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ELECTIONS (10 ILCS 5/) Election Code.

(10 ILCS 5/Art. 9 heading)

ARTICLE 9. DISCLOSURE AND REGULATION OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1) (from Ch. 46, par. 9-1)

Sec. 9-1. As used in this Article, unless the context otherwise requires, the terms defined in Sections 9-1.1 through 9-1.13, have the respective meanings as defined in those Sections.

(Source: P.A. 86-873.)

(10 ILCS 5/9-1.1) (from Ch. 46, par. 9-1.1)

Sec. 9-1.1. "Board" means the State Board of Elections.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.3) (from Ch. 46, par. 9-1.3)

Sec. 9-1.3. "Candidate" means any person who seeks nomination for election, election to or retention in public office, or any person who seeks election as ward or township committeeman in counties of 3,000,000 or more population, whether or not such person is elected. A person seeks nomination for election, election or retention if he (1) takes the action necessary under the laws of this State to attempt to qualify for nomination for election, election to or retention in public office or election as ward or township committeeman in counties of 3,000,000 or more population, or (2) receives contributions or makes expenditures, or gives consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination for election or election to or retention in public office, or his or her election as ward or township committeeman in counties of 3,000,000 or more population.

(Source: P.A. 89-405, eff. 11-8-95.)

(10 ILCS 5/9-1.4) (from Ch. 46, par. 9-1.4)

Sec. 9-1.4. Contribution.

(A) "Contribution" means:

(1) a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value, knowingly received in connection with the nomination for election, election, or retention of any candidate or person to or in public office or

in connection with any question of public policy;

(1.5) a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value that constitutes an electioneering communication made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a political committee, or any of their agents;

(2) the purchase of tickets for fund-raising events, including but not limited to dinners, luncheons, cocktail parties, and rallies made in connection with the nomination for election, election, or retention of any person in or to public office, or in connection with any question of public policy;

(3) a transfer of funds received by a political committee from another political committee;

(4) the services of an employee donated by an employer, in which case the contribution shall be listed in the name of the employer, except that any individual services provided voluntarily and without promise or expectation of compensation from any source shall not be deemed a contribution; and

(5) an expenditure by a political committee made in cooperation, consultation, or concert with another political committee.

(B) "Contribution" does not include:

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period;

(b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(c) communications by a corporation to its stockholders and executive or administrative personnel or their families;

(d) communications by an association to its members and executive or administrative personnel or their families;

(e) voter registration or other campaigns encouraging voting that make no mention of any clearly identified candidate, public question, political party, group, or combination thereof;

(f) a loan of money by a national or State bank or credit union made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but the loan shall be listed on disclosure reports required by this Article; however, the use, ownership, or control of any security for such a loan, if provided by a person other than the candidate or his or her committee, qualifies as a contribution; or

(g) an independent expenditure.

(C) Interest or other investment income, earnings or proceeds, and refunds or returns of all or part of a committee's previous expenditures shall not be considered contributions but shall be listed on disclosure reports required by this Article.

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(10 ILCS 5/9-1.5) (from Ch. 46, par. 9-1.5)
Sec. 9-1.5. Expenditure.

(A) "Expenditure" means:

(1) a payment, distribution, purchase, loan, advance, deposit, gift of money, or anything of value, in connection with the nomination for election, election, or retention of any person to or in public office or in connection with any question of public policy;

(2) a payment, distribution, purchase, loan, advance, deposit, gift of money, or anything of value that constitutes an electioneering communication made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a political committee, or any of their agents; or

(3) a transfer of funds by a political committee to another political committee.

(B) "Expenditure" does not include:

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period; or

(b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.6) (from Ch. 46, par. 9-1.6)

Sec. 9-1.6. Person. "Person" or "whoever" means a natural person, trust, partnership, committee, association, corporation, or any other organization or group of persons.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.7) (from Ch. 46, par. 9-1.7)

Sec. 9-1.7. (Repealed).

(Source: P.A. 95-963, eff. 1-1-09. Repealed by P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.8) (from Ch. 46, par. 9-1.8)

Sec. 9-1.8. Political committees.

(a) "Political committee" includes a candidate political committee, a political party committee, a political action committee, a ballot initiative committee, and an independent expenditure committee.

(b) "Candidate political committee" means the candidate himself or herself or any natural person, trust, partnership, corporation, or other organization or group of persons designated by the candidate that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of the candidate.

(c) "Political party committee" means the State central committee of a political party, a county central committee of a political party, a legislative caucus committee, or a committee formed by a ward or township committeeman of a

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political party. For purposes of this Article, a "legislative caucus committee" means a committee established for the purpose of electing candidates to the General Assembly by the person elected President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, or a committee established by 5 or more members of the same caucus of the Senate or 10 or more members of the same caucus of the House of Representatives.

(d) "Political action committee" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of or in opposition to a candidate or candidates for public office. "Political action committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$5,000 related to any candidate or candidates for public office.

(e) "Ballot initiative committee" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 in support of or in opposition to any question of public policy to be submitted to the electors. "Ballot initiative committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$5,000 related to any question of public policy to be submitted to the voters. The \$5,000 threshold applies to any contributions or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy, regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body.

(f) "Independent expenditure committee" means any trust, partnership, committee, association, corporation, or other organization or group of persons formed for the exclusive purpose of making independent expenditures during any 12-month period in an aggregate amount exceeding \$5,000 in support of or in opposition to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the electors. "Independent expenditure committee" also includes any trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications that are not made in connection, consultation, or concert with or at the request or suggestion of a public official or candidate, a public official's or candidate's designated political committee or campaign, or an

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agent or agents of the public official, candidate, or political committee or campaign during any 12-month period in an aggregate amount exceeding \$5,000. related to (i) the nomination for election, election, retention, or defeat of any public official or candidate or (ii) any question of public policy to be submitted to the voters.

(Source: P.A. 97-766, eff. 7-6-12; 98-115, eff. 7-29-13.)

(10 ILCS 5/9-1.9) (from Ch. 46, par. 9-1.9)

Sec. 9-1.9. Election cycle. "Election cycle" means any of the following:

(1) For a candidate political committee organized to support a candidate to be elected at a general primary election or general election, (i) the period beginning January 1 following the general election for the office to which a candidate seeks nomination or election and ending on the day of the general primary election for that office or (ii) the period beginning the day after a general primary election for the office to which the candidate seeks nomination or election and through December 31 following the general election.

(2) Notwithstanding paragraph (1), for a candidate political committee organized to support a candidate for the General Assembly, (i) the period beginning January 1 following a general election and ending on the day of the next general primary election or (ii) the period beginning the day after the general primary election and ending on December 31 following a general election.

(3) For a candidate political committee organized to support a candidate for a retention election, (i) the period beginning January 1 following the general election at which the candidate was elected through the day the candidate files a declaration of intent to seek retention or (ii) the period beginning the day after the candidate files a declaration of intent to seek retention through December 31 following the retention election.

(4) For a candidate political committee organized to support a candidate to be elected at a consolidated primary election or consolidated election, (i) the period beginning July 1 following a consolidated election and ending on the day of the consolidated primary election or (ii) the period beginning the day after the consolidated primary election and ending on June 30 following a consolidated election.

(5) For a political party committee, political action committee, ballot initiative committee, or independent expenditure committee, the period beginning on January 1 and ending on December 31 of each calendar year.

(Source: P.A. 96-832, eff. 1-1-11; 97-766, eff. 7-6-12.)

(10 ILCS 5/9-1.10) (from Ch. 46, par. 9-1.10)

Sec. 9-1.10. Public Office. "Public office" means any elective office or judicial office subject to retention.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.10b)

Sec. 9-1.10b. Severability. The provisions of this amendatory Act of 1995 are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 89-405, eff. 11-8-95.)

(10 ILCS 5/9-1.11) (from Ch. 46, par. 9-1.11)

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Sec. 9-1.11. "Public official" means any person who is elected or appointed to public office.
(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.12) (from Ch. 46, par. 9-1.12)

Sec. 9-1.12. Anything of value. "Anything of value" means any item, thing, service, or good, regardless of whether it may be valued in monetary terms according to ascertainable market value. Anything of value which does not have an ascertainable market value must be reported by describing the item, thing, service, or good contributed and by using the contributor's certified market value required under Section 9-6.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.13) (from Ch. 46, par. 9-1.13)

Sec. 9-1.13. Transfer of funds. "Transfer of funds" means any conveyance of money from one political committee to another political committee.

(Source: P.A. 96-832, eff. 1-1-11.)

(10 ILCS 5/9-1.14)

Sec. 9-1.14. Electioneering communication.

(a) "Electioneering communication" means, for the purposes of this Article, any broadcast, cable, or satellite communication, including radio, television, or Internet communication, that (1) refers to (i) a clearly identified candidate or candidates who will appear on the ballot for nomination for election, election, or retention, (ii) a clearly identified political party, or (iii) a clearly identified question of public policy that will appear on the ballot, (2) is made within (i) 60 days before a general election or consolidated election or (ii) 30 days before a primary election, (3) is targeted to the relevant electorate, and (4) is susceptible to no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate for nomination for election, election, or retention, a political party, or a question of public policy.

(b) "Electioneering communication" does not include:

(1) A communication, other than an advertisement, appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are owned or controlled by any political party, political committee, or candidate.

(2) A communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring the debate or forum.

(3) A communication made as part of a non-partisan activity designed to encourage individuals to vote or to register to vote.

(4) A communication by an organization operating and remaining in good standing under Section 501(c)(3) of the Internal Revenue Code of 1986.

(5) A communication exclusively between a labor organization, as defined under federal or State law, and its members.

(6) A communication exclusively between an

organization formed under Section 501(c)(6) of the

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Internal Revenue Code and its members.
(Source: P.A. 96-832, eff. 7-1-10.)

(10 ILCS 5/9-1.15)

Sec. 9-1.15. Independent expenditure. "Independent expenditure" means any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, election, retention, or defeat of a clearly identifiable public official or candidate or for or against any question of public policy to be submitted to the voters and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign.

(Source: P.A. 96-832, eff. 7-1-10; 97-766, eff. 7-6-12.)

(10 ILCS 5/9-2) (from Ch. 46, par. 9-2)

Sec. 9-2. Political committee designations.

(a) Every political committee shall be designated as a (i) candidate political committee, (ii) political party committee, (iii) political action committee, (iv) ballot initiative committee, or (v) independent expenditure committee.

(b) Beginning January 1, 2011, no public official or candidate for public office may maintain or establish more than one candidate political committee for each office that public official or candidate holds or is seeking. The name of each candidate political committee shall identify the name of the public official or candidate supported by the candidate political committee. If a candidate establishes separate candidate political committees for each public office, the name of each candidate political committee shall also include the public office to which the candidate seeks nomination for election, election, or retention. If a candidate establishes one candidate political committee for multiple offices elected at different elections, then the candidate shall designate an election cycle, as defined in Section 9-1.9, for purposes of contribution limitations and reporting requirements set forth in this Article. No political committee, other than a candidate political committee, may include the name of a candidate in its name.

