



LEAGUE OF  
WOMEN VOTERS®  
MINNESOTA

## ***THE TIP OF THE ICEBERG:***

### ***How Minnesota's Campaign Finance Laws Limit Transparency***

By Sherri Knuth

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## Executive Summary

Despite Minnesota's strong culture of civic engagement, the systems that fuel Minnesota's democratic processes are in need of attention. As this report is published in 2013, the influence of money in politics represents a dangerous threat to the health of our democracy in Minnesota and nationally.

League of Women Voters of the United States and League of Women Voters Minnesota support incremental reforms in campaign finance while building support for public financing as the best long-term solution. The purpose of this report is to provide a framework for understanding campaign finance laws and practices in Minnesota and highlight the need for improved disclosure as a necessary incremental reform in our state. In addressing the limitations of Minnesota law, we assess the impact of *Citizens United*.

Evaluating disclosure laws for independent spending in the 50 states, a watchdog group has given Minnesota an "F" because of limitations in the state's disclosure laws. But even with limited disclosure requirements, campaign finance records reveal that independent spenders – representing special interests – have stepped up their spending in Minnesota by billions of dollars in the wake of *Citizens United*. In 2012, for instance, groups independent of the candidates spent \$4,200,855 more than the candidates themselves on literature and advertisements. And that's just the tip of the iceberg.

With so much money pouring into election advertisements, billboards and literature, improved transparency is vital. The reforms recommended by League of Women Voters Minnesota focus on measures that would provide greater disclosure so that voters know who is trying to influence the outcome of elections. Voters can then hold their elected officials accountable if the laws they enact tend to reflect the interests of financial contributors rather than the public interest.

LWV Minnesota advocates these immediate reforms in Minnesota's campaign finance system:

1. Broaden the category of communications requiring disclosure to those that clearly seek to influence voters even though the ads do not use the so-called magic words such as "vote for" or "defeat." Specifically:
  - Widen the definition of "express advocacy," and
  - Require disclosure of "electioneering communications."
2. Improve the Campaign Finance and Public Disclosure Board's website to provide easy and timely accessibility for a citizen seeking to learn about donations and expenditures in state-wide elections.

If Minnesota does not make these improvements in its disclosure requirements and practices, our state fails to keep pace with the manner in which elections campaigns are conducted in the 21<sup>st</sup> century, and our elected officials do a disservice to themselves and the voters of the state.

## The Framework of Minnesota Campaign Finance

Minnesota regulates campaign finance for elections of candidates to Minnesota offices. Like other states, it has its own statutes and procedures that govern campaign finance and public disclosure. Candidates for federal office, such as the president or Congress, are not subject to regulation or disclosure under Minnesota campaign finance law but are subject to federal laws.

The Minnesota Campaign Finance and Public Disclosure Board (CF Board) has regulatory authority within Minnesota and maintains a website to assist those who are required to make disclosures and to provide information to the public.<sup>1</sup>

All Minnesota candidates for constitutional offices and the state legislature are subject to **limits on contributions** to their campaigns. Those candidates who meet strict qualifying requirements and choose to obtain partial public financing for their campaign are subject to **voluntary spending limits**. Minnesota also requires **disclosure** of certain contributions and expenditures.

To provide a basic framework and encourage greater public understanding, this report focuses on campaign finance as it applies to candidates for constitutional state offices and the state legislature. We have not attempted to address campaign finance laws concerning ballot questions or judicial elections.

### LWV POSITIONS ON CAMPAIGN FINANCE

**LWV US Position:** Methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office and allow maximum citizen participation in the political process.

#### LWV Minnesota

**Position:** Support improvements in election laws regulating campaign practices.

### LEAGUE OF WOMEN VOTERS MINNESOTA

Through its work in the public policy arena, League of Women Voters Minnesota seeks to raise public awareness of the state of democracy, analyze threats and safeguards, and develop and implement recommendations to ensure citizen confidence in the integrity of Minnesota's democratic institutions. Our work is non-partisan; while we take positions on public issues, we never support political parties or candidates for office.

## 1. Limits on Contributions

Minnesota law sets limits on contributions to candidates for a state constitutional office and for state senator and representative where the contributions are made by the following entities:

- political committees (PACs)
- political funds
- political party units
- individuals
- a candidate from his/her personal funds.

Corporations are prohibited from contributing to candidates.

