

Transparency in North Dakota Campaign Financing: An Examination of Campaign Contributions to Statewide Candidate Committees, Political Action Committees, Multi-Candidate Political Committees, and State Political Parties, 2009-2014.

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Introduction

The debate over campaign financing laws typically focuses upon the regulation of financial contributions to candidates and their associated campaign committees. One perspective, most forcefully articulated in the U.S. Supreme Court decision *Citizens United v Federal Election Committee* (2010), asserts that campaign contributions are a form of free speech and, therefore, should be largely unrestricted unless the government can demonstrate a compelling reason for doing otherwise. Conversely, supporters of strong laws argue that the wealthiest groups will be able to dominate the electoral process without meaningful restrictions on campaign contributions. Such domination will result in government policies that reflect the concerns of those wealthiest groups rather than the general public.

Often ignored in this debate is the issue of transparency. Transparency can be defined as the ability of citizens to examine, in a timely fashion, both the size and sources of campaign contributions. Armed with such knowledge, citizens can: 1) determine whether or not the relationship implied by a particular contribution is indicative of corruption or some untoward influence; 2) judge whether financial contributions by interest groups is an endorsement of a specific candidate or cause; 3) better understand the ways in which money flows to the campaigns of some candidates and not to others; and, 4) determine whether elections are unfairly weighted in support of a particular type of candidate or ideology. Thus, transparency enhances the overall legitimacy of an electoral system.

In the United States, the individual states oversee and regulate much of the electoral process. However, as a result of differences in history and political culture, states take a variety of approaches to transparency.ⁱ Some states, such as Florida and Wyoming, make all candidates and campaign committees file campaign-finance disclosure forms no matter how much money they raise. Other states compel candidates and campaign committees to file disclosure forms only after they've received a specific amount of money, typically \$1,000 or more. The required information also varies considerably: some states, such as Maryland and New Mexico, make campaign committees report the sources of all contributions, no matter how small those amounts may be. However, most states require full reporting on individual contributions only if exceed a certain level, ranging from \$20 in Colorado to \$300 in New Jersey.

In North Dakota, all campaign committees must file campaign-finance disclosure forms with the Secretary of State. In addition, campaign committees must report the names of people and organizations who've contributed more than \$200. However, these committees do not have to give the names of those contributing \$200 or less. Instead, they are only obliged to report the aggregate total of such contributions to the Secretary of State.

The North Dakota approach to campaign transparency is notable for three reasons. First, North Dakota's \$200 threshold is on the high end when compared to other states. Second, the cost of running a campaign in North Dakota is considerably less expensive than in other states. Indeed, the Center for Responsive Government ranked North Dakota at 49th nationwide in terms of total contributions for the 2013-2014

electoral cycle.ⁱⁱ Consequently, a \$200 contribution is a meaningful amount for North Dakota candidates.

Finally, there have been questions regarding the appropriateness of candidates receiving contributions from those they will regulate if they win election. For example, candidates for the state's Public Service Commission have been criticized for accepting contributions from people and political action committees associated with coal and oil companies.ⁱⁱⁱ Whether such contributions are proper remains up for debate. However, one needs to know the extent of such contributions before any judgement can be reached. A fair debate is impossible if the sources of a sizable portion of campaign funding remains hidden.

This study provides a sense of the transparency in North Dakota elections through an examination of campaign finance reports on the Secretary of State's webpage from 2009 to 2014.^{iv} Specifically, it quantifies the extent to which statewide campaign committees, political action committees, multi-candidate political committees, and state political parties relied on contributions of \$200 or less for funding during this period. As something of a contrast, the study also gives the extent to which statewide measure committees relied on contributions of \$100 or less. Finally, the study provides examples of certain practices and notes important outliers.

This study was carried out under the auspices of the Upper Midwest Center on Public Policy at North Dakota State University.

Results and Analysis

State law regarding campaign contribution statements are found in Chapter 16.1-08.1 of the North Dakota Century Code.^v Federal elections are not included in this study since candidates answer to federal campaign finance laws. The data used in the analysis can be found on the Upper Midwest Center on Public Policy webpage.^{vi}

Statewide Candidates

People running for statewide office in North Dakota are required to establish candidate committees. These committees must register with the Secretary of State's office within 15 days of receiving contributions or making expenditures. Registration includes: committee information (committee name, telephone number, and address); candidate information (name, party affiliation, and office sought); and information about the committee's principal agent.

Candidate committees must report: cash on hand at the beginning and end of the designated reporting periods; all individual contributions greater than \$200; and total contributions of \$200 or less. Committees must also provide the names and addresses of those contributing amounts greater than \$200 but less than \$5,000. In addition, committees must provide the names, addresses, occupations, and employers for those making contributions of \$5,000 or more. However, committees do not have to give the names and address of those contributing \$200 or less.