(c) Beginning January 1, 2011, no State central committee of a political party, county central committee of a political party, committee formed by a ward or township committeeman, or committee established for the purpose of electing candidates to the General Assembly may maintain or establish more than one political party committee. The name of the committee must include the name of the political party.

(d) Beginning January 1, 2011, no natural person, trust, partnership, committee, association, corporation, or other organization or group of persons forming a political action committee shall maintain or establish more than one political action committee. The name of a political action committee must include the name of the entity forming the committee. This subsection does not apply to independent expenditure committees.

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SUBCHAPTER I
GENERAL PROVISIONS

68A.101 Citation and administration.

This chapter may be cited as the "Campaign Disclosure – Income Tax Checkoff Act". The Iowa ethics and campaign disclosure board shall administer this chapter as provided in sections 68B.32, 68B.32A, 68B.32B, 68B.32C, and 68B.32D.

[C75, 77, 79, 81, §56.1]

2003 Acts, ch 40, §9

CS2003, §68A.101

2009 Acts, ch 42, §1

68A.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Ballot issue" means a question, other than the nomination or election of a candidate to a public office, which has been approved by a political subdivision or the general assembly or is required by law to be placed before the voters of the political subdivision by a commissioner of elections, or to be placed before the voters by the state commissioner of elections.
2. "Board" means the Iowa ethics and campaign disclosure board established under section 68B.32.
3. "Campaign function" means any meeting related to a candidate's campaign for election.
4. "Candidate" means any individual who has taken affirmative action to seek nomination or election to a public office and shall also include any judge standing for retention in a judicial election.
5. "Candidate's committee" means the committee designated by the candidate for a state, county, city, or school office to receive contributions in excess of seven hundred fifty dollars in the aggregate, expend funds in excess of seven hundred fifty dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of seven hundred fifty dollars in the aggregate in any calendar year.
6. "Clearly identified" means that a communication contains an unambiguous reference to a particular candidate or ballot issue, including but not limited to one or more of the following:
 - a. Use of the name of the candidate or ballot issue.
 - b. Use of a photograph or drawing of the candidate, or the use of a particular symbol associated with a specific ballot issue.
 - c. Use of a candidate's initials, nickname, office, or status as a candidate, or use of acronym, popular name, or characterization of a ballot issue.
7. "Commissioner" means the county auditor of each county, who is designated as the county commissioner of elections pursuant to section 47.2.
8. "Committee" includes a political committee and a candidate's committee.
9. "Consultant" means a person who provides or procures services including but not limited to consulting, public relations, advertising, fundraising, polling, managing or organizing services.
10. a. "Contribution" means:
 - (1) A gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind.
 - (2) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee for any such purpose.
- b. "Contribution" shall not include:
 - (1) Services provided without compensation by individuals volunteering their time on behalf of a candidate's committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association.
 - (2) Refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value

computed at the current rate of reimbursement allowed under the standard mileage rate method for computation of business expenses pursuant to the Internal Revenue Code does not exceed one hundred dollars in value in any one reporting period.

(3) Something provided to a candidate for the candidate's personal consumption or use and not intended for or on behalf of the candidate's committee.

11. "County office" includes the office of drainage district trustee.

12. "County statutory political committee" means a committee as described in section 43.100 that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office.

13. "Disclosure report" means a statement of contributions received, expenditures made, and indebtedness incurred on forms prescribed by rules adopted by the board in accordance with chapter 17A.

14. "Express advocacy" or to "expressly advocate" means communication that can be characterized according to at least one of the following descriptions:

a. The communication is political speech made in the form of a contribution.

b. In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.

15. "Fundraising event" means any campaign function to which admission is charged or at which goods or services are sold.

16. "National political party" means a party which meets the definition of a political party established for this state by section 43.2, and which also meets the statutory definition of the term "political party" or a term of like import in at least twenty-five other states of the United States.

17. "Person" means, without limitation, any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

18. "Political committee" means any of the following:

a. A committee, but not a candidate's committee, that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

b. An association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

c. A person, other than an individual, that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate that an individual should or should not seek election to a public office prior to the individual becoming a candidate as defined in subsection 4.

19. "Political purpose" or "political purposes" means the express advocacy of a candidate or ballot issue.

20. "Public office" means any state, county, city, or school office filled by election.

21. "State income tax liability" means the state individual income tax imposed under

section 422.5, less the amounts of nonrefundable credits allowed under chapter 422, division II.

22. "State statutory political committee" means a committee as defined in section 43.111.

[C75, 77, 79, 81, §56.2; 81 Acts, ch 35, §1, 2]

83 Acts, ch 139, §2, 14; 86 Acts, ch 1023, §1; 87 Acts, ch 112, §1, 2; 91 Acts, ch 226, §1; 92 Acts, ch 1228, §22 - 24; 93 Acts, ch 142, §1 - 3; 93 Acts, ch 163, §28 - 30, 38; 94 Acts, ch 1023, §80; 94 Acts, ch 1180, §31, 32; 95 Acts, ch 198, §1, 2; 99 Acts, ch 136, §1, 2, 17; 2002 Acts, ch 1073, §1, 2, 11; 2002 Acts, ch 1119, §124; 2003 Acts, ch 40, §9

CS2003, §68A.102

2005 Acts, ch 72, §3, 4; 2006 Acts, ch 1158, §2; 2007 Acts, ch 14, §1; 2008 Acts, ch 1031, §84; 2010 Acts, ch 1025, §1, 2

Referred to in §43.18, §43.67, §44.3, §45.3, §68A.201, §68A.202, §68A.402, §99B.7, §99E6
"State commissioner" defined, §99.3

68A.103 Applicability to federal candidates.

1. The requirements of this chapter relative to disclosure of contributions shall apply to candidates and political committees for federal office only in the event such candidates are not subject to a federal law requiring the disclosure of campaign financing. Any such federal law shall supersede the provisions of this chapter.

2. The provisions of this chapter under which money from the Iowa election campaign fund may be made available to or used for the benefit of candidates and candidates' committees shall apply to candidates for federal office and their candidates' committees only if matching funds to pay a portion of their campaign expenses are not available to such candidates or their committees from the federal government.

[C75, 77, 79, 81, §56.17]

2003 Acts, ch 40, §9

CS2003, §68A.103

Referred to in §68A.604

68A.104 Certain accounts by officeholders prohibited.

A holder of public office shall not maintain an account, other than a campaign account, to receive contributions for the purpose of publishing and distributing newsletters or performing other constituent services related to the official duties of public office. This section applies whether or not the officeholder is a candidate.

91 Acts, ch 226, §14

CS91, §56.46

2003 Acts, ch 40, §9

CS2003, §68A.104

SUBCHAPTER II

COMMITTEE ORGANIZATION —
DUTIES OF OFFICERS

68A.201 Organization statement.

1. Every committee, as defined in this chapter, shall file a statement of organization within ten days from the date of its organization. Unless formal organization has previously occurred, a committee is deemed to have organized as of the date that committee transactions exceed the financial activity threshold established in section 68A.102, subsection 5 or 18. If committee transactions exceed the financial activity threshold prior to the due date for filing a disclosure report as established under section 68A.402, the committee shall file a disclosure report whether or not a statement of organization has been filed by the committee.

2. The statement of organization shall include:

a. The name, purpose, mailing address, and telephone number of the committee. The committee name shall not duplicate the name of another committee organized under this

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MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.202 Definitions; A, B.

Sec. 2. (1) "Award" means a plaque, trophy, certificate, bust, ceremonial gavel, or memento.

(2) "Ballot question" means a question that is submitted or is intended to be submitted to a popular vote at an election whether or not it qualifies for the ballot.

(3) "Ballot question committee" means a committee acting in support of, or in opposition to, the qualification, passage, or defeat of a ballot question but that does not receive contributions or make expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate.

(4) "Bundle" means for a bundling committee to deliver 1 or more contributions from individuals to the candidate committee of a candidate for statewide elective office, without the money becoming money of the bundling committee.

(5) "Bundling committee" means an independent committee or political committee that makes an expenditure to solicit or collect from individuals contributions that are to be part of a bundled contribution, which expenditure is required to be reported as an in-kind expenditure for a candidate for statewide elective office.

(6) "Business" means a corporation, limited liability company, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, activity, or entity that is organized for profit or nonprofit purposes.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1994, Act 385, Eff. Jan. 1, 1995;—Am. 2001, Act 250, Eff. Mar. 22, 2002.

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MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.203 Definitions; C.

Sec. 3. (1) "Candidate" means an individual who meets 1 or more of the following criteria:

- (a) Files a fee, an affidavit of incumbency, or a nominating petition for an elective office.
- (b) Is nominated as a candidate for elective office by a political party caucus or convention and whose nomination is certified to the appropriate filing official.
- (c) Receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with a view to bringing about the individual's nomination or election to an elective office, whether or not the specific elective office for which the individual will seek nomination or election is known at the time the contribution is received or the expenditure is made.
- (d) Is an officeholder who is the subject of a recall vote.
- (e) Holds an elective office, unless the officeholder is constitutionally or legally barred from seeking reelection or fails to file for reelection to that office by the applicable filing deadline. An individual described in this subdivision is considered to be a candidate for reelection to that same office for the purposes of this act only.

For purposes of sections 61 to 71, "candidate" only means, in a primary election, a candidate for the office of governor and, in a general election, a candidate for the office of governor or lieutenant governor. However, the candidates for the office of governor and lieutenant governor of the same political party in a general election shall be considered as 1 candidate.

(2) "Candidate committee" means the committee designated in a candidate's filed statement of organization as that individual's candidate committee. A candidate committee shall be under the control and direction of the candidate named in the same statement of organization. Notwithstanding subsection (4), an individual shall form a candidate committee under section 21 if the individual becomes a candidate under subsection (1).

(3) "Closing date" means the date through which a campaign statement is required to be complete.

(4) "Committee" means a person who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year. An individual, other than a candidate, does not constitute a committee. A person, other than a committee registered under this act, making an expenditure to a ballot question committee, shall not, for that reason, be considered a committee for the purposes of this act unless the person solicits or receives contributions for the purpose of making an expenditure to that ballot question committee.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1977, Act 310, Imd. Eff. Jan. 4, 1978;—Am. 1989, Act 95, Imd. Eff. June 21, 1989;—Am. 2012, Act 273, Eff. Dec. 30, 2012.

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.204 "Contribution" defined.

Sec. 4. (1) "Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, for the qualification, passage, or defeat of a ballot question, or for the qualification of a new political party.

(2) Contribution includes the full purchase price of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and other fund-raising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by broadcast media and newspapers not extended on an equal basis to all candidates for the same office; and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is liable. Except for the purposes of section 57, contribution does not include a contribution to a federal candidate or a federal committee.

(3) Contribution does not include any of the following:

(a) Volunteer personal services provided without compensation, or payments of costs incurred of less than \$500.00 in a calendar year by an individual for personal travel expenses if the costs are voluntarily incurred without any understanding or agreement that the costs shall be, directly or indirectly, repaid.

