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Thomas P. Dvorak

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Comments

State Campaign Finance Law: An Overview and a Call for Reform

Corrupt influence, which is itself the perennial spring of all prodigality, and of all disorder; which loads us, more than millions in debt; which takes away vigour from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution.

- Edmund Burke, Speech on Economic Reform, 1780

In the General Election of 1988, only 54.8% of the population of eligible voters in Missouri went to the polls.¹ Nationwide, the 1988 elections for President and Vice-President saw only a 50.2% turnout.² This compares with nationwide turnouts of 95.4% in Australia, 86.9% in West Germany, and 76.9% in Great Britain³. In fact, the United States now ranks 19th among the nations of the world in average voter turnout, hardly an accolade for the "leader of the free world."⁴ The 54.8% of Missourians who do bother to vote are also apparently quite happy with the political leadership they have been getting since 98% of the incumbents who ran for re-election to the General Assembly in 1988 were re-elected.⁵ This also reflects a national trend; 1988

1. U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1989, at 259, Table No. 436 (109th ed. 1989).

2. *Id.*

3. R. BLUNT, SECRETARY OF STATE, VOTE MISSOURI 5 (1988) (citing ORREN & VERBA, AMERICAN VOTER PARTICIPATION: THE SHAPE OF THE PROBLEM 13 (1983)).

4. *Id.* The U.S. average voter turnout from 1945 to 1984 was 58.5% of the eligible electorate. *Id.* However, this figure is obviously derived *only* from U.S. presidential-year elections. If the off-year elections are averaged in, the rank would be *much* lower. Further, since the nations cited in the text have parliamentary elections, it is probably fairer to compare them with the average of *all* U.S. elections rather than merely the presidential years. *See also* U.S. BUREAU OF THE CENSUS, *supra* note 1, at 258, Table No. 433, which indicates that, in off-year elections, the highest voter turnouts were only 45.4% in both 1962 and 1966. Since then, the level has trailed off until it reached only 33.4% of the eligible electorate in 1986. If the trend continues, we may see a voter turnout of less than 30% in 1990.

5. R. BLUNT, SECRETARY OF STATE, 1988 MISSOURI ANNUAL CAMPAIGN FINANCE REPORT 131-60 (1989) (the 98% figure is a composite; 100% of the Senate

saw the re-election of 98% of the incumbent candidates for U.S. Congress.⁶ Indeed, more members of the U.S. Congress have managed to hang on to office since 1980 than have members of the Supreme Soviet of the U.S.S.R. during the same period.⁷ Perhaps we should be more careful when we throw around terms like "fossilized leadership" in reference to our Soviet friends.

This Comment argues that both of these phenomena, that is, low voter turnout and the high rate at which incumbents are returned to office, are, at least in part, the products of a system of electoral financing in this state and in this nation which favors incumbents and which leaves voters with the impression that their votes are of little significance when compared to the power of the dollar in today's politics. This is not a new assertion⁸ and it is one which has led to various types of statutory measures in almost every state and at the federal level.⁹ These different state measures will be discussed and compared with Missouri's campaign reporting act¹⁰ with an eye toward refining or improving the Missouri law. First, let's take a look at the political campaign and see what role money really plays.

incumbents were re-elected and 98% of the House members were re-elected). In the Missouri Senate, seventeen seats were up for election; of these, eleven were held by incumbents and all eleven incumbents were re-elected. *Id.* at 131-33. Indeed, seven of the eleven incumbents did not even face a challenge in the general election. *Id.* Only one state Senator, Irene Trepler, had a serious challenge and managed to scrape by with a 50.3% victory; no other incumbent state senator standing for election received less than 57% of the vote. *Id.* The story in the Missouri House of Representatives is similar. Of the 142 incumbent members who sought re-election in 1988, 140 were elected—a 98% re-election rate for the House. Seventy-seven of these were unopposed. *Id.* at 134-60.

6. U.S. BUREAU OF THE CENSUS, *supra* note 1, at 252, Table No. 422. (the only incumbent Congressman who sought re-election in 1986 and was defeated was Missouri's own Robert Young of the 2d Congressional District; he lost to Republican challenger Jack Buechner).

7. "Percentage of the current members of the Supreme Soviet who were in office in 1980: 4. Percentage of the current members of the U.S. Congress who were in office in 1980: 47." HARPER'S MAGAZINE, Jan. 1990, at 41.

8. See, e.g., H. ALEXANDER, FINANCING POLITICS: MONEY, ELECTIONS AND POLITICAL REFORM (2d ed. 1980) (one of the best general works on campaign financing); MONEY AND POLITICS IN THE UNITED STATES (M. Malbin ed. 1984) (collection of essays on campaign financing by leading writers in the field).

9. See Appendix I to this Comment for a comprehensive listing of state campaign finance laws. Federal campaign finance is governed by the Federal Election Campaign Act of 1971 (FECA), 2 U.S.C. §§ 431-456 (1989).

10. MO. REV. STAT. ch. 130 (1986).

I. POLITICAL CAMPAIGNS: HOW THEY WORK

A. *Money*

Lyndon Johnson is purported to have said that "money is the mother's milk of politics."¹¹ That this is true in modern American politics is certainly easy to demonstrate. Vast sums of money are required to run a modern political campaign. Missouri is no exception to the rule. In 1986, former Governor Kit Bond and Lieutenant Governor Harriett Woods set all-time records for a statewide campaign in Missouri when each campaign spent in excess of four million dollars to run a slick media-oriented campaign.¹² Data published by the Secretary of State under Missouri's campaign finance disclosure law¹³ show that spending on elections in Missouri increased by \$1.5 million from 1984 to 1988 alone.¹⁴

11. The quote may be apocryphal. Certainly, LBJ would not mind getting credit for it. See R. CARO, *THE PATH TO POWER* (1984).

12. U.S. FEDERAL ELECTION COMMISSION, *FEC REPORTS ON FINANCIAL ACTIVITY 1985-1986: FINAL REPORT, U.S. SENATE AND HOUSE CAMPAIGNS* (1988). Bond spent \$5.4 million; Woods spent \$4.3 million. The Bond-Woods race is a federal race and, although it was the most expensive in state history, it nevertheless represents a trend which is reflected in races for Missouri state office as well. See, e.g., R. BLUNT, *SECRETARY OF STATE, 1984 MISSOURI ANNUAL CAMPAIGN FINANCE REPORT 1* (1985) (Governor John Ashcroft spent \$1.5 million in 1984 to defeat Lt. Governor Ken Rothman, who spent \$1.1 million).

13. MO. REV. STAT. ch. 130 (1986).

14. R. BLUNT, *SECRETARY OF STATE, 1988 MISSOURI ANNUAL CAMPAIGN FINANCE REPORT 3* (1989); see also R. BLUNT, *SECRETARY OF STATE, 1986 MISSOURI ANNUAL CAMPAIGN FINANCE REPORT 4* (1987) (average cost of an election campaign rose from 1982 to 1986 by approximately \$1,000 per candidate from \$3,592 per candidate in 1982 to \$4,845 in 1986); MONEY AND POLITICS IN THE UNITED STATES, *supra* note 8, at 173 (1980 gubernatorial election in Missouri represented a 241% increase in campaign spending over 1976; the candidates in both years were Joseph Teasdale (D) and Kit Bond (R)).

Table 1¹⁵

Campaign Expenditures in General Election Campaigns
for Statewide Offices in Missouri, 1980-1988

	1980		1984		1988	
	(D)	(R)	(D)	(R)	(D)	(R)
Governor	1,320,000	1,370,000	1,100,000	1,500,000	362,149	2,123,453
Lt. Governor	146,544	96,990	355,125	100,415	313,658	262,369
Secretary of State	15,322	3,284	133,170	258,333	4,555	345,753
State Treasurer	95,320	11,852	277,560	217,235	235,070	338,517
Attorney General	7,319	128,319	244,130	362,004	52,810	598,649

Table 2¹⁶

Campaign Expenditures in Primary Election Campaigns
by Primary Election Victors for Candidates
for Statewide Office in Missouri, 1980-1988

	1980		1984		1988	
	(D)	(R)	(D)	(R)	(D)	(R)
Governor	1,379,083	480,394	812,200	1,478,373	446,228	1,339,900
Lt. Governor	146,662	64,555	219,460	39,258	66,258	103,262
Secretary of State	10,547	1,073	96,333	81,846	755	100,667
State Treasurer	206,524	1,543	111,927	33,226	166,727	87,780
Attorney General	1,785	64,278	17,573	114,724	74,354	128,680

What do candidates do with all that money? It used to be that when candidates spent money it was on organization and on travel; advertising costs were likely limited to printing a few posters and campaign buttons. Today, however, we are seeing a revolution in the way political campaigns are run. The modern campaign is a slick, action-packed, advertising-oriented phenomenon which requires vast sums of money to sustain. Now candidates

15. R. BLUNT, SECRETARY OF STATE, 1988 ANNUAL CAMPAIGN FINANCE REPORT 129-30 (1989); R. BLUNT, SECRETARY OF STATE, 1984 ANNUAL CAMPAIGN FINANCE REPORT 101-04 (1985); J. KIRKPATRICK, SECRETARY OF STATE, 1980 ANNUAL CAMPAIGN FINANCE REPORT 129-33 (1981).

16. 1988 REPORT, *supra* note 15, at 9-11, 1984 REPORT, *supra* note 15, at 8-13; 1980 REPORT, *supra* note 15, at 14-21.

spend nearly as much time raising money for their television advertising as they do in actually campaigning. Another side effect of the campaign revolution has been the birth of an industry. In their desperation to reach voters, candidates often rely on "independent" political consultants to raise money for them and to produce and distribute their media advertising.¹⁷ This "new campaigning" has led to the creation of a virtual cottage industry throughout the United States which is barely distinguishable from the advertising industry.¹⁸ The tools of the trade include such effective fundraising techniques as direct mail. Direct mail is to politics what junk mail is to marketing.¹⁹ It is an effort to get the candidate's name out in front of the voter and to convince him to contribute to the campaign. Although vast sums of money can be raised in this way, it is also an expensive operation to run with immense start up costs.²⁰ It may take years before a direct mail list becomes productive.²¹ The upshot of all this is that much of the money spent on "campaigning" actually winds up in the hands of this new industry and has no bearing at all on encouraging a more effective public dialogue.