The limits on contributions vary by office and were substantially increased by the 2013 legislature.<sup>2</sup> Minnesota also establishes an aggregate contribution limit for each office. All of these limits apply whether or not the candidate signs a public financing agreement. The chart below lists limits on some contributors, demonstrating the increases in 2013.

Limits on Contributions				
	2011-2012		2013-2014	
	Limits from an individual, political committee or fund	Aggregate Limits (from lobbyists, political committees or funds, large individual givers)	Limits from an individual, political committee or fund	Aggregate Limits (from lobbyists, political committees or funds, large individual givers)
Governor/Lt. Governor	\$1,000	\$206,200	\$4,000	\$700,000
Attorney General	\$400	\$34,400	\$2,500	\$120,000
Secretary of State and State Auditor	\$400	\$17,200	\$2,000	\$80,000
Senate	\$600	\$16,200	\$1,000*	\$6,000*
House of Representatives	\$600	\$8,200	\$1,000	\$12,000

\* Senate candidates do not stand for election in the 2013-14 cycle. In the 2015-16 election cycle, the limit on contributions to a Senate candidate from an individual, political committee or fund will be \$1,000 and the aggregate limit will be \$18,000.<sup>3</sup>

Significantly, the contribution limits apply only to candidates. *This means that contributions to PACs, political funds and political parties are unlimited, and the limits on contributions to candidates can be circumvented* by a major donor giving unlimited money to a PAC or political party. In this regard, Minnesota is unlike the federal system,<sup>4</sup> and the limits set by many other states.<sup>5</sup>

## 2. Partial Public Financing Program

Minnesota's partial public financing program dates back to legislative action in the mid-1970's with significant updates made in 1990 and 1993. Under the program, limited public funding during a general election is available directly when a candidate (1) meets strict qualifying requirements, including raising a specified amount of monetary contributions and winning the primary, and (2) agrees to a spending limit.<sup>6</sup> Qualified candidates may receive up to half the spending limit which is why the Minnesota program is called a partial public funding system.

The public financing program is funded directly by an annual legislative appropriation and by citizens who check off a designated box on their state income tax form. The specific amount available to candidates is determined each year by the CF Board which notifies candidates of the amount they can expect to receive before the deadline for filing a public financing agreement.

A noteworthy aspect of Minnesota's system is the political contribution refund program through which Minnesota citizens may apply for a refund of up to \$50 per individual and \$100 per couple. A refund is available if a citizen has contributed at least that amount to a candidate who has qualified for public funding and agreed to a spending limit. This method of indirectly providing public financing for campaigns was temporarily halted due to lack of funding by the legislature from 2009-2013, but the program was reinstituted on July 1, 2013.

An analysis of Minnesota's partial public financing program and related disclosure and enforcement procedures was done in 2008 by the Center for Governmental Studies.<sup>7</sup> Key findings from that report include:

1. Candidate participation rates between 1976 and 2006 ranged from 66 to 92 percent with participation consistently slightly above 90 percent since 1990. Participation low points were addressed by increasing the spending limits and amount of public financing.
2. **Participation in the political refund program is low.** An average of 2.4 million voters have cast ballots in each general election between 1996 and 2006, but never have more than 200,000 people participated in the contribution refund program.
3. **The refund program has not kept pace with inflation.** In 1976, the state refunded \$2.6 million that adjusted for inflation would have equaled \$9.6 million when the report was written in 2008. In 2006 the state refunded \$6.3 million with \$3 million for contributions to campaigns of candidates who qualified for the direct public funding program and agreed to spending limits while the other \$3.3 million went to political party committees.

4. Direct public financing to participating candidates was greater than private money contributions during 1996 legislative races, but **since 1996 private fundraising has been a more significant source of campaign contributions made directly to candidates.** In 2006 statewide candidate receipts from private fundraising were \$10.2 million while only \$4.4 million came from public funds.
5. In 2006, direct contributions to all candidates were comprised of only 31.3 percent in direct public funds. Private fundraising directly to candidates totaled 68.7 percent. This raises concerns that private money to a candidate is the “tail that wags the dog” in terms of consideration given to private donors and is **counter to the trend seen in recent public funding proposals that ensure that public money dominates total resources available** to a participating candidate.
6. Independent expenditures increased from 13.4 percent of total campaign spending in 1996 legislative races to 58 percent of all statewide races in 2006. This trend has undoubtedly continued. Since electioneering communications are not reported, the role of direct contributions to candidates is even less significant than these already troubling figures indicate.