(b) Food and beverages, not to exceed \$1,000.00 in value during a calendar year, that are donated by an individual and for which reimbursement is not given.

(c) An offer or tender of a contribution if expressly and unconditionally rejected, returned, or refunded in whole or in part within 30 business days after receipt.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1989, Act 95, Imd. Eff. June 21, 1989;—Am. 2012, Act 31, Imd. Eff. Feb. 28, 2012;—Am. 2012, Act 273, Eff. Dec. 30, 2012;—Am. 2013, Act 252, Imd. Eff. Dec. 27, 2013.

Compiler's note: Enacting section 1 of Act 31 of 2012 provides:

"Enacting section 1. It is the policy of this state that a public body shall maintain strict neutrality in each election and that a public body or a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state. If there is a perceived ambiguity in the interpretation of section 57, that section shall be construed to best effectuate the policy of strict neutrality by a public body in an election."

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.205 Definitions; D, E.

Sec. 5. (1) "Domestic dependent sovereign" means an Indian tribe that has been acknowledged, recognized, restored, or reaffirmed as an Indian tribe by the secretary of the interior pursuant to chapter 576, 48 Stat. 984, 25 U.S.C. 461 to 463, 464 to 465, 466 to 470, 471 to 472, 473, 474 to 475, 476 to 478, and 479, commonly referred to as the Indian reorganization act, or has otherwise been acknowledged by the United States government as an Indian tribe.

(2) "Election" means a primary, general, special, or millage election held in this state or a convention or caucus of a political party held in this state to nominate a candidate. Election includes a recall vote.

(3) "Election cycle" means 1 of the following:

(a) For a general election, the period beginning the day following the last general election in which the office appeared on the ballot and ending on the day of the general election in which the office next appears on the ballot.

(b) For a special election, the period beginning the day a special general election is called or the date the office becomes vacant, whichever is earlier, and ending on the day of the special general election.

(4) "Elective office" means a public office filled by an election. A person who is appointed to fill a vacancy in a public office that is ordinarily elective holds an elective office. Elective office does not include the office of precinct delegate. Except for the purposes of sections 47, 54, and 55, elective office does not include a school board member in a school district that has a pupil membership of 2,400 or less enrolled on the most recent pupil membership count day. However, elective office includes a school board member in a school district that has a pupil membership of 2,400 or less, if a candidate committee of a candidate for the office of school board member in that school district receives an amount in excess of \$1,000.00 or expends an amount in excess of \$1,000.00. Elective office does not include a federal office except for the purposes of section 57.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1989, Act 95, Imd. Eff. June 21, 1989;—Am. 1992, Act 7, Imd. Eff. Mar. 10, 1992;—Am. 1995, Act 264, Eff. Mar. 28, 1996;—Am. 1999, Act 237, Eff. Mar. 10, 2000.

Compiler's note: Section 2 of Act 264 of 1995 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable."

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.206 "Expenditure" defined.

Sec. 6. (1) "Expenditure" means a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party. Expenditure includes, but is not limited to, any of the following:

(a) A contribution or a transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.

(b) Except as provided in subsection (2)(f) or (g), an expenditure for voter registration or get-out-the-vote activities made by a person who sponsors or finances the activity or who is identified by name with the activity.

(c) Except as provided in subsection (2)(f) or (g), an expenditure made for poll watchers, challengers, distribution of election day literature, canvassing of voters to get out the vote, or transporting voters to the polls.

(d) Except as provided in subsection (2)(c), the cost of establishing and administering a payroll deduction plan to collect and deliver a contribution to a committee.

(2) Expenditure does not include any of the following:

(a) An expenditure for communication by a person with the person's paid members or shareholders and those individuals who can be solicited for contributions to a separate segregated fund under section 55.

(b) An expenditure for communication on a subject or issue if the communication does not support or oppose a ballot question or candidate by name or clear inference.

(c) An expenditure for the establishment, administration, or solicitation of contributions to a separate segregated fund if that expenditure was made by the person who established the separate segregated fund as authorized under section 55.

(d) An expenditure by a broadcasting station, newspaper, magazine, or other periodical or publication for a news story, commentary, or editorial in support of or opposition to a candidate for elective office or a ballot question in the regular course of publication or broadcasting.

(e) An offer or tender of an expenditure if expressly and unconditionally rejected or returned.

(f) An expenditure for nonpartisan voter registration or nonpartisan get-out-the-vote activities made by an organization that is exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, or any successor statute.

(g) An expenditure for nonpartisan voter registration or nonpartisan get-out-the-vote activities performed under chapter XXIII of the Michigan election law, 1954 PA 116, MCL 168.491 to 168.524, by the secretary of state and other registration officials who are identified by name with the activity.

(h) An expenditure by a state central committee of a political party or a person controlled by a state central committee of a political party for the construction, purchase, or renovation of 1 or more office facilities in Ingham county if the facility is not constructed, purchased, or renovated for the purpose of influencing the election of a candidate in a particular election. Items excluded from the definition of expenditure under this subdivision include expenditures approved in federal election commission advisory opinions 1993-9; 2001-1, and 2001-12 as allowable expenditures under the federal election campaign act of 1971, Public Law 92-225, 2 USC 431 to 457, and regulations promulgated under that act, regardless of whether those advisory opinions have been superseded.

(i) Except only for the purposes of section 57, an expenditure to or for a federal candidate or a federal committee.

(j) Except only for the purposes of section 47, an expenditure for a communication if the communication does not in express terms advocate the election or defeat of a clearly identified candidate so as to restrict the application of this act to communications containing express words of advocacy of election or defeat, such as "vote for", "elect", "support", "cast your ballot for", "Smith for governor", "vote against", "defeat", or "reject".

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1989, Act 95, Imd. Eff. June 21, 1989;—Am. 1994, Act 117, Eff. Apr. 1, 1995;—Am. 1995, Act 264, Eff. Mar. 28, 1996;—Am. 2003, Act 69, Imd. Eff. July 22, 2003;—Am. 2012, Act 31, Imd. Eff. Feb. 28, 2012;—Am. 2012, Act 273, Eff. Dec. 30, 2012;—Am. 2013, Act 252, Imd. Eff. Dec. 27, 2013.

Compiler's note: Section 2 of Act 264 of 1995 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory

act is declared to be severable."

Enacting section 1 of Act 31 of 2012 provides:

"Enacting section 1. It is the policy of this state that a public body shall maintain strict neutrality in each election and that a public body or a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state. If there is a perceived ambiguity in the interpretation of section 57, that section shall be construed to best effectuate the policy of strict neutrality by a public body in an election."

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MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.207 Definitions; F to H.

Sec. 7. (1) "Filed" means the receipt by the appropriate filing official of a statement or report required to be filed under this act.

(2) "Filer" means a person required to file a statement or report under this act.

(3) "Filing official" means the official designated under this act to receive required statements and reports.

(4) "Fund raising event" means an event such as a dinner, reception, testimonial, rally, auction, or similar affair through which contributions are solicited or received by purchase of a ticket, payment of an attendance fee, making a donation, or purchase of goods or services.

(5) "Gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is given in exchange.

(6) "Honorarium" means a payment of money to a person holding elective office as consideration for an appearance, a speech, an article, or any activity related to or associated with the performance of duties as an elected official. An honorarium does not include any of the following:

(a) Reimbursement for the cost of transportation, accommodations, or meals for the person.

(b) Wages, salaries, other employee compensation, and expenses authorized to be paid by this state or a political subdivision of this state to the person holding elective office.

(c) An award.

History: 1976, Act 388, Imd. Bff. Dec. 30, 1976;—Am. 1994, Act 385, Eff. Jan. 1, 1995;—Am. 2001, Act 250, Eff. Mar. 22, 2002.

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.208 Definitions; H, I.

Sec. 8. (1) "House political party caucus committee" means an independent committee established by a political party caucus of the state house of representatives under section 24a.

(2) "Immediate family" means any child residing in a candidate's household, the candidate's spouse, or any individual claimed by that candidate or that candidate's spouse as a dependent for federal income tax purposes.

(3) "Independent committee" means a committee, other than a political party committee, that before contributing to a candidate committee of a candidate for elective office under section 52(2) or 69(2) files a statement of organization as an independent committee at least 6 months before an election for which it expects to accept contributions or make expenditures in support of or in opposition to a candidate for nomination to or election to an elective office; and receives contributions from at least 25 persons and makes expenditures not to exceed the limitations of section 52(1) in support of or in opposition to 3 or more candidates for nomination to or election to an elective office in the same calendar year.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1989, Act 95, Imd. Eff. June 21, 1989;—Am. 1994, Act 117, Eff. Apr. 1, 1995;—Am. 1995, Act 264, Eff. Mar. 28, 1996;—Am. 1996, Act 590, Eff. Mar. 31, 1997.

Compiler's note: Section 2 of Act 264 of 1995 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable."

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.209 Definitions; I to L.

Sec. 9. (1) "Incidental expense" means an expenditure that is an ordinary and necessary expense, paid or incurred in carrying out the business of an elective office. Incidental expense includes, but is not limited to, any of the following:

- (a) A disbursement necessary to assist, serve, or communicate with a constituent.
- (b) A disbursement for equipment, furnishings, or supplies for the office of the public official.
- (c) A disbursement for a district office if the district office is not used for campaign-related activity.
- (d) A disbursement for the public official or his or her staff, or both, to attend a conference, meeting, reception, or other similar event.
- (e) A disbursement to maintain a publicly owned residence or a temporary residence at the seat of government.
- (f) An unreimbursed disbursement for travel, lodging, meals, or other expenses incurred by the public official, a member of the public official's immediate family, or a member of the public official's staff in carrying out the business of the elective office.
- (g) A donation to a tax-exempt charitable organization, including the purchase of tickets to charitable or civic events.
- (h) A disbursement to a ballot question committee.
- (i) A purchase of tickets for use by that public official and members of his or her immediate family and staff to a fund-raising event sponsored by a candidate committee, independent committee, political party committee, or a political committee that does not exceed \$100.00 per committee in any calendar year.
- (j) A disbursement for an educational course or seminar that maintains or improves skills employed by the public official in carrying out the business of the elective office.
- (k) A purchase of advertisements in testimonials, program books, souvenir books, or other publications if the advertisement does not support or oppose the nomination or election of a candidate.
- (l) A disbursement for consultation, research, polling, and photographic services not related to a campaign.
- (m) A fee paid to a fraternal, veteran, or other service organization.
- (n) A payment of a tax liability incurred as a result of authorized transactions by the candidate committee of the public official.
- (o) A fee for accounting, professional, or administrative services for the candidate committee of the public official.
- (p) A debt or obligation incurred by the candidate committee of a public official for a disbursement authorized by subdivisions (a) to (o), if the debt or obligation was reported in the candidate committee report filed for the year in which the debt or obligation arose.

