



**House  
Legislative  
Analysis  
Section**

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**LEGIS. POLITICAL PARTY PACS,  
POLITICAL BINGO, INDIAN SSFS**

**House Bill 5410 as enrolled  
Public Act 264 of 1995  
Second Analysis (2-26-96)**

**Sponsor: Rep. Susan Grimes Munsell  
House Committee: House Oversight and  
Ethics  
Senate Committee: Government Operations**

***THE APPARENT PROBLEM:***

Although most ordinary voters do not understand how money for political campaigns is raised and spent, people who report on, or are active in, partisan electoral politics generally appear to agree that, in practice, the existing system of raising money through political action committees or PACs virtually ignores the campaign contribution limits placed on PACs. Under the Michigan Campaign Finance Act, PACs that are defined under the act as "independent committees" can contribute up to \$5,000 to each candidate for state representative, \$10,000 to each candidate for state senator, and \$34,000 for each statewide candidate. State central political party PACs can contribute double these amounts. Legislative caucuses can and do form their own "independent committees" (or PACs), which are known informally as "caucus committees," to raise and funnel money to their party's candidates for legislative office. (Reportedly, the four legislative caucuses currently maintain over 70 "caucus" committees.) Despite the fact that these "caucus committees" have legal limits on the amount of money they may give to candidates, because there is no limit on the number of such PACs that the caucuses can create, the caucuses can, in effect, give unlimited amounts of money to their candidates by creating new PACs or funneling money from one PAC to another. Although legal, this creative use of campaign financing makes it difficult for the public to track campaign spending because of the number of PACs involved. Some people argue that limiting the number of caucus committees, while eliminating the spending limit, would at least allow for public accountability.

In addition, given the recent casino-generated wealth of Indian tribes -- and their major involvement in the gambling industry's efforts to expand legal gambling in the state -- some people believe that political contributions by Indian tribes need to be regulated along lines similar to the current regulations for corporations and labor unions.

Finally, many people believe that a reasonable compromise can be reached on the current intense, and intensely partisan, debate over the issue of political bingo.

Legislation has been introduced to address these, and other, issues.

***THE CONTENT OF THE BILL:***

The bill would amend the Michigan Campaign Finance Act (MCL 169.205 et al.) to create and regulate a new kind of independent committee, the "legislative political party caucus committee," that would be allowed to make unlimited contributions to candidates (with the exception of candidates in contested primaries) running for state legislative office. The bill also would add special cash contribution limits and reporting requirements for political gaming fundraisers, and would regulate for the first time political contributions made by Indian tribes, as well as make a number of other changes to the act.

Political party caucus committees. The bill would allow each legislative caucus (that is, the House and Senate Democratic and Republican caucuses) to have one, and only one, "political party caucus committee" that would be a special kind of "independent committee" (see BACKGROUND INFORMATION below). Within 30 days after the bill took effect, each legislative caucus leader (i.e. the Speaker and Minority Leader of the House of Representatives and the Senate Majority and Minority Leaders) would designate the independent committee that would be his or her caucus's political party caucus committee. In that same time period, the legislative caucuses would be required to dissolve all of their other independent committees.

The new legislative political party caucus committees would be required to file quarterly campaign statements with the secretary of state on dates specified in the bill

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(January 31, April 25, July 25, and October 25). In addition, legislative political party caucus committees would be required to report contributions or expenditures of more than \$1,000 a day during the last two weeks of an election. More specifically, the bill would require legislative political party caucus committees to file campaign statements for the period beginning on the fourteenth day preceding an election (a primary or special primary election, and a general or special election) and ending on the day immediately following the election for contributions received or expenditures made that were more than \$1,000 per day.

Contributions by caucus PACs. Currently, the Campaign Finance Act limits the amount that individuals and others (such as businesses and labor unions) can contribute during each election cycle to candidates for state elective office, and establishes a two-tiered maximum limit for each of three categories of state candidate: Independent committees and political party committees may contribute ten times the amounts that others can contribute to statewide candidates (such as governor), state senate candidates, and state representative candidates. (See BACKGROUND INFORMATION below.) The bill would specifically exempt political party caucus committees from any limits on the amount they could contribute to candidates for the state legislature. However, the bill would prohibit legislative political party caucus committees from contributing to candidates in contested primary elections and from paying debts incurred by candidates in contested primaries.

Contributions to caucus PACs. The bill would limit the amount that individuals and others could contribute to legislative political party caucus committees each calendar year to \$20,000. The bill would further prohibit legislative political party caucus committees (or their treasurers or agents) from accepting contributions "with respect to a 2-year election cycle" that exceeded the \$20,000-per-calendar-year limitation. (As passed by the House, the bill would have limited contributions to legislative PACs to \$5,000 per two-year election cycle. The Senate amended this section to increase the contribution limit to \$20,000 per calendar year, but kept the language regarding exceeding the limit in an election cycle.) As is currently the case with contributions exceeding contribution levels to other campaign committees, the bill would make violations of the campaign contribution limits to legislative PACs misdemeanors punishable by a fine of up to \$1,000 or imprisonment for up to 90 days (if the violator were an individual), or punishable by a fine of up to \$10,000 (if the violator weren't an individual but rather were a group).

Political contributions by Indian tribes. The bill would require all federally recognized Indian tribes ("domestic dependent sovereigns") to establish "separate segregated funds" (i.e., PACs) if they wanted to make political contributions to candidate or ballot question committees, and would subject contributions from these SSFs to the same limits that other independent committees operate under (namely, ten times the individual contribution limits). Just as the act currently specifies from whom SSF contributions can be solicited, the bill would allow tribes to solicit contributions to their SSFs from their tribal members.

Separate segregated funds: penalties for reimbursement. The bill would add penalties for reimbursing individuals for contributions they made to separate segregated funds. More specifically, the bill would impose a penalty of two times the total contributions to an SSF during a calendar year if a group (corporation, joint stock company, domestic dependent sovereign, or labor organization) that received contributions for an SSF reimbursed one or more individual contributors for his or her contribution.

Bingo act fundraisers. The Campaign Finance Act currently prohibits any single contribution of more than \$20 in cash (MCL 169.241); the bill would add a new section to the act to allow committees (i.e. PACs) that also were licensed under the bingo act to accept cash contributions of up to \$50 from each individual at each bingo game, millionaire party, or charity game they conducted. Committees that held bingo games or millionaire parties would have to report the names and addresses only of contributors making cash contributions of \$25 or more per event (instead of the current \$20.01 per election cycle reporting threshold in the Campaign Finance Act). Charity games would be exempted from reporting requirements entirely, both the \$25-per-event requirement in the bill and the Campaign Finance Act's \$20.01-per-election-cycle reporting threshold. Contributions for charity games also would not be subject to the Campaign Finance Act's requirement that contributions of more than \$20 be made by "written instrument."

Committees licensed under the bingo act would be required to attach to their campaign statements the most recent report they had filed with the Bureau of State Lottery under the bingo act; they also would be allowed to establish separate bank accounts as required by the bingo act administrative rule (Rule 104) which requires that all money derived from the conduct of bingo be deposited into a special bingo checking account. (See BACKGROUND INFORMATION below.)

Committee contributions to candidate, ballot question committees. The bill would require political committees, independent committees, and political party committees to include with their contributions to candidate committees or ballot committees all of the information that the candidate or ballot committee was required to include in the latter's campaign statements regarding the contributing committee.

Reporting voter registration and election day activities. Currently, the Campaign Finance Act requires that