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CITIZENS RESEARCH COUNCIL OF MICHIGAN

Statewide Ballot Proposal 2026-02: Mop Up Michigan Initiative

This paper summarizes Report #426 that gives a fuller analysis of the proposed initiative.

In a Nutshell:

Proposal 2, commonly called Mop Up Michigan, is a proposed statutory initiative to amend the Michigan Campaign Finance Act (MCFA).

If Proposal 2 is Adopted, the law would be amended to:

- Require "paid for by" disclosures on certain political ads distributed on the internet.
- Expand donor and spending disclosure for certain political ads.
- Restrict certain campaign contributions by regulated utilities and their principals and state and local government contractors and their principals.

The different aspects of the proposal operate independently and attempt to address underlying concerns related to the influence of money in politics. Voters, however, will cast their vote for or against the entire proposal on the overall merits. Proposal 2 contains a severability clause, meaning that if any provisions are found to be unconstitutional, the unaffected provisions would remain in effect.

If Proposal 2 is Rejected, disclosure requirements would remain unchanged and the ability of regulated utilities and government contractors to contribute to political campaigns would remain unchanged. The legislature could choose to address any or all these issues at some point in the future.

Major Issues to Consider

- Michigan's campaign finance law currently allows groups to run political ads without disclosing their donors or spending if the ads avoid using "express advocacy" language, even if the purpose of the ad is clearly to influence voters at an upcoming election. Proposal 2 would provide the public with more information about these ads and the organizations running them. It is not clear whether these disclosure requirements will impact the volume of these ads or voter behavior.
- Regulated utilities and some government contractors make significant campaign contributions in Michigan. Supporters of Proposal 2 argue that these contributions lead government officials to take favorable regulatory action and award/oversee contracts based on political influence, resulting in worse outcomes for the public. It is not clear how much impact placing restrictions on campaign contributions would have on these issues, given other methods of political influence and the regulatory complexity of the targeted industries.
- Laws restricting political spending must clear a high constitutional bar under existing U.S. Supreme Court precedent. It is likely the provisions restricting utility and contractor campaign contributions would be challenged as failing to meet a sufficiently important governmental interest and/or as restricting more speech than is necessary, even if that governmental interest is upheld.

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Background on Money in Politics

A longstanding tension exists in American politics between robust free-speech rights and the potential for those with money to disproportionately influence elections and policy outcomes. Reducing the influence of money in politics is a widely popular position,[1] but significant restrictions on political spending and the broader influence of money in politics have not been enacted nationwide, or in Michigan.

The primary reason for this is that the U.S. Supreme Court (SCOTUS) has held, across multiple decisions, that political spending is protected speech under the First Amendment to the U.S. Constitution. These SCOTUS decisions require laws restricting political spending to clear a very high bar to be deemed constitutional. These rulings are controversial, but they are the law of the land, which means that proponents of restrictions are working inside a narrow band of potential policy options.

Proposal 2026-02 (hereafter, Proposal 2) – which would amend Public Act 388 of 1976, the Michigan Campaign Finance Act (MCFA)[2] – aims to reduce the influence of money in the state's political system. Proponents argue that government officials are too responsive to the wishes of corporate actors due to their campaign contributions and campaign expenditures. Given the limitations states have in regulated political spending, Proposal 2's provisions are limited to a few specific targets.

Concern 1: Loopholes exist in Michigan law related to the disclosure of political spending.

Proponents of Proposal 2 and others have identified two loopholes in Michigan law related to the disclosure of political spending. First, the language in Michigan's campaign finance law is somewhat outdated with respect to political advertisements on the internet. Second, Michigan law does not require disclosure for spending on ads that do not contain "express advocacy" phrases such as "vote for" or "vote against." As a result, entities can spend significant amounts of money on political ads without having to disclose their spending as long as the ads stay away from certain words and phrases, even if any reasonable person would understand the point of the ad is to influence the viewer's behavior in an upcoming election. This is often referred to as the "issue ad loophole."

Proposal 2 Would Modernize Digital Ad "Paid for by" Disclosures

The Michigan Campaign Finance Act requires that political advertisements contain information about who paid for the advertisement.[3]

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Proposal 2 would make two substantive changes to these requirements. First, it would add internet communications – campaign material placed or promoted for a fee on another person's website, digital device, application, or advertising platform – to the list of printed materials that require disclosure. Second, Proposal 2 replaces the phrase "radio or television" with "audio or video" to more broadly capture advertisements placed in audio and visual mediums such as social media websites, streaming video platforms, etc.