LWV Minnesota is interested in updating this kind of analysis of our state’s partial public funding program. Given the increased role of electioneering communications, however, this report focuses on disclosure improvements needed to ensure an accurate review of the role of public and private money in Minnesota campaigns.

### 3. Disclosure

Minnesota law requires that certain contributions to campaigns and expenditures during the course of campaigns be reported in a timely manner to the CF Board for the purpose of disclosure to the public. Organizations maintain campaign finance records and file reports with the CF Board. The reports are then made available to the public on the CF Board’s website or are available for inspection at the CF Board office in St. Paul.

Disclosure requirements reveal contributions to elect or defeat a candidate, i.e., who is influencing the vote, and allow the public to hold the candidate accountable, thus reducing the influence of moneyed interests on an office holder’s decision-making. As discussed below, disclosure laws that do not require disclosure of contributions to the success or failure of a candidate do not protect the public interest.

#### *Who discloses?*

Disclosure is required by those who receive donations, not the donors themselves. Thus, disclosure is required of candidates, political committees, political funds, political party units and ballot question funds.



*What information is disclosed?*

Minnesota law requires **disclosure of contributions** that, within one year, exceed \$200.<sup>10</sup> The reporting entity must disclose the name, address, and employer (or occupation if self-employed) of each individual or association making the contribution. In addition, the amount and date of each contribution and the aggregate amount of contributions within the year from each source must be disclosed.

Minnesota law also requires **disclosure of expenditures** in excess of \$200 made by or on behalf of the reporting entity, including the targeted candidate, the purpose (supporting or opposing a candidate), the amount, and the date.<sup>11</sup>

Minnesota law features an **underlying source disclosure rule**. Prior to 2013, associations or corporations that contributed \$5,000 or more to independent spenders were required to disclose contributors that had given \$1,000 or more.<sup>12</sup> Effective 2013, the legislature raised the reportable level to contributors of \$5,000 or more.<sup>13</sup>

The underlying source disclosure rule makes it more difficult to protect the identity of donors that fund independent expenditures. It was this requirement that led to exposure of Target Corporation's contribution in 2010 to MN Forward, which in turn contributed to Tom Emmer's gubernatorial campaign, engendering an outcry from gay activists.<sup>14</sup>

It is possible for a donor to avoid this disclosure requirement, however, by contributing to an intermediary. In 2010, for instance, TCF Bank "channeled its money through the State Fund for Economic Growth LLC, which in turn contributed to MN Forward. In this case, MN Forward only had to disclose the State Fund for Economic Growth as the donor."<sup>15</sup>

## DEFINITIONS<sup>8</sup> and EXAMPLES<sup>9</sup>

**Political Committee:** 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, but not the candidate's principal campaign committee or a political party unit. Often referred to as "PACs." Examples: an association of businesses providing services to seniors; a group of independent insurance agents; a party's feminist caucus.

**Political Fund:** An accumulation of dues or voluntary contributions used to influence elections or ballot questions. A labor union typically registers as a political fund.

**Political Party Unit:** The state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct. Example: a DFL committee in a particular county; the Republican Party in a particular House district.

**Independent expenditure political committee or fund:** These are political committees or funds that make only independent expenditures [that is, expenditures without the cooperation or consent of candidates]. In 2009-2010, some of the largest were Alliance for a Better Minnesota Action Fund, Minnesota's Future and MN Forward.

*When is the information disclosed to the CF Board?*

The time that reports are due is defined by statute. Independent spenders must file six reports during an election year at designated times related to the primary and general election, and a single report in non-election years.<sup>16</sup> In addition, contributions of \$1,000 or more in the time period immediately preceding an election must be reported, along with the name of the contributor, within 24 hours of receiving the contribution.<sup>17</sup>

*How is the information disclosed to the public?*

Reports filed with the CF Board are available on the board's website.

In November 2013, the *Star Tribune* reported that the CF Board's online files "are riddled with inaccuracies, leading to errors that total as much as \$20 million over the past decade."<sup>18</sup> The board responded by posting qualifiers on its website which, at the time of this report, states, "The official record for a committee's filings is the paper record on file in the Board offices." Data on the website "has not been verified or audited. Amendments to reports may have been filed that result in a change in originally reported contributions. These amendments are . . . added to the website and the searchable database as Board resources permit."<sup>19</sup>

Information in this report by LWV Minnesota relies on the electronic data and therefore may contain some minor errors. Because this report focuses on gross numbers, however, rather than detailed donations and expenditures by particular organizations, we are confident of the accuracy of the picture painted and the conclusions reached.