So, the effects of money in modern political campaigns are easily seen. The search for money leads politicians to spend a great deal of their time raising it—and this is true even once a candidate becomes an officeholder. Money also acts as a gate to the political process by effectively closing off those who don't have the connections or the intestinal fortitude for the endless fundraising effort required. Finally, money is needed because the campaign revolution has led to an entire industry bent on convincing candidates that the media campaign is the only way to win. The media mavens urge an advertising campaign and forsake the older methods of campaigning which concentrated on people and on building organizations for reasons which have

17. See S. BLUMENTHAL, *THE PERMANENT CAMPAIGN* (1980) (personal portraits of leading campaign consultants); F. LUNTZ, *CANDIDATES, CONSULTANTS AND CAMPAIGNS* (1988); L. SABATO, *THE RISE OF POLITICAL CONSULTANTS* (1981) (the preferred overview).

18. L. SABATO, *supra* note 17, at 111-219. The rise of consultants may be part of an increasing trend in society toward a TV/Entertainment orientation. See MITROFF & BENNIS, *THE UNREALITY INDUSTRY* (1989) Mitroff and Bennis argue that the pervasive influence of advertising and entertainment in America are creating an atmosphere of unreality which makes it increasingly difficult for Americans to deal with very real problems. They believe this is a general trend throughout society and are critical of the news media, but also note that it has affected American politics dramatically. "Instead of leaders, we have celebrities and stars, specialists in solo turns, and we have McHeroes, like [Oliver] North, whom the media crank out in extraordinary numbers for our momentary delectation." *Id.* at 155.

19. L. SABATO, *supra* note 17, at 220-63.

20. *Id.* at 250-53.

21. *Id.*

more to do with their own self interest than anything else. In effect, campaign consultants lobby candidates for business. What this means for the average voter is that the politician is increasingly becoming a distant phosphorescent TV image rather than a real human being who represents him in the government. So, that's where the money goes; now that we know where it goes, from whence does it come?

B. The Money-Givers

Probably the best way to answer that question is to start at the very beginning: the beginning of a political career.²² Men and women go into politics for a wide variety of reasons, ranging from an ideologically-based desire to re-make the world to a more egocentric view based on attaining the celebrity status often accorded our political leaders. Whatever the reason, the serious entrant to a political race faces one immediate question: where will the money come from? In small races, such as a race for city council or for the state legislature, the potential candidate will probably begin by sounding out friends and acquaintances and getting some financial help from them. Those friends will contact their friends. Sooner or later, word will get to the local "heavy hitters," that is, individuals or businesses who will contribute the larger sums of money necessary to run a modern campaign even in a small local race.

This scenario, which plays itself out over and over every election year, leads to two immediate consequences. First, candidates who are from the upper classes and who can form a network among the middle class and the wealthy are more likely to raise substantial sums of money than are less well-to-do candidates. Second, the naive first-time candidate is likely to view anyone who is willing to contribute to his campaign as being a supporter of his views. He is much less likely to view a contribution at this stage as an attempt to buy influence or anything of the kind. Consequently, the candidate will develop friendly and important ties to certain interests in the community who contribute to the campaign even before it becomes apparent just what kind of game is being played. The candidate will see the relationship as one of mutual friendship and support, not as that of buying and selling influence.

22. Much of what follows in this section is the product of the author's personal experience and insight gained from participation in electoral politics. The author was an Alternate Delegate to the 1980 Democratic Convention, a Delegate to both the 1980 and 1988 Missouri Democratic State Conventions, and is currently Democratic Committeeman in Boone County for the 6th Ward of Columbia. The author has also participated as both a volunteer and paid staff member in political campaigns ranging in scope from city council elections to national campaigns.

Would these relationships be formed at all if the money element were missing?²³ The answer is not clear. What is clear is that, as between candidates who *do* form such relationships and those who *don't*, the "establishment" candidate with the connections is better funded. Familiarity with the modern political campaign and common sense alone dictate that money makes a difference. Fortunately, however, we do not need to rely on common sense alone; there is ample evidence that a better funded campaign is more likely to succeed.²⁴ This is especially true in an "open" seat where no candidate is an incumbent.²⁵

The story so far involves only the neophyte politician in a local campaign. If the first step is successful, we may soon find our candidate seeking a higher political office. Now the stakes increase. Let's say our friend waits until a seat in his state senate district opens up. What does he face? The average candidate for state senate in Missouri spent \$16,554 in 1988.²⁶ By now, with his experience at the local level, our candidate knows full well that his contributors are after more than friendship or ideological solidarity. He also knows that failing to raise the necessary money generally

23. Arguably, a candidate freed from the necessity of raising funds might never form these relationships. However, if an interest group wants to influence public policy and cannot do so through money and the creation of cozy, mutually-beneficial relationships with politicians, they may simply encourage members of their own groups to run for office. I would submit that this is a far more open and less insidious form of influencing public policy.

24. G. JACOBSEN, *THE POLITICS OF CONGRESSIONAL ELECTIONS* 41-42 (1983) (Professor Jacobsen's research has shown that money is especially important to challengers in congressional elections because they are less well-known than incumbents and don't have the opportunity for generating free publicity as do incumbents. His research has also shown that incumbents spend the most on campaigns when they are challenged by well-financed opponents. Indeed, as a statistical matter, an incumbent is much more likely to lose when he spends more money). See also H. ALEXANDER, *supra* note 8, at 16-18.

25. G. JACOBSEN, *supra* note 24, at 41-42. Incumbents have special advantages which allow them to accomplish campaign publicity tasks without doing so through their campaign. All members of the Missouri General Assembly, for example, are entitled to send *every* constituent in their district an "informational" brochure at public expense during each session of the legislature. Furthermore, incumbents regularly appear in the media and are often quoted as a source of information on public affairs. Consequently, it is quite common for incumbents to win in spite of being outspent by challengers.

26. R. BLUNT, *SECRETARY OF STATE, 1988 MISSOURI ANNUAL CAMPAIGN FINANCE REPORT 2* (1989); see also H. ALEXANDER, *supra* note 8, at 131-33 (Open state senate races, where there is no incumbent candidate saw much higher expenditures. In the 7th district in 1988, a total of \$230,034 was spent by candidates in the general election; in the 23d district, the total was \$114,589).

means ignominious defeat at the polls. Our up-and-coming politician will rationalize his dependence on private funds and carry on. As his political career matures, our friend will be overwhelmed by the amount of work it takes to raise the money he needs to achieve his final goal—election as Governor of Missouri. Raising the funds necessary for a campaign from individual small contributors was difficult enough in a state senate race. Now our candidate must come up with about three or four million dollars.²⁷ He will have to turn to big business for this.

So, what does all this mean? When all is said and done, it means that special interest contributions make the difference between winning and losing in American elections today. Although contributions from individuals still make up the bulk of a candidate's campaign fund, candidates relying on small contributors alone will surely be outspent by their opponents. In Missouri the law also allows corporations to contribute directly to a candidate's fund.²⁸ This is outlawed by the federal government and by many states. Further, although the federal government and many states limit the amount of money a political action committee (PAC) or individual may donate to a campaign, there is no limit in Missouri to the contributions which may be made by PACs, individuals, or corporations.²⁹ Even forgetting this for a moment, the role of PACs in campaign finance is increasing all across the United States and Missouri is no exception.³⁰

PACs are Political Action Committees. They are legally independent committees which, in reality, are nearly always formed to represent the interests of an existing business, labor, or other interest by contributing to the election campaigns of candidates for political office.³¹ PACs are allowed under both state and federal law and were originated in the 1930s by labor unions.³² They grew more slowly in the business sector but mushroomed after 1974 so that business PACs now dominate the scene.³³ Missouri has

27. 1988 REPORT, *supra* note 26, at 1.

28. MO. REV. STAT. § 130.029 (1986).

29. *Id.*

30. F. SORAUF, MONEY IN AMERICAN ELECTIONS 269 (1988) (citing Jones, *State and Federal Legislative Campaigns: Same Song, Different Verse*, 3 ELECTION POLITICS 8, 8-12 (1986)). In particular, Jones notes that in 1980, Missouri PACs accounted for 15.7 percent of all receipts by legislative candidates. By 1984, the percentage had risen to 23.9 percent of all receipts. *Id.*

31. For an excellent work on PACs generally, see L. SABATO, PAC POWER: INSIDE THE WORLD OF POLITICAL ACTION COMMITTEES (1984).

32. *Id.* at 5.

33. See *infra* notes 37-38 and accompanying text. L. SABATO, *supra* note 31, at 4-6 (corporate practice was to "launder" cash into campaigns before the advent of the Federal Election Campaign Act of 1971; this is one reason why businesses did not form PACs in great numbers until after that date).

never banned direct contributions from corporations, so the impact of PACs is less dramatic in races for state offices.³⁴ The growing influence of PACs in American politics is well known and is a major part of the new political landscape which has emerged over the past two decades. In sheer numbers alone, the growth of PACs has been notable. In 1974, there were a total of 608 registered PACs; in 1987 there were 4,165.³⁵ Most of this growth has been in the area of corporate PACs, that is, PACs which represent the interests of business corporations. In 1974 there were 89 corporate PACs: by 1987, the number had grown to 1,775.³⁶ PACs representing labor organizations numbered 201 in 1974 and 364 in 1987—down from a high of 394 labor PACs in 1984.³⁷ The whole notion of a PAC is to influence legislation by helping candidates who support the issues of a particular interest group. Consequently, PACs tend to inordinately support incumbents.³⁸

C. *What Do Contributors Get for their Money?*

When an individual contributes to a political campaign, what is he trying to get? Is he trying to *get* anything at all? Or, is he merely attempting to foster good government or help a friend get elected to office? Does it make a difference if the money comes from an individual or from an organization such as a PAC or a corporation? These are important questions because the answers to them go to the very heart of the ethical difficulties with money and politics.