Potential Impact

The changes related to "paid for" disclosures on internet ads would bring online political ads in line with the rest of Michigan's "paid for" disclosure scheme. Essentially, no practical burden is being added to ad makers or those running ads, and the substantive requirement is merely being brought in line with the rules for ads on other mediums. Enactment of this portion of Proposal 2 would assist the public in determining who is responsible for online ads, which are a growing aspect of the overall campaign space.

Proposal 2 Would Create New Spending and Donor Disclosure Requirements for Certain Non-Express Advocacy Ads ("Issue Ads")

Proposal 2 would make a number of changes to the MCFA so that some "issue ads" that are currently not legally treated like campaign ads for the purpose of spending and donor disclosure would need to follow the disclosure requirements of traditional campaign ads if they meet certain criteria.

First, Proposal 2 would modify the MCFA to ensure ads that contain an identifiable candidate and are targeted at the relevant electorate within 30 days of a primary election or 100 days of a general election are considered campaign ads if they support, oppose, attack, or oppose a candidate, regardless of whether the ad uses express advocacy language.

Second, Proposal 2 expands the list of campaign expenditures that must be disclosed to the state so that spending on this kind of ad is included. This includes a requirement that existing committees must now disclose spending on these ads on their campaign statements and a requirement that groups that are not currently required to file campaign statements must file spending disclosures if they spend more than $5,000 in a calendar year on these kinds of ads. These outside groups would also be required to disclose any contributions they received for the purpose of running these ads.

Potential Impact

Enacting this portion of Proposal 2 is likely to lead to a few related outcomes. It will increase transparency, as the public will be presented with information they previously did not have access to regarding the amount that different individuals and groups are spending on campaign-related ads and who is paying for them. It is not clear the extent to which further transparency will translate into any downstream outcomes, such as deterring donations and spending of this nature. Changing the rules around spending disclosure for this kind of "issue ad" could also lead to the ads becoming more overt and the groups registering as Super PACs, as the ability to conceal spending and donors by running less direct ads would be removed. The public's response is also unknown as research on campaign finance disclosure requirements has generally found minimal effects on voter behavior.[4] This uncertainty is further complicated by a couple of issues in the drafting of the section requiring disclosure from outside groups that could create ambiguity about what is required. A reporting process is already in place for traditional campaign ads, but this new reporting will also create an additional cost to the state by increasing the volume of reporting.

Concerns 2 and 3: State and local government contractors are selected and overseen based on their political spending and the state is not properly regulating utilities because of political spending by utilities.

Supporters of Proposal 2 have also highlighted concerns about the political influence of two specific groups:

- State and local government contractors.
- Regulated utilities.

They argue that government contracting decisions favor bidders that have made political contributions, leading to worse performance and oversight than if decisionmakers selected entirely on merit. They also argue that utilities have not been regulated in a way that properly values the interests of ratepayers or considers the impact of the electricity and natural gas sector on the environment because of the significant campaign contributions made by utilities, citing higher utility rates and poor reliability as evidence that the utilities are not delivering for the people of the state.

Proposal 2 Would Ban Campaign Contributions from Certain Government Contractors and Regulated Utilities

Proposal 2 would restrict campaign contributions made by certain individuals and entities associated with state and local government contractors and regulated utilities.[a] The restrictions on utilities and state contractors apply to contributions to candidates for state elective office[b] and the restrictions on local contractors apply to contributions to candidates for local elective office in the jurisdiction for which they have contracts. The restricted utilities/contractors and affiliates would not be able to contribute to several offices and candidates for those offices (and their affiliated entities) and political committees that make contributions to those candidates. The language is drafted to cast a wide net and avoid attempts to circumvent the spirit of the ban.

Potential Impact

The potential impacts of the contribution bans depend on how much of bans survive legal challenge, as discussed below. Presuming some or all of the

a The contribution restrictions apply to the firms themselves (i.e., government contractors or utilities themselves), their board members/owners/executives as individuals (including their immediate family members), and any affiliated entity that is established, financed, maintained, or controlled by firms or those individuals.

b The restriction on utilities applies to a slightly narrower group of state officials than the government contractor restriction.

provisions are implemented, a few consequences are possible.

