

# More Money,



# Less Disclosure

An Overview of Michigan's 2000 State Elections

The Michigan Campaign Finance Network is a non-profit, non-partisan coalition of organizations and individuals concerned about the influence of money in politics and the need for campaign finance reform in the state of Michigan. MCFN conducts research on campaign contributions and their relationship to election outcomes and issues of public policy, supports access to campaign finance information and develops educational initiatives for the public on the subject of campaign finance reform.

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# Executive Summary

While the U.S. Senate has passed a package of serious campaign finance reforms (S. 27 or “McCain-Feingold”) and the U.S. House will debate the issue soon, campaign finance reform has received little attention in regard to Michigan state elections. However, the same problems that plague the federal campaign finance system also are present in Michigan. The political parties can accept contributions without limits and spend without limits to benefit any individual candidate through independent expenditures and issue advertisements. The parties, interest groups, unions, corporations and individuals can spend unlimited amounts on issue advertising and not report the spending as long as they carefully avoid language that explicitly supports or opposes a candidate. The combination of unlimited contributions to the parties and electioneering masquerading as issue advertising effectively undermines the system that was intended to limit contributions to candidates and require disclosure of contributors.

In the most competitive contests for the Michigan House of Representatives in 2000, the parties’ independent expenditures and unlimited caucus campaign committee expenditures overwhelmed all other contributions. Thirteen candidates benefited from more than \$100,000 each in reported party and caucus spending. Seven of those candidates received more than \$200,000 in support and one candidate was bolstered by more than \$500,000 in caucus and party spending. Those figures do not include an estimate of unreported spending on issue advertisements. In comparison, the median major party Michigan House candidate committee had total contributions of \$44,000.

In the 2000 Michigan Supreme Court elections, the six candidate committees raised an average of \$1.1 million each, an increase of 83% over the 1998 average. In spite of this dramatic increase, published reports suggest that the political parties used independent expenditures and issue advertisements to spend more in the Court races than the candidates’ own campaign committees. This cannot be verified from public records, though, because the issue ad expenditures are unreported.

Unlimited contributions to the state parties, millions of dollars spent on unreported “issue advertisements” and unlimited caucus campaign-committee spending have converged to threaten the fundamental democratic principle of *one person, one vote*. When contribution limits are bypassed, the value of an individual’s contribution within the limits is diminished. “Political speech” is monopolized by big-money contributors and the voices of ordinary voters are overwhelmed. Unreported issue advertising makes it impossible to identify who is trying to affect the outcome of an election.

The U.S. Supreme Court upheld the right to unlimited spending *by* candidate campaigns in *Buckley v. Valeo*. However, it also upheld the constitutionality of setting limits on contributions *to* campaigns and committees. Democracy in Michigan would be served well by limits on contributions *to* the state parties and *from* the legislative caucuses’ campaign committees to candidates.

A standard that makes a clear and meaningful distinction between genuine issue advocacy and communica-

tion that is intended to support or oppose a candidate would improve accountability in Michigan campaigns. Research shows that most people who see “issue ads” like those used in the 2000 Michigan Supreme Court campaigns recognize those ads as opposition ads, challenging specific candidates. But such ads are not regarded as election activity under current Michigan election law and they are unreported. Any communication that contains the name or image of a candidate and is targeted to the candidate’s electors and delivered within 60 days before an election is effectively election advocacy, not issue advocacy. Sponsors should make such communications within the regulations governing independent expenditures. They should not be able to avoid disclosure of their activity by claiming that their communications are issue advocacy.

It is in the public interest to make records of campaign contributions and expenditures accessible to any interested person through an online searchable database. The most efficient way to accomplish this would be to move from the current system of voluntary electronic filing to mandatory electronic filing before the 2002 campaign finance statements are due. For several election cycles, the Bureau of Elections entered records that had not been filed electronically into a searchable campaign finance database making comprehensive records readily accessible. That practice ended prior to the committee filings of 2000. The public can regain convenient access to data with mandatory electronic filing. This requirement would provide an easy and inexpensive way to make campaign finance reports readily accessible to voters.

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# Introduction

In contemporary state elections, a candidate's fund raising for his or her campaign committee is only one of several sources of money to support the candidate. In many cases, the candidate's campaign committee is not the biggest source of campaign cash. The parties are major players in many races, as are the legislative caucus campaign committees in legislative races. Independent expenditures and unreported issue advertising further complicate the picture.

Michigan's 2000 state elections included the most expensive campaigns in state history for the Supreme Court and House of Representatives. Spending by the parties and legislative caucus campaign committees in those campaigns was higher than ever before and undisclosed spending related to the Supreme Court campaigns reflected a new prominence for issue advertising.

This report provides campaign finance data and analysis on the 2000 Michigan state elections and delineates serious problems in the current campaign finance system. It also makes recommendations that could help to restore and protect reasonable limits and accountability in the Michigan campaign finance system.

## Methodology

Contributions to candidates in 2000 are not available from the Michigan Secretary of State in database format. Thus, to gather the data presented in this report, it was necessary to access the summary pages of each campaign finance statement, including amendments, that the candidates filed with the Secretary of State in 1999 and 2000. The campaign finance statements filed by the state party committees from 1997 through 2000 were reviewed in their entirety. The direct and in-kind expenditure portions of each House caucus campaign committee statement were also analyzed. In all, thousands of pages of documents were reviewed.

The Michigan Secretary of State web site for campaign finance reporting is [www.sos.state.mi.us/cfr/cfonl.html](http://www.sos.state.mi.us/cfr/cfonl.html). The Federal Election Commission site for reporting by the state parties' federal accounts and the national party committees is [www.fec.gov](http://www.fec.gov).

# Party Money

## Unlimited Contributions and Millions Spent – But Where?

The Michigan Republican and Democratic parties had vastly increased financial roles in the 2000 elections compared to 1998. The state parties' political accounts handled greatly increased sums of campaign cash, most of which was transferred from national party campaign committees. The state parties also sponsored a flood of unreported election-related advertising.

The state parties have two political accounts, one federal and one nonfederal. The federal account of a state party is subject to the Federal Election Campaign Act and reports to the Federal Election Commission (FEC). The nonfederal account is the state party account that reports to the Secretary of State and is subject to the Michigan Campaign Finance Act.

There are no limits on contributions by individuals, political action committees (PACs) and local or national party committees to the state parties' nonfederal accounts. Unions and corporations cannot make direct contributions to the state nonfederal accounts but their PACs can. Large contributions can, and do, flow from in-state and national sources to these accounts.

The state parties' nonfederal accounts showed dramatic increases in receipts from 1998 to 2000, as

shown in Tables 1 and 2. The Michigan Republican Party's total receipts nearly doubled from \$11.0 million in the 1998 election cycle to \$20.1 million in 2000. The Michigan Democratic Party's receipts nearly quadrupled from \$4.9 million in 1998 to almost \$19.0 million in 2000.