In general, the CF Board's website is outdated and difficult for the average citizen to navigate. Several searchable databases exist but are limited to filtering the results by a few broad categories. Staff-prepared campaign finance summaries provide extensive data broken down by candidate and other categories. But these summaries are deeply buried on the website and provide greatly delayed information. The summary for the 2011-12 election cycle, for example, has not been posted as this report is being finalized in mid-November of 2013.

So far, this report has set out the framework that guides candidates' acceptance of contributions and their expenditures, as well as the disclosure system for candidates and other groups required to report. We move now to the category of independent expenditures, an area where moneyed interests can easily evade current Minnesota disclosure requirements by the way they frame their advertisements and literature.

## Independent Expenditures

Candidates for office raise money and pay for literature and advertising to reach the public and promote themselves as the best candidates. But political parties and committees or funds do considerable fundraising, spending and advertising for or against candidates without the candidate's consent. These are called independent expenditures, and some of them are subject to disclosure under Minnesota law.

Under Minnesota law, an "independent expenditure" that requires disclosure is defined as

1. An expenditure "expressly advocating the election or defeat of a clearly identified candidate" *and*
2. An expenditure made independent of the candidate, i.e., made without the consent or cooperation of any candidate or the candidate's principal committee.<sup>20</sup>

Note that the first requirement limits communications subject to disclosure based on their content. They must contain words that "expressly advocat[e] the election or defeat of a clearly identified candidate." Words that expressly advocate are words such as "vote for," "elect," "oppose" or "defeat." They are sometimes called "magic words." For example, the expenditure for a billboard or television ad made without the cooperation of a candidate would be subject to disclosure if it used the words "vote for" a particular candidate.

**Rep. Tom Anzelc**  
**got us into this mess.**

Deficit Files

Tom Anzelc has spent his career as a legislator voting for job killing tax increases and wasteful spending. He actually voted to waste your tax dollars on a Brass Band Sheet Music Museum!

Sources: House Journal 2009, p. 4095;  
House Journal 2008, p. 9689

**Carolyn McElfatrick**  
**Helped turn a \$6 BILLION deficit into a \$1 BILLION surplus**

*She will help us keep government on track.*

*For jobs, a balanced budget and us.*  
**Vote Carolyn McElfatrick for Minnesota House!**

This is an example of an independent expenditure requiring disclosure because it uses a "magic word."<sup>21</sup>

By limiting disclosure of independent expenditures to communications using the magic words, Minnesota fails to require disclosure of a significant number of independent expenditures because “advertisers can easily communicate their messages without using the ‘magic words’ of express advocacy. . . .”<sup>22</sup> For example, a radio ad may encourage listeners to call an elected official and thank her for her work on a particular issue. These ads are sometimes referred to as “sham issue ads”: it’s not really an ad about an issue; the purpose is to influence the vote for or against a candidate.

This is an example of a sham issue ad not requiring disclosure.



In 2013, LWV Minnesota supported legislation (Senate File 661 / House File 863) to expand the definition of express advocacy to include sham issue ads. The provision extended disclosure requirements to “a communication, when taken as a whole and with limited reference to external events, such as the proximity to the election, is susceptible of no other interpretation by a reasonable person other than as advocating for the election or defeat of one or more clearly identified candidates.”<sup>23</sup> This provision, however, was removed from the bill before it passed.

Reportedly, the provision was opposed by the Republican Party and by the Coalition of Minnesota Businesses and Minnesota Citizens Concerned for Life, both of which expressed concerns that the provision would affect forms of communications that they use.<sup>24</sup> It is safe to assume, however, that some groups on both ends of the political spectrum did not want this provision to succeed, even though they did not take that position publicly, because the provision would require additional disclosure. But additional disclosure is in the public interest and serves to empower voters.



The public interest would also be served by disclosure of electioneering communications, another type of independent spending not regulated in Minnesota. An electioneering communication refers to an ad or other communication that clearly identifies a candidate, runs within a specified time before an election and targets the candidate's constituents.

This is an example of an electioneering communication not requiring disclosure:



The ads are often against a candidate. "In laymen's terms," the Brennan Center for Justice says, "an electioneering communication is typically an ad that trashes the candidate on election eve."<sup>25</sup> The next page shows two examples. Both the top<sup>26</sup> and bottom<sup>27</sup> photos are screen shots of broadcasted advertisements.