Many observers suggest that most political contributions are not given in search of a particular *quid pro quo*.³⁹ Most PAC presidents or corporate chiefs will insist that, at most, the fact that they have contributed to a particular candidate might tend to give them better *access* to him once he is

34. MO. REV. STAT. § 130.029 (1986).

35. U.S. BUREAU OF THE CENSUS, *supra* note 1, at 262, Table No. 442.

36. *Id.* The increase is even more dramatic if PACs connected with cooperatives, trade and professional organizations and PACs representing non-stock corporations are added. The 1987 figure would increase from 1,775 to 2,026. The figures for 1974 lumped the non-corporate business PACs into an amorphous "other" category, so direct comparison is unavailable. *Id.*

37. *Id.*

38. U.S. BUREAU OF THE CENSUS, *supra* note 1, at 263, Table No. 444. Again, federal statistics are readily available—in 1979-80, PACs contributed a total of \$37.9 million to U.S. congressional campaigns. Of this, \$24.9 million went to incumbents and only \$7.9 million to challengers. *Id.* In 1985-86, the trend continues, but the growth in PAC spending is readily apparent. Total contributions for 1985-86 to congressional candidates were \$87.4 million. *Id.* Of this figure, \$65.9 million went to incumbents and \$9.1 million to challengers. *Id.*

39. H. ALEXANDER, *supra* note 8, at 148-49.

in office.⁴⁰ Indeed, it is difficult to prove any *direct* correlation between money changing hands and the purchase of political views.⁴¹ Often, a discussion in this area leads to a "chicken and egg" question since contributions may be made on the basis of a politician's being predisposed to views which the contributor finds favorable. The fact that a Texas congressman receives a lot of money from oil interests does not necessarily mean his votes on oil issues have been purchased since he can be characterized as "voting his district." Oil interests and Texan interests are often not dissimilar.

These explanations are, however, fundamentally dissatisfying.⁴² The problem is that they assume the monies which change hands represent a payoff for a *specific* deed. Often, however, this is not the intention at all. Instead, what large political contributors are buying is an attitude. Their function is to help individuals who *will* be helped. Politicians pursue policy courses in order to get re-elected; indeed this has been viewed as the politician's proximate goal.⁴³ The political goals of the politician constantly

40. L. SABATO, *supra* note 31, at 27.

41. The difficulty of such proof is obvious: For every legislative vote which appears at first glance to be the product of influence, there are many other legitimate rationales which might be articulated to justify it. Politics is, after all, partly the process of sorting out different viewpoints to arrive at public policy. Consequently, this author would assert that it would be just about impossible to really establish statistical "proof" of a relationship between contributions and voting. This opinion has not, however, stopped others from trying to do so. *See, e.g.,* Schroedel, *Campaign Contributions and Legislative Outcomes*, 39:3 W. POL. Q. 371 (1986); Austen-Smith, *Interest Groups, Campaign Contributions and Probabilistic Voting*, 54 PUB. CHOICE 123 (1987) (suggesting a relationship between dollars and votes, but also fairly illustrating the difficulty of statistical "proof" in this regard).

42. Indeed, such explanations are not believed even by members of Congress. *See, e.g.,* SABATO, *supra* note 31, at 126-27 (The author quotes several members of Congress who commented on the question of what PACs were out to buy with their money: "Anytime someone, whether a person or a PAC, gives you a large sum of money, you can't help but feel the need to give them extra attention, whether it is access to your time or, subconsciously, the obligation to vote with them." —Rep. John Bryant (Texas); "The only reason it isn't considered bribery is that Congress gets to define bribery." —Rep. Andrew Jacobs (Indiana)).

43. D. MAYHEW, CONGRESS: THE ELECTORAL CONNECTION 5 (1974) (Although Mayhew was writing about the U.S. Congress, it is fair to make the extension to state legislatures as well. He characterized Congressmen as "single-minded seekers of re-election."). *See also* J. Hitt, *et al., What's Wrong With the Democrats?*, HARPER'S MAGAZINE, Jan. 1990, at 45. This was a forum of prominent Democrats. At one point, Professor Benjamin Barber accused Congressman Barney Frank of ignoring the merits of policy proposals in order to win elections. The following exchange occurred: "BARBER: You only want to win elections, Barney! That's what's wrong. FRANK: No. It's about making public policy. . . . BARBER: You only want to win. FRANK:

interact with the political goals of various interests. Contacts are made. Alliances are formed. At least for a time, the politician and the interest group may work hand-in-hand. Later, the interest groups will return the "favor" by showing up at a political fundraiser with a check. Whether this is a "payoff" is open to argument. Absent more evidence, it is certainly *not* an illegal bribe. The statistical relationship may be difficult or impossible to establish. No set of statistics or legal definitions can quite get rid of the queasy feeling one gets from such activity. In the Missouri legislature, the situation is exacerbated by the fact that lobbyists and not the legislature itself are generally the best source of information on pending legislation which is available to legislators.⁴⁴ Consequently, interaction with the lobbyists is not a luxury but a necessity.

For the upwardly mobile politician, that is, the politician who is interested in gaining higher office, a large campaign war chest and the "right" alliances are necessary. Because the vast majority of the money which is handed out by "interests" comes from the business sector⁴⁵, politicians are gradually forced to accede to business interests to get ahead. This is not shocking to most seasoned politicians; they are well aware that this is the way the game is played before they begin.

D. The Money-Bringers

Knowing *where* the money comes from does not paint the whole picture. The practice in Missouri is often for corporations and PACs to hire professional lobbyists to represent their interests in Jefferson City.⁴⁶ Lobbyists are at the capitol during much of the legislative session; they testify on behalf of bills which interest or affect their clients and they meet regularly with legislators to insure that their client's views are known.⁴⁷ One commonly used technique is to discuss issues with legislators over dinner and then to

We want to win to affect public policy." *Id.* at 51-52 (emphasis added).

44. See *infra* note 46 and accompanying text.

45. See *supra* note 36 and accompanying text. In Missouri, the lack of a ban on direct campaign contributions by corporations accentuates the "pro-business" atmosphere of interest giving.

46. See HARDY & DOHM, MISSOURI GOVERNMENT AND POLITICS (1985) 32. (In Missouri, lobbying at the state legislature is dominated by several large lobbying firms each of which serves several, often diverse interests. For example, in 1982 lobbyist John Britton lobbied on behalf of such diverse Missouri businesses as Anheuser-Busch, Inc., Hallmark Cards, Inc., and Famous Barr).

47. *Id.* at 29-32.

pick up the dinner tab.⁴⁸ Consequently, most lobbyists spend large sums on entertainment throughout a typical legislative session.⁴⁹

The importance of lobbyists lies not only in their ability to direct corporate and PAC money into the coffers of various office holders, but also in the role they play as "information couriers" in the state capitol.⁵⁰ The Missouri state legislature has no institutional means to provide its members with detailed, unbiased information about the rationale behind a bill or the amendments to a bill.⁵¹ Consequently, when a legislator attempts to make a decision on a particular bill, he is faced with the bare statutory language. Even lawyers experienced at reading statutory language will admit that the meaning of a bill is not always immediately apparent from that language alone.⁵² Language added or deleted in committee is indicated, but the tricky

48. *Id.* at 29 (quoting a new state senator as saying, "One of the hardest things to get used to when I first came here was not buying my own dinner.").

49. *Id.* at 31 (In 1982, lobbyists of all stripes spent a grand total of \$583,340 to influence the legislature. Of this, \$531,001 was spent by "private sector" lobbyists with the rather paltry remainder coming from agencies of the state and local government who are required under Missouri law to register as lobbyists. Fifty-one percent of all the money spent went to "entertainment"). The trend continues. *See, e.g.,* Egan & Watson, *THE STATESMAN*, supplement to *The Jefferson City News Tribune*, Jan. 1990, at 1-2. (1989 spending figures for the "top five" lobbyists in Jefferson City were as follows: John Britton & Associates: \$63,422; Gene Worn (Missouri Auto Dealers Ass'n): 36,763; John Bardgett: \$33,180; Richard E. McFadin: \$32,085; Richard C. Wiles: \$31,013).

50. HARDY & DOHM, *supra* note 46, at 30. ("[S]tate legislators generally find lobbyists useful in the information-gathering process. . . . Perhaps one Missouri legislator spoke for his colleagues as well as himself when he said, 'I use lobbyists as much as they use me.')" Egan & Watson, *Lobbyists: A Powerful Fixture in the Capitol Hallways*, *THE STATESMAN*, supplement to *The Jefferson City News Tribune*, Jan. 1990, at 2. (containing another insight into the "information power" of lobbyists at the state capitol: "Lobbyists are good providers of information, and if we were to eliminate the lobbyists that work in Jefferson City, staff would have to go up another 50 to 100 percent to provide us the same kind of information," said Senate President Jim Mathewson, D-Sedalia).

51. In contrast, Congress publishes a veritable tidal wave of information about every aspect of legislation. Bills reported out of committee are literally accompanied by a written "report" which details the hearings held on the bill and the reasons behind any changes made during mark-up. Debate on the floor of both the U.S. House and U.S. Senate is not only videotaped and broadcast live nationwide but is also available in textual form on a daily basis in the CONGRESSIONAL RECORD. No comparable avenue for the flow of information is available to inquisitive legislators in Jefferson City.

52. Only 21 of the 197 members of the 85th General Assembly (1989-90) are lawyers. R. BLUNT, *SECRETARY OF STATE, OFFICIAL MANUAL, STATE OF MISSOURI* <https://scholarship.law.missouri.edu/mlr/vol55/iss4/3>

reasons which lie behind the addition or deletion of language are not explained. Currently, the only means for a legislator to find out why a bill was rewritten is to ask a member of the committee, to go to the markup hearing (unlikely), or to rely on a lobbyist.⁵³ This is all the more insidious when one realizes that the very lobbyist upon whom the legislator must rely for this information may also be the very same lobbyist who instigated the revision. Changes to bills are likely to be described as "merely technical" or "not worth worrying about," when in fact they may be important. Even in the absence of outright deception, is it right to allow our lawmakers to rely on special interests to explain *why* a bill is or is not worded a certain way? The fact that the state does not publish information about the history or meaning of a proposed law also negatively impacts the judicial system of the state. Missouri lawyers who have searched for a legislative history behind a particular statute know well the paucity of information in this area.⁵⁴

II. WORKING TOWARD A SOLUTION: STATE CAMPAIGN FINANCE LAWS IN THE UNITED STATES

Every one of the fifty states has enacted legislation aimed at limiting the influence or at least the appearance of influence which money has in American politics.⁵⁵ Every state has at least minimal requirements for the reporting of expenditures and contributions by candidates and political committees.⁵⁶ The federal government has also enacted campaign finance legislation and easily has the most progressive laws in this area at the present time.⁵⁷ The federal law is, however, beyond the scope of this Comment.