The engine behind this remarkable growth in campaign cash was a national phenomenon — the growth in soft money raised by the national parties' various campaign committees. Soft money refers to unlimited contributions made to the national political parties by individuals, corporations and unions that can be used legally only for party building. The national Republican and Democratic parties raised \$487 million in soft money in the 2000 election cycle, an increase of almost \$400 million (467%) compared to eight years earlier. More than half the soft money raised by the national party committees in 2000 was transferred to the states (see Appendix A).

Over \$24 million in soft money was transferred to the Michigan Republican and Democratic state parties' nonfederal accounts in 2000, compared to \$4.1 million in 1998. Michigan was second among all states in soft money transfers in 2000, narrowly trailing Florida. Federal soft money is transferred to the states' nonfederal accounts mainly so that it can be used for joint federal and nonfederal activities.

These shared activities are paid out of the federal account and can benefit both federal and state candidates. Activities may include administrative expenses, generic voter drive expenses, fund-raising expenses for joint events and issue advocacy. The non-federal account pays its allocated share of these expenses to the federal account. Allocation varies by activity, but generally depends on a formula that calculates the ratio of federal to nonfederal candidates on the ballot, based on a point system. In *Advisory Opinion 1995-25*, the FEC said that national parties could engage in federal issue advocacy but only a limited share of such expenses could be paid with soft money (35% in a presidential year). By extension, this principle has since been applied to state committees as well, but more soft money is allowed to fund issue ads (68% in Michigan in 2000).<sup>1</sup>

The loophole that allows a greater proportion of soft money to pay for issue advertising in support of federal candidates after it has been transferred to a state's nonfederal account likely explains the increase of nearly six-fold in soft money transfers to Michigan in 2000. As a battleground presidential state with both a highly competitive senatorial race and congressional race (8th District), Michigan was the target of both parties for soft money transfers that could subsequently fund issue ads. Tables 1 and 2 show that the Republican and Democratic state nonfederal accounts paid \$13.9 million and \$14.6 million, respectively, for shared activities; however, the full

<sup>1</sup> Joseph E. Cantor, *Campaign Finance in the 2000 Federal Elections: Overview and Estimates of the Flow of Money*, (Congressional Research Service, 16 March 2001): 18. <[www.cnie.org/nle/rsk-57.html](http://www.cnie.org/nle/rsk-57.html)>.



Table 1. Cash Flow for the Michigan Republican State Committee, 1998-2000 (Nonfederal Account)

<b>Contributions</b>	<b>1998</b>	<b>2000</b>
Individuals, PACs, Local Party Committees	\$ 7,595,465	\$ 8,793,422
Federal Soft Money Transfers		
• Repub. National Committee	699,950	6,340,258
• National Repub. Congressional Committee	0	1,209,888
• National Repub. Senatorial Committee (via the MI State Victory Committee)	1,950,000	2,821,560
Federal Soft Money Subtotal	\$ 2,649,950	\$ 10,371,706
+ Other receipts	+ 732,966	+ 951,025
<b>Total</b>	<b>\$ 10,978,381</b>	<b>\$ 20,116,153</b>
<b>Expenditures</b>		
• Direct	\$ 423,450	\$ 621,264
• In-kind	79,730	99,296
• Independent	466,426	3,146,176
+ • Get Out the Vote (GOTV)	+ 6,132	+ 666,339
State Expenditures Total	\$ 975,738	\$ 4,533,074
+ Nonfederal Share of Joint Activities	+ 3,420,404	+ 13,889,328
<b>Total</b>	<b>\$ 4,396,142</b>	<b>\$ 18,422,402</b>

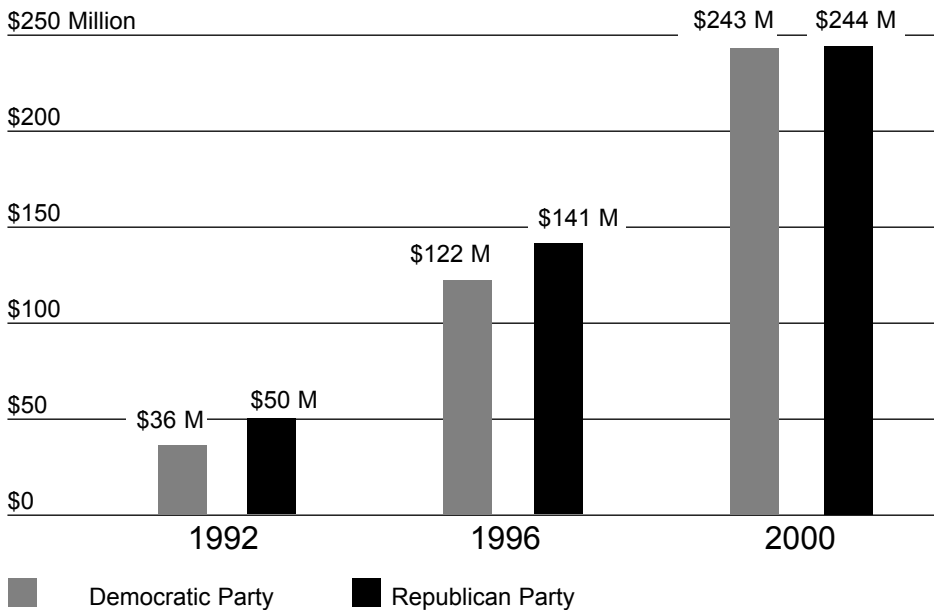
Source: Michigan Secretary of State and the Federal Election Commission

Table 2. Cash Flow for the Michigan Democratic State Central Committee, 1998-2000 (Nonfederal Account)

<b>Contributions</b>	<b>1998</b>	<b>2000</b>
Individuals, PACs, Local Party Committees	\$ 3,404,373	\$ 4,781,258
Federal Soft Money Transfers		
• Dem. National Committee	324,520	8,222,159
• Dem. Congressional Campaign Committee	462,000	1,672,454
• Dem. Legislative Campaign Committee	210,000	0
• Dem. Senatorial Campaign Committee	476,100	4,278,606
Federal Soft Money Subtotal	\$ 1,472,620	\$ 14,173,219
+ Other Receipts	+ 0	+ 0
<b>Total</b>	<b>\$ 4,876,993</b>	<b>\$ 18,954,477</b>
<b>Expenditures</b>		
• Direct	\$ 324,497	\$ 2,076,446
• In-kind	66,426	135,096
• Independent	2,287,114	787,996
+ • Get Out the Vote (GOTV)	+ 0	+ 0
State Expenditures Total	\$ 2,678,037	\$ 2,999,538
+ Nonfederal Share of Joint Activities	+ 2,461,361	+ 14,566,252
<b>Total</b>	<b>\$ 5,139,398</b>	<b>\$ 17,565,790</b>

