

MINUTES

Government Accountability Task Force

Senator Jordan Youngberg, Chair
Representative Julie Bartling, Vice Chair



**Third and Final Meeting, 2017 Interim
Monday, October 16, 2017**

**Room 413 – State Capitol
Pierre, SD**

The third and final meeting of the Government Accountability Task Force was called to order by Senator Youngberg at 10:30 a.m. (CDT) on October 16, 2017, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined by the following members answering the roll call: Senators Brock Greenfield (via telephone), Craig Kennedy, and Billie Sutton (via telephone); Representatives Timothy Johns, Karen Soli (via telephone), and Mike Stevens; Mr. Tony Venhuizen, Ms. Kea Warne, and Mr. Rich Williams; Representative Julie Bartling, Vice Chair; and Senator Jordan Youngberg, Chair.

Staff members present included Fred Baatz, Principal Research Analyst; Wenzel Cummings, Legislative Attorney; Jason Simmons, Principal Fiscal Analyst; and Paul Giovanetti, Senior Legislative Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.

Approval of the Minutes

A MOTION WAS MADE BY REPRESENTATIVE STEVEN AND SECONDED BY MS. WARNE TO APPROVE THE MINUTES OF THE AUGUST 29, 2017, GOVERNMENT ACCOUNTABILITY TASK FORCE MEETING. The motion passed on a roll call vote with 11 members voting AYE. Those voting AYE: Greenfield, Kennedy, Sutton, Johns, Soli, Stevens, Venhuizen, Warne, Williams, Bartling and Youngberg.

Report on Information Requests

Ms. Wendy Underhill, Program Director, National Conference of State Legislatures, answered follow up questions on campaign financing from the last meeting. ([Document #1](#)) Ms. Underhill stated that no state has decreased campaign contribution limits since the United States' Supreme Court ruling on Citizens United v. Federal Election Commission. She stated that the ruling from the United States' Supreme Court on Randall v. Sorrell did not apply to the whole nation because there was not a precedence set in the case. She also provided information regarding the states with no campaign limits. She stated that three states currently have proportional limits but this could be challenged in the courts. She finally addressed the restriction of out-of-state contributions. Alaska and Washington have certain restrictions on out-of-state contributions in their campaign contribution laws.

Mr. Tony Venhuizen asked if there is any information on states restricting out of state funding for initiated measures or ballot questions. Ms. Underhill stated that the restrictions are more on the candidate, because once in office the candidate could be susceptible quid pro quo. Limits to ballot measures are less restrictive because there is no quid pro quo.

Mr. Fred Baatz, Principal Research Analyst, Legislative Research Council reviewed the Contribution Finance Report Deadlines. ([Document #2](#))

Review of Draft Legislation
([Document #3](#))

Draft Legislation #134- *An Act to revise certain provisions concerning campaign finance limits.*

Mr. Venhuizen reviewed the draft legislation. The draft is the concept shared with the task force at the last meeting. The draft does not change the campaign contribution limits but makes the laws easier to read.

Draft Legislation #176- *An Act to revise certain limitations and penalties concerning campaign contributions.*

Senator Craig Kennedy reviewed the draft legislation. The draft puts in place the campaign contribution limits that were enacted by the people of South Dakota with the passage of Initiated Measure 22 (IM 22). The format follows Draft #134, however there are substantive changes. This draft reverses the provisions of the legislation passed in the 2017 Session that allowed entities to directly contribute to a candidate committee or a political party and the penalties for violations would be changed to Class 1 Misdemeanors.

Draft Legislation #209- *An Act to revise certain provisions concerning campaign finance requirements.*

Ms. Ellie Baily, Deputy General Counsel, Office of the Governor reviewed the draft legislation and the changes that would be made by cleaning up the code and eliminating duplicative language.

Draft Legislation #166- *An Act to revise the definition of a ballot question committee.*

Ms. Kea Warne reviewed the draft legislation that clarified certain requirements concerning ballot question committees.

Draft Legislation #191- *An Act to revise certain provisions defining gifts from registered lobbyists to public officials.*

Senator Kennedy reviewed the draft legislation. The draft limits the education exemption to only educational materials.

Draft Legislation #153- *An Act to allow ballot question committees to continue from one election cycle to another.*

Mr. David Owen, President, South Dakota Chamber of Commerce and Industry reviewed the draft legislation. The goal of this draft is to allow organizations to form Ballot Action Committees and to contribute on multiple ballot questions from one election cycle to the next.