Beyond these reporting requirements, the extent to which various state governments have regulated the political campaign process varies greatly. Some states actually provide for public funding of state political races.⁵⁸ Of those which do provide public funding, there is great variety as to which races

1989-1990 ch. 4 (1990).

53. See *supra* note 50 and accompanying text for an example of the extent to which legislators actually *do* rely on lobbyists for information.

54. The unavailability of legislative histories and the negative effect this has on Missouri's court system constitutes another reason for urging the legislature to better document its hearings and debates.

55. See Appendix I of this Comment for an exhaustive survey of state campaign finance laws.

56. *Id.*

57. See 2 U.S.C. §§ 431-456 (1982).

58. See Appendix II of this Comment for a breakdown of states according to various systems of public finance.

are funded, how extensively they are funded and how the revenues for these programs are collected.⁵⁹

Other states have declined to provide public funding and have instead relied on publication of campaign contributions as a means of informing the public.⁶⁰ Still others have placed certain limitations on the size of contributions or have prohibited contributions from corporations or labor unions or both.⁶¹ Only one state, Montana, has attempted to limit the amount a candidate for public office may receive as contributions.⁶²

A. Campaign Finance Disclosure Laws

Disclosure laws do not attempt to limit the level of influence which money plays in modern politics, but to reveal it. They do so by providing a mechanism by which the public is informed as to the extent and nature of interest funding which a politician receives. Some states accompany their campaign finance disclosure laws with limits on the size of contributions, but others do not.⁶³ Missouri's law is typical and requires regular reporting of all contributions in excess of \$100.00 and all PAC contributions received by candidates and political committees.⁶⁴ It places no limits on contributions and does not prohibit, as many state laws do, direct contributions from corporations or labor unions.⁶⁵

B. Public Financing Laws

Despite the laudable aspects of campaign finance reporting laws, many states have concluded that such laws do not go far enough. To insure better access to the political process by all members of society—regardless of income—and to relieve politicians of the necessity for relying on monetary help from interests with an axe to grind, public financing of elections has been

59. See Appendices I and II of this Comment for a summary of the campaign finance laws of all fifty states; see also U.S. FEDERAL ELECTION COMMISSION, CAMPAIGN FINANCE LAW '88 (1989) (a comprehensive survey of state campaign finance laws and regulations with helpful summary tables).

60. Missouri's statute is typical. See MO. REV. STAT. ch. 130 (Supp. 1989).

61. See Appendix II.

62. MONT. CODE ANN. § 13-37-218 (1989).

63. See Appendices I and II.

64. MO. REV. STAT. ch. 130 (Supp. 1989).

65. See Appendix II of this Comment for a survey of state laws with regard to the limitation of corporate political contributions; Missouri's law with regard to contributions places no limits on any kind of contributions other than cash contributions.

implemented. These programs provide a mechanism by which all or part of certain state political campaigns are funded with tax dollars to diminish private influence in elections. Usually, a cap is also placed on how much a candidate can spend on his campaign as well. Currently, in the United States, twenty two states and the federal government have some form of public finance for election campaigns.⁶⁶ At the state level, there are large differences among the goals of various public finance systems and, consequently, in the nature of the laws which were enacted. Public financing schemes have, however, had difficulty passing constitutional muster. Generally, these difficulties have involved the campaign spending limits imposed on candidates who accept public funding. In a landmark case involving the Federal Election Campaign Act but having repercussions for state public financing schemes as well, the United States Supreme Court decided in *Buckley v. Valeo*⁶⁷ that campaign contributions from the personal funds of the candidate could not be limited *unless* that candidate accepted public funding.⁶⁸ It is not, however, the aim of this Comment to discuss the constitutional issues involved in campaign finance law.⁶⁹

At this point, it will be useful to examine the public funding mechanisms of three states, Minnesota, Iowa, and New Jersey, to provide a useful comparison of different modes of public funding and the successes and difficulties of these differing approaches. These three states were chosen because they typify the three major approaches to the public financing problem.

66. See Appendix II.

67. 424 U.S. 1 (1976).

68. *Id.* This decision has been much criticized. See, e.g., Wright, *Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality?*, 82 COL. L. REV. 609 (1982); Wright, *Politics and the Constitution: Is Money Speech?*, 85 YALE L. J. 1001 (1976) (J. Skelly Wright was the United States Appeals Court judge whose opinion in *Buckley* allowing the spending limits established by Congress was overturned by the Supreme Court). See also *Buckley v. Valeo*, 519 F.2d 821 (D.C. Cir. 1975), *rev'd in part*, 424 U.S. 1 (1976).

69. There are many excellent articles and works on this subject. A sampling would include: Wright, *supra* note 68; Shockley, *Money in Politics: Judicial Roadblocks to Campaign Finance Reform*, 10 HAST. CONST. L. Q. 679 (1983); Claude and Kirchoff, *The 'Free Market' of Ideas, Independent Expenditures, and Influence*, 57 N. D. L. REV. 337 (1981); Polsby, *Buckley v. Valeo: The Special Nature of Political Speech*, 1976 SUP. CT. REV. 1 (1977).

C. Public Funding of Elections in Minnesota

Minnesota has one of the most broad-based and comprehensive systems of campaign finance regulations in the United States.⁷⁰ It has a sophisticated campaign reporting law,⁷¹ along with a widely accepted system for publicly financing candidates for statewide office as well as candidates for the state legislature.⁷² Consequently, the Minnesota law represents a polar opposite from states like Missouri which merely have reporting statutes and make no real effort to regulate the campaign funding process.

For the most part, the Minnesota law has escaped a potential pitfall for a public funding program which is comprehensive and attempts to fund elections down to the state legislative level. Many such programs attempt to spread too little money too far and wind up being ineffective deterrents to excessive private influence.⁷³ Hawaii, for example, has enacted public funding which extends to the local and municipal level.⁷⁴ Commentators have called it ineffective because, at the local level, the public contribution is as low as fifty dollars per candidate.⁷⁵ Rather than attempting to enact a comprehensive law as Minnesota has done, other states often opt to fund only major statewide races or to fund political parties.⁷⁶

Public financing in Minnesota is provided through a five dollar checkoff provision on both the state income tax return and on renter or homeowner property tax refund returns.⁷⁷ Joint returns allow a ten dollar checkoff.⁷⁸

70. See, e.g., U.S. FEDERAL ELECTION COMMISSION, CAMPAIGN '88, Part I, Chart 4 (1989). Only three states have a comprehensive scheme of public funding for statewide offices: Hawaii, Minnesota and Wisconsin. Hawaii's is the broadest program and funds candidates for virtually every state office include local and municipal offices. The Hawaii law, however, spreads itself too thin and suffers by allocating very small amounts of money to many races. Wisconsin's law is more similar to Minnesota's law. *Id.*

71. MINN. STAT. ANN. §§ 10A.01 (1989).

72. See *id.* §§ 10A.31-44; see also F. SORAUF, *supra* note 30, at 280 (Minnesota's public financing law has been widely utilized by candidates. In 1984, 84.3% of Democratic and 75.2% of Republican candidates accepted public financing. In 1982, the acceptance rate was even higher, with 96.9% of Democratic and 83.2% of Republican candidates taking funds).

73. See, e.g., F. SORAUF, *supra* note 30, at 279.

74. *Id.*; see also HAW. REV. STAT. § 11-217 (1989).

75. See, e.g., F. SORAUF, *supra* note 30, at 279.

76. See U.S. FEDERAL ELECTION COMMISSION, CAMPAIGN FINANCE LAW '88, Part I, Chart 4 (1989). Thirteen states publicly fund political parties; six states publicly fund all or some statewide elective offices only; only Hawaii, Minnesota and Wisconsin attempt a more comprehensive effort. *Id.*

77. MINN. STAT. ANN. § 10A.31 (West 1988).

Taxpayers may designate that their checkoff funds go to a particular political party, with such monies placed in a segregated party fund.⁷⁹ Taxpayers may also designate that their checkoff funds be placed into a general fund rather than into a party account.⁸⁰

The funds are distributed according to a rather complicated formula⁸¹ which includes provisions to insure that the monies are more or less returned to the county from which they initially came.⁸² Candidates who accept public funding are bound by expenditure limitations.⁸³ To meet the requirements of *Buckley*, Minnesota does not place spending limitations on candidates who decline to accept public funds or on the amounts which candidates themselves may contribute, whether or not they participate in public financing.⁸⁴

In recent elections, candidates in Minnesota have opted to use public financing in their campaigns. In 1982, for example, 96.9% of Democratic and 83.2% of Republican candidates accepted public monies—a much higher participation rate than in other states with broad public financing schemes.⁸⁵

78. *Id.*

79. *Id.*

80. *Id.*

81. *See id.* § 10A.31(5)-(7). Monies deposited to the general fund are allocated to candidates for the following offices: 21% for governor and lieutenant governor; 3.6% to attorney general; 1.8% each for secretary of state, state auditor and state treasurer; 23.33% for state senators and 46.66% for state representatives in years during which state senators are serving four-year terms; 35% each for state senators and state representatives in years during which state senators are serving a two-year term. *Id.* Monies in the party funds are allocated as follows: 10% for the operation of the state committee with certain limitations on its use; 14% for governor and lieutenant governor; 2.4% for attorney general; 1.2% each for secretary of state, state auditor and state treasurer; same as general fund for state senators and state representatives. *Id.*

82. *See* MINN. STAT. ANN. § 10A.31(5)(a)-(c) (West 1988) (formula is based on the aggregate number of votes cast at the last general election within a particular part of a district within a particular county for all candidates on the party's ticket divided by the number of votes cast in the entire county for all candidates on the party's ticket multiplied by the amount of money allocated from the party account to that county).

83. *Id.* § 10A.25 (the limitations are as follows: governor/lt. governor, \$600,000; attorney general, \$100,000; secretary of state, state treasurer and state auditor, \$50,000 each; state senator, \$15,000; state representative \$7,500).

84. U.S. FEDERAL ELECTION COMMISSION, CAMPAIGN FINANCE LAW '88: A SUMMARY OF STATE CAMPAIGN FINANCE LAWS WITH QUICK REFERENCE CHARTS, Part II, at MN-16 (1989).

85. *See supra* note 71; *see also* F. SORAUF, *supra* note 30, at 280.