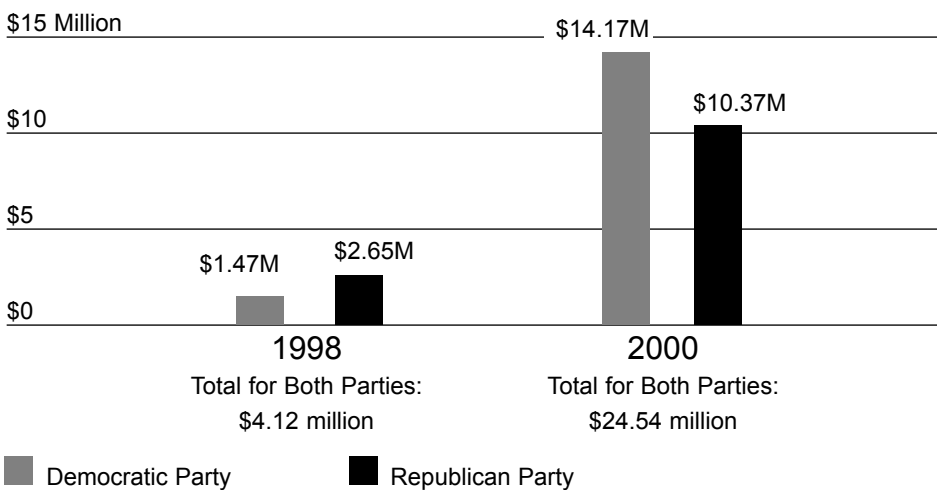
Source: Michigan Secretary of State and the Federal Election Commission

Figure 1. Growth of National Soft Money Fund Raising, 1992-2000



Source: Federal Election Commission

Figure 2. Soft Money Transfers to Michigan Parties' Nonfederal Committees, 1998-2000



Source: Michigan Secretary of State and Federal Election Commission

details of these shared activities are not reported. It is impossible to say how much was spent for advertising that related to the presidential, senatorial, congressional, state Supreme Court or state House contests.

The Republicans' direct receipts increased from \$7.6 million in 1998 to \$8.8 million in 2000, while the Democrats' direct receipts increased from \$3.4 million in 1998 to \$4.8 million in 2000.

Reported expenditures exclusive of shared expenses were a relatively small fraction of total receipts for both parties. The Republicans reported \$4.5 million in expenditures and the Democrats \$3.0 million in 2000. The Republicans' expenditures were distributed in a ratio of approximately one to five for direct expenditures to independent expenditures. The Democrats' ratio of direct to independent expenditures was approximately five to two.

A state political party also may have any number of other accounts for expenditures that are not related to the party's reportable election activities. These are often called administrative accounts. There are no reporting requirements, either federal or state, for the administrative accounts, but they may be subject to FEC audit. Unlike the parties' political accounts, administrative accounts can receive contributions from corporations or unions directly. Since issue advertising is not regarded as election activity, these accounts can be another funding vehicle for state party issue advertising.

# Issue Advertising

## No Limits, No Accountability

Issue advocacy is differentiated from express advocacy under federal election law by the absence of certain terms of direct support for or opposition to a candidate. If a political advertisement avoids terms (commonly referred to as “magic words”) such as “vote for,” “support,” “elect,” “cast your ballot for,” “defeat,” “reject,” or “vote against,” it is not considered to be express advocacy and it does not have to be reported as an expenditure by its sponsor. Typical issue advertising describes a candidate’s position on an issue and invites the viewer to call the candidate and tell him or her what the viewer thinks about that issue. Issue advertising is unregulated, unreported and has caused a revolutionary change in campaign financing. The use of soft money for issue advocacy that is indistinguishable in intent from express advocacy effectively eliminates limits on campaign contributions in support of candidates and neutralizes campaign finance disclosure requirements.

Research conducted on federal election communications in 2000 revealed the extent of the failure of the “magic words” test to delineate express advocacy from issue advocacy. More than 90% of advertise-

The Michigan campaign finance system is so weak in its regulation of electioneering communications that any corporation, union, individual, interest group or political party can spend as much as it wants and report nothing — as long as it avoids words that evoke a “clear inference.”

ments that were paid for by candidates’ committees with regulated and limited hard money contributions — electioneering, by definition — did not use the “magic words” of express advocacy.<sup>2</sup> That finding clearly shows that the “magic words” test is not an effective way of determining whether an ad is express or issue advocacy since the “magic words” are absent from both express ads and issue ads.

Furthermore, research on viewers’ reactions to various forms of political advertisements reinforces the lack of distinction between candidates’ ads and issue ads. When study participants were shown candidates’ ads, 64-74% (depending on the ad) perceived that the primary purpose of the ads was to influence a vote for or against a candidate. When they were shown issue ads, 86-89% (depending on the ad) perceived that the primary purpose of the ads was to influence a vote for or against a candidate. Genuine issue advertisements that did

not mention a candidate were seen as trying to influence a vote for or against a candidate by less than 15% of study participants.<sup>3</sup>

Further evidence of the fact that party issue advertising is a vehicle of candidate promotion or opposition rather than party building is the fact that only about 7% of issue ads in 2000 mentioned a party while 99% mentioned a specific candidate.<sup>4</sup> In the two months prior to the general election, 94% of issue ads made a case for or against a candidate, and the parties sponsored approximately 65% of all issue spots in relatively equal shares.<sup>5</sup> Soft money was the main funding source of party advertising for federal candidates.<sup>6</sup>

Michigan does not have a “magic words” test or any codified differentiation between express and issue advocacy. Michigan law is even more vague than federal law, stating that a committee does not have to report “an expenditure for communication on a

<sup>2</sup> Jonathan Krasno and Kenneth Goldstein, *The Facts about Television Advertising and the McCain-Feingold Bill*, (Department of Political Science, University of Wisconsin, 2001): 5. <[www.polisci.wisc.edu/tvadvertising/mccain-feingold.pdf](http://www.polisci.wisc.edu/tvadvertising/mccain-feingold.pdf)>.

<sup>3</sup> David B. Magleby, *Dictum Without Data: The Myth of Issue Advocacy and Party Building*, (Center for the Study of Elections and Democracy, Brigham Young University, 2000): Table 1. <[www.byu.edu/outsidemoney/dictum/index.html](http://www.byu.edu/outsidemoney/dictum/index.html)>.

<sup>4</sup> Krasno and Goldstein, *The Facts about Television Advertising and the McCain-Feingold Bill*: 7.

<sup>5</sup> Annenberg Public Policy Center, University of Pennsylvania, *Issue Advertising in the 1999-2000 Election Cycle*, (2001): 14, 19. <[www.appcpenn.org/issueads/1999-2000issueadvocacy.pdf](http://www.appcpenn.org/issueads/1999-2000issueadvocacy.pdf)>.