**HANN  
IN  
HIDING**



*"...lends the suspicion that he's hiding it for reasons that he wants to hide."*

*- Professor David Schultz, Hamline University*

Minnesota does not require disclosure of electioneering communications although the laws in 25 other states do.<sup>28</sup> The federal Bipartisan Campaign Reform Act (BCRA),<sup>29</sup> passed in 2002, also requires disclosure of electioneering communications.

Although the exact terms of BCRA and the laws in the 25 states vary, they commonly apply to advertisements that refer to a clearly identified candidate, run within a specified time before an election (30 days before a primary and 60 before a general election), and target the candidate's constituents. Each law defines the forms of communications to which it applies, with the federal statute focusing on broadcast media and the states often addressing lower-cost advertisements, such as direct mail or Internet advertising.

Senate File 661 / House File 863, discussed above, would have required disclosure in Minnesota of electioneering communications made within 30 days of a primary election or 60 days of a general election. As with the provision expanding the definition of express advocacy, the provision requiring disclosure of electioneering communications was removed from the bill before it passed.

Evaluating disclosure laws for independent spending in the 50 states, the National Institute on Money in State Politics gives Minnesota an "F" because the state does not require disclosure of electioneering communications.<sup>30</sup> Determining how much money is spent for elections to state office remains "elusive," the Institute concludes, when a state does not require full disclosure of both forms of independent spending: express advocacy and electioneering communications.<sup>31</sup>

These failures in Minnesota's disclosure system have been exacerbated by the *Citizens United* decision in 2010, triggering an influx of millions of dollars into Minnesota elections by independent spenders.

## Citizens United

In January 2010, the United States Supreme Court in *Citizens United v. Federal Election Commission* overturned precedent and ruled that, under the First Amendment, corporations and unions have the same political speech rights as individuals. This decision allows corporations and unions to use their money to make election-related independent expenditures. Notably, the court upheld disclosure requirements, saying that "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."<sup>32</sup>

The *Citizens United* ruling nullified portions of Minnesota campaign finance law prohibiting independent expenditures by corporations. The decision did not have much of an impact on independent spending by unions in Minnesota because, unlike laws regarding unions at the federal level, unions in Minnesota were always able to make independent expenditures.<sup>33</sup>

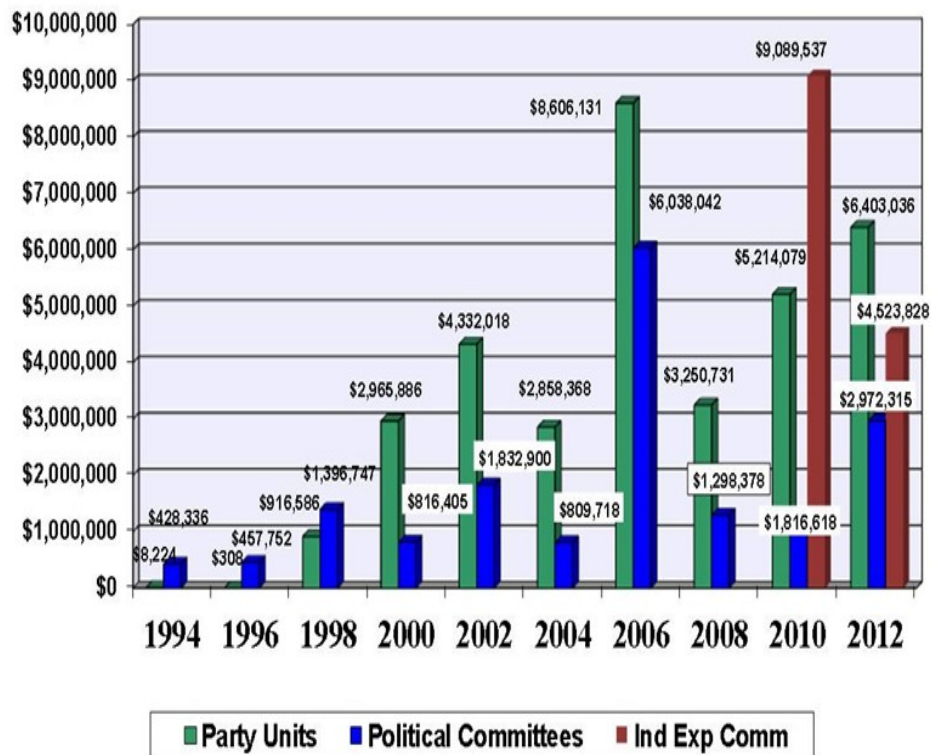
In response to the *Citizens United* decision and in recognition of its potential impact, the Minnesota legislature in 2010 passed a bill which was signed by Gov. Tim Pawlenty (R). The new law:

- Extended disclosure requirements to independent expenditures by corporations and
- Required a disclaimer on each ad or piece of literature identifying the source of the independent expenditure.<sup>34</sup>

## Minnesota Elections: The Impact of Citizens United

How have the changes in campaign finance law resulting from the *Citizens United* decision affected political spending in Minnesota? This graph, created by the Minnesota Campaign Finance and Public Disclosure Board, shows independent expenditures related to candidates for state constitutional and legislative offices from 1994 through the November 2012 election in Minnesota.