D. Public Funding of Elections in Iowa

Unlike Minnesota, Iowa has chosen to fund *only* political parties through its system of public funding. Individual candidates do not receive funds directly from the state under the Iowa scheme. The public financing mechanism is funded through an income tax checkoff of \$1.50 with the taxpayer having the choice whether the monies will go to the Republican or Democratic parties.⁸⁶ The state maintains separate accounts for each party and contributes the monies generated plus interest to the parties on a regular basis.⁸⁷ The law gives discretion to the state central committee of each party as to how the monies will be spent.⁸⁸ The law also sets up a mechanism for the reporting of campaign expenditures and contributions by candidate and political committees and requires the state central committee to file reports regarding its use of public funds.⁸⁹

The reasoning behind Iowa's preference for funding the political parties rather than funding candidates directly is a response to another phenomenon of the campaign revolution. As candidates have increasingly grown to rely on advertising techniques and on independent political consultants to manage their campaigns, there has been a concomitant decline in the importance and power of the political party in American politics. This decline has been attributed to many factors including the loss of control over the nominating process which began with the widespread enactment of primary election laws. The Iowa law reflects an attempt to remedy this situation by returning money power to the parties. In all, nine states have chosen to funnel public funding monies through the political parties in a manner similar to Iowa.⁹⁰

86. IOWA CODE ANN. § 56.18 (West 1989) The law does not actually limit the contributions to the two major parties; however, the major effect has been to fund the Republican and Democratic parties. *See also id.* § 56.19 (provides for a mechanism by which funds are not designated by the taxpayer toward a specific party may be divided among the existing parties having accounts in the Iowa election campaign fund).

87. IOWA CODE ANN. § 56.19 (West 1989). *See also id.* § 56.22 (requires that the monies accumulated in the Iowa election campaign fund be remitted to the parties on the first day of each month).

88. IOWA CODE ANN. § 56.21 (West 1989).

89. *Id.* § 56.6 (Sets forth the requirements for campaign finance reports by candidates and political committees. Requires periodic reporting of campaign contributions received which exceed \$25.00 in most elections, but allows contributions as high as \$200.00 to go unreported for any committee of a national political party and state statutory political parties). *See also id.* § 56.23 (requires the chairmen of state political parties to "produce evidence" to the state campaign finance commission that public funds have been utilized exclusively for campaign purposes).

90. *See Appendix II.*

The "party-funding" concept has merit if the aim is to strengthen parties. There is evidence that it has strengthened the party structure in those states which have enacted this type of funding legislation.⁹¹ On the other hand, if the aim of public funding is to reduce the impact of interest money in campaigns, arguably it has not done so effectively because there is often no requirement that the funds be widely distributed by the parties to a great number of their candidates.⁹² Consequently, individual candidates are often left to fend for themselves and conduct election campaigns without any help from their publicly-funded party apparatus.⁹³ Additionally, by favoring political parties, these laws make it more difficult for third party or independent candidates to obtain access to funding and consequently serve to perpetuate the ossified and increasingly irrelevant major parties.

E. Public Funding of Elections in New Jersey

As mentioned in our discussion of the Minnesota law, New Jersey is one of only two states which seriously attempts to fund a significant portion of a candidate's campaign expenses through public funding.⁹⁴ New Jersey has chosen to do so by limiting the scope of funding to the office of Governor.⁹⁵ The funding is provided by a one dollar income tax checkoff and may be supplemented by funds from the general revenues of the state if necessary.⁹⁶ The law was enacted in 1977 in response to a campaign financing scandal associated with former Governor William Cahill.⁹⁷ It provides for extensive funding of all aspects of the gubernatorial campaign, including both the primary and general election campaigns for both major parties.⁹⁸

91. Jones, *State Public Campaign Finance: Implications for Partisan Politics*, 25 AM. J. POL. SCI. 342 (1981); see also F. SORAUF, *supra* note 30, at 76-77.

92. F. SORAUF, *supra* note 30 at 76-77.

93. *Id.*

94. The other state is Michigan. See MICH. COMP. LAWS ANN. §§ 169.261-265 (West 1989).

95. N.J. STAT. ANN. § 19:44A-27 (West 1989) ("It is the intention of this act that such financing be adequate in amount so that candidates for election to the office of Governor may conduct their campaigns free from improper influence and so that persons of limited financial means may seek election to the State's highest office.").

96. *Id.* § 54A:9-25.1 (establishes the New Jersey Gubernatorial Elections Fund); see *id.* §§ 19:44A-30 (allows for appropriations from the state's general revenues as necessary "to carry out the purposes of th[e] act").

97. Edelman, *A Reform Worth Reforming: Campaign Finance in New Jersey*, NAT'L CIVIC REV. 417 (1985) (history of the New Jersey law and a call for continuing reform).

98. *Id.* at 417-18, 423. (law was amended in 1981 to provide public funding during the primaries after more than \$5 million was spent by eleven primary

The law has succeeded in making public funding the dominant source of funding for campaigns for governor in New Jersey since its enactment in 1977.⁹⁹ In the 1985 campaign, for example, primary candidates of both parties received approximately 59% of their campaign funds through public funding; in the general election, this figure rose to 60%.¹⁰⁰ The intended effect of these large infusions of public support is to reduce the influence of interests in electoral process by reducing the marginal effect of a single campaign contribution. Other states, such as Hawaii, have been less successful in making public funding the main source of support for candidates.¹⁰¹ The Hawaii law attempts to fund a large number of races, but due to limited resources, provides only nominal support for many.¹⁰²

F. The Missouri Experience: A Call for Change

Missouri has not enacted any form of public funding for state officials. Neither has it chosen to limit contributions to political campaigns or even to rule out contributions by labor unions and corporations. Indeed, Missouri's regulations with regard to political campaigns are among the least stringent in the United States.¹⁰³ The Missouri campaign finance disclosure law, enacted in 1978, has undergone only minor reform since that date.¹⁰⁴ It is essentially a campaign reporting act and requires that all contributions in excess of \$100.00 and that all expenditures be reported to the office of the Secretary of State. Only a few proposals for a more extensive system of campaign finance regulation have been made and they have been uniformly unsuccessful. Consequently, the Missouri law has done little more than provide a useful base of information which allows public examination of campaign finance.

candidates in both parties).

99. F. SORAUF, *supra* note 30, at 281.

100. *Id.*

101. See HAW. REV. STAT. § 11-217 (1985).

102. HAW. REV. STAT. § 11-218 (1989) (provides public funding for local offices, but *requires* that such funding shall not exceed \$500.00 per candidate—hardly enough money to reduce the effectiveness of the next private dollar even in a local race).

103. See J. PALMER & E. FEIGENBAUM, CAMPAIGN FINANCE LAW 88 (1988). Missouri has extensive requirements for reporting campaign receipts and expenditures. Other than limitations on cash contributions, however, there are no limits on the amounts which may be contributed to campaigns by individuals or PACs. Corporations and labor unions, which are prohibited from making direct campaign contributions in many states may do so in Missouri. Only eleven other states have such completely wide open laws with regard to the amount which may be contributed to political campaigns.

104. MO. REV. STAT. §§ 130.011-.096 (1986 & Supp. 1989).

Missouri is the fifteenth largest state in the United States in terms of population.¹⁰⁵ It is the home of many major corporations and has a strong labor movement. As described above, politics in this state are increasingly dominated by the influence of PACs, corporations and labor unions who are able to contribute unlimited sums of money to candidates for elective office in Missouri. There is considerable evidence that this influence negatively affects representative government in Missouri. Money is a barrier to many challengers and gives incumbents the edge. Why give to someone who is *not* in the legislature and cannot help you when you can give to an incumbent. Consequently, it is beginning to seem as though our state legislators are elected "legislator for life" in the context of our modern elections. In 1988, only 77 of the 142 incumbent state representatives who stood for re-election faced a challenge.¹⁰⁶ In the same year, only 6 of the 11 incumbent state senators faced a challenge.¹⁰⁷

All of this raises serious questions regarding in whose interests the state of Missouri is being run. Again, it is difficult or impossible to "prove" that our state officials are beholden to the special interests who fund their political campaigns, but the amount of money involved leads one inevitably to believe that those interests would not be spreading dollars so thickly if they did not expect some return from them. It is worth remembering the comment of S & L king Charles Keating that the contributions he made to five U.S. Senators were made in the expectation of some sort of action on his behalf.¹⁰⁸ Such candor is rare, but revealing. Characterizing political contributions as being simply the products of corporate or organizational desires for "good government" are implausible to the point of being laughable. Contributors have every reason to want to insure that only laws favorable to them are enacted and the amount they budget for political contributions is negligible compared to the possible losses which unfavorable legislation could bring. Never mind the overall public interest. They do not care about it.

In order to create an atmosphere in which our public officials can be trusted to act in the public interest, Missouri should enact some form of public financing for political campaigns and the legislature should also act to improve the flow of information within the legislature regarding pending legislation. The experience of states like New Jersey suggests that a public

105. COUNCIL OF STATE GOVERNMENTS, *THE BOOK OF THE STATES, 1986-1987* 467 (1986).

106. R. BLUNT, SECRETARY OF STATE, 1988 MISSOURI ANNUAL CAMPAIGN FINANCE REPORT 134-60 (1989).

107. *Id.* at 131-33.

108. M. Carlon, *Money Talks: Interview with Charles Keating*, Time, Apr. 1990, at 18 (Keating's oft-quoted reply to a reporter's question whether Keating intended his contributions to five United States senators to influence them: "I certainly hope so.").

funding program might work best if limited to major state races. Such a limitation would allow the level of public funding to be a significant portion of a statewide candidate's campaign budget. Limits should be placed on campaign spending for those who choose to accept the funding. As for the state legislature, Missouri faces a special difficulty; namely, it has one of the largest state legislatures in the United States.¹⁰⁹ The sheer number of office holders in the legislature may mean that publicly funding all of these campaigns is beyond the means of a program funded by the traditional income tax checkoff method. One solution would be public funding for the major statewide officials combined with funding for the state political parties with incentives or requirements for the parties to pass some of the money back to their candidates for the state legislature. The political parties may be better able to target and use such monies more effectively and increase competition for office where it is currently absent.