<sup>6</sup> Brennan Center for Justice at NYU School of Law, “Unregulated Soft Money Now Pays for Most Party Electioneering Ads,” press release, 28 March 2001. <[www.brennancenter.org/presscenter/pressrelease\\_2001\\_0328.html](http://www.brennancenter.org/presscenter/pressrelease_2001_0328.html)>.

subject or issue if the communication does not support or oppose a ballot question or candidate by name or clear inference” (MCL 169.206(2)). When the term “issue advertising” is used in reference to Michigan elections throughout this report, it is used in a generic sense. We assume that Michigan’s “clear inference” standard is based on a standard very similar to the federal “magic words” test.

Clearly, there is room to dispute whether the “clear inference” stipulation was observed in many advertisements that were prominent in Michigan’s 2000 state elections, most of which were sponsored by the parties. Published reports estimated that the two parties spent a combined total of \$10 million on unreported advertisements related to the Supreme Court elections (compared to the candidates’ combined total of \$6.8 million in campaign receipts).<sup>7</sup> Although research similar to that which was done on federal issue advertisements has not been done on the Supreme Court ads sponsored by the parties, it is difficult to imagine a viewer not making a clear inference about candidates based on those spots. Nonetheless, there is no public record of the spots. And there were no limits on the contributions that paid for them.

Another published report estimated that the Michigan Chamber of Commerce spent \$3 million on advertisements related to the Supreme Court campaigns.<sup>8</sup> There is no public record of the Chamber of Commerce’s advertising buy, nor is

there any public record indicating who contributed the money that paid for the ads. The point of concern is not who is benefited by this spending. The concern is that we no longer can tell who is spending what on whom, unless the sponsor chooses to make a public statement. The Michigan campaign finance system is so weak in its regulation of electioneering communications that any corporation, union, individual, interest group or political party can spend as much as it wants and report nothing — as long as it avoids words that evoke a “clear inference.”

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<sup>7</sup> Kathy Barks Hoffman, “Expensive, Bitter Supreme Court Races Raise Questions,” *The Detroit News*, 11 November 2001. <[www.detnews.com/2000/politics/0011/11/politics-147033.htm](http://www.detnews.com/2000/politics/0011/11/politics-147033.htm)>.

<sup>8</sup> David Shepardson, “Special Interests Pour \$15 Million into Battle for Control of State Justices,” *The Detroit News*, 31 October 2000. <[www.detnews.com/2000/politics/0010/31/a01-141910.htm](http://www.detnews.com/2000/politics/0010/31/a01-141910.htm)>.

# House Elections

## Profile of Michigan House Campaigns

Average\*: \$71,320

Median\*: \$43,924

Most money raised by a winner: \$576,527

Least money raised by a winner: \$17,504

Average raised by winners: \$89,701

Average raised by unsuccessful candidates\*\*: \$24,862

Number of incumbents seeking election: 89

Number of incumbents elected: 89

Number of incumbents with funding superiority: 86

Number of open seats: 21

Number of winners of open seats with funding superiority: 19

Number of waivers filed (< \$1000 raised): 42

Failed to complete filing: 2

No major party opposition: 2

\* Amounts raised include direct and in-kind contributions. Candidates who filed waivers were not considered in the calculation of the average and median campaign.

\*\* Candidates who filed waivers were considered in the average for unsuccessful candidates.

Source: Michigan Secretary of State

**M**oney-raising prowess proved to be an excellent predictor of success in the 2000 Michigan House elections. Incumbency proved to be an excellent predictor of fund-raising superiority. Only five winners, three incumbents and two in open seats, were able to defeat better-funded opponents. One hundred percent of incumbents won and the better-funded candidate won 95% of the time.

Appendix B presents a complete reference to all major party House candidates who participated in the

2000 general election ordered by district number. The appendix includes beginning and ending fund balances, direct and in-kind contributions, expenditure totals, campaign debt, vote totals and dollars raised per vote received. Appendix C provides an alphabetical listing of candidates and the districts in which they competed.

## Contributions

Contributions made to House candidates' campaign committees are subject to contribution limits: \$500 from an individual or a non-independent political action committee (PAC); \$5,000 from a political party or independent PAC. However, there are no limits on contributions from the caucus committees to candidates.

- **Direct contributions** are monetary contributions.

- **In-kind contributions** are either goods or services given by a committee or individual to a candidate committee, or goods or services purchased by an individual or committee on behalf of a candidate committee.

## Independent Expenditures & Non-Coordination

Under Michigan law, independent expenditures by a party or independent committee must not be coordinated with a candidate's campaign. However, the practical nature of independent expenditures is that there may be coordination. In nine out of the ten most heavily-funded races, the Republican State Committee made independent expenditures on behalf of their candidates for media services that were purchased from the same consultant who provided media services to the candidates' committees.

Although independent expenditures are not officially part of candidate campaigns, they are loosely considered part of the larger campaign effort for the purposes of this analysis.

## Targeted Races: The Escalating Proxy War

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Since the 1992 reapportionment, many of the most competitive campaigns have recurred in the same pool of House districts. In the 1998 elections, the House majority was reversed by fewer than 1,200 votes in four districts.<sup>9</sup>

Elections were not nearly as close in 2000 as in 1998, but candidate committees, caucus campaign committees and the parties weighed in with unprecedented amounts of campaign cash. Only one 1998 race exceeded the \$500,000 threshold, while six races did so in 2000.

A prominent feature in the most contested House elections in 2000 was party independent expenditures. In 2000, the parties made nearly \$1.8 million in independent expenditures in House contests. Almost \$1.3 million of the independent expenditures was spent in just ten races. Six House candidates, all Republicans, benefited from more than \$100,000 each in independent expenditures. The Republicans outspent the Democrats at a ratio of three to one in independent expenditures in the House races. Over 99% of independent expenditures was spent in *support* of a candidate. Less than 1% was spent *against* an opponent.

Independent expenditures were not the only way the parties spent

large sums in the top House contests. Michigan election law allows the legislative caucuses' campaign committees to spend without limit on candidates. Six candidates, all Republicans, benefited from more than \$100,000 each in caucus in-kind support. Incumbent Representative Gerald Van Woerkom received nearly \$400,000 of in-kind support from his caucus, a record. Overall, the House Republican Campaign Committee reported spending more than \$1.5 million for in-kind contributions on behalf of its candidates and the House Democratic Fund reported spending slightly more than \$55,000 for in-kind contributions in support of its candidates in the 2000 elections.

The net effect of all these contributions from the caucuses and the parties was that campaigns in competitive districts were financed and run to an overwhelming degree by the party organizations in Lansing. In the top ten races, the average support received from the candidates' parties and caucuses was nearly \$132,000. Overall, thirteen House candidates, all Republicans, received more than \$100,000, and seven of them received more than \$200,000. Topping the list, Representative Van Woerkom received more than \$500,000.

In percentage terms, 47% of the money resources in the top ten races came from the parties and caucus committees. Three very large campaigns not in the top ten money

races were very heavily dependent on caucus and party funding: William Neavon in the 26th District (75% of his \$183,000 effort), Diane Zontini in the 31st District (88% of her \$143,000 effort) and Gregg Nominelli in the 110th District (80% of his \$272,000 effort). All three candidates were unsuccessful in the election. Notable for a high percentage of caucus and party funding among successful incumbents were George Mans in the 23rd District (82% of \$76,000), Gerald Van Woerkom in the 91st (74% of \$683,189) and Lauren Hager in the 81st (67% of \$363,000).

