

REFERENCE TITLE: *Citizens United decision; repeal*

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

## **HCR 2026**

Introduced by  
Representatives McCune Davis, Alston, Campbell, Dalessandro, Gallego,  
Hernández, Mendez, Quezada, Senator Tovar

### A CONCURRENT RESOLUTION

SUPPORTING THE RIGHT OF ARIZONA'S CITIZENS TO VOTE ON WHETHER TO INSTRUCT  
THEIR CONGRESSIONAL REPRESENTATIVES TO PROPOSE AN AMENDMENT TO THE UNITED  
STATES CONSTITUTION TO REPEAL THE CITIZENS UNITED DECISION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1           Whereas, the United States Constitution and the Bill of Rights are  
2 intended to protect the rights of individual human beings; and

3           Whereas, corporations are not mentioned in the Constitution, and the  
4 people have neither granted constitutional rights to corporations nor decreed  
5 that corporations have authority that exceeds the authority of "We the  
6 People"; and

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

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

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

19           Whereas, the United States Supreme Court in *Citizens United v. Federal*  
20 *Election Commission* (2010) reversed the decision in *Austin* and the portion of  
21 *McConnell v. Federal Elections Commission* that upheld bans on corporate and  
22 labor treasury funds for electioneering. The *Citizens United* decision  
23 presents a serious threat to self-government by rolling back previous bans on  
24 corporate spending in the electoral process and allows unlimited corporate  
25 spending to influence elections, candidate selection, policy decisions and  
26 public debate; and

27           Whereas, the opinion of the four dissenting justices in *Citizens United*  
28 noted that corporations have special privileges not enjoyed by real people,  
29 such as limited liability, perpetual life and favorable treatment of the  
30 accumulation and distribution of assets, which allow them to spend huge sums  
31 on campaign messages that have little or no correlation with the beliefs held  
32 by real people; and

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

37           Whereas, corporations have used the artificial "rights" bestowed on  
38 them by the courts to overturn democratically enacted laws that municipal,  
39 state and federal governments passed to curb corporate abuse, thereby  
40 impairing the ability of local governments to protect their citizens against  
41 corporate harms to the environment, to consumers, to workers, to independent  
42 businesses and to local and regional economies; and

43           Whereas, the United States Supreme Court held in *Buckley v. Valeo*  
44 (1976) that the appearance of corruption justified some limits on  
45 contributions to candidates, but it wrongly rejected other fundamental

1 interests that the citizens of Arizona find compelling such as creating a  
2 level playing field and ensuring that all citizens, regardless of wealth,  
3 have an opportunity to have their political views heard; and

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

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

13 Whereas, former United States Supreme Court Justice John Paul Stevens  
14 observed in *Nixon v. Shrink Missouri Government PAC* (2000) that "money is  
15 property, it is not speech"; and

16 Whereas, a February 2010 Washington Post-ABC News poll found that  
17 eighty per cent of Americans oppose the *Citizens United* ruling; and

18 Whereas, Article V of the United States Constitution empowers and  
19 obligates the people of the United States of America to use the  
20 constitutional amendment process to correct those egregiously wrong decisions  
21 of the United States Supreme Court that go to the heart of our democracy and  
22 the republican form of self-government; and

23 Whereas, Arizona's citizens have the right to instruct their  
24 congressional representatives, as direct agents of the people, to do  
25 everything within their delegated authority to propose an amendment to the  
26 United States Constitution that would clarify several misinterpretations of  
27 the Constitution by divided actions of the United States Supreme Court that  
28 have culminated in the wrongly decided *Citizens United v. Federal Election*  
29 *Commission*. This amendment should make clear that corporations have only the  
30 privileges bestowed on them by their charters, by state and federal law and  
31 by the real people who are their shareholders or members. Further, the  
32 amendment should clarify that money is property, not speech, and that in  
33 order to ensure that all citizens, regardless of wealth, have an opportunity  
34 to express their views to their fellow citizens and to their government on a  
35 level playing field, the amount of speech that any one citizen may purchase  
36 with this property should be limited to levels that do not overwhelm other  
37 citizens.

38 Therefore

39 Be it resolved by the House of Representatives of the State of Arizona, the  
40 Senate concurring:

41 That the Legislature supports the inclusion on the next regular general  
42 election ballot of a proposal that would allow Arizona's citizens to instruct  
43 their congressional representatives to propose an amendment that would repeal  
44 the *Citizens United* decision.