(2) "Independent expenditure" means an expenditure by a person if the expenditure is not made at the direction of, or under the control of, another person and if the expenditure is not a contribution to a committee.

(3) "In-kind contribution or expenditure" means a contribution or expenditure other than money.

(4) "Loan" means a transfer of money, property, or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or part.

(5) "Local elective office" means an elective office at the local unit of government level. Local elective office also includes judge of the court of appeals, judge of the circuit court, judge of the recorder's court of the city of Detroit, judge of the district court, judge of the probate court, and judge of a municipal court.

(6) "Local unit of government" means a district, authority, county, city, village, township, board, school district, intermediate school district, or community college district.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1994, Act 411, Imd. Eff. Dec. 29, 1994;—Am. 1996, Act 590, Eff. Mar. 31, 1997;—Am. 2012, Act 275, Eff. Jan. 1, 2013.

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.210 Definitions; M to N.

Sec. 10. (1) "Major political party" means a political party qualified to have its name listed on the general election ballot whose candidate for governor received 25% or more of the popular vote cast in the preceding gubernatorial election. If only 1 political party received 25% or more of the popular vote cast for governor in the preceding gubernatorial election, then the political party with the second highest vote shall be deemed a major party.

(2) "Minor political party" means a political party qualified to have its name listed on the general election ballot but which does not qualify as a major party.

(3) "Nominee" means an individual nominated to be a candidate.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976.

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.211 Definitions; P.

Sec. 11. (1) "Payroll deduction plan" means any system in which an employer deducts any amount of money from the wages, earnings, or compensation of an employee.

(2) "Person" means a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly.

(3) "Political committee" means a committee that is not a candidate committee, political party committee, independent committee, or ballot question committee.

(4) "Political merchandise" means goods such as bumper stickers, pins, hats, beverages, literature, or other items sold by a person at a fund raiser or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination for or election to an elective office, in supporting or opposing the qualification, passage, or defeat of a ballot question, or in supporting or opposing the qualification of a new political party.

(5) "Political party" means a political party that has a right under law to have the names of its candidates listed on the ballot in a general election.

(6) "Political party committee" means a state central, district, or county committee of a political party or a party attempting to qualify as a new political party under section 685 of the Michigan election law, 1954 PA 116, MCL 168.685, that is a committee. Each state central committee shall designate the official party county and district committees. There shall not be more than 1 officially designated political party committee per county and per congressional district.

(7) "Public body" means 1 or more of the following:

(a) A state agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(b) The legislature or an agency, board, commission, or council in the legislative branch of state government.

(c) A county, city, township, village, intercounty, intercity, or regional governing body; a council, school district, special district, or municipal corporation; or a board, department, commission, or council or an agency of a board, department, commission, or council.

(d) Any other body that is created by state or local authority or is primarily funded by or through state or local authority, if the body exercises governmental or proprietary authority or performs a governmental or proprietary function.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1977, Act 314, Imd. Eff. Jan. 4, 1978;—Am. 1995, Act 264, Eff. Mar. 28, 1996;—Am. 1996, Act 590, Eff. Mar. 31, 1997;—Am. 2012, Act 31, Imd. Eff. Feb. 28, 2012;—Am. 2012, Act 273, Eff. Dec. 30, 2012.

Compiler's note: Section 2 of Act 264 of 1995 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable."

Enacting section 1 of Act 31 of 2012 provides:

"Enacting section 1. It is the policy of this state that a public body shall maintain strict neutrality in each election and that a public body or a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state. If there is a perceived ambiguity in the interpretation of section 57, that section shall be construed to best effectuate the policy of strict neutrality by a public body in an election."

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.212 Definitions; Q to S.

Sec. 12. (1) "Qualifying contribution" means a contribution of money made by a written instrument by an individual to the candidate committee of a candidate for the office of governor that is \$100.00 or less and made after April 1 of the year preceding a year in which a governor is to be elected. Not more than \$100.00 of an individual's total aggregate contribution may be used as a qualifying contribution in a calendar year. Qualifying contribution does not include a subscription, loan, advance, deposit of money, in-kind contribution or expenditure, or anything else of value except as prescribed in this act. Qualifying contribution does not include a contribution by an individual who resides outside of this state. For purposes of this subsection, an individual is considered to reside in this state if he or she is considered a resident of this state under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(2) "Senate political party caucus committee" means an independent committee established by a political party caucus of the state senate under section 24a.

(3) "State elective office" means a statewide elective office or the office of state legislator.

(4) "Statewide elective office" means the office of governor, lieutenant governor, secretary of state, or attorney general, justice of the supreme court, member of the state board of education, regent of the university of Michigan, member of the board of trustees of Michigan state university, or member of the board of governors of Wayne state university.

History: 1976, Act 388, Imd. Eff. Dec. 30, 1976;—Am. 1993, Act 262, Eff. Jan. 1, 1995;—Am. 1995, Act 264, Eff. Mar. 28, 1996;—Am. 2001, Act 250, Eff. Mar. 22, 2002.

Compiler's note: Section 2 of Act 264 of 1995 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable."

10A.01 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. **Administrative action.** "Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule under chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243.

Subd. 3. **Advance of credit.** "Advance of credit" means any money owed for goods provided or services rendered. "Advance of credit" does not mean a loan as defined in subdivision 21.

Subd. 4. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

Subd. 5. **Associated business.** "Associated business" means an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of \$50, except for actual and reasonable expenses, in any month as a director, officer, owner, member, partner, employer or employee, or whose securities the individual holds worth more than \$2,500 at fair market value.

Subd. 6. **Association.** "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

Subd. 7. **Ballot question.** "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities, other than lobbying activities, related to qualifying the question for placement on the ballot.

Subd. 7a. [Repealed by amendment, 1999 c 220 s 1]

Subd. 7b. [Renumbered subd 13]

Subd. 7c. **Ballot question political committee.** "Ballot question political committee" means a political committee that makes only expenditures to promote or defeat a ballot question and disbursements permitted under section 10A.121, subdivision 1.

Subd. 7d. **Ballot question political fund.** "Ballot question political fund" means a political fund that makes only expenditures to promote or defeat a ballot question and disbursements permitted under section 10A.121, subdivision 1.

Subd. 8. **Board.** "Board" means the state Campaign Finance and Public Disclosure Board.

Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

- (1) noncampaign disbursements as defined in subdivision 26;
- (2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit;
- (3) the publishing or broadcasting of news items or editorial comments by the news media; or
- (4) an individual's unreimbursed personal use of an automobile owned by the individual and used by the individual while volunteering personal time.

Subd. 9a. [Renumbered subd 16]

Subd. 10. **Candidate.** "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$750, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$750, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.243.

Subd. 10a. [Renumbered subd 4]

Subd. 10b. [Renumbered subd 18]

Subd. 10c. [Renumbered subd 26]

Subd. 11. **Contribution.** (a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit. An allocation by an association of general treasury money to be used for activities that must be or are reported through the association's political fund is considered to be a contribution for the purposes of disclosure required by this chapter.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; the publishing or broadcasting of news items or editorial comments by the news media; or an individual's unreimbursed personal use of an automobile owned by the individual while volunteering personal time.

Subd. 12. **Depository.** "Depository" means a bank, savings association, or credit union organized under federal or state law and transacting business within this state.

Subd. 13. **Donation in kind.** "Donation in kind" means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in kind.

Subd. 14. [Repealed, 1976 c 307 s 35]

Subd. 15. **Election.** "Election" means a primary, special primary, general, or special election.

Subd. 16. **Election cycle.** "Election cycle" means the period from January 1 following a general election for an office to December 31 following the next general election for that office, except that "election cycle" for a special election means the period from the date the special election writ is issued to 60 days after the special election is held. For a regular election, the period from January 1 of the year prior to an election year through December 31 of the election year is the "election segment" of the election cycle. Each other two-year segment of an election cycle is a "nonelection segment" of the election cycle. An election cycle that consists of two calendar years has only an election segment. The election segment of a special election cycle includes the entire special election cycle.

Subd. 16a. **Expressly advocating.** "Expressly advocating" means that a communication clearly identifies a candidate and uses words or phrases of express advocacy.

Subd. 17. **Financial institution.** "Financial institution" means a lending institution chartered by an agency of the federal government or regulated by the commissioner of commerce.

Subd. 17a. [Renumbered subd 30]

Subd. 17b. [Renumbered subd 34]

Subd. 17c. **General treasury money.** "General treasury money" means money that an association other than a principal campaign committee, party unit, or political committee accumulates through membership dues and fees, donations to the association for its general purposes, and income from the operation of a business. General treasury money does not include money collected to influence the nomination or election of candidates or to promote or defeat a ballot question.

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.

Subd. 18a. **Independent expenditure political committee.** "Independent expenditure political committee" means a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Subd. 18b. **Independent expenditure political fund.** "Independent expenditure political fund" means a political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Subd. 19. [Repealed by amendment, 1999 c 220 s 1]

Subd. 20. **Loan.** "Loan" means an advance of money or anything of value made to a political committee, political fund, principal campaign committee, or party unit.

Subd. 21. **Lobbyist.** (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

(b) "Lobbyist" does not include:

(1) a public official;

(2) an employee of the state, including an employee of any of the public higher education systems;

(3) an elected local official;

(4) a nonelected local official or an employee of a political subdivision acting in an official capacity, unless the nonelected official or employee of a political subdivision spends more than 50 hours in any month attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit other than the political subdivision employing the official or employee, by communicating or urging others to communicate with public or local officials, including time spent monitoring legislative or administrative action, or the official action of a metropolitan governmental unit, and related research, analysis, and compilation and dissemination of information relating to legislative or administrative policy in this state, or to the policies of metropolitan governmental units;

(5) a party or the party's representative appearing in a proceeding before a state board, commission, or agency of the executive branch unless the board, commission, or agency is taking administrative action;

(6) an individual while engaged in selling goods or services to be paid for by public funds;

(7) a news medium or its employees or agents while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements which directly or indirectly urge official action;

(8) a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony; or

(9) a party or the party's representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

(c) An individual who volunteers personal time to work without pay or other consideration on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause (2), need not register as a lobbyist.

(d) An individual who provides administrative support to a lobbyist and whose salary and administrative expenses attributable to lobbying activities are reported as lobbying expenses by the lobbyist, but who does not communicate or urge others to communicate with public or local officials, need not register as a lobbyist.

Subd. 22. Local official. "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Subd. 23. Major political party. "Major political party" means a major political party as defined in section 200.02, subdivision 7.

Subd. 24. Metropolitan governmental unit. "Metropolitan governmental unit" means any of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2, a regional railroad authority established by one or more of those counties under section 398A.03, a city with a population of over 50,000 located in the seven-county metropolitan area, the Metropolitan Council, or a metropolitan agency as defined in section 473.121, subdivision 5a.

Subd. 25. Minor political party. "Minor political party" means a minor political party as defined in section 200.02, subdivision 23.

