American people are right when they mistrust this system, where what matters most in seeking office is not integrity, not ability, not judgment, not reason, not responsibility, not experience, not intelligence, but money. Money dominates this system. Money infuses the system. Money is the system.”

If this is true, if the quest for political candidates is the Money Chase rather than focusing on what needs to be done to make the country and our state better, then we must begin the process of remaking that system.

In 1994, the voters of Kansas and this nation seemed to be saying they wanted less spending and less bureaucracy. If you believe that message, you should support this bill.

What This Bill Does.

This bill amends current law so that only individual and certain party committee contributions can be received by candidates for state public office. It will prohibit campaign contributions to the candidate from PACs, corporations, partnerships, and labor unions.

This bill elevates individuals as the primary means by which candidates get elected. It puts a premium on candidates convincing PACs, businesses and unions to raise funds from the individuals in their organizations, rather than the organization itself.

We believe that if you are going to prohibit PACs contributions, you must treat union and corporate contributions the same way. Otherwise an unlevel playing field results.

What this bill does not do.

1. This bill does not prohibit PACs, or make them illegal. Entities using PACs may want to use them for other lawful purposes such as ballot initiatives. This bill affects direct contributions to *candidate* campaigns.
2. This bill does not prohibit PACs, corporations or labor unions from making *indirect* expenditures on behalf of the candidacy of someone for public office.¹ These entities can make independent campaign expenditures so long as there is no connection or direction from the candidate(s) being supported.²

¹ In fact some nonprofit, nonstock corporations cannot be shut out of the campaign process when it comes to independent expenditures. *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986).

² In reviewing the First Amendment law on this topic, we felt it is improper to attempt to stifle *indirect* corporate, PAC or Union participation in the election process, even though the US Supreme Court has

3. This bill does not prevent PACs, corporations or Unions from organizing their constituents and directing *individual personal* campaign contributions to candidates. This is called endorsement financing or "bundling." *In fact, we hope organizations take the time to encourage constituents to get involved in this manner.*

Constitutional Considerations

Corporations, unions and PACs do not have an *unlimited* right to finance candidate campaigns.³ Congress has long prohibited direct or indirect corporate contributions to federal candidates. Until a few years ago, Kansas prohibited regulated corporations from contributing to candidates. The Supreme Court has recognized that states can limit contributions from certain entities.⁴ The key, we think, is that we not apply the ban to protected political activity.

This bill puts individuals, unions, PACs and corporations on a similar playing field. A pastor who feels strongly about an issue can urge his or her followers to support the campaign of a candidate. Those in the church who believe that way will write checks or volunteer to help the candidate. If the church just issued a check -- which they could do under current law -- the members of the church who do not believe in the pastor's politics are coerced into partly funding that contribution. The same is true with shareholders of corporations or employees of a business with a PAC. SB 320 makes everyone take *individual* action to support campaigns.⁵ We think the better solution is simply to let PACs and corporations suggest the candidates that *individual* contributors or shareholders can then decide to support.

Conclusion

This bill is not anti-special interest. It is, however, pro-individual. We hope you will support it. Thank you. I'll answer questions if I can.

held that states may limit corporate participation in candidate endorsements. See *Austin v. Michigan Chamber of Commerce*, 494 US 652, 108 L.Ed.2d 652, 676-677, 110 S.Ct. 1391 (1990).

³ One U.S. Supreme Court justice believes a corporation's right to lobby is on a higher protected plane than their participation in candidate campaigns. See *Austin v. Michigan Chamber of Commerce*, 494 US 652, 108 L.Ed.2d 652, 110 S.Ct. 1391 (1990)(Justice Stevens, concurring Opinion and notes thereto; 108 L.Ed.2d at 676-677.)

⁴ A governmental restriction on the amount of monetary contributions that could be made to an individual candidate did not violate the right to freedom of speech guaranteed by the First and Fourteenth Amendment. *Buckley v. Valeo*, 424 U.S. 1, (1976).

⁵ For some time, labor unions have been unable to compel a member to contribute to their Union political causes to which the members openly disagree. See generally, *Brotherhood of R. & S.S. Clerks, Etc. V. Allen*, 373 US 113 (1963). PACs and corporate contributions are not so limited.