G. Summary of Recent Missouri Legislation

The 1990 legislative session in Missouri saw the introduction of two bills in the state senate dealing with the public finance of political campaigns in Missouri.¹¹⁰ At this writing, it is impossible to say what the final legislative outcome will be, but the political and fiscal climate in the legislature will no doubt give these bills considerable difficulty. Both bills introduced this year provide income tax checkoff funding and public funding for some or all Missouri statewide officials.¹¹¹

1. Senate Bill 474

This bill, introduced by Senator John Schneider of St. Louis County, would create a "Campaign Trust Fund" funded through a two dollar income tax checkoff similar to the federal income tax checkoff.¹¹² Beginning in 1992, the funds accumulated in that fund would be distributed every four years to all statewide officials and every two years to candidates for the state

109. See COUNCIL OF STATE GOVERNMENTS, *supra* note 107, at 87 (Missouri's legislature, with 197 members, is the seventh largest in the nation. Only New Hampshire, Pennsylvania, Georgia, Minnesota, Massachusetts and New York have larger bodies).

110. S. 474, 85th Gen. Assembly, 2d Sess. (1990) (introduced by Senator John Schneider); S. 655, 85th Gen. Assembly, 2d Sess. (1990) (introduced by Senator Jay Nixon).

111. See *supra* note 110.

112. S. 474, 85th Gen. Assembly, 2d Sess., § 2 (1990).

legislature who have opposition.¹¹³ Candidates for each office would receive a certain share of the funds¹¹⁴ for use in the general election only.¹¹⁵ To meet the *Buckley* requirements, participation in the public financing program would be optional.¹¹⁶ Candidates who do choose to participate will be subject to spending limits.¹¹⁷

2. Senate Bill 655

This bill is similar to S.B. 474 in that it provides for the establishment of a state campaign trust fueled through a two dollar income tax checkoff, but differs mainly in that it is a matching funds scheme rather than a direct funding scheme and in that it funds only statewide officials.¹¹⁸ The bill is also similar to S.B. 474 in that it funds only general election candidates.¹¹⁹ Again, to meet the strictures of *Buckley*, candidates are not required to accept funding.¹²⁰ Candidates who are primary winners may receive matching funds and must indicate their eligibility to do so by filing regular reports as to private funds received as contributions.¹²¹ Only contributions of \$250 or less may be matched by state funds.¹²² Candidates who accept public funding are limited as to the amount they may spend on their campaign.¹²³

113. *Id.* § 3.

114. *Id.* §§ 2-3 (funds would be distributed as follows: governor, \$600,000; lieutenant governor, secretary of state, state treasurer, attorney general and state auditor, \$200,000 each; state representative, \$3,000; state senator, \$9,000).

115. *Id.* § 4.

116. *Id.*

117. *Id.* §§ 5-7. All candidates for any office will be prohibited from accepting contributions in excess of \$5,000 per calendar year. Candidates for governor would be subject to an aggregate general election spending limit of \$1.5 million; candidates for other statewide offices would be limited to spending \$350,000 in the general election; state senate candidates would be limited to \$50,000; candidates for the state House of Representatives could spend only \$15,000. *Id.*

118. S. 655, 85th Gen. Assembly, 2d Sess., § 3 (1990).

119. *Id.* § 4.

120. *Id.* § 3(1).

121. *Id.* § 4. The funds are allocated to each of the statewide offices and to political parties according to the following formula: governor, 20%; 14% each to the offices of lt. governor, state treasurer, state auditor, secretary of state and attorney general; 10% of the fund is allocated to state political parties. *Id.* § 4(1).

122. S. 655, 85th Gen. Assembly, 2d Sess., § 4(2) (1990).

123. *Id.* § 5 (the limitations are as follows: governor, \$1 per vote in the last gubernatorial election; all other statewide officials are limited to spending 50 cents per voter in the last gubernatorial election).

Although S.B. 655 does not fund candidates for the state legislature, it does allocate a certain amount of funding to state political parties.¹²⁴

III. CONCLUSION

Missouri should adopt a system to finance publicly elections in the state which, at a minimum, will dilute the influence of interest money at the statewide level and, at a maximum, would have some effect all the way down to the level of the local state legislator.

S.B. 474, introduced this year in the legislature, is a step in the right direction. There are, however, difficulties. Missouri has experienced a tight budget for several years and the costs of public financing are noteworthy. These costs are compounded by Missouri's exceptionally large legislature. Any program such as S.B. 474 which attempts to fund legislative elections as well as statewide elections may incur considerable costs. On the other hand, Minnesota has had a successful program for many years and has a legislature larger than Missouri's.¹²⁵

S.B. 655 represents what is probably a cheaper and less effective method. This method should be cheaper since it is only a matching fund provision. On the other hand, the bill allows for higher spending limits during the election than does S.B.474. It is, however, certainly less effective in reducing or eliminating the role of interest money because, by definition, the level of public funds as a portion of total campaign spending can never exceed fifty percent. Also, the bill does nothing to change the situation in the legislature, where the need for reform is most dire.

The General Assembly should also take steps to do whatever is necessary to place the information flow in the legislature more firmly in public hands. Accurate, unbiased information is critical to honest and competent lawmaking. It is simply too important to risk leaving the flow of information in private hands. Specifically, legislative committees should adopt written reports with regard to their hearings and mark-up sessions in order to explain the nature of interests involved in drafting a bill and to allow legislators to make up their own mind.

Like the rest of us, private interests have every right to express their views to the legislature and to our other elected officials. They have every right to support candidates for public office. Economic power and the ability to contribute large sums to political candidates, however, should not give these interests superior rights or a superior voice when compared to other citizens. As things currently stand in Missouri, the individual is outvoted by the

124. *Id.* § 4 (10% of the total funds are to be allocated to state political parties).

125. COUNCIL OF STATE GOVERNMENTS, *supra* note 103, at 87 (Missouri has 197 legislators; Minnesota has 201).

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interests. This situation is dangerous and undemocratic. It must be changed.

THOMAS P. DVORAK

APPENDIX I

STATE STATUTES DEALING WITH CAMPAIGN FINANCE¹²⁶

Alabama - ALA. CODE §§ 17-22A-1 to -22A-23 (1989) (The Fair Campaign Practices Act; establishes campaign reporting and filing procedures, outlaws corrupt election practices, and sets forth penalties for failing to meet those restrictions).

Alabama - ALA. CODE § 40-18-146 (1989) (Public funding for political parties. The law establishes a taxpayer surcharge of one dollar which allows taxpayers to add one dollar to their liability and designate that it be contributed to a particular political party).

Alaska - ALASKA STAT. §§ 15.13.010-.13.130 (1989) (State Election Campaigns law; creates an Alaska Public Offices Commission to oversee campaign reporting activities; requires reporting contributions and expenditures by candidates and committees).

Arizona - ARIZ. REV. STAT. ANN. §§ 16-901 to -924 (West 1989) (Campaign Contributions and Expenditures law; sets out requirements for the organization of a campaign committee; requires reporting of campaign contributions in excess of \$25.00 and all campaign expenses to the state officer with whom the candidate had to file for office (that is, county clerk or Secretary of State); prohibits contributions by corporations or labor unions directly; sets limitations on the size of contributions which may be accepted by candidates for various offices).

Arkansas - ARK. STAT. ANN. §§ 7-6-201 to -214 (1989) (Campaign Financing law; limits contributions by individuals, firms, unions, etc., to \$1,500.00 per election and to \$2,500.00 per election for political parties; prohibits cash and anonymous contributions only if in excess of \$100.00; provides for the filing of campaign finance reports with the Arkansas Secretary of State; allows local candidates to file with the County Clerk).

California - CALIF. CODE ANN. § 84300 (West 1989) (Requires reporting of campaign contributions and expenditures by any official seeking an office which pays \$100 or more per month; contributions may be of any size with certain limitations on cash contributions and contributions by government employees; direct contributions by corporations and labor unions are permitted; political parties are publicly funded through a tax surcharge and matching funds from the state; taxpayers may choose a \$1, \$5, \$10, or \$25

126. For a detailed compilation of state campaign finance laws, see U.S. FEDERAL ELECTION COMMISSION, CAMPAIGN FINANCE LAW '88 (1989).
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surcharge and may designate that the money go to any of several "qualified" political parties).

Colorado - COLO. REV. STAT. §§ 1-45-101 to -45-121 (1989) (Campaign Reform Act of 1974; Requires reporting of campaign contributions and expenditures to the secretary of state or the county clerk or recorder; places certain restrictions on the expenditure of campaign funds).

Connecticut - CONN. GEN. STAT. ANN. §§ 9-333 to -347 (1989) (Campaign Financing law; requires reporting of campaign expenditures and contributions with the secretary of state or with the town clerk; sets regulations for the establishment of political campaign committees and for their expenditures; prohibits direct contributions to political campaigns by business entities and places limits on the size of contributions by political committees organized by a business entity; regulates advertising methods and prohibits certain corrupt campaign practices).

Delaware - DEL. CODE ANN. tit. 15, §§ 8001-8013 (1989) (Campaign Financing and Disclosure Act; Requires reporting to the State Election Commissioner of membership, contributions and expenditures by political committees).

Florida - FLA. STAT. ANN. § 106.08 (1989) (Requires reporting by candidates, independent committees, political parties and persons making independent expenditures of \$100 or more; places \$3,000, \$2,000, \$1,000 limitations on contributions to statewide, judicial, and all other candidates respectively, and places a \$100 limit on cash contributions; prohibits the personal use of excess campaign funds following an election and provides for certain sanctioned uses of those funds following an election; public funding of candidates for governor and lieutenant governor is provided by direct appropriation from the state legislature—no income tax checkoff or surcharge; candidates for governor and lieutenant governor who accept public funds may expend no more than 75 cents multiplied by the number of votes in the last contested election for governor and lieutenant governor).

Georgia - GA. CODE ANN. §§ 40-3801 to -3820 (Michie 1989) (Ethics in Government Act; creates a State Ethics Commission empowered to collect campaign reporting data and to investigate and prosecute alleged violations of the Act; sets forth specific requirements for the reporting of such data by campaign committees).