Subd. 26. Noncampaign disbursement. "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, and necessary utensils and supplies, entertainment, and facility rental for a fund-raising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;
- (8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;
- (9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(11) costs of child care for the candidate's children when campaigning;

(12) fees paid to attend a campaign school;

(13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election holiday or seasonal cards, thank-you notes, or advertisements in the news media mailed or published prior to the end of the election cycle;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials;

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents;

(21) costs associated with a candidate attending a political party state or national convention in this state;

(22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question; and

(23) costs paid to a third party for processing contributions made by a credit card, debit card, or electronic check.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

Subd. 26a. **Person.** "Person" means an individual, an association, a political subdivision, or a public higher education system.

Subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Subd. 28. **Political fund.** "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or

to promote or defeat a ballot question. The term political fund as used in this chapter may also refer to the association acting through its political fund.

Subd. 29. Political party. "Political party" means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.

Subd. 30. Political party unit or party unit. "Political party unit" or "party unit" means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.

Subd. 31. Political subdivision. "Political subdivision" means the Metropolitan Council, a metropolitan agency as defined in section 473.121, subdivision 5a, or a municipality as defined in section 471.345, subdivision 1.

Subd. 32. Population. "Population" means the population established by the most recent federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by the Metropolitan Council, or by an estimate made by the state demographer under section 4A.02, whichever has the latest stated date of count or estimate.

Subd. 32a. Prima facie determination. A prima facie determination is a determination that a complaint filed under section 10A.02, subdivision 11, is sufficient to allege a violation of this chapter or of those sections of chapter 211B listed in section 10A.02, subdivision 11.

Subd. 33. Principal. "Principal" means an individual or association that:

(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

Subd. 34. Principal campaign committee. "Principal campaign committee" means a principal campaign committee formed under section 10A.105.

Subd. 35. Public official. "Public official" means any:

(1) member of the legislature;

(2) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house of representatives, revisor of statutes, or researcher, legislative analyst, fiscal analyst, or attorney in the Office of Senate Counsel, Research, and Fiscal Analysis, House Research, or the House Fiscal Analysis Department;

(3) constitutional officer in the executive branch and the officer's chief administrative deputy;

(4) solicitor general or deputy, assistant, or special assistant attorney general;

(5) commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06, or the state chief information officer;

- (6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;
- (7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;
- (8) executive director of the State Board of Investment;
- (9) deputy of any official listed in clauses (7) and (8);
- (10) judge of the Workers' Compensation Court of Appeals;
- (11) administrative law judge or compensation judge in the State Office of Administrative Hearings or unemployment law judge in the Department of Employment and Economic Development;
- (12) member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council;
- (13) member or chief administrator of a metropolitan agency;
- (14) director of the Division of Alcohol and Gambling Enforcement in the Department of Public Safety;
- (15) member or executive director of the Higher Education Facilities Authority;
- (16) member of the board of directors or president of Enterprise Minnesota, Inc.;
- (17) member of the board of directors or executive director of the Minnesota State High School League;
- (18) member of the Minnesota Ballpark Authority established in section 473.755;
- (19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;
- (20) manager of a watershed district, or member of a watershed management organization as defined under section 103B.205, subdivision 13;
- (21) supervisor of a soil and water conservation district;
- (22) director of Explore Minnesota Tourism;
- (23) citizen member of the Lessard-Sams Outdoor Heritage Council established in section 97A.056;
- (24) citizen member of the Clean Water Council established in section 114D.30;
- (25) member or chief executive of the Minnesota Sports Facilities Authority established in section 473J.07;
- (26) district court judge, appeals court judge, or Supreme Court justice;
- (27) county commissioner;
- (28) member of the Greater Minnesota Regional Parks and Trails Commission; or
- (29) member of the Destination Medical Center Corporation established in section 469.41.

Subd. 36. **State committee.** "State committee" means the organization that, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the state level.

History: 1974 c 470 s 1; 1975 c 271 s 6; 1976 c 307 s 1-4; 1978 c 463 s 1-18; 1979 c 59 s 1-3; 1980 c 509 s 1; 1980 c 587 art 2 s 1-7; 1980 c 607 art 14 s 45 subd 1; art 17 s 1-8; 1980 c 614 s 40; 1980 c 615 s 60; 1981 c 29 art 7 s 1; 1981 c 346 s 1; 1981 c 356 s 248; 1982 c 424 s 130; 1983 c 247 s 5,6; 1983 c 258 s 10; 1983 c 289 s 114 subd 1; 1984 c 619 s 11; 1984 c 640 s 32; 1984 c 654 art 3 s 13; 1984 c 655 art 1 s 92; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 2; 1987 c 186 s 15; 1988 c 686 art 1 s 40; 1989 c 209 art 1 s 1,2; 1989 c 334 art 6 s 1; 1990 c 562 art 8 s 2; 1990 c 608 art 1 s 1-5; art 3 s 1-3; 1991 c 233 s 109; 1991 c 322 s 19; 1991 c 349 s 1,2; 1993 c 13 art 1 s 1; 1993 c 318 art 2 s 1-4; 1994 c 483 s 1; 1994 c 628 art 3 s 2; 1995 c 189 s 8; 1995 c 202 art 1 s 25; 1996 c 277 s 1; 1997 c 129 art 2 s 15; 1997 c 202 art 2 s 63; 1998 c 254 art 2 s 3; 1999 c 220 s 1,50; 2000 c 260 s 2,3; 2002 c 363 s 1; 1Sp2003 c 1 art 2 s 18; 2004 c 206 s 52; 2005 c 156 art 5 s 1; art 6 s 1,2; 2006 c 242 s 11; 2006 c 243 s 1; 2006 c 257 s 1; 2007 c 57 art 1 s 10; 2008 c 290 s 2; 2008 c 295 s 1,2; 2008 c 300 s 1,51; 2008 c 368 art 2 s 1; 2009 c 172 art 1 s 8; 2010 c 327 s 1-4; 2010 c 397 s 1-3; 1Sp2011 c 6 art 2 s 12; 2012 c 299 art 1 s 4; 2013 c 137 art 3 s 7; 2013 c 138 art 1 s 1-10; art 2 s 1; art 3 s 1; 2014 c 185 s 1; 2014 c 275 art 1 s 1; 2014 c 309 s 1-3

30141.
Extension of credit by regulated industries; regulations.
30142.
Prohibition against use of certain Federal funds for election activities.
30143.
State laws affected.
30144.
Partial invalidity.
30145.
Period of limitations.
30146.
Collection and use of conference fees.

SUBCHAPTER I—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

§30101. Definitions

When used in this Act:

- (1) The term "election" means—
- (A) a general, special, primary, or runoff election;
 - (B) a convention or caucus of a political party which has authority to nominate a candidate;
 - (C) a primary election held for the selection of delegates to a national nominating convention of a political party; and
 - (D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.
- (2) The term "candidate" means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—
- (A) if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000; or
 - (B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000.
- (3) The term "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.
- (4) The term "political committee" means—
- (A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year; or
 - (B) any separate segregated fund established under the provisions of section 30118(b) of this title; or
 - (C) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.
- (5) The term "principal campaign committee" means a political committee designated and authorized by a candidate under section 30102(e)(1) of this title.
- (6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 30102(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.
- (7) The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.
- (8)(A) The term "contribution" includes—
- (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or
 - (ii) the payment by any person of compensation for the personal services of another person which are

rendered to a political committee without charge for any purpose.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 30118(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 30104(b) of this title by the committee receiving such services;

(ix) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

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(x) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or referenced to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided*, That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xi) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access;

(xiii) any honorarium (within the meaning of section 30125 of this title); and

(xiv) any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(9)(A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed \$2,000 for any election, be reported to the Commission in accordance with section 30104(a)(4)(A)(i) of this title, and in accordance with section 30104(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 30118(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 30116(b) of this title, but all such costs shall be reported in accordance with section 30104(b) of this title;

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office;

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or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 30104(b) of this title by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization

(17) Independent expenditure.—The term "independent expenditure" means an expenditure by a person—

(A) expressly advocating the election or defeat of a clearly identified candidate; and

(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended.

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(20) Federal election activity.—**(A) In general.—**The term "Federal election activity" means—

- (i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;
- (ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);
- (iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or
- (iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

(B) Excluded activity.—The term "Federal election activity" does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

- (i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);
- (ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);
- (iii) the costs of a State, district, or local political convention; and
- (iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

(21) Generic campaign activity.—The term "generic campaign activity" means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.**(22) Public communication.—**The term "public communication" means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.**(23) Mass mailing.—**The term "mass mailing" means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.**(24) Telephone bank.—**The term "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.**(25) Election cycle.—**For purposes of sections 30116(i) and 30117 of this title and paragraph (26), the term "election cycle" means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.**(26) Personal funds.—**The term "personal funds" means an amount that is derived from—**(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—**

- (i) legal and rightful title; or
- (ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

- (i) a salary and other earned income from bona fide employment;
- (ii) dividends and proceeds from the sale of the candidate's stocks or other investments;
- (iii) bequests to the candidate;
- (iv) income from trusts established before the beginning of the election cycle;
- (v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;
- (vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and
- (vii) proceeds from lotteries and similar legal games of chance; and

(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.

(Pub. L. 92-225, title III, §301, Feb. 7, 1972, 86 Stat. 11; Pub. L. 93-443, title II, §§201(a), 208(c)(1), Oct. 15, 1974, 88 Stat. 1272, 1286; Pub. L. 94-283, title I, §§102, 115(d), (h), May 11, 1976, 90 Stat. 478, 495, 496; Pub. L. 96-187, title I, §101, Jan. 8, 1980, 93 Stat. 1339; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 106-346, §101(a) [title V, §502(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A-49; Pub. L. 107-155, title I,

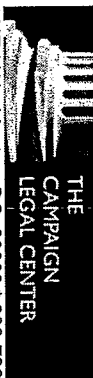
F-5



Federal Rules for Political Advertising on Television and Radio

	Candidate Ad	Electioneering Communication (EC)	Independent Expenditure Ad (IE)	Issue Ad
Definition	A communication (television, radio or print) that is paid for by the authorized committee of a candidate.	A broadcast television or radio ad that mentions the name of a federal candidate within 60 days of a general election or 30 days of a primary and is targeted to the relevant electorate.	A communication (television, radio or print) that expressly advocates the election or defeat (e.g., "Vote for," "elect," "vote against," "defeat") of a "clearly identified federal candidate" that is not made in coordination or cooperation with that candidate.	A communication (television, radio or print) that discusses political issues rather than specific candidates. (NOTE: The term "issue ad" is not specifically defined in federal law.)
Funding	Authorized candidate committees can spend unlimited amounts on behalf of their designated candidate. A candidate committee must raise contributions in accordance with federal candidate source and amount limitations.	ECs are usually funded by PACs, Super PACs, 501(c)(4) social welfare organizations, labor unions, corporations, trade associations or individuals. Ad sponsors may spend unlimited amounts from any non-foreign source. <i>Before Citizens United, corporations and labor unions could not use treasury funds to pay for ECs.</i>	IEs are usually funded by PACs, Super PACs, party committees, 501(c)(4) social welfare organizations, labor unions, corporations, trade associations or individuals. Ad sponsors may spend unlimited amounts from any non-foreign source. <i>Before Citizens United, corporations and labor unions could not use treasury funds to pay for IEs.</i>	Issue ads are usually funded by 501(c)(3) charitable organizations, 501(c)(4) social welfare organizations, labor unions, corporations, trade associations or individuals. Ad sponsors may spend unlimited amounts from any source.
FEC Disclosure	Federal candidates (U.S. House, Senate or Presidency) must register their candidacy with the FEC within 15 days after he or she receives contributions or makes expenditures in excess of \$5,000. The candidate's authorized committee must make regular reports to the FEC on all of its receipts and disbursements.	Within 24 hours of the date of airing the EC, the person or organization making an EC that aggregates more than \$10,000 must report to the FEC. An organization must report the name and address of each donor who, since the first day of the preceding calendar year, has	Once the individuals or committee's aggregate IE spending in a calendar year reaches or exceeds \$10,000 with respect to a given election, a 48-hour IE report must be filed. Up to 20 days before the election, additional 48-hour reports are required for subsequent IEs for the same election that aggregate \$10,000 or more.	None.