SENATE BILL No. 320
By Committee on Elections, Congressional and Legislative
Apportionment and Governmental Standards
2-14

8 AN ACT relating to election campaign finance; concerning contributions;
9 amending K.S.A. 25-4153 and repealing the existing section.
10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 25-4153 is hereby amended to read as follows: 25-
13 4153. (a) The aggregate amount contributed to a candidate and such
14 candidate's candidate committee and to all party committees ~~and political~~
15 ~~committees~~ and dedicated to such candidate's campaign, by any ~~political~~
16 ~~committee or any person-individual except a party-committee~~, the can-
17 didate or the candidate's spouse, shall not exceed the following:

18 (1) For the pair of offices of governor and lieutenant governor or for
19 other state officers elected from the state as a whole, \$2,000 for each
20 primary election (or in lieu thereof a caucus or convention of a political
21 party) and an equal amount for each general election;

22 (2) for the office of member of the house of representatives, district
23 judge, district magistrate judge, district attorney, member of the state
24 board of education or a candidate for local office, \$500 for each primary
25 election (or in lieu thereof a caucus or convention of a political party) and
26 an equal amount for each general election.

27 (3) for the office of state senator, \$1,000 for each primary election
28 (or in lieu thereof a caucus or convention of a political party) and an equal
29 amount for each general election.

30 (b) For the purposes of this section, the face value of a loan at the
31 end of the period of time allocable to the primary or general election is
32 the amount subject to the limitations of this section. A loan in excess of
33 the limits herein provided may be made during the allocable period if
34 such loan is reduced to the permissible level, when combined with all
35 other contributions from the person making such loan, at the end of such
36 allocable period.

37 (c) For the purposes of this section, all contributions made by un-
38 emancipated children under 18 years of age shall be considered to be
39 contributions made by the parent or parents of such children. The total
40 amount of such contribution shall be attributed to a single custodial par-
41 ent and 50% of such contribution to each of two parents.

42 (d) The aggregate amount contributed to a state party committee by
43 ~~a person-an individual or a party committee~~ other than a national party

44 ~~committee or a political committee~~ shall not exceed \$15,000 in each cal-
45 endar year; and the aggregate amount contributed to any other party
46 committee by a ~~person-an individual or a party committee~~ other than a
47 national party committee ~~or a political committee~~ shall not exceed \$5,000
48 in each calendar year.

49 The aggregate amount contributed by a national party committee to a
50 state party committee shall not exceed ~~\$25,000-\$50,000~~ in any calendar
51 year, and the aggregate amount contributed to any other party committee
52 by a national party committee shall not exceed \$10,000 in any calendar
53 year.

54 The aggregate amount contributed to a party committee by a political
55 committee shall not exceed \$5,000 in any calendar year.

56 (e) Any political funds which have been collected and were not sub-
57 ject to the reporting requirements of this act shall be deemed a person
58 subject to these contribution limitations.

59 (f) Any political funds which have been collected and were subject to
60 the reporting requirements of the campaign finance act shall not be used
61 in or for the campaign of a candidate for a federal elective office.

62 (g) The amount contributed by each individual[,] party committee of (don't we need comma
here?)
63 the same political party other than a national party committee to any
64 candidate for office, for any primary election at which two or more can-
65 didates are seeking the nomination of such party shall not exceed the
66 following:

67 (1) For the pair of offices of governor and lieutenant governor and
68 for each of the other state officers elected from the state as a whole,
69 \$2,000 for each primary election (or in lieu thereof a caucus or convention
70 of a political party);

71 (2) for the office of member of the house of representatives, district
72 judge, district magistrate judge, district attorney, member of the state
73 board of education or a candidate for local office, \$500 for each primary
74 election (or in lieu thereof a caucus or convention of a political party);
75;cal and

76 (3) for the office of state senator, \$1,000 for each primary election
77 (or in lieu thereof a caucus or convention of a political party).

78 (h) When a candidate for a specific cycle does not run for office, the
79 contribution limitations of this section shall apply as though the individual
80 had sought office.