Draft Legislation #206- *An Act to revise certain provisions concerning the content of the campaign finance disclosure reports and to declare an emergency.*

Ms. Kea Warne reviewed the draft legislation which provides clarification that any contribution from an entity must be documented.

Draft Legislation #210- *An Act to revise the application of certain penalties concerning violations of the campaign finance laws.*

Mr. Venhuizen reviewed the draft legislation to apply certain penalties when a person knowingly commits a violation.

Public Testimony on Draft Legislation

Ms. Tyrel Cruse, Represent Us, Pierre, stated she is a proponent of Draft Legislation #176 and IM 22. She understands that the initiated measure was unconstitutional as written and that the legislature worked during session to take parts of the measure into various single subject bills. She feels that government needs to be more transparent and the public should be able to find out who is donating to each candidate and campaign. The task force needs to consider the will of the people and provide more transparency.

Senator Jordan Youngberg asked if she believed that the provisions of IM 22 allowed more transparency when it comes to the availability of campaign finance reports. Ms. Cruse stated that the measure would have allowed anyone from the public to request information on campaign finances from the Office of the Secretary of State.

Ms. Warne replied that any person can come to the Office of the Secretary of State and request the information or look at the reports online. Ms. Cruse replied that there should be more reports required.

Mr. Jim Ackerman, Pierre stated that he supports Draft Legislation #176 and wants as much transparency as possible on campaign finances.

Task Force Discussion on Draft Legislation

Draft Legislation #134- An Act to revise certain provisions concerning campaign finance limits.

Representative Julie Bartling asked if this draft changes any of the current limits. Mr. Venhuizen replied that the goal of this draft was to simplify the law so everyone could understand what the limits are. The draft does not change any of the current limits.

Draft Legislation #206- An Act to revise certain provisions concerning the content of the campaign finance disclosure reports and to declare an emergency.

Mr. Venhuizen asked if Draft Legislation #176 was selected by the task force, would Ms. Warne still bring draft #206 forward. Ms. Warne replied that this legislation is needed because the state needs to clarify who must report.

Mr. Venhuizen recommended the bill be amended to include language that would cover the current election cycle by making it effective retroactively. The task force agreed on this recommendation and amended the bill draft:

On Page 2 Line 14 insert after July 1, 2017 after the word "entity".

Draft Legislation #153- An Act to allow ballot question committees to continue from one election cycle to another.

Representative Bartling asked if the ballot question committee would continue after each election cycle. Mr. Owens replied that the committee would receive contributions and the committee would have the ability to address multiple ballot questions without ending each election cycle.

Mr. Venhuizen stated that his concern with a ballot question committee is that donations would be unlimited. Mr. Owen replied the limit of \$10,000 to PACs may not allow corporations to effectively run a ballot measure campaign.

Mr. Venhuizen asked if it would be possible to break out the expenditures by each ballot questions. Mr. Owen replied that could be accomplished when reporting.

The task force had a discussion on the proposed legislation and the implications this proposal would have on campaign finances.

Draft Legislation #176- An Act to revise certain limitations and penalties concerning campaign contributions.

Representative Karen Soli stated that Senator Kennedy brought forward a solid piece of legislation that honors the campaign contribution limits voted in by the people with the passage of IM 22.

Senator Kennedy stated the purpose of this draft is to put in law what the voters of South Dakota passed for campaign contribution limits with IM 22. In addition, it brings back the prior prohibition on certain contributions from entities and the prior level of penalties.

Mr. Venhuizen stated that he was critical of IM 22. The campaign for this initiated measure was financed with over \$1 million from out of state contributions and the money was not transparent. South Dakota voters learn about initiated measures through reading the text of the measure, reading the Attorney General's explanation, or through the TV advertising. At the voting booth on the ballot, every voter has a chance to read the Attorney General's explanation. Mr. Venhuizen read the explanation to the task force which said it would lower contribution amounts and create a publicly funded campaign finance program as well as several other features. He stated that Draft #176 should include public financing to hold to the spirit of IM 22.

Representative Soli agreed that public financing was tied to IM 22 however, Draft #176 should be the foundation in setting the contribution limits.