Table 1 presents the total contributions made to statewide candidate committees from 2009 to 2014, as well as the percent of total contributions \$200 or less. As should be expected, total contributions fluctuate according by whether it is an election year as

well as the competitiveness of those elections. The percent of total contributions derived through contributions of \$200 or less ranged from a low of 9.71% in 2013 to a high of 28.96% in 2012. In a typical year, statewide candidate committees do not have to report the sources of more than one-fifth of the contributions they receive.

Table 1: Statewide Candidate Committee Contributions, 2009-2014

	Percent of Total Contributions \$200 or Less	Total Contributions
2009 Year End Reports (N=18)	21.73%	\$243,030.53
2010 Year End Reports (N=24)	24.58%	\$1,378,929.22
2011 Year End Reports (N=20)	18.73%	\$125,323.39
2012 Year End Reports (N=29)	28.96%	\$1,385,917.48
2013 Year End Reports (N=19)	9.71%	\$571,676.99
2014 Year End Reports (N=25)	22.63%	\$1,968,011.62

North Dakota Secretary of State, 2009-2014

Reliance upon contributions of \$200 or less varies considerable by individual campaign committee and office sought. For example, the candidate committees for people running for the Public Service Commission (PSC) raised \$1,390,096.62 in contributions between 2009 and 2014. Of that, \$405,246.05 came in amounts of \$200

or less, or 29.15%. Furthermore, the campaign committee in support of Brad Crabtree raised the most during this time at \$379,816.94, with 28.22% from contributions of \$200 or less. The committee in support of Julie Fedorchak was second at \$236,611, with 21.79% coming through contributions of \$200 or less. The committee in support of Brian Kalk was third at \$236,611.50, with 36.03% from contributions of \$200 or less.

Political Action Committees

A political action committee (PAC) is an organization formed to solicit contributions and make expenditures for political purposes. While North Dakota law prohibits corporations from making direct contributions to candidate committees, they can give money to political action committees for dispersal. PACs must register with the Secretary of State and report contributions and expenditures. However, like candidate committees, PACs do not have to provide the names and address of those who gave them \$200 or less. In addition, PACS do not have report the names of candidate to whom they donate \$200 or less. Instead, the aggregate totals of such contributions and expenditures are included in their reports.

To interpret the data properly, one must recognize the influence of the Republican State Leadership Committee (RSLC). The RSLC is a political action committee based in Washington, D.C. with the mission of electing Republicans to state offices across the nation.^{vii} As such, they have raised and spent millions of dollars. Seeking to make contributions to North Dakota campaigns, the RSLC registered as a political action committee with the Secretary of State in 2010. Consequently, the RSLC has had to report their total contributions and expenditures to the Secretary of State

even if this money is not associated with North Dakotan politics. Given these amounts, the RSLC figures overwhelms those provided by all other PACs operating in this state. Consequently, Tables 2 and 3 present the results with and without this outlier.

As shown in Table 2, political action committees have raised significant amounts of money in recent years. Excluding the RSLC, PAC receipts ranged from some \$647,000 in 2011 to nearly \$803,000 in 2012. The percent of total contributions derived through amounts of \$200 or less ranged from a low of 38.08% in 2014 to a high of 58.48% in 2009. Thus, in a typical year, PACs do not report the sources of more than half of their total contributions.

Table 2: Political Action Committee Contributions, 2009-2014 (Without Republican State Leadership Committee PAC Contributions)

	Percent of Total Contributions \$200 or Less	Total Contributions
2009 Year End Reports (N=61)	58.48%	\$651,105.39
2010 Year End Reports (N=62)	14.49% (52.59%)	\$2,848,602.29 (\$784,884.29)
2011 Year End Reports (N=62)	34.71% (53.41%)	\$996,344.58 (\$647,128.57)
2012 Year End Reports (N=65)	12.26% (46.26%)	\$3,032,495.60 (\$803,911.60)
2013 Year End Reports (N=57)	22.06% (43.60)	\$1,439,373.64 (\$727,549.64)
2014 Year End Reports (N=65)	15.48% (38.08%)	\$1,925,399.86 (\$782,625.86)

North Dakota Secretary of State, 2009-2014

Table 3 provides an overview of expenditures by political action committees. Typically, the focus of PAC spending is on contributions to political committees. As can be seen, the percent of total expenditures that were \$200 or less ranged from 14.76% in 2011 to 25.57% in 2009. Given North Dakota law, it is unclear as to which candidates actually received this money.