Hawaii - HAW. REV. STAT. §§ 11-191 to -227 (1989) (Elections law; creates a Campaign Spending Commission, appoints the lieutenant governor as the chief election officer of the state and divides responsibilities between the two; sets forth the general requirements for the filing of campaign finance reports by committees and candidates; regulates the number of fundraisers which a candidate may hold prior to the election and requires advance reporting of intent to hold a fundraiser; exempts certain fundraiser expenses from being counted as campaign expenditures; limits contributions by persons or entities other than political parties to an aggregate of \$2,000.00 per

election; allows a candidate to voluntarily limit campaign expenditures to specified amounts based on the office sought and the number of voters at the last election). HAW. REV. STAT. § 11-217 (1989) (Creates a Hawaii Election Campaign Fund with revenues derived from an income tax checkoff; allows public funding of candidates for governor, lieutenant governor and mayor at the rate of one-fifth of the expenditure limit for that office; allows funding for lesser local offices but stipulates that such funding not exceed \$100.00).

Idaho - IDAHO CODE §§ 67-6601 to -6628 (1989) (Election Campaign Contributions and Expenditures law; passed by initiative process at general election on November 5, 1974; requires appointment of a campaign treasurer and provides for that treasurer to make reports of contributions in excess of \$50.00 and expenditures in excess of \$25.00 to the Secretary of State; also requires reporting by lobbyists); IDAHO CODE § 35-2503(a)-(c) (1989) (Creates a one dollar income tax checkoff to fund political parties; taxpayers may designate which party is to receive the funds and where no designation is made the funds accrue to a general campaign fund account; parties receive all designated funds and a portion of the general fund which is distributed according to number of votes received by that party at the last gubernatorial election).

Illinois - ILL. ANN. STAT. ch. 46 paras. 9-1 to -27 (Smith-Hurd 1989) (Disclosure of Campaign Contributions and Expenditures law; requires reporting of each contribution in excess of \$20.00 and proof of payment for all expenditures in excess of \$20.00; annual reporting to the State Board of Elections and in certain cases to the county clerk is required; complaints regarding alleged violations may be filed with the Board of Elections).

Indiana - IND. CODE ANN. §§ 3-9-2-1 to -2-10 (Burns 1989) (Campaign Contributions law; Specifically allows corporations and labor unions to contribute directly to election campaigns; however, limits those contributions to an aggregate of five thousand dollars per year for candidates for statewide office—other limits apply for different offices). IND. CODE ANN. §§ 3-9-4-1 to -6-5 (Burns 1989) (Campaign reporting law; requires reports by candidates and political committees to the state election board on an annual basis; sets forth time and method of reporting for various committees). IND. CODE ANN. § 9-7-5.5-8(a) (1989) (This rather unusual statute allows for the public funding of political parties in Indiana by means of revenues garnered by the state through the sale of personalized vehicle license plates. These funds are distributed equally to all political parties in Indiana which received at least five percent of the total vote of the state in the last general election for governor).

Iowa - IOWA CODE ANN. §§ 56.1-.30 (West 1989) (Campaign Disclosure Income Tax Checkoff Act; creates a campaign finance disclosure commission for receipt of reports and disbursement of public financing; generally requires reporting of all contributions received which are in excess of \$25.00, however, larger contributions are allowed in campaigns for certain offices; allows any

person who has a state income tax liability in excess of \$1.50 to direct that \$1.50 be paid into the Iowa election campaign fund by method of an income tax checkoff; any candidate for public office may apply to the Iowa election campaign fund for public funding but that funding is funneled through the state central committee of the candidate's political party which shall have discretion in the amount awarded; use of the public funds in a primary election is prohibited).

Kansas - KAN. STAT. ANN. §§ 25-41 (1989) (Requires reporting of all contributions and expenditures by candidates, political committees, party committees, and persons making independent expenditures; contributions and expenditures over \$50 must be itemized; contributions are limited to \$3,000 per statewide candidate per election and \$750 per candidate for election to state house and senate seats; the same limitations apply to direct contributions by corporations and labor unions).

Kentucky - KY. REV. STAT. ANN. §§ 121.010-.310 (Baldwin 1989) (Campaign Finance Regulation law; creates an independent agency known as the Kentucky Registry of Election Finance to accept reports and to enforce the campaign reporting laws; allows persons to act make "independent expenditures" on behalf of the election of a candidate but requires reporting of such expenditures in excess of \$100.00 made by any such individual; limits contributions to candidates to \$3,000.00 in any one election; requires reporting by all candidates and committees of any contributions in excess of \$100.00; prohibits direct contributions by corporations). KY. REV. STAT. ANN. § 121.230 (1989) (Public funding of political parties established through \$2.00 income tax checkoff; taxpayers may designate which party shall receive the funds; fifty cents of each designation is appropriated to the local political committee of the party designated in the taxpayers home county; the remaining \$1.50 goes to the maintenance of the state party headquarters).

Louisiana - LA. REV. STAT. ANN. §§ 18:1481-:1532 (West 1989) (Campaign Finance Disclosure Act; requires registration and regular reporting by political and candidate committees; places limits for contributions which vary according to the office sought).

Maine - ME. REV. STAT. ANN. tit. 21-A, §§ 1001-1020 (1989) (Campaign Reports and Finances; placed limits on contributions and requires reporting of contributions and expenditures). ME. REV. STAT. ANN. tit. 36, § 5283 (1989) (Allows for public funding of political parties by allowing taxpayers who are entitled to tax refunds to designate that \$1, \$5, \$10 or another amount be taken from the refund and given to a political party designated by the taxpayer. Taxpayers who do not receive refunds may add to their tax liability for the same purpose).

Maryland - MD. ELECTION CODE ANN. § 26-8 (1989) (Requires reporting by all candidates who receive contributions in excess of \$300 and all political committees, parties and slates of all campaign contributions and expenditures; contributions are limited to a maximum of \$2,500 per election

and \$1,000 per candidate per election; same limitations apply to corporations and labor unions; publicly-financed candidates for governor/lieutenant governor are limited to expenditures not in excess of 20 cents per qualified voter). MD. ELECTION CODE ANN. § 31-3 (1989) (Provides for a publicly-financed campaign for the ticket of governor and lieutenant governor in 1990; the funds are directly appropriated and there is no income tax checkoff or surcharge; the system is a matching funds system—the state funds 50% of the campaign for governor/lt. governor in both the primary and general elections; to be eligible to receive matching funds, candidates must raise 15% of the expenditure limit (see above) for the race in private donations of \$250 or less).

Massachusetts - MASS. GEN. LAWS ANN. ch. 55A §§ 1-12 (West 1989) (Limited Public Financing of Campaigns for Statewide Elective Office; creates a state campaign finance election fund which publicly finances statewide races for Governor, Lieutenant Governor, Attorney General, Secretary, Treasurer and Receiver General, and Auditor; applies to primary elections as well as to general elections; requires candidates to file a bond before they are allowed to receive public financing).

Michigan - MICH. COMP. LAWS ANN. §§ 169.201-.282 (West 1989) (Michigan Campaign Finance Act; limits cash contributions to \$20.00 and cash expenditures to \$50.00 and outlaws anonymous contributions; prohibits contributions from corporations; creates a state campaign fund with revenues from a \$2.00 income tax checkoff; candidates are entitled to receive \$2.00 in public financing for every \$1.00 received in contributions once they have received five percent of their spending limit in regular contributions).

Minnesota - MINN. STAT. ANN. §§ 10A.30-.34 (West 1989) (Campaign Financing law; Provides for a broad system of public finance for campaigns for statewide offices as well as campaigns for the state legislature; funded through a \$5 income tax checkoff provision; distributed to individual candidates, independent candidates and to political parties if designated by the taxpayer according to a formula which also allows for the return of campaign funds to the areas from which they were collected as taxes). MINN. STAT. ANN. § 10A.01 (West 1989) (Fair Campaign Practices law; Requires reporting of all contributions and expenditures by candidates, party and political committees and persons making independent expenditures in excess of \$100; provides for large contribution limits ranging from \$60,000 in an election year for candidates for governor/lt. governor to \$750 in an election year for candidates for state representative; places limitations on spending by candidates with amounts varying according to office and ranging from \$600,000 per election for governor/lt. governor to \$3,750 per election for state representative candidates).

Mississippi - MISS. CODE ANN. §§ 23-15-801 to -813 (1989) (Requires itemization and reporting of all contributions and expenditures which exceed \$500 for statewide officials and \$200 for local offices by candidates and

political committees; limits contributions by corporations, banks, and savings and loan associations to \$1,000 per candidate per election).

Montana - MONT. CODE ANN. §§ 13-37-101 to -37-308 (1989) (Control of Campaign Practices and The Public Campaign Fund Act; creates a commissioner of campaign practices to monitor campaign activity; requires reporting by campaigns and political committees; places limits on contributions; provides for public financing of campaigns funded by taxpayer donation through a one dollar surcharge; acceptance of public funding is voluntary and limited to certain statewide races).

Nebraska - NEB. REV. STAT. §§ 49-1401 to -14,139 (1989) (Nebraska Political Accountability and Disclosure Act; broad act dealing with campaign finance reporting, conflict of interest limitations, lobbying and general campaign practices; requires periodic filing regarding contributions and expenditure).

Nevada - NEV. REV. STAT. ANN. §§ 294A.002-.080 (Michie 1989) (Campaign Practices law; requires all candidates for office in Nevada to file regular reports with the secretary of state detailing the source of their contributions and listing expenditures).

New Hampshire - N.H. REV. STAT. ANN. §§ 664:1-:22 (1989) (Requires the registration of all political committees; prohibits contributions from corporations, partnerships, labor unions; places a \$5,000.00 limitation on contributions by individuals; provides for regular reporting by committees of all receipts which exceed \$25.00 and all expenditures).

New Jersey - N.J. STAT. ANN. §§ 19:44A-1 to -44 (West 1989) (Campaign Contributions and Expenditures Reporting Act; creates a commission to oversee campaign conduct in New Jersey; provides for regular reporting by political committees of contributions and expenditures; provides for the public financing of gubernatorial campaigns; funding comes from a combination of a one dollar income tax checkoff and direct appropriations from state funds).

New Mexico - N.M. STAT. ANN. §§ 1-19-25 to -37 (1989) (Campaign Reporting Act; sets forth regular reporting procedures for candidates and political committees who expect to receive contributions in excess of \$500; places no limitations on contributions).

New York - N.Y. ELECT. LAW §§ 14-100 to -128 (McKinney 1988) (Campaign receipts and expenditures regulation; requires regular reporting of all campaign contributions and expenditures; limits aggregate contributions to \$150,000 per calendar year by individuals; limits aggregate contributions by corporations to \$5,000 per calendar year; no limits on labor unions contributions).