81 (i) No person shall make any contribution or contributions to any
82 candidate or the candidate committee of any candidate in the form of
83 money or currency of the United States which in the aggregate exceeds
84 \$100 for any one primary or general election, and no candidate or can-
85 didate committee of any candidate shall accept any contribution or con-

86 tributions in the form of money or currency of the United States which
87 in the aggregate exceeds \$100 from any one person for any one primary
88 or general election.

89 *(j) No contributions shall be accepted by any candidate except from*
90 *an individual or a party committee other than a national party committee.*

91 *(k) No contributions shall be accepted by any candidate committee*
92 *except from an individual or a party committee other than a national*
93 *party committee.*

94 *(l) No state party committee shall accept contributions except from*
95 *an individual or another party committee.*

96 *(m) No district or county party committee or any political committee*
97 *established by a state party committee and designated as a recognized*
98 *political committee shall accept contributions except from an individual*
99 *or a party committee other than a national party committee.*

100 Sec. 2. K.S.A. 25-4153 is hereby repealed.

101 Sec. 3. This act shall take effect and be in force from and after its
102 publication in the statute book.\

and December 1, 1996.

Two Proposed Amendments

1. The effective date of Dec. 1, 1996, in line 102 gets us into the next election cycle. Thus fundraising through the 1996 elections will not be affected. Fundraising for the 1998 elections will be affected by this bill.

2. If you think it need clarification that a corporation or union can make independent expenditures on a candidates behalf, we suggest the following new subsection (n) be inserted at the end of line 99:

(n) Nothing in this section shall preclude a labor union, political committee, corporation or other business entity, directly or through an affiliated political committee, from making an independent expenditure for the qualification, passage or defeat of a ballot question or in support or opposition to the candidacies of individual candidates for public office. An independent expenditure means an expenditure by any person or entity if the expenditure is not made at the direction of, or under the control of, a candidate or anyone associated with the candidate's campaign committee, if the person or entity is not allowed to make direct contributions to candidates or candidate committees. Corporations, political committees and Unions may not make in-kind contributions to candidates or candidate committees, or any other individual or entity if the beneficiary of the in-kind contribution ultimately is a candidate or candidate committee. However, any expenditure by a labor union, party committee, political committee, corporation or other business entity direct or in-kind, designed to solicit political contributions by members, shareholders, constituents or others affiliated with such

organizations who are individual persons shall be considered a lawful independent expenditure.

16 Section 1. K.S.A. 25-105 is hereby amended to read as follows: 25-
17 105. Except as otherwise provided by law, the county election officer shall
18 cause notice of the time of the holding of any general election to be
19 published once at least ~~fifteen (15)~~ 15 days before such election, except
20 in the case of special elections, when ~~ten (10)~~ 10 days' notice shall be
21 given. Such notice shall be published in a paper or papers having circu-
22 lation in such county. Such notice shall state the date and times of such
23 election, the name of each person nominated for any public office to be
24 voted upon and any propositions to be voted upon. If such election is not
25 held in conjunction with another election for which notice of voting areas
26 and polling places has been published, the notice required by this section
27 shall also include such information. ~~(The county election officer shall, at~~
28 ~~least 15 days before such election, mail a copy of such notice to each~~
29 ~~person nominated for any public office, and to judicial retention candi-~~
30 ~~dates.~~

31 Sec. 2. K.S.A. 25-213 is hereby amended to read as follows: 25-213.
32 At all national and state primary elections, the national and state offices
33 as specified for each in this section shall be printed upon the official
34 primary election ballot for national and state offices and the county and
35 township offices as specified for each in this section shall be printed upon
36 the official primary election ballot for county and township offices. The
37 official primary election ballots shall have the following heading:.

38 OFFICIAL PRIMARY ELECTION BALLOT

39 _____ Party

40 To vote for a person whose name is printed on the ballot make a cross
41 or check mark in the square at the left of the person's name. To vote for
42 a person whose name is not printed on the ballot, write the person's name
43 in the blank space, if any is provided, and make a cross or check mark in

When the names to appear on general election ballots are definitely known and no later than 25 days prior to any general election, the