Table 3: Political Action Committee Expenditures, 2009-2014 (Without Republican State Leadership Committee PAC Expenditures)

	Percent of Total Expenditures \$200 or Less	Total Expenditures
2009 Year End Reports (N=61)	25.54%	\$243,412.08
2010 Year End Reports (N=62)	8.58% (22.65%)	\$2,829,401.15 (\$1,070,639.62)
2011 Year End Reports (N=62)	11.79% (14.76%)	\$350,021.61 (\$279,518.04)
2012 Year End Reports (N=65)	6.41% (19.57%)	\$3,634,551.94 (\$1,190,735.46)
2013 Year End Reports (N=57)	8.57% (17.95%)	\$613,174.48 (\$292,841.80)
2014 Year End Reports (N=65)	11.00% (18.26%)	\$1,686,885.15 (\$1,015,850.74)

North Dakota Secretary of State, 2009-2014

Table 4 continues the examination of political action committees by illustrating the various approaches these entities take in regards to campaign finances. The first column notes the number of PACs that received all their funding in amounts of \$200 or

less. Since some PACS are quite small or even inactive, the number of larger PACs (defined here as receiving at least \$1,000) funded through contributions of \$200 or less is noted in parentheses. Thus, there were 61 PACs registered with the Secretary of State in 2009. Of those, 21 received all their money in allotments of \$200 or less. Fourteen of those are classified as a large PAC.

Table 4: Political Action Committees, 2009-2014

	Number of PACs With All Contributions \$200 or Less (Total Contributions \$1,000 or more)	Number of PACs With All Expenditures \$200 or Less (Total Expenditures \$1,000 or more)
2009 Year End Reports (N=61)	21 (14)	17 (3)
2010 Year End Reports (N=62)	12 (11)	13 (6)
2011 Year End Reports (N=62)	20 (12)	11 (2)
2012 Year End Reports (N=65)	14 (11)	8 (4)
2013 Year End Reports (N=57)	10 (7)	10 (2)
2014 Year End Reports (N=65)	12 (10)	6 (0)

North Dakota Secretary of State, 2009-2014

Some of the larger PACS funded through contributions of \$200 or less in 2009 included: the Associated of General Contractors of North Dakota PAC; the Boilermakers 647 Political Action Fund; the Insurance and Financial Advisors PAC; the North Dakota

Cable Television Association; and the North Dakota Education Association PAC for Education. Figures for PACs in other years are on the Policy Center's webpage.

Table 4 also notes the number of PACs that made all their expenditures in amounts of \$200 or less. Again, since some PACS are small or inactive, the second column of indicates the number of larger PACs that spent their money in allotments of \$200 or less.

Larger PACS with all expenditures consisting of \$200 or less in 2009 included: North Dakota Beer Wholesalers – STATE PAC; North Dakota Optometric Association PAC; Plumbers and Steamfitters Local 300 PAC. In 2010: Action Committee for Ethanol; Health PAC; NSP North Dakota PAC; North Dakota Cable Television Association PAC; North Dakota Eye MD PAC; and Planned Parenthood Healthy Families, Healthy Women PAC. In 2011: North Dakota Optometric Association PAC; and Plumbers and Steamfitters Local 300 PAC. In 2012: Action Committee for Ethanol; Health PAC; North Dakota Eye MD PAC; and Plumbers and Steamfitters Local 300 PAC. In 2013: North Dakota Optometric Association PAC; and Plumbers and Steamfitters Local 300 PAC.

Multi-Candidate Political Committees

Multi-Candidate Political Committees are created by political organizations to support multiple groups or slates of candidates. Examples of such committees are the Bismarck Area Republican Council and the Democratic-NPL Women's Caucus. Table 5 shows the growing prominence of Multi-Candidate Political Committees. Indeed, their

total contributions grew from \$187,499 in 2009 to \$384,356 in 2014, an increase of nearly 105%. Large portions of the contributions to these entities came in amounts of \$200 or less, ranging from just below 26% to nearly 62%.

Table 5: Multi-Candidate Political Committee Contributions, 2009-2014

	Percent of Total Contributions \$200 or Less	Total Contributions
2009 Year End Reports (N=19)	61.91%	\$187,499.11
2010 Year End Reports (N=24)	46.87%	\$196,461.03
2011 Year End Reports (N=19)	48.33%	\$190,514.63
2012 Year End Reports (N=19)	29.94%	\$314,180.24
2013 Year End Reports (N=18)	37.64%	\$283,881.45
2014 Year End Reports (N=24)	25.85%	\$384,356.85

North Dakota Secretary of State, 2009-2014

State Political Parties

Contributions to the state’s political parties are found in Table 6. These amounts vary considerably by whether or not it is an election year: the Democratic-NPL party raised more than \$2 million in 2010 and almost \$3 million in 2012 while the state’s Republican Party raised more than \$1 million in 2010 and over \$2 million in in 2012. The Democratic-NPL Party tended to less reliant on contributions of \$200 or less,

ranging from 3.87% to 23.48% of total contributions. In contrast, the Republican Party received from 15.57% to 51.28% of its contributions through such sources.