**Independent Expenditures 1994-2012**



When looking at the bar graph, keep in mind that

- The third column (red) in the years 2010 and 2012 reflect the changes wrought by *Citizens United*. While all three columns in 2010 and 2012 reflect independent expenditures, the first two columns show independent expenditures by party units and by political committees and funds, expenditures which were permitted prior to *Citizens United*.



- The graph does not show spending by the candidates themselves, so overall campaign spending is higher in the aggregate.
- The governor's seat was up for election in 2006 and 2010, accounting for sharp increases in independent spending.

What does this graph reveal? *Citizens United* has resulted in a marked increase in independent spending in Minnesota elections. In fact, "the 2012 legislative election marked the first time [in Minnesota] that independent spending by outside groups . . . outstripped spending by the men and women on the ballot."<sup>35</sup> In 2012, the candidates spent a total of \$9,698,324,<sup>36</sup> while independent spenders spent \$13,899,179. That means that *independent spenders spent \$4,200,855 more than the candidates themselves.*

This chart compares independent expenditures in the aggregate in selected races from 2006 to 2012.

Independent Expenditures 2006-2012				
Office Sought	Total IE in 2006	Total IE in 2008	Total IE in 2010	Total IE in 2012
Governor	\$7,432,195	*	\$11,262,088	*
Senate	\$2,572,402	*	\$1,660,279	\$6,801,397
House	\$4,080,575	\$4,407,783	\$3,247,644	\$7,047,176

\*No elections occurred in these years for these offices.

Note that in 2010 independent expenditures for the House and Senate were actually less than in the prior two election years, while independent expenditures for those same races in 2012 took a substantial jump. It is likely that the full impact of *Citizens United*, which was decided in January 2010, had not been felt by the time of the November 2010 election. But certainly the impact was substantial by the time of the election in 2012.

With this marked influx of money into campaigns, the candidates fear that their voices are being drowned out by independent spenders. As discussed earlier, the legislature in 2013 increased contribution and spending limits for candidates to leverage the candidates' own voices vis-à-vis third parties. This remedy may provide some measure of comfort for legislative candidates, but it was of limited public benefit. Overall, it is merely a band-aid that fails to address the deeper problem of special interests impacting elections through the billions of dollars they spend on advertisements.

As alarming as this high-buck situation is, keep in mind that the dollar amounts given here show only the tip of the iceberg. These dollar amounts reflect *only* communications that use express

advocacy because independent expenditures are defined in statute as communications that “*expressly* advocat[e] the election or defeat of a clearly identified candidate.”<sup>37</sup> That means that additional dollars were spent on sham issue ads and electioneering communications, but it is impossible for voters to know the amounts spent, sources of the money, or candidates targeted by those expenditures.

## Suggested Reforms

### 1. Broaden the definition of “express advocacy.”

In Minnesota today, independent spenders do not have to disclose spending on ads or literature that do not use the express words of advocacy, even where the clear purpose is to influence the vote for or against a candidate. Voters have no way of accessing information about who is funding these kinds of communications. LWV Minnesota recommends, therefore, that Minnesota require disclosure of communications that are the “functional equivalent” of express advocacy.<sup>38</sup>

Disclosure of this wider category of communications was approved by the United States Supreme Court in *Federal Election Commission v. Wisconsin Right to Life, Inc.* (2007).<sup>39</sup> The court stated that “an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”

As discussed earlier, in Minnesota in 2013 a bill was proposed to expand the definition of express advocacy, but that provision of the bill was removed before it passed. The provision would have expanded the definition of express advocacy to

a communication, when taken as a whole and with limited reference to external events, such as the proximity to the election, is susceptible of no other interpretation by a reasonable person other than as advocating for the election or defeat of one or more clearly identified candidates.<sup>40</sup>

This is a strict definition. The phrase “susceptible of no other interpretation by a reasonable person” establishes tight parameters which would not be subject to abuse by an overly-ambitious regulator.