This table is intended to provide a general summary of federal political advertising rules as of September 2014. It does not capture all of the nuances and exceptions in the law. It should not be relied upon as legal advice for particular circumstances or situations. Please contact the Campaign Legal Center at (202) 736-2200 with specific questions.



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Federal Rules for Political Advertising on Television and Radio

	Candidate Ad	Electioneering Communication (EC)	Independent Expenditure Ad (IE)	Issue Ad
<p>FCC Disclosure for Federal Elections</p>	<p>All TV/radio outlets must include the rate charged, the date/time on which the ad ran, the class of time purchased, the name of the candidate's committee and the candidate committee's treasurer.</p>	<p>If an EC is run on broadcast TV/radio and is regarding a legally qualified candidate for any office, any election to federal office or "a national legislative issue of public importance," the broadcast TV/radio outlet must disclose in their online political file on the FCC database, among other things, the rate charged, the date/time on which the communication ran, the class of time purchased, the name of the candidate to which the communication refers and the office, the name of the person purchasing the time and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.</p> <p><i>Cable and satellite providers need only to disclose the ad sponsor's</i></p>	<p>Within 20 days before the election, 24-hour reports are required for each additional \$1,000 expenditure for a given election.</p> <p>If the IE is made by a party committee, PAC or Super PAC, the donors of more than \$200 must be disclosed in the committee's contribution reports.</p> <p><i>If the IE is made by an individual or organization that is not a political committee, only those donors of more than \$200 who contributed for a specific IE must be disclosed.</i></p>	<p>All political ads on TV/radio outlets must include sponsorship identification about who paid for the ad.</p> <p>If the issue ad is regarding a national legislative issue of public importance, it is subject to the same disclosure rules as IEs.</p>

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Federal Rules for Political Advertising on Television and Radio

Candidate Ad	Electioneering Communication (EC)	Independent Expenditure Ad (IE)	Issue Ad
<p>Other FCC Rules (covers federal, state, and local elections)</p>	<p>If the candidate is running for federal office, the candidate is entitled to "reasonable access" to run ads. Federal candidates are required to include "stand by your ad" disclaimers in their ads. Legally qualified candidates for political office at all levels are entitled to "equal opportunity" and to purchase time at the "lowest unit rate" -- the lowest rate offered to the station's best advertisers. Once the time is sold to any candidate, a station cannot censor a candidate's ad.</p>	<p><i>name and list of the sponsor's lead officers/directors.</i></p> <p>Any TV/radio outlet may refuse to sell time for an EC. Usually, such rejections are because the station has sold out of time or the station determines that, in its judgment, the content of the proposed ad offends community sensibilities.</p>	<p><i>officers/directors.</i></p> <p>Any TV/radio outlet may refuse to sell time for an IE. Usually, such rejections are because the station has sold out of time or the station determines that, in its judgment, the content of the proposed ad offends community sensibilities.</p> <p>If the ad concerns a "political matter or matter involving a controversial issue of public importance" but does not meet the BCRA requirements or contain "express advocacy" regarding a federal candidate, the station must disclose in their political file the name of the ad's sponsor and a list of the sponsor's lead officers or directors.</p> <p>Any TV/radio outlet may refuse to run an issue ad. Usually, such rejections are made on the basis that the station has sold out of time or the station determines that, in its judgment, the content of the proposed ad offends community standards.</p>

This table is intended to provide a general summary of federal political advertising rules as of September 2014. It does not capture all of the nuances and exceptions in the law. It should not be relied upon as legal advice for particular circumstances or situations. Please contact the Campaign Legal Center at (202) 736-2200 with specific questions.



Organization (IRC section)	Tax Treatment?	Lobbying permitted under Internal Revenue Code (IRC)?*	Political Campaign Activity permitted under Internal Revenue Code (IRC)?*	Disclosure under Internal Revenue Code (IRC)?*	Disclosure under Federal Election Campaign Act (FECA)?**
<p>501(c)(3) Public charities and private foundations</p>	<p>Tax exempt. Contributions are <u>tax-deductible</u> and generally are not subject to the gift tax.</p>	<p>Permitted to engage in lobbying, so long as it constitutes "no substantial part" of the organization's activities.</p>	<p><u>Prohibited</u> from "participating in, or intervening in ... any political campaign on behalf of (or in opposition to) any candidate for public office."</p>	<p>Must file an annual information return with the IRS using the Form 990 series disclosing all funds raised and spent. Contributor information is not made public, except in case of private foundations.</p>	<p>Because a 501(c)(3) is not permitted to engage in political campaign activity under the IRC, it typically would not have any political campaign spending to report under FECA.</p>
<p>501(c)(4) Social welfare organizations (E.g., NRA, Sierra Club, Crossroads GPS)</p>	<p>Tax exempt; but if the group engages in political campaign activities (i.e., 527 "exempt function activities"), its investment income (if any) is subject to tax.</p>	<p>Permitted to lobby without limitation provided that all lobbying is consistent with the group's tax-exempt purpose.</p>	<p>These groups cannot have as their "primary activity" participation in "political campaigns on behalf of or in opposition to any candidate for public office." The IRS uses a "facts and circumstances" test to determine when a group sponsoring ads is participating in political campaign activity. Factors include: (1) Whether an ad identifies a candidate for public office; (2) Whether the timing of the ad coincides with an electoral campaign; and (3) Whether the ad targets voters in a particular election.</p>	<p>Must file an annual information return with the IRS using the Form 990 series disclosing all funds raised and spent. Contributor information is not made public, even if the group engages in political campaign activity.</p>	<p>All persons and groups must file "ad specific" disclosure reports with the FEC if they purchase two types of ads: (1) <u>Ads that expressly advocate the election or defeat of a federal candidate</u> (e.g., "Vote for," "Vote against"). (2) <u>"Electioneering communications,"</u> i.e., TV or radio ads that mention a federal candidate, are targeted to the relevant electorate, and run within 30 days preceding a primary and 60 days preceding a general election. These reports must disclose: the identity of the person or group funding the ad ("ad sponsor"); the recipients of disbursements for the ad; and contributors to the ad sponsor whose contributions were made for the purpose of furthering the express advocacy or electioneering communications.</p>
<p>501(c)(5) Unions</p>	<p>Contributions are <u>not</u> tax-deductible.</p>	<p>Contributions are <u>not</u> tax-deductible.</p>	<p>Contributions are <u>not</u> tax-deductible.</p>	<p>Contributions are <u>not</u> tax-deductible.</p>	<p>Contributions are <u>not</u> tax-deductible.</p>
<p>501(c)(6) Trade associations (E.g., U.S. Chamber of Commerce)</p>	<p>Certain contributions may be subject to the gift tax.</p>	<p>Certain contributions may be subject to the gift tax.</p>	<p>Certain contributions may be subject to the gift tax.</p>	<p>Certain contributions may be subject to the gift tax.</p>	<p>Certain contributions may be subject to the gift tax.</p>

* These requirements are enforced by the Internal Revenue Service (IRS).
** These requirements are enforced by the Federal Election Commission (FEC).



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Organization (IRC section)	Tax Treatment?	Lobbying permitted under Internal Revenue Code (IRC)?*	Political Campaign Activity permitted under Internal Revenue Code (IRC)?*	Disclosure under Internal Revenue Code (IRC)?*	Disclosure under Federal Election Campaign Act (FECA)?**
<p>527 Political organization that is not registered as a federal political committee</p>	<p>Tax exempt; but may be subject to tax if the group engages in activities that do not relate to political campaign activities, e.g. lobbying, or if the group does not disclose all of its donors. Contributions are <u>not</u> tax-deductible. Contributions are <u>not</u> subject to the gift tax.</p>	<p>Permitted to lobby subject to certain restrictions and only if it is not the group's "primary activity."</p>	<p>Tax law does not limit political campaign activity by 527s. A 527 is a group "organized and operated primarily" for the purpose of "influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors...."</p> <p>Not all 527s are required to register as federal political committees, only those 527s that meet the definition of a political committee, described below.</p>	<p>Must notify the IRS of their existence within 24 hours of formation. 527s are required to file with the IRS an annual information return, and periodic reports disclosing all contributions and expenditures for which the group seeks tax exemption. 527 reports are publicly available on the IRS' Web site. <u>Contributor information is thus public.</u> If a 527 does not disclose a contribution, it must pay tax on that contribution.</p>	<p>The FEC has interpreted the law to require disclosure of only those contributors who designated their funds for specific election ads. This interpretation has allowed groups to evade disclosure by designating contributions as "unrestricted donations" or member dues.</p> <p>527s are subject to the "ad specific" reporting requirements under FECA described above.</p>

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Organization (IRC section)	Tax Treatment?	Lobbying permitted under Internal Revenue Code (IRC)?*	Political Campaign Activity permitted under Internal Revenue Code (IRC)?*	Disclosure under Internal Revenue Code (IRC)?*	Disclosure under Federal Election Campaign Act (FECA)?**
<p>527 Political organization that is registered as a federal political committee (E.g., federal candidate committees, national political parties, political action committees (PACs))</p>			<p>A group must register with the FEC as a federal "political committee" if:</p> <p>(1) It accepts "contributions," or makes "expenditures," as defined by FECA, of over \$1000 in a calendar year, and</p> <p>(2) Has as its "major purpose" the "nomination or election" of one or more federal candidates.</p> <p>Tax law does not limit political campaign activity by 527s registered as political committees. Under FECA, however, committees are subject not only to disclosure requirements, but also to contribution limits and source restrictions.</p> <p>"Super-PACs" are registered federal political committees that make only independent expenditures and do not contribute to candidates or parties. Due to <i>Citizens United</i> and other judicial decisions, these "Super PACs" are now exempted from the federal contribution limits and from the restrictions on corporate and union contributions. Super-PACs remain subject to the federal political committee disclosure requirements, however.</p>	<p>527s that register and report to the FEC as political committees are relieved of many of their IRS reporting obligations.</p>	<p>Federal political committees are subject to extensive reporting and organizational requirements under FECA, including:</p> <p>(1) Registration;</p> <p>(2) Designation of a treasurer and committee bank account(s);</p> <p>(3) Filing periodic disclosure reports with the FEC disclosing all receipts and disbursements (contributor information is thus public);</p> <p>(4) Maintaining records for receipts and disbursements from the beginning of the committee's operations.</p> <p>Subject to certain exceptions, federal political committees do not have to file the "ad specific" reports described above, because they are already required to disclose all receipts and disbursements to the FEC in their periodic reports.</p>

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Kreye, Joseph

From: Kreye, Joseph
Sent: Friday, January 23, 2015 10:55 AM
To: Karls-Ruplinger, Jessica
Subject: MN definitions

Jessica,

As an introduction (and a disclaimer), the Minnesota definitions related to campaign finance are not as good as I had hoped. They tend to either rely on terms that are themselves defined elsewhere or, as in the case of "candidate", include substantive provisions that don't belong in the definitions.