Finally, there may have been unreported party issue advertising. Two journalists covering separate House contests reported that there were broadcast advertisements in the campaigns they were covering for which they could find no funding source in the candidates' campaign finance statements or the party's campaign finance statements.<sup>10</sup> This suggests issue advertising. However, because there are no public records of issue advertisements, it is impossible to say how much was spent and by whom.

The most competitive House races showed a clear pattern of financial domination by a few very large contributions from party sources. If campaign contributions represent political speech, local voices were overwhelmed.

A list of the 25 most heavily funded House races is included as Appendix D to this report.

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<sup>9</sup> 94th District: 73 votes; 81st District: 228 votes; 85th District: 356 votes; 107th District: 538 votes.

<sup>10</sup> See Andy Grimm, "State House Race 'Target,'" *The Saginaw News*, 1 November 2000: B1; and John Hausman, "Big Money, Big Interest in 91st District Campaign," *Muskegon Chronicle*, 2 November 2000: A1.

Table 3. Ten Most Heavily-funded Michigan House of Representatives Races, 2000

Dist	Candidate		Direct & In-kind Contrib.	Party Indep. Expend. (IE)	Total Contrib. & IE	Race Total	Caucus & Party Total	Caucus & Party Effort
91	Van Woerkom	R	\$ 576,527	\$ 106,662	\$ 683,189		\$ 505,585	74.0%
91	Habetler	D	110,737	55,765	166,502	<b>\$ 849,691</b>	74,175	44.5%
70	Hollister	R	353,217	55,106	408,322		233,952	57.3%
70	Whitmer	D	264,666	15,128	279,794	<b>688,117</b>	15,128	5.4%
94	Howell	R	342,101	65,845	407,946		232,756	57.1%
94	Hadsall	D	172,561	31,000	203,561	<b>611,507</b>	47,097	23.1%
99	Caul	R	335,373	93,663	429,036		214,570	50.0%
99	Smith	D	127,812	50,706	178,518	<b>607,554</b>	55,759	31.2%
81	Hager	R	259,644	103,524	363,167		242,141	66.7%
81	Oppliger	D	118,016	49,928	167,944	<b>531,111</b>	58,178	34.6%
56	Richardville	R	259,804	101,923	361,727		158,105	43.7%
56	Kehrl	D	115,497	25,593	141,090	<b>502,817</b>	41,066	29.1%
23	Adkins	R	256,789	137,826	394,615		221,616	56.2%
23	Mans	D	17,841	57,665	75,506	<b>470,121</b>	61,648	81.6%
15	Woronchak	R	179,590	87,830	267,420		112,213	42.0%
15	Howe	D	137,058	46,881	183,939	<b>451,359</b>	59,873	32.6%
29	Faunce	R	187,732	108,711	296,443		120,851	40.8%
29	Bieda	D	123,513	9,703	133,215	<b>429,658</b>	14,703	11.0%
107	Shackleton	R	262,565	64,642	327,207		139,346	42.6%
107	Dart	D	64,303	26,296	90,599	<b>417,806</b>	31,171	34.4%
<b>Top Ten Totals</b>			<b>\$ 4,265,345</b>	<b>\$ 1,294,395</b>	<b>\$ 5,559,740</b>	<b>\$ 5,559,740</b>	<b>\$ 2,639,930</b>	<b>47.5%</b>
<b>Top 25 Totals</b>			<b>\$ 6,973,936</b>	<b>\$ 1,767,207</b>	<b>\$ 8,741,143</b>	<b>\$ 8,741,143</b>	<b>\$ 3,414,082</b>	<b>39.1%</b>
<b>All 110 Totals</b>			<b>\$12,552,302</b>	<b>\$ 1,792,804</b>	<b>\$14,345,106</b>			

Note: This table shows campaign resources reported by the candidates, caucus committees and parties. Direct and in-kind contributions are reported on the candidates' campaign finance reports. Independent expenditures are reported by the party committees who made expenditures clearly intended for the 2000 cycle. There will likely be additional independent expenditures for unpaid bills which remained after election day, as there were in 1998. The caucus/party total includes direct and in-kind contributions made by the respective parties' legislative caucus committees and direct contributions and independent expenditures made by the parties' state committees. Caucus/party effort shows the percentage of total resources originating from the respective caucus committees and parties. Resources used for issue advertising are not shown.

Source: Michigan Secretary of State

Table 4. Campaign Funding in the 91st House District, 2000

Candidate	Direct Contrib.	In-Kind Contrib.	Party Indep. Expend.	Total Contrib. & I.E.	Caucus Contrib.
Van Woerkom	\$172,561	\$403,967	\$106,662	\$683,189	\$398,923
Habetler	\$94,177	\$16,560	\$55,765	\$166,502	\$17,409

Source: Michigan Secretary of State

### The Most Heavily-funded House Campaign Ever

The most heavily-funded election campaign in the history of the Michigan House of Representatives took place in 2000 in the 91st House District. The district includes much of Muskegon County and wraps around the city of Muskegon. The election was a rematch of the 1998 contest with Republican incumbent Gerald Van Woerkom opposed by Democratic challenger Steven Habetler.

The campaigns were similar to some other highly contested races in the degree to which the respective state party and caucus campaign organizations participated. However, the Van Woerkom campaign was different from all other House campaigns in scale. The Van Woerkom effort had almost \$254,000 more than any other House campaign. This was 59% more than any other campaign and was at least twice as much as all but six campaigns. Sources of funding to the campaigns are shown in Table 4.

The Van Woerkom campaign had roughly the same amount of money as the average major-party U.S.

Congressional candidate in Michigan in 2000 (\$511,000). Including the party independent expenditures, more was spent on behalf of Representative Van Woerkom than both major-party candidates in nine of sixteen Congressional elections in Michigan. More than \$33 was spent per vote received by Representative Van Woerkom. The contributions from the Michigan House Republican Campaign Committee and the Republican State Committee to the Van Woerkom election effort totaled \$506,000, more than 74% of all reported resources.

The Habetler campaign also benefited from considerable party and caucus spending. The Democratic State Central Committee and the House Democratic Fund contributed \$74,000, or 44.5% of the entire effort. In addition, a published report noted television advertisements in support of Habetler that were not shown as expenditures on the candidate's campaign finance reports or the Democratic Party's.<sup>11</sup> This suggests there may have been unreported issue advertising in support of the candidate.

Fundraising by the two candidates in the 91st District was 20

times as much as the median-funded House campaign. Without considering the degree to which direct contributions came from PACs, this election was a proxy battle fueled by funds from Lansing.