North Carolina - N.C. GEN. STAT. §§ 163-278.6 to -278.40I (1989) (Campaign reporting act; requires reporting of political contributions and expenditures; places certain dollar limits on political contributions). N.C. GEN. STAT. §§ 163-278.41 to -278.45 (1989) (Public Financing law; creates

the North Carolina Election Campaign Fund; allows chairmen of the state central committees of parties to obtain funds from the Election Campaign Fund and sets certain requirements for the manner in which the parties disburse those funds; requires each state party to make an annual report regarding the expenditure of such public funds).

North Dakota - N.D. CENT. CODE §§ 16.1-08-01 to -04 (1989) (Prohibits direct contributions to campaigns from corporations, cooperative corporations, and associations; requires reporting by candidates as to all contributions in excess of \$100.00).

Ohio - OHIO REV. CODE ANN. § 3517.08 (1989) (Campaign Expenditures; requires a statement of contributions and expenditures to be filed by campaign committees, PACs, and political parties). OHIO REV. CODE ANN. §§ 3517.16-.18 (1989) (Public funds are divided equally among "major parties" from a fund created by a one dollar income tax checkoff; parties are required to allocate one half of the funds to the state party organization and one half to local party organizations).

Oklahoma - OKLA. STAT. ANN. tit. 74, §§ 4200-4248 (West 1989) (Oklahoma Ethics Commission Act; creates the Oklahoma Ethics Commission which is given broad authority to monitor campaign and lobbying activities; prohibits corporate contributions and requires regular reporting by candidates and political committees; limits individual contributions to \$5,000.00; allows contributors to take a deduction from their state income tax liability of the amount of their contribution so long as the amount deducted does not exceed \$100.00).

Oregon - OR. REV. STAT. §§ 260.005-.995 (1989) (Campaign Finance Regulations; requires regular reporting of contributions and expenditures by campaign committees and other political committees; provides for a political contribution income tax checkoff with the revenues to be given to the state central committees of the political parties; provides various enforcement mechanisms).

Pennsylvania - 25 PA. CONS. STAT. ANN. §§ 3241-3260b (Purdon 1989) (Elections law; requires reporting to the Secretary of the Commonwealth by all committees which receive over \$250.00 in contributions; all contributions in excess of \$50.00 must be reported and all expenditures; allows exception for candidates who file an affidavit stating they do not intend to raise and spend over \$250.00; prohibits contributions from national or state banks or corporations).

Rhode Island - R.I. GEN. LAWS §§ 17-25-1 to -29 (1989) (Rhode Island Campaign Contributions and Expenditures Reporting Act; requires reporting of all contributions received which are in excess of \$200.00; limits contributions to \$2,000.00 per calendar year; allows for public financing for candidates for governor of Rhode Island through a matching funds system—state contributions will follow private contributions on a one-to-one basis; the campaign fund is generated by an income tax credit [see R.I. GEN. LAWS §

44-30-2(e) (1989)]; appropriations from the state's general fund are authorized should the tax credit fail to generate sufficient funds).

South Carolina - S.C. CODE ANN. §§ 8-13-10 to -13-140 (Law. Co-op 1989) (Requires reporting of contribution and expenditure information and itemization of contributions in excess of \$100 by candidates, committees or political parties).

South Dakota - S.D. CODIFIED LAWS ANN. §§ 12-25-1 to -34 (1989) (Campaign Financing; makes contribution of more than \$1,000.00 to a statewide candidate's political fund a misdemeanor; likewise limits contributions to candidates for the assembly or for county offices to \$250.00; \$3,000.00 is the maximum contribution to a political party; requires reporting of contributions and expenditures by most candidates ten days prior to election day).

Tennessee - TENN. CODE ANN. §§ 2-10-101 to -10-111 (1989) (Campaign Financial Disclosure Act of 1980; requires periodic filing of a campaign report by all candidates and political committees detailing receipts and expenditures). TENN. CODE ANN. §§ 2-10-201 to -10-209 (1989) (Establishes the Tennessee Registry of Election Finance; the registry is given power to administer the campaign disclosure act and to promulgate rules, make investigations and issue opinions with regard to it).

Texas - TEX. ELECT. CODE ANN. §§ 251.001-.019 (Vernon 1989) (Political Funds and Campaigns; prohibits members of the Texas legislature and state officials from accepting campaign contributions while the legislature is in session; prohibits contributions by corporations and labor unions except where made to support or defeat a ballot measure; requires periodic reporting of all contributions received in excess of \$50.00 and all expenditures in excess of \$50.00; contains other provisions regarding campaign reporting and relating to the conduct of political campaigns).

Utah - UTAH CODE ANN. §§ 20-14a-1 to -6 (1989) (Political Action Disclosure Act; requires PACs to file with the lieutenant governor and to report all contributions in excess of \$150.00; requires similar reports from corporations who make contributions). UTAH CODE ANN. § 59-10-547 (1989) (Creates a public election campaign fund from the proceeds of sales and use taxes transferred from the general tax fund according to the number of income tax payers who mark a tax checkoff block on their income tax return; the tax return also provides a way for taxpayers to indicate which "qualified" political party they wish to contribute to).

Vermont - VT. STAT. ANN. tit. 17, §§ 2801-2832 (1989) (Requires reporting of all contributions received which exceed \$50.00, the aggregate of all contributions received which are less than \$50.00, and all expenditures; limits contributions to candidates and committees from individuals to \$1,000.00 and contributions from committees to \$5,000.00).

Virginia - VA. CODE ANN. §§ 24.1-251 to -263 (1989) (Fair Election Practices Act; requires reporting of all contributions in excess of \$100.00 and

of all expenditures). VA. CODE ANN. § 58.1-346 (1989) (Allows all taxpayers eligible to receive an income tax refund to designate that two dollars of his or her refund be paid to the state central committee of the political party of his or her choice—in short, an income tax surcharge funds the parties).

Washington - WASH. REV. CODE ANN. §§ 42.17.010-135 (1989) (Requires reporting all contributions in excess of \$25.00 and of all expenditures; special provision allowed for proceeds of qualifying political fundraisers).

West Virginia - W. VA. CODE §§ 3-8-1 to -133 (1989) (Regulation and Control of Elections; requires reporting of contributions and expenditures; prohibits corporate contributions in most circumstances; limits individual and labor union contributions to \$1,000 per candidate per election).

Wisconsin - WIS. STAT. ANN. §§ 11.001-.67 (West 1989) (Campaign Financing law; requires registration of political committees and periodic reports detailing all contributions received in excess of \$20.00 and showing all expenditures; creates the Wisconsin Election Campaign Fund and authorizes candidates for statewide executive and judicial and state legislative office to participate in the fund; the funds accrue from a one dollar income tax checkoff and are distributed to any eligible candidate according to a formula).

Wyoming - WYO. STAT. §§ 22-25-101 to -115 (1989) (Campaign Practices law; limits contributions to candidates by individuals to \$1,000.00 in a two-year period; also limits total contributions by an individual of a political nature to \$25,000.00; requires candidates to file a statement of receipts and expenditures within ten days following the primary or general election; prohibits corporate contributions).

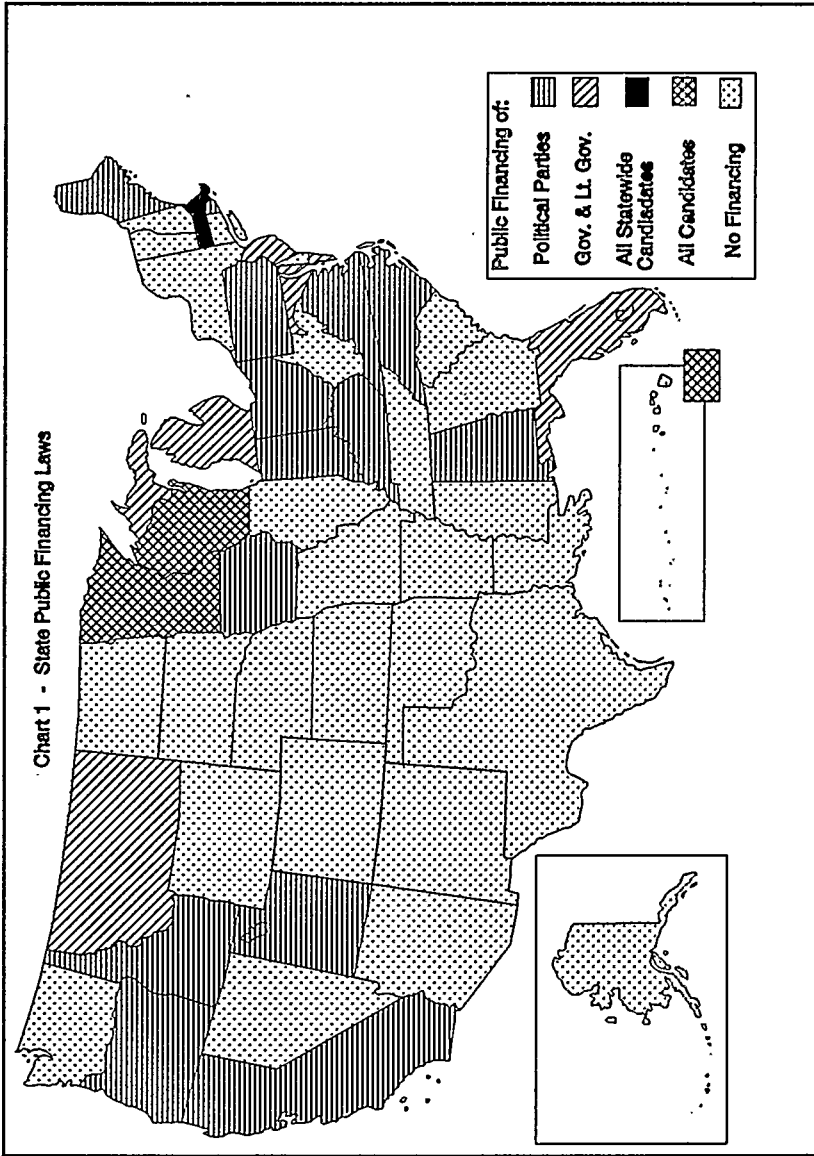


Chart 2 - Limitations on Direct Contributions by Labor Unions