First the actors:

Chapter 10A.01 Definitions

Subd. 7c. **Ballot question political committee**

"Ballot question political committee" means a political committee that makes only expenditures to promote or defeat a ballot question and disbursements permitted under section 10A.121, subdivision 1.

Subd. 10. **Candidate**

"Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of \$750, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$750, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.243

(Note: MN chapter 10A does not apply to local offices. The MN statutes have a separate chapter for that.)

Subd. 18a. **Independent expenditure political committee.**

"Independent expenditure political committee" means a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Subd. 27. **Political committee.**

"Political committee" means an association whose *major purpose* [emphasis added] is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Subd. 29. **Political party.**

"Political party" means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.

(Note: the definitions of major and minor political party under Minnesota's election law—section 200.02, subs. 7 and 23—are not helpful for campaign finance purposes.)

Subd. 30. **Political party unit or party unit.**

"Political party unit" or "party unit" means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.

Subd. 34. Principal campaign committee.

"Principal campaign committee" means a principal campaign committee formed under section 10A.105.

And now the money:

Chapter 10A.01 Definitions.

Subd. 3. Advance of credit.

"Advance of credit" means any money owed for goods provided or services rendered. "Advance of credit" does not mean a loan as defined in subdivision 21.

Subd. 4. Approved expenditure.

"Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, *if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent* [emphasis added]. An approved expenditure is a contribution to that candidate.

Subd. 9. Campaign expenditure.

"Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

- (1) non-campaign disbursements as defined in subdivision 26;
- (2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit;
- (3) the publishing or broadcasting of news items or editorial comments by the news media; or
- (4) an individual's unreimbursed personal use of an automobile owned by the individual and used by the individual while volunteering personal time.

Subd. 11. Contribution.

(a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit. An allocation by an association of general treasury money to be used for activities that must be or are reported through the association's political fund is considered to be a contribution for the purposes of disclosure required by this chapter.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; the publishing or broadcasting of news items or editorial comments by the news media; or an individual's unreimbursed personal use of an automobile owned by the individual while volunteering personal time.

Subd. 18. Independent expenditure.

"Independent expenditure" means an expenditure *expressly advocating* [Emphasis added] the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.

(Note: under the MN statute "'expressly advocating'" means that a communication clearly identifies a candidate and uses words or phrases of express advocacy." Using the term itself to define the term is problematic.)

Subd. 26. Non-campaign disbursement.

"Non-campaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, and necessary utensils and supplies, entertainment, and facility rental for a fund-raising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;
- (8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;
- (9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (11) costs of child care for the candidate's children when campaigning;
- (12) fees paid to attend a campaign school;
- (13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election holiday or seasonal cards, thank-you notes, or advertisements in the news media mailed or published prior to the end of the election cycle;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials;

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents;

(21) costs associated with a candidate attending a political party state or national convention in this state;

(22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question; and

(23) costs paid to a third party for processing contributions made by a credit card, debit card, or electronic check.

The board must determine whether an activity involves a non-campaign disbursement within the meaning of this subdivision.

A non-campaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

(Note: making a distinction between campaign and non-campaign disbursements may be useful for purposes of rewriting chapter 11.)

Joe

Joseph T. Kreye

Legal Section Administrator

Legislative Reference Bureau

608 266-2263

Kreye, Joseph

From: Karls-Ruplinger, Jessica
Sent: Thursday, February 05, 2015 3:54 PM
To: Foltz, Adam; Hanus, Andrew; Bemis, Zach; Zuleger, Chad
Cc: Larson, Brian; Kuczynski, Tracy; Kreye, Joseph
Subject: Tomorrow's Meeting on Campaign Finance

Importance: High

Adam, Andrew, Zach, and Chad:

For our meeting tomorrow, I wanted to provide you with some material in advance. The first attachment includes the definition sections of Wisconsin, Illinois, Iowa, Michigan, and Minnesota campaign finance laws and the federal campaign finance law. The definitions of "contribution," "expenditure," "independent expenditure," and "electioneering communication" (or similar terminology) are marked.



201502051415.pdf

In addition, the following are two decisions from the U.S. Court of Appeals for the Seventh Circuit. The first decision (*Madigan*) upheld Illinois's disclosure requirements. Following the link to the case is a link to Illinois statutes on campaign finance disclosure. The second decision (*Barland II*) struck down various parts of Wisconsin's campaign finance law last year.

- *Madigan*: <http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2012/D09-10/C:11-3693:J:Hamilton:aut:T:fnOp:N:992415:S:0>
 - Illinois law:
<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=001000050HArt%2E+9&ActID=170&ChapterID=3&SeqStart=42200000&SeqEnd=48100000>
- *Barland II*: <http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2014/D05-14/C:12-2915:J:Sykes:aut:T:fnOp:N:1345358:S:0>

Lastly, the following is a list of issues/questions that might be useful to think about for tomorrow's meeting:

- How should PAC be defined, and how does it fit with the major purpose test? The major purpose test emerged from an analysis of federal law under *Buckley*. In *Madigan*, the court identified some of the difficulties involved with the test, and Illinois law was ultimately upheld even though it does not use the test. [679 F.3d 8at 488-89.] Two years later, in *Barland II*, the court said the test may continue to apply in some cases, and "becomes more significant as the scope and burdens of the regulatory system increase." The court "declined to apply the major purpose limitation" in Illinois's case, in part because PACs are defined as groups that spend "on behalf of or in opposition to" a candidate or ballot initiative, which is narrower than the federal standard, "for the purpose of ... influencing" an election. [751 F.3d at 839.]
- What should the regulatory scheme look like for groups that formerly may have been within the scope of s. GAB 1.28 or 1.91? These rules were struck down in *Barland II* as overbroad. The court's analysis is very nuanced, but essentially the court based its holding on concerns about affecting pure issue advocacy speech, and imposing a full PAC-like regulatory scheme on issue-advocacy groups that only engage in some express advocacy. [751 F.3d at 834-42.] It may be useful to identify some of the types of groups, or types of speech, that were within the

scope of these GAB rules. Should there be contribution limits for some or all of them? Disclosure requirements? If so, disclosure of amounts received, amounts expended, etc.? Identification of contributors, and if so how defined? Also, on-going disclosure, or event-driven?

- If a separate category is created for independent expenditure groups, how should it be defined? Should “electioneering communications” be included, and if so how defined? The rules mentioned above could be understood as GAB’s attempt to define these concepts, but the *Barland II* court found that the rules were overbroad, in certain respects. Illinois’s definition of “independent expenditure” is limited to expenditures for an electioneering communication or any form of express advocacy that is not coordinated with a candidate or campaign. Illinois defines “electioneering communications” based on the narrower federal decision. This definition was considered by the court when it upheld Illinois’s regulation of “independent expenditures” in the *Madigan* decision. [697 F.3d at 491 and 497-98.]

Jessica (and Brian)

Jessica Karls-Ruplinger
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(608) 266-2230
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Foltz, Adam

From: Bohringer, Richard - GAB <Richard.Bohringer@wisconsin.gov>
Sent: Thursday, February 05, 2015 6:25 AM
To: Foltz, Adam
Subject: FW: Independent Disbursement Committee information

Adam,

The following message were sent to all registered independent disbursement committees on July 11, 2014. This same language was posted on the CFIS website for all registered independent disbursement groups to see when they logged in on their reminder page. The message was posted on July 11, 2014.

The following was sent to organizations that are already registered and have been reporting:

As you may be aware, the 7th Circuit Court of Appeals issued the *Barland II* decision in late May 2014, which has directly impacted the campaign finance regulation of organizations making independent disbursements. The 7th Circuit Court of Appeals returned that case to the District Court for the Eastern District of Wisconsin, which is responsible for entering final orders providing more specific directions regarding the campaign finance regulation of organizations making independent disbursements. The Eastern District Court has not yet issued such descriptive orders and likely will not do so until after the July 21, 2014 campaign finance report filing deadline. Until the Eastern District Court issues its descriptive orders and the G.A.B. provides further direction, independent disbursement committees that are already registered and in report status may continue to file campaign finance reports voluntarily and as they have always done, but the G.A.B. will not be penalizing any such independent disbursement committees for failure to file the July Continuing Report timely.

A copy of this text was sent to any organization that filed a new registration as an independent disbursement committee, and staff would confirm with them that it was their intent to voluntarily register. If they wished to not register because they were not aware of the decision or its impact staff would disregard their registration and not activate the committee.

The following is for organizations that want to spend, are not currently registered, and wonder what to do:

As you may be aware, the 7th Circuit Court of Appeals issued the *Barland II* decision in late May 2014, which has directly impacted the campaign finance regulation of organizations making independent disbursements. The 7th Circuit Court of Appeals returned that case to the District Court for the Eastern District of Wisconsin, which is responsible for entering final orders providing more specific directions regarding the campaign finance regulation of organizations making independent disbursements. The Eastern District Court has not yet issued such descriptive orders and likely will not do so until after the July 21, 2014 campaign finance report filing deadline. Until the Eastern District Court issues its descriptive orders and the G.A.B. provides further direction, organizations wishing to make independent expenditures may continue to file campaign registration statements, independent oaths, and file campaign finance reports voluntarily, but the G.A.B. will not be penalizing any such organization for failing to register, file an independent oath, or file campaign finance reports, so long as the organization reasonably believes principles from *Barland II* do not require them to do so.

If you have any questions, please contact me.

Richard Bohringer
Campaign Auditor

Testimony of James Bopp, Jr.
on behalf of the James Madison Center for Free Speech
before the Wisconsin
Assembly Committee on Campaigns and Elections and
Senate Committee on Elections and Local Government
March 24, 2015

Thank you, on behalf of the James Madison Center for Free Speech, for the opportunity to testify today regarding Wisconsin campaign-finance law in the wake of *WRTL-SPAC v. Barland*, 664 F.3d 139 (7th Cir. 2011) (“*Barland-I*”), and *WRTL and WRTL-SPAC v. Barland*, 751 F.3d 804 (7th Cir. 2014) (“*Barland-II*”).