### 2. Require disclosure of electioneering communications made within 30 days of a primary election or 60 days of a general election.

As discussed above, the National Institute on Money in State Politics gave Minnesota disclosure laws an “F” because disclosure of electioneering communications is not required. If Minnesota required disclosure, it would be in the company of the federal government and 25 states that regulate electioneering communications, although specifics vary.<sup>41</sup>

In the 2013 legislative session, LWV Minnesota supported changes of this kind, but the provisions were removed from the bill before its passage. The language of the proposed bill required disclosure of electioneering communications made within 30 days of a primary election or 60 days of a general election.<sup>42</sup> These are the same timelines used in the federal law, BCRA.

By expanding its disclosure requirements to encompass electioneering communications, Minnesota would keep pace with the manner in which elections campaigns are conducted in the 21<sup>st</sup> century and give voters the information they need to cast an informed vote.

### **3. Improve the Campaign Finance and Public Disclosure Board website to provide greater accessibility and transparency.**

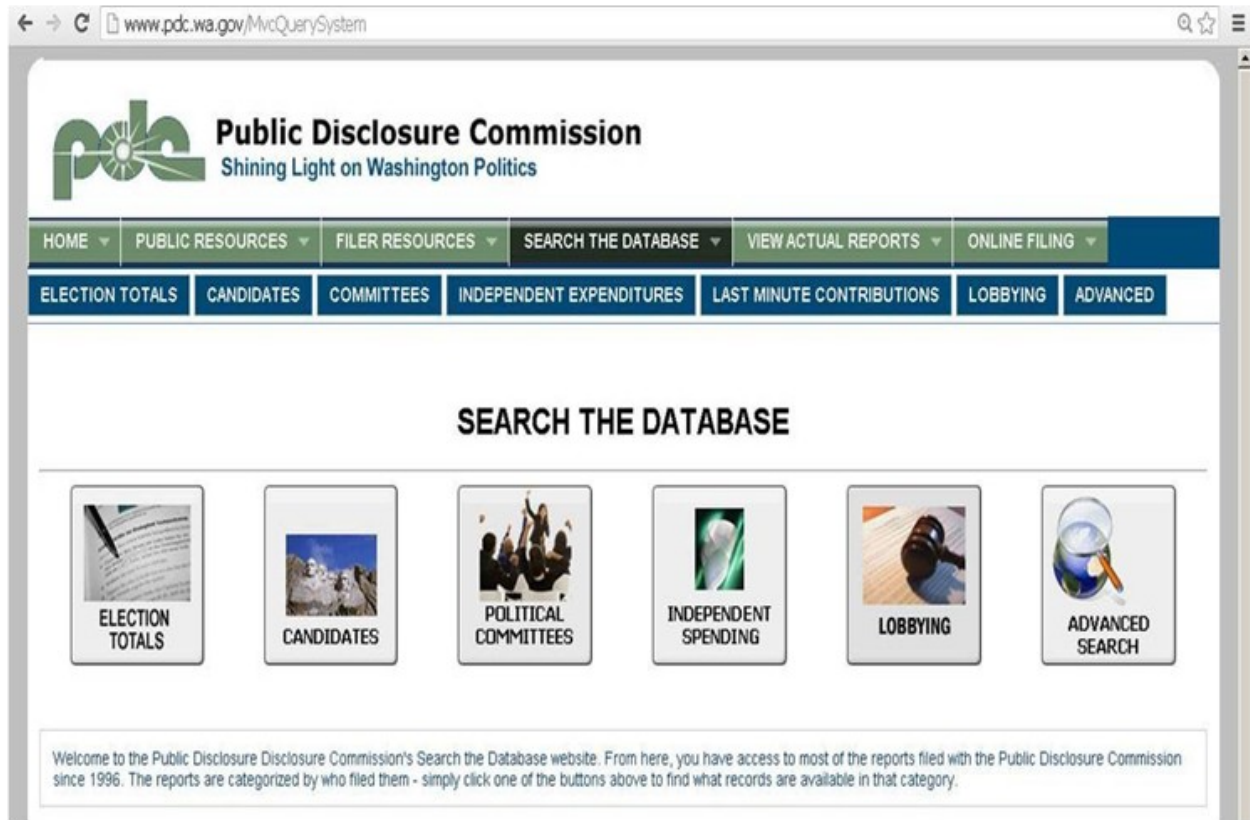
Online publication of campaign contributions and expenditures is key to ensuring transparency in the state disclosure system. The Internet is the most effective way for states to share information on campaign finance.<sup>43</sup> While data on campaign contributions and expenditures in Minnesota is available online through the CF Board's website, improvements are needed to make the website more accessible for users.<sup>44</sup>