Senator Billie Sutton stated that the public financing was challenged as being unconstitutional. However, lowering the limits was not unconstitutional. Mr. Venhuizen replied that the only constitutional objection was whether an appropriation could be made in an initiated measure not the concept of public campaign financing.

Task Force Action on Draft Legislation

A MOTION WAS MADE BY MR. VENHUIZEN AND SECONDED BY REPRESENTATIVE STEVENS TO AMEND DRAFT LEGISLATION #209 BY ADDING SECTION 1 OF DRAFT LEGISLATION #210, AND ADOPT DRAFT LEGISLATION #209 AS AMENDED. The motion passed on a roll call vote with 11 members voting AYE. Those voting AYE: Greenfield, Kennedy, Sutton, Johns, Soli, Stevens, Venhuizen, Warne, Williams, Bartling and Youngberg.

A MOTION WAS MADE BY SENATOR KENNEDY AND SECONDED BY REPRESENTATIVE BARTLING TO ADOPT DRAFT LEGISLATION #191. The motion passed on a roll call vote with 7 members voting AYE, 3 members voting NAY, 1 member EXCUSED. Those voting AYE: Kennedy, Sutton, Soli, Warne, Williams, Bartling, and Youngberg. Those voting NAY: Johns, Stevens, and Venhuizen. Those EXCUSED: Greenfield.

A MOTION WAS MADE BY REPRESENTATIVE BARTLING AND SECONDED BY SENATOR SUTTON TO ADOPT DRAFT LEGISLATION #176. The motion failed on a roll call vote with 4 members voting AYE, 7 members voting NAY. Those voting AYE: Kennedy, Sutton, Soli, and Bartling. Those voting NAY: Greenfield, Johns, Stevens, Venhuizen, Warne, Williams, and Youngberg.

A MOTION WAS MADE BY MR. VENHUIZEN AND SECONDED BY MS. WARNE TO AMEND DRAFT LEGISLATION #209 BY ADDING DRAFT LEGISLATION #166, AND ADOPT DRAFT LEGISLATION #209 AS AMENDED. The motion passed on a roll call vote with 11 members voting AYE. Those voting AYE: Greenfield, Kennedy, Sutton, Johns, Soli, Stevens, Venhuizen, Warne, Williams, Bartling and Youngberg.

A MOTION WAS MADE BY REPRESENTATIVE STEVENS AND SECONDED BY MR. VENHUIZEN TO TABLE DRAFT LEGISLATION #153. The motion passed on a roll call vote with 10 members voting AYE, 1 member voting NAY. Those voting AYE: Greenfield, Kennedy, Johns, Soli, Stevens, Venhuizen, Warne, Williams, Bartling and Youngberg. Those voting NAY: Sutton.

A MOTION WAS MADE BY MS. WARNE AND SECONDED BY MR. VENHUIZEN TO ADOPT DRAFT LEGISLATION #206. The motion passed on a roll call vote with 10 members voting AYE, 1 member EXCUSED. Those voting AYE: Kennedy, Sutton, Johns, Soli, Stevens, Venhuizen, Warne, Williams, Bartling and Youngberg. Those EXCUSED: Greenfield.

A MOTION WAS MADE BY MR. VENHUIZEN AND SECONDED BY REPRESENTATIVE JOHNS TO ADOPT DRAFT LEGISLATION #134. The motion passes on a roll call vote with 7 members voting AYE, 4 members voting NAY. Those voting AYE: Greenfield, Johns, Stevens, Venhuizen, Warne, Williams, and Youngberg. Those voting NAY: Kennedy, Sutton, Soli, and Bartling.

A MOTION WAS MADE BY REPRESENTATIVE JOHNS AND SECONDED BY SENATOR KENNEDY TO ADOPT DRAFT LEGISLATION #211, WHICH INCLUDES SECTIONS 9 AND 10 OF DRAFT LEGISLATION #176. The motion passed on a roll call vote with 8 members voting AYE, 3 members voting NAY. Those voting AYE: Greenfield, Kennedy, Sutton, Johns, Soli, Venhuizen, Bartling, and Youngberg. Those voting NAY: Stevens, Warne, and Williams.

Adjourn

A MOTION WAS MADE BY REPRESENTATIVE STEVENS AND SECONDED BY MS. WARNE, THAT THE GOVERNMENT ACCOUNTABILITY TASK FORCE MEETING BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The committee adjourned at 2:07 pm