As you may know, the James Madison Center and the First Freedoms Foundation – through district-court and Seventh Circuit counsel James Bopp, Jr., Randy Elf, and Michael Dean – had the honor of representing plaintiffs-appellants WRTL and WRTL-SPAC in *Barland-I* and *Barland-II*. Since the committees jointly invited a representative of the defendant-appellant Wisconsin Government Accountability Board (“GAB”) to testify today, which we of course welcome, I appreciate the opportunity to speak with you as well.

The goal of this half-hour testimony is not to cover every possible topic, much less in every detail, but to share some ideas with you briefly and then try to be responsive to whatever questions you may have. Therefore, this testimony will briefly address the holdings of *Barland-I* and *Barland-II* and then suggest some ways in which the Legislature should amend Wisconsin law. In so doing, unlike others who have testified today, we urge the Legislature *not* to incorporate the appeal-to-vote test, formerly known as the “functional equivalent of express advocacy,” into Wisconsin law.

Barland-I

Barland-I holds it is unconstitutional to limit contributions to organizations engaging in only independent spending for political speech. That was the only substantive issue in *Barland-*

I, and the Legislature must follow *Barland-I*. The Legislature should do more by following *Republican Party of New Mexico v. King*, 741 F.3d 1089, 1097 (10th Cir. 2013), and *EMILY's List v. FEC*, 581 F.3d 1, 12 (D.C. Cir. 2009), and *not* limiting contributions that organizations receive *for independent spending* when they both make contributions *and* engage in independent spending.

Barland-II

Barland-II addresses many more issues, all of which federal Judge Charles Clevert of the Eastern District of Wisconsin summarized in a declaratory judgment and permanent injunction that is available both on the GAB website, <http://gab.wi.gov>, and in the addendum to WRTL's Wisconsin Supreme Court *amicus* brief in the current John Doe proceedings. The *amicus* brief is a t
<http://www.jamesmadisoncenter.org/cases/files/WisJohnDoeProceedings/WRTLAmicus03102015.pdf>.

To review briefly the eight points of Judge Clevert's declaratory judgment and permanent injunction:

First, Wisconsin's ban on disbursements by corporations violates the First Amendment.

Second, Wisconsin law triggers what *Citizens United v. FEC*, 558 U.S. 310, 338 (2010), recognizes are political-committee and political-committee-like burdens for organizations when they engage in political speech. These burdens are (1) registration, (2) recordkeeping, and (3) periodic reporting, and Wisconsin triggers them in multiple ways.

One way is through Wisconsin's statutory committee-or-political-committee definition (in Chapter 11) and regulatory political-committee definition (in GAB 1.28). These definitions ultimately turn on what is for the "purpose of influencing" elections and what is "to influence

elections,” both of which *Barland-II* holds are unconstitutionally vague. However, in *an effort to resolve this vagueness* “[a]s applied to political speakers other than candidates, their campaign committees, and political parties,” *Barland-II* limits this vague law to “express advocacy and its functional equivalent [(meaning the appeal-to-vote test)] as those terms were explained in” two U.S. Supreme Court decisions, *Buckley v. Valeo*, 424 U.S. 1 (1976), and *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449 (2007) (“*WRTL-IF*”).

Third, another way in which Wisconsin triggers political-committee-like burdens is through the second of two sentences of GAB 1.28(3)(b), which turns on what “[s]upports or condemns” candidates’ positions on issues, stances on issues, and public records. *Barland-II* holds “[s]upports or condemns” is unconstitutionally vague. *Barland-II* then holds the first of two sentence in GAB 1.28(3)(b) is not unconstitutionally vague.

Fourth is the main *Barland-II* holding, involving the major-purpose test: Wisconsin triggers political-committee and political-committee-like burdens not only through the statutory committee-or-political-committee definition and GAB 1.28 but also through GAB 1.91. Apart from vagueness, *Barland-II* – in referring to organizations that are *not* under the control of any candidate(s) in their capacities as candidates – holds that Wisconsin may trigger political-committee or political-committee-like burdens only for organizations that have *the “major purpose” of “express advocacy.”* Important though this is, *Barland-II* does not hold *how* one determines whether an organization has “the major purpose” – more on that in a moment.

Fifth, *Barland-II* holds that Wisconsin’s *regulatory* attribution and disclaimer requirements violate the First Amendment as applied to radio ads of 30 seconds or fewer. The attribution and disclaimer are so long that they take up much of an ad.

Sixth, *Barland-II* holds the challenge to Wisconsin's 24-hour reporting requirements is moot, because Wisconsin amended the law in 2014, after the Seventh Circuit oral argument in *Barland-II* and before the Seventh Circuit opinion in *Barland-II*, and changed 24-hour reporting to 48-hour reporting.

Seventh, *Barland-II* upholds Wisconsin's oath-for-independent-disbursements requirement.

Eighth, *Barland-II* holds that the Wisconsin's limit on what organizations spend to solicit contributions to their own political committees violates the First Amendment.

The Appeal to Vote Test

f/k/a the Functional Equivalent of Express Advocacy

As previously mentioned, *Barland-II* attempts to resolve the vagueness of Wisconsin law by limiting it to *Buckley* express advocacy plus the *WRTL-II* appeal-to-vote test, formerly known as the "functional equivalent of express advocacy."

However, as we explain in our *amicus* brief to the Wisconsin Supreme Court, *Barland-II*'s using the appeal-to-vote test was a mistake, because the appeal-to-vote test is no longer part of constitutional law: After the U.S. Supreme Court's 2010 decision in *Citizens United*, the appeal-to-vote test no longer affects whether government may ban, otherwise limit, or regulate speech.

Moreover, under *WRTL-II*, the appeal-to-vote test is vague as to speech other than electioneering communications as defined in federal law. After *Citizens United*, what remains from *WRTL-II* regarding the test is the conclusion in a *WRTL-II* concurring opinion that the test is unconstitutionally vague, even *vis-à-vis* such electioneering communications.

The bad news is that *Barland-II* missed this. The good news is that the Wisconsin Legislature need not incorporate this mistake into Wisconsin law. The appeal-to-vote test was just an attempt – albeit an unsuccessful one – to fix vagueness. When the Legislature itself fixes the vagueness in Wisconsin law, there will be no need even to consider the appeal-to-vote test.

Besides, as we also explain in our *amicus* brief to the Wisconsin Supreme Court, “public information about the John Doe proceedings amply illustrates what those who civilly enforce and criminally prosecute Wisconsin campaign-finance law are capable of doing. ... It is frightening to imagine what they would do with a vague standard such as the appeal-to-vote test.”

Amending Wisconsin Law

In December 2014, WRTL and WRTL-SPAC prepared a brief, simple, easy-to-understand way to revise Wisconsin campaign-finance law.

As you can imagine, the goal was *not* to address every possible issue that might ever arise. Indeed, WRTL and WRTL-SPAC stated at the outset that

WRTL and WRTL-SPAC understand that some in the Wisconsin Legislature wish to amend contribution limits and restructure, or redefine the duties of, the Government Accountability Board. WRTL and WRTL-SPAC take no position on those issues at this time, yet they would be available to offer input on proposals by members of the Wisconsin Legislature.

Consistent with *Barland-II*'s main, major-purpose holding, the main recommendation is that Wisconsin trigger political-committee or political-committee-like burdens only with this definition:

“Political committee” means any person other than an individual, or any combination of two or more persons not related by marriage, which:

(a) In a two-year general-election cycle makes \$5,000 or more in contributions or spends \$5,000 or more for express advocacy, and

(b) 1 is under the control of a candidate or candidates in their capacities as candidates, or

2 A says in its organizational documents or its public statements that it has the major purpose of nominating, electing, or defeating a candidate or candidates, or passing or defeating a referendum or referenda, or

B devotes the majority of its spending in a two-year general-election cycle to contributions or independent expenditures.

This is the bright-line major-purpose test that one finds, for example, in federal-appellate opinions other than *Barland-II*. See *Iowa Right to Life Comm., Inc. v. Tooker*, 717 F.3d 576, 584 (8th Cir. 2013) (“*IRLC-IP*”) (quoting *Colorado Right to Life Comm., Inc. v. Coffman*, 498 F.3d 1137, 1152 (10th Cir. 2007) (“*CRLC*”) (citing/quoting, in turn, *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 252 n.6, 262 (1986) (“*MCFL*”)), followed in *New Mexico Youth Organized v. Herrera*, 611 F.3d 669, 678 (10th Cir. 2010) (“*NMYO*”), cert. denied, 572 U.S. ____, 134 S. Ct. 1787 (2014).

t with U.S. Supreme Court case law, “independent expenditure” means *Buckley* express advocacy.

that is not coordinated with a candidate. *Buckley*, 424 U.S. at 44&n.52, 46-47, 78, 80. As we explain in our *amicus* brief to the Wisconsin Supreme Court, *Buckley* express advocacy requires “explicit words of advocacy[.]” *Buckley*, 424 U.S. at 43; *Elections Bd. v. Wisconsin Mfgs. & Commerce*, 597 N.W.2d 721, 737 (Wis. 1999) (“*WMC*”) (quoting *Buckley*, 424 U.S. at 43). To be *Buckley* express advocacy, speech need not include the specific *Buckley* words. Synonyms suffice. See *Buckley*, 424 U.S. at 44n.52; *WMC*, 597 N.W.2d at 730-31.

The appeal-to-vote test was different from express advocacy. It reached beyond *Buckley’s* words and synonyms for them. It applied when there were *no* explicit words of

advocacy and asked whether the *only reasonable interpretation* of electioneering communications as defined in federal law was as an appeal to vote for or against a clearly identified candidate. *WRTL-II*, 551 U.S. at 469-70, 474n.7.

When it was time to wrap up *Barland-II* in the district court in 2014, the *Barland-II* defendants, including GAB, said that in determining whether an organization has the *Buckley* major purpose, GAB intends to follow not the bright-line rule of *IRLC-II*, *CRLC*, *MCFL*, and *NMYO* but the Federal Election Commission's method. While other federal-appellate courts have upheld the FEC's method, *see Real Truth About Abortion, Inc. v. FEC*, 681 F.3d 544, 548-49 (4th Cir. 2012), *cert. denied*, 568 U.S. ____, 133 S. Ct. 841 (2013), *followed in Free Speech v. FEC*, 720 F.3d 788, 792-93, 797-98 (10th Cir. 2013), *cert. denied*, 572 U.S. ____, 134 S. Ct. 2288 (2014), the problem with the FEC's method is that it is vague and allows intrusive investigations into organizations' internal affairs to determine whether they have "the major purpose." Again, "public information about the John Doe proceedings amply illustrates what those who civilly enforce and criminally prosecute Wisconsin campaign-finance law are capable of doing. ... It is frightening to imagine what they would do with a vague" major-purpose test.

Thank you for this opportunity to testify.

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