Implementation Scope and Cost: It is likely that a large number of people and entities would be impacted by these provisions. The state has thousands of contracts of $250,000 or more,[5] not counting contracts held by Michigan's public universities, local governments, and public school districts. The state only has several regulated utilities, but the number of people and entities impacted would easily number in the hundreds, if not thousands. The state and local governments would presumably have to set up a process to review these individuals and entities for political contributions, potentially in an ongoing manner. The precise cost in time and resources of these checks is not known, but it would likely come with a cost to the state and local governments.

Possible Deterrent to Participation: It is possible that some firms would not seek government contracts if going through this process and surrendering their rights to certain political speech would be affected. This could lead to the state having to select from among lesser quality contractor options, or it might drive up the cost of contracts.

Uncertain Impact: It is not clear what kind of impact restricting contributions by government contractors and regulated utilities will have on the stated problems in those areas for two different reasons. First, even if one agrees with the premise that the stated problems are caused by political influence, campaign contributions are only one way in which money translates into political influence. Firms and individuals can make unlimited, direct political expenditures even if their ability to donate to candidates is restricted. Removing one lever of financial influence would not remove the incentive to use money to influence policy and the money could simply be shifted to other means of influence.

Second, the problems raised about contractor and utility performance have causes beyond political influence, even if one agrees that political spending has had a negative effect in these areas. Balancing utility performance against rates is an economic reality that all states struggle with, and the complexity of these sectors makes it difficult to produce good outcomes for the public. It is also very common for regulators to be overly deferential to the industry through normal regulatory capture outside of the influence of campaign contributions. Similarly, while government contracting decisions can be influenced by political favoritism, selecting and overseeing a contract is not something that goes well even under the best circumstances. Governments work with limited budgets and challenging goals, so a contracting arrangement going poorly can happen even if no political influence occurred.

Free Speech: Separate from considerations about the potential effectiveness of the provision, opponents of the contribution bans argue that it restricts the rights of people to speak through campaign contributions in a manner that is inconsistent with their First Amendment rights. They argue that pursuing a government contract or being affiliated with a utility should not come with a wide-ranging ban on their ability to support candidates they wish to see in office. These opponents further argue that existing laws against bribery sufficiently guard against corruption and the scope of Proposal 2 is overly broad in who it affects and which offices and committees to which utilities and contractors cannot donate.

Constitutional Analysis of Proposed Campaign Contribution Prohibitions

Proposal 2's restrictions on campaign contributions would likely face legal challenges if enacted. The U.S. Supreme Court's (SCOTUS) decisions over the last 50 years have viewed political spending as protected, First Amendment speech, and require any restrictions on that speech to clear a very high bar to be considered constitutionally valid. SCOTUS has ruled that laws restricting campaign contributions must address a sufficiently important governmental interest (preventing *quid pro quo* corruption is the only acceptable interest – preventing general favoritism is not) and the laws must be narrowly tailored to achieve that goal.[6]

Reasons exist to suggest that the contribution bans in Proposal 2 could fail to meet those tests. With respect to the government contractor ban, precedent in other federal circuit courts suggests a clear *quid pro quo* line can be drawn,[7] but the scope of Proposal 2 could be seen as being more restrictive than is necessary to achieve the law's goals. On the utility side, demonstrating constitutionality would require a more novel legal argument about why the utility sector in Michigan is more at risk of *quid pro quo* corruption than other industries that face significant regulation. Even if that threshold was met, the utility contribution ban would face similar questions about its wide-ranging scope.

If all or part of either ban was invalidated, the unaffected parts of Proposal 2 would remain in effect due to its severability clause.

Endnotes

1 "7 facts about Americans' views of money in politics." Pew Research Center. October 23, 2023.
2 Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 *et seq*.
3 See MCL 169.247.
4 Robinson, T.S. 2023. "When Do Voters Respond to Campaign Finance Disclosure? Evidence from Multiple Election Types." Polit Behavior 45, 1309–1332.
5 "Contract List." Michigan Department of Technology, Management, and Budget. Accessed September 9, 2026.
6 See Buckley v. Valeo (1976); Citizens United v. Federal Elections Commission (2010); and McCutcheon v. Federal Elections Commission (2014).
7 See Wagner, et. al v. Federal Elections Commission (2015).

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