Table 6: State Political Party Contributions, 2009-2014

	Percent of Total Contributions \$200 or Less	Total Contributions
2009 Year End Reports	Democratic-NPL: 13.50% Republican: 29.01%	Democratic-NPL: \$594,844.08 Republican: \$603,735.10
2010 Year End Reports	Democratic-NPL: 3.87% Republican: 20.13%	Democratic-NPL: \$2,145,016.79 Republican: \$1,086,377.86
2011 Year End Reports	Democratic-NPL: 17.30% Republican: 49.67%	Democratic-NPL: \$322,183.09 Republican: \$281,490.60
2012 Year End Reports	Democratic-NPL: 5.53% Republican: 15.57% Libertarian: 100.00% Constitution: --	Democratic-NPL: \$2,803,290.01 Republican: \$2,025,108.58 Libertarian: \$593.00 Constitution: \$0.00
2013 Year End Reports	Democratic-NPL: 23.48% Republican: 47.14% Libertarian: --	Democratic-NPL: \$439,577.04 Republican: \$272,387.07 Libertarian: \$0.00
2014 Year End Reports	Democratic-NPL: 13.45% Republican: 51.28% Libertarian: 84.64%	Democratic-NPL: \$1,035,256.41 Republican: \$662,842.00 Libertarian: \$827.00

North Dakota Secretary of State, 2009-2014

Statewide Measure Committees

Committees formed in support of statewide measures differ from other political organizations in North Dakota politics since they must report all individual contributions

greater than \$100, rather than \$200. As such they represent something of an alternative approach to campaign financing transparency.

In Table 7, the amount of money raised by statewide measure committees varied considerably, ranging from \$2,621 in 2009 to nearly \$11 million in 2014. The extent to which these committees relied upon contributions of \$100 or less was dependent on the nature of the elections. In years of minimal resources, the percent of small contributions were relatively high. However, in years where these committees received hundreds of thousands of dollars, small contributions provided a very small portion of total contributions, dipping below 1% in 2014.

Table 7: Statewide Measure Committee Contributions, 2009-2014

	Percent of Total Contributions \$100 or Less	Total Contributions
2009 Year End Reports (N=3)	34.19%	\$2,621.00
2010 Year End Reports (N=7)	1.51%	\$406,940.76
2011 Year End Reports (N=5)	0.53%	\$103,956.24
2012 Year End Reports (N=14)	4.04%	\$3,954,414.17
2013 Year End Reports (N=7)	28.52%	\$11,574.67
2014 Year End Reports (N=13)	0.55%	\$10,813,227.16

North Dakota Secretary of State, 2009-2014

Conclusion

This study provides an overview of campaign finance transparency in North Dakota. It found something of a blind spot in the state's campaign laws: campaign committees do not have to report the source of contributions of \$200 or less. This means significant portions of candidate funding cannot be placed in any sort of context. Compounding this situation are laws that do not require political action committees and state parties to report their support of other campaign committees if those expenditures are \$200 or less.

This study does not claim that such contributions and expenditures are a sign of corruption or some untoward behavior by candidates and political action committees. Indeed, small contributions could actually be a product of grass roots support for a particular campaign. However, without greater transparency, how can anyone ever know the difference?

Endnotes

ⁱ See the National Conference on State Legislatures at <http://www.ncsl.org/research/elections-and-campaigns/state-limits-on-contributions-to-candidates.aspx>, the Campaign Disclosure Project at <http://www.campaigndisclosure.org/>, and the National Institute on Money in State Politics at <http://www.followthemoney.org/> for further information.

ⁱⁱ See <https://www.opensecrets.org/states/summary.php?state=ND>.

ⁱⁱⁱ See <http://www.prairiebizmag.com/event/article/id/16477/>.

^{iv} See <https://apps.nd.gov/sec/emspubli/gp/cfdisclosuresearchbyrpt.htm?type=byRpt>.

^v See <http://www.legis.nd.gov/general-information/north-dakota-century-code>.

^{vi} See <https://www.ndsu.edu/centers/publicpolicy/>.

^{vii} See http://rslc.gop/about_rslc/.