If well-designed, a state's campaign finance website can serve as an unmatched source for information on campaign finance spending. Some third-party websites provide excellent information on campaign finance in the states. The National Institute on Money in State Politics, for instance, provides data on its website, [www.followthemoney.org](http://www.followthemoney.org). However, third-party websites typically report information on a delayed basis; data on independent expenditures in Minnesota for the 2012 election was posted on [www.followthemoney.org](http://www.followthemoney.org) in June 2013.

Currently, the CF Board's website is difficult to navigate for data on campaign finance contributions and spending. The website does not follow conventional practices that would guide general users to readily search the page for information on campaign contributions and expenditures in the state. Instead, the website's design lends itself to the needs of those who file campaign finance reports and those who want to register with the Board.

Additionally, once general users are able to access databases for campaign spending, they are limited to filtering the results by a few broad categories, which can leave them to scan tediously through long lists for the information they need. To ensure that the board's website strongly contributes to making Minnesota's disclosure system more transparent, the website should be improved to allow for greater accessibility.

The State of Washington created and maintains an excellent website for “following the money” in that state:



Washington’s website includes the following:

- User-friendly website design
- Information on available content and “how to use” features
- Comprehensive campaign finance databases
- Advanced search tools that allow results to be filtered for specific content
- Maps that compare total amounts raised by county for gubernatorial and legislative races.

While the first two reforms recommended by LWV Minnesota (expanding the definition of express advocacy and requiring disclosure of electioneering communications) require legislative action, improvement of the campaign finance website is within the purview of the CF Board. The board, however, may require additional funding from the legislature to provide a website designed to meet the interests and needs of voters.

## Conclusion

The *Citizens United* decision resulted in a sharp increase in spending by moneyed interests in Minnesota elections. The impact is felt not only in terms of an increase in real dollars and advertising, but also in the fears voiced by candidates that special interests are drowning out the messages of those standing for office. Where does this leave the voter?

The weight of judicial opinion and public opinion solidly favor disclosure not only by candidates and political committees but also by independent spenders. Minnesota should expand its definition of express advocacy and require disclosure of electioneering communications. Without these, the communications that are disclosed represent only the tip of the iceberg.

But all the disclosure laws in the world are not effective unless the information can be readily accessed by the public. The Minnesota Campaign Finance and Disclosure Board's website should be improved to guide general users to search readily for information on campaign contributions and expenditures in the state. It should put campaign finance reports into the hands of the public immediately and easily.

The strength of our democracy depends on empowering voters with information they need to vote and hold elected leaders accountable.

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31. Another category of undisclosed political spending is by political nonprofit corporations--"dark money," in which the source of the financial support is obscured. This is an area needing reform as well.

32. *Ibid.*, 55.

33. Unions are treated differently in part because their treasury funds come from dues of members. Members are not required to support union political activity and when they choose to contribute, their individual contributions are relatively small, although they add up. In addition, unions' election-related spending has long been subject to disclosure requirements regulated by the U.S. Department of Labor.

34. Minnesota Session Laws 2010 Regular Session, ch. 397.

35. Stassen-Berger, Rachel, and Glenn Howatt. "Spending on Minnesota Legislative Races has Doubled in 10 Years." *Star Tribune*, 1 Sept. 2013. Web. 22 Oct. 2013.  
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36. Sigurdson, Jeff. "Re: Question." Message to Sherri Knuth. 25 Oct. 2006. Email.

37. Minn. Stat. sec. 10A.01(18). Emphasis added.

38. A communication that does not use the words of express advocacy is an "electioneering communication" if it occurs within 30 days of a primary election or 60 days of a general election. By widening the definition of express advocacy as advocated in this section, however, independent spenders would have to disclose communications that meet the revised definition even outside the 30- and 60-day windows.

39. The opinion is at <<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=06-969>>

40. See SF 661 sec. 5 as introduced in the 2013 session. The companion bill was HF 863.  
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44. As this report was being finalized in November 2013, information emerged regarding the reliability of electronic data on the CF Board's website. See page 7 of this report and the source cited in endnote 17. LWV Minnesota recommends adequate funding to the CF Board as well as verification and audits to ensure accuracy in electronic data.