### Less Money, More Votes

There were five House races where the lower-funded candidate won: incumbents George Mans in the 23rd District, William Callahan in the 26th, Paul Gielegem in the 31st and newcomers Gretchen Whitmer in the 70th and Richard Brown in the 110th, running in open seats.

In the 23rd District, challenger Burl Adkins benefited from more than \$220,000 in independent expenditure and caucus in-kind support and he loaned his campaign more than \$80,000 to amass the fifth-largest funded individual campaign of the election cycle at \$395,000. George Mans received \$62,000 in support from his caucus and party (82% of his total of \$75,000). Despite a funding disadvantage of one to five, Mans won 52.7% of the vote.

In the 26th District, challenger William Nearon received \$137,000 from his caucus and party (75% of his \$183,000 effort). Incumbent William Callahan received \$27,000 (23.2% of his \$117,000 effort) from his caucus and party. Callahan won 60.3% of the vote.

In the 31st District, challenger Diane Zontini received \$126,000

<sup>11</sup> Hausman, "Big Money, Big Interest in 91st District Campaign."



(88% of her \$143,000 effort) from her party and caucus, while incumbent Paul Gielegem received \$12,000 (9% of his \$135,000 effort) from his party and caucus. Gielegem won 63.9% of the vote.

In the 70th District, William Hollister received \$234,000 in caucus and party support (57.3% of his total) and had the third-highest money total of all House candidates at \$408,000. Gretchen Whitmer received \$15,000 in party independent expenditure (5.4% of total funding), which was the lowest percentage of reported party involvement in any of the top ten races. Whitmer loaned her campaign almost \$90,000 and had total funds of \$280,000, but reported spending \$148,500 of that total in her competitive primary election. Whitmer won 56.6% of the vote.

In the 110th District, Gregg Nominelli received 80% of his \$272,000 funding from the party and caucus. Richard Brown received \$14,000 of his \$79,000 funding from his party and caucus. Despite a funding disadvantage of one to three, Brown won 51.5% of the vote.

### Close Election — Nominal Party Involvement

Perhaps the most remarkable race of the election cycle was in the 37th District. The election was the closest in the state by vote percentage, but the parties stayed out for the most part. Incumbent Andrew Raczkowski received only 9% of his \$102,000 campaign effort from his party while challenger Aldo Vagnozzi received

Table 5. Top House Gainers in Campaign Fund Balances, 2000

Dist	Representative	Gain in Fund Balance	% of Votes Received
38	Cassis	\$85,213	67.2%
85	Julian	\$73,741	63.8%
64	Bisbee	\$53,536	60.5%
83	Ehardt	\$48,635	65.5%
31	Gielegem	\$45,510	63.9%
82	Gilbert	\$45,262	59.9%
104	Allen	\$44,085	71.9%
15	Woronchak	\$40,453	55.9%
66	Scranton	\$36,851	72.2%
57	Spade	\$36,169	73.7%

Source: Michigan Secretary of State

only \$500 of his \$69,600 from his party. Raczkowski won 51.1% of the vote. The election in the 37th District is striking as an example of a competitive election without a big infusion of outside money.

Senate and are taking advantage of their incumbency to prepare campaign war chests for another office.

The top gainers in fund balances are shown in Table 5. Fund balances for all candidates are located in Appendix B.

### Ballooning Fund Balances

Campaign committee fund balances indicate an abundance of campaign cash on hand. Only four incumbents had final campaign fund balances that were lower by as much as \$10,000 compared to their starting fund balances in the 2000 election cycle. On the other hand, 21 winning candidates, 20 of whom were incumbents, added at least \$20,000 to their campaign committees' fund balances.

Seventeen of these 21 big accumulators won at least 59% of the vote. It appears that there are many representatives who are anticipating the effect of term limits in the

# Supreme Court Elections

## Most Costly Ever — On and Off the Books

The 2000 Michigan Supreme Court elections were high-stakes contests that far exceeded the record-setting fund raising in 1998. Average direct contributions to candidates increased by 83%. However, the parties' independent expenditures and unreported issue advertising exceeded the candidates' own campaign funds.

Three seats on the Michigan Supreme Court were on the ballot in 2000. The candidates for the Supreme Court are nominated at party conventions, but appear on the non-partisan portion of the ballot. Incumbents are so designated. Governor John Engler originally appointed the three incumbents. Justice Clifford Taylor was appointed in 1997 and was then elected to serve the remainder of that term in 1998. In 2000 he was running for a full eight-year term. The other incumbents, Justice Robert Young and Justice Stephen Markman, were appointed after the 1998 election and ran in 2000 to complete the remainder of their terms.

Going into the 2000 election five justices on the seven-member court were Republican and two were Democrats. Critical partisan issues were at stake, including potential redistricting decisions before the 2002 elections and challenges to recent changes in tort law. Consequently, all stops were pulled and money flowed freely. Records were set in every category:

- total amount raised by a candidate, \$1,340,107 (Taylor)

Table 6. Campaign Finance Summary — Supreme Court, 2000

Name	Nominating Party	Direct & In-Kind Contributions	Party Independent Expenditures
<b>8-year term</b>			
Taylor	R	\$ 1,340,107	\$ 453,402
Robinson	D	\$ 1,198,586	\$ 122
<b>4-year term</b>			
Markman	R	\$ 1,250,963	\$ 427,398
Thomas	D	\$ 1,001,798	\$ 122
<b>2-year term</b>			
Young	R	\$ 1,300,848	\$ 466,683
Fitzgerald	D	\$ 757,646	\$ 122
<b>Total All Candidates</b>		<b>\$ 6,849,948</b>	<b>\$ 1,347,849</b>

Source: Michigan Secretary of State.

- average amount raised per candidate, \$1,141,658
- total amount raised by all candidates, \$6,849,948

Table 6 shows the candidates' total contributions and party independent expenditures. Additional information from the candidates' campaign finance statements can be found in Appendix E.

Justice Taylor eclipsed the record for campaign contributions of \$1,033,591 set by then-Judge Maura Corrigan in 1998 and raised 36% more than he had just two years earlier. Each candidate with the money advantage won, helping the Republicans maintain their 5-2 majority on the Court.

In addition to the direct and in-kind contributions raised by the candidates, each party made independent expenditures, particularly the Republicans who spent over \$1.3 million. These expendi-

tures were all made in support of the parties' respective candidates, not in opposition to the opponents.

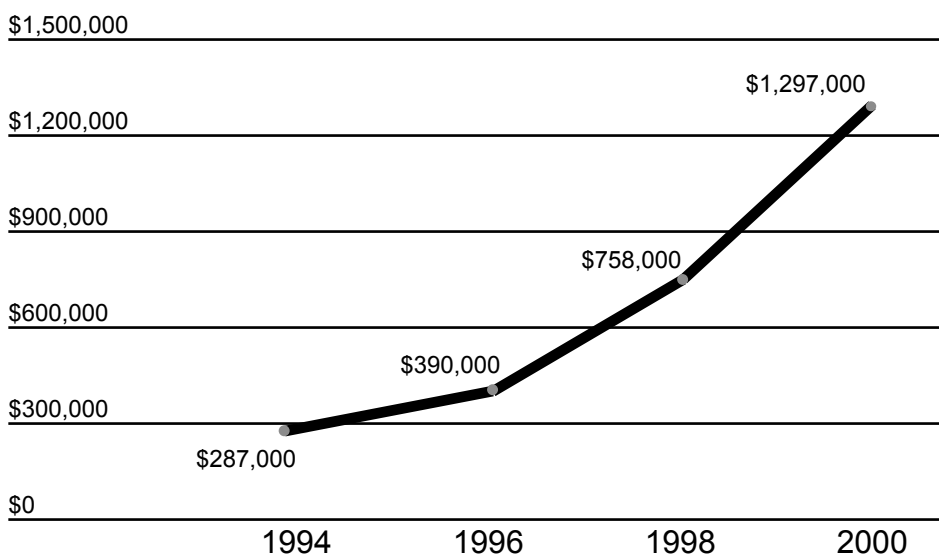
Some in the press concluded after the election that the total cost of the campaign was at least \$16 million,<sup>12</sup> which would imply that there were unreported expenditures of at least \$7.5 million. The total may have been higher, however, as other news reports stated that the parties spent a total of \$10 million<sup>13</sup> and that the Michigan Chamber of Commerce spent another \$3 million.<sup>14</sup> Because the ads that were run in opposition to the Supreme Court candidates were not challenged as to whether they evoked a "clear inference" of opposition to specific candidates (MCL 169.206(2)), they fell outside the realm of regulation. Thus, there is no way to verify from public records the actual amount spent. It is known that

<sup>12</sup> Gordon Trowbridge, "Campaign Spending Accelerates: Costliest Elections in State's History Spark Call for Reform as Ads Turn Off Electorate," *The Detroit News*, 8 December 2000. <[www.detnews.com/2000/politics/0012/08/c01-159128.htm](http://www.detnews.com/2000/politics/0012/08/c01-159128.htm)>.

<sup>13</sup> Hoffman, "Expensive, Bitter Supreme Court Races Raise Questions."

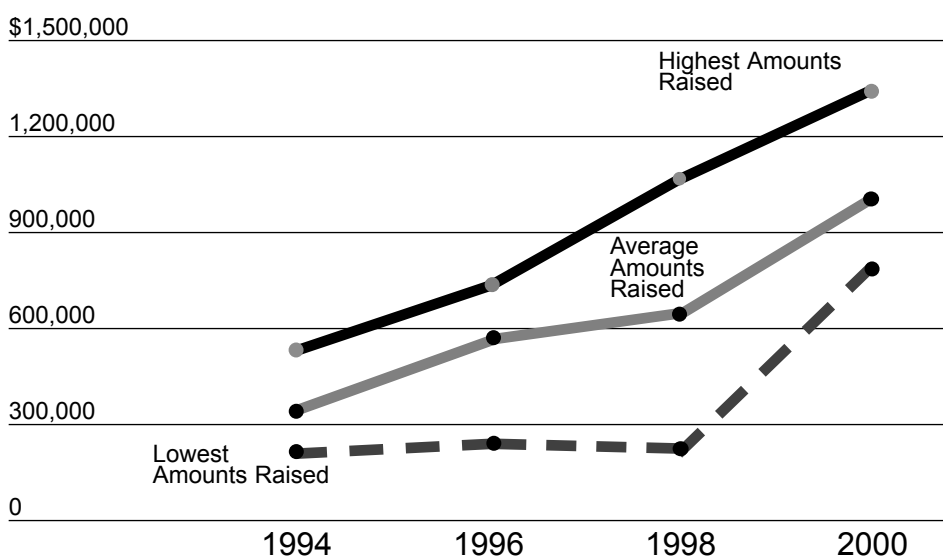
<sup>14</sup> Shepardsen, "Special Interests Pour \$15 Million into Battle for Control of State Justices."

Figure 3. Average Campaign Receipts — Successful Supreme Court Candidates, 1994-2000



Source: Michigan Secretary of State.

Figure 4. Receipts of Major-party Supreme Court Candidates, 1994-2000



Source: Michigan Secretary of State.

the two parties began their ad war in late July, well before the nominating conventions, and that the first ad, put up by the Democrats, reportedly cost \$700,000.<sup>15</sup>

The unreported advertising sponsored by the Michigan Chamber of Commerce was a significant development with parallels to non-party issue advertising in federal elections. The Chamber spent \$200,000 on its first ad, which went up in mid-August, in response to the first Democratic ad.<sup>16</sup> Other ads followed. As previously noted, one report estimated that the Chamber spent \$3 million over the course of the campaign season. That estimate cannot be verified from public records.

The 2000 Supreme Court elections accelerated the trend of increasing campaign fund raising through the last four elections. The average contributions received by Supreme Court candidates increased from \$323,000 in 1994 to more than \$1.14 million in 2000 (253% increase). The average contributions received by winning candidates increased from \$287,000 to \$1.3 million in the same period (353% increase). The average amount of contributions grew by 83% in just one election cycle, from 1998 to 2000. The least expensive campaign, which had hovered around \$200,000 for three elections because incumbents have historically been able to compete successfully with less funding, grew to \$758,000 (Fitzgerald).

<sup>15</sup> Nancy Perry Graham, "The Best Judges Money Can Buy," *George*, December/January 2001.

<sup>16</sup> Kathy Barks Hoffman, "Chamber Runs Ad to Counter Democrats' Attack on Justices," *The Detroit News*, 17 August 2000. <[www.detnews.com/2000/politics/0008/17/d02-106585.htm](http://www.detnews.com/2000/politics/0008/17/d02-106585.htm)>.

# Data Access and the Need for Electronic Filing

## Losing Ground at the Department of State

The contribution and expenditure data in this report are based on the campaign finance statements filed by candidates and caucuses with the Michigan Secretary of State, and party committee reports filed with the Secretary of State and Federal Election Commission.

It has become more difficult to access detailed campaign finance data since the Department of State's Bureau of Elections no longer enters individual contribution records (of \$100 or more) and expenditure records from campaign finance reports into a searchable database. The practice was discontinued after the 1999 annual campaign reports were entered.

The only recent campaign finance data on the Secretary of State's web site ([www.sos.state.mi.us/cfr/cfonl.html](http://www.sos.state.mi.us/cfr/cfonl.html)) are those from candidates who voluntarily filed electronically in 2000 (33 House candidates and one Supreme Court candidate). Because of the limited scope of available data, the value of being able to query contribution records has been diminished significantly.

## Electronic Filing: A Solution in Limbo

In early 1998, the Secretary of State made free software available to candidate committees so campaign finance statements could be prepared and filed electronically on computer diskette. There was minimal acceptance of this method of prepar-

ing statements, perhaps because many candidates were using other software and/or because the Secretary of State's software did not offer any features other than statement preparation. The software was called the Michigan Electronic Reporting and Tracking System (MERTS).

In 2000, a new and almost totally different version was introduced: MERTS Plus. With this software, candidates can file their statements directly over the Internet or on a diskette. Data were available to the public immediately after filing from a searchable database.

Unfortunately, the still-voluntary system did not attract many candi-

dates. Of the six Supreme Court candidates, only one (Judge Edward Thomas) used the software. The situation with the House candidates was not much better. Out of the 176 candidates who raised money, only 33 (19 percent) filed electronically.

The problems caused by the lack of acceptance for MERTS Plus can be illustrated by the Supreme Court race. The five candidates who chose not to file electronically generated 5,000 pages of statements and reported approximately 20,000 separate contributions. Their decision made the specifics of their contribution information effectively inaccessible, at least for timely analysis.

## Filing Schedules

Candidate committees file campaign finance statements with the Secretary of State for the period ending 16 days before an election and the period from that date until 20 days after an election, for both primary and general elections. For a candidate who is nominated at a party convention, reports before and after the convention replace the primary-election filings. In a non-election year, all active candidate committees file an annual report. Political party committees file their statements on the same schedule. Political action committees (PACs) and caucus committees file on two different schedules as shown in the following table.

### Filing Schedule for Caucus & Political Action Committees

Type of Committee	STATEMENTS COVER PERIODS ENDING	
	Even-numbered Years	Odd-numbered Years
Caucus Committees	April 20, July 20, Oct. 20, Dec. 31	April 20, July 20 Oct. 20, Dec. 31
Political Action Committees (PACs)	April 20, July 20, Oct. 20, Dec. 31	July 20, Oct. 20

Source: Michigan Campaign Finance Act

The July 20 and October 20 statements roughly coincide with the pre-election statements filed by the candidates and political parties, but otherwise caucus committees and PACs report at different times during an election year. These differing schedules make it difficult to compare candidate and party activities with those of the PACs and caucus committees until months after the general election.

In late 1999, the legislature enacted PA 238, which requires electronic filing by all committees raising over \$20,000 per year. However, the act does not go into effect until the reports that are due on January 31, 2004. While this law is a step in the right direction, a full election cycle will pass before this law makes campaign finance information easily accessible. At present, any information contained in reports filed since February 1, 2000 is not available in a useful manner without many hours of data entry. If there is to be timely disclosure of campaign contributions, mandatory electronic filing should be put in effect before the 2002 reports are filed.

# Conclusions

In Michigan's most competitive 2000 House races and in the Supreme Court elections, fund raising and independent spending by the political parties overshadowed the efforts of the candidates' campaigns. Increasingly, campaigns are dependent on unlimited contributions to the political parties, either in the form of soft money contributions transferred from national party committees to state election accounts, or contributions made directly to state election accounts. Either way, the political speech of big-money contributors drowns out the voices of average voters.

A second major trend in Michigan's elections is the emergence of "issue advertising" as a primary vehicle of campaign spending. By many estimates, in the Supreme Court race, more money was spent on issue advertising sponsored by the political parties and other sources than was spent by the candidates' own campaigns. Published sources also suggest that issue advertising was used as a campaign tactic in House races. However, because issue advertising is unreported, that cannot be verified.

There is a very real danger that Michigan's campaign finance system has been rendered dysfunctional. The parties can receive unlimited contributions and spend with no limits on independent expenditures and issue advertisements. Corporations, unions, individuals and interest groups are free to spend without limits on electioneering that is thinly disguised as issue advocacy — and

they do not have to report their spending or the sources of the money they spend.

Campaign finance reform is meaningful only if it strengthens the overriding principles of our system of governance — *one person, one vote, and government of the people, by the people and for the people*. Unlimited contributions and unreported spending undermine these principles. The problems that need to be addressed in Michigan's campaign finance system are large, and they are clearly identifiable. Several reforms would assist the cause of democracy in our state elections and raise standards of campaign accountability.

## **Reasonable limits on contributions to the state political parties**

Soft money transfers from national party committees were the greatest source of campaign cash for the state parties' nonfederal committees in 2000 (even though we cannot determine how that money was spent within the broad category of shared nonfederal/federal activities). If Congress passes a version of the McCain-Feingold bill and President Bush signs the bill into law, that source of funding to the state parties will disappear. However, there are no limits on individual or PAC contributions to the state parties. Unless contribution limits are also enacted at the state level, big-money donors will still be free to make unlimited contributions directly to the state committees. Contribution limits are an important means of limiting the

access and influence of contributors, and they also protect the political speech of those who are unable to make large contributions.

## **Reasonable limits on contributions from the caucus campaign committees**

The unlimited contributions of legislative caucus committees overwhelmed all other "political speech" in several targeted races. Local voices have no opportunity to be heard when wholesale media buys from Lansing are dominating campaigns. The provision in Michigan's election law that allows unlimited contributions by caucus committees should be amended to protect individuals' rights to meaningful participation in our representative democracy. There should be limits on contributions to candidates from all sources.

## **Disclosure of political advertising**

The Campaign Finance Institute (CFI), a nonpartisan organization dedicated to campaign finance reform through research, deliberation and public education, has developed a new approach to disclosure of political advertising.<sup>17</sup> The CFI proposal recommends that any political communication transmitted within 60 days of a primary or general election that includes the name or image of any candidate and is targeted to the electors of that candidate should be considered election advocacy, regardless of the absence of "magic words." Such communications would be subject to the rules of independent expenditures: the buys would

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<sup>17</sup> Campaign Finance Institute Task Force on Disclosure, *Issue Ad Disclosure — Recommendations for a New Approach*, 2001. <[www.cfinst.org/CFI\\_issue\\_ads.pdf](http://www.cfinst.org/CFI_issue_ads.pdf)>.

have to be reported and the sponsor(s) disclosed. This reform would not interfere with any person or entity's right to exercise political speech, but it would provide important information to voters about the identity of sponsors of political advertisements, thus closing the issue ad loophole.

## **Filing procedures**

• **Mandatory electronic filing** — Voluntary electronic filing has not adequately addressed the public's need for timely information on the sources and amounts of campaign contributions. Most committees still file paper campaign finance reports that are unwieldy to analyze. Full and immediate disclosure of campaign contributions by electronic filing allows the public to know who is making contributions to whom, and in what amount. The current system of paper filing is an anachronism in 21st century America. Mandatory electronic filing should be implemented prior to the 2002 report filing.

• **Harmonized filing schedules for all types of committees** — The differing filing schedules for different types of political committees make it difficult to compare candidate and party activities with those of the PACs and caucus committees. The provision that requires only annual reports from active candidates' committees in non-election years leaves too long a gap in reporting of fundraising activity. The public deserves the opportunity to observe how the timing and amount of contributions relates to legislative and administrative action and inaction. Annual reporting does not provide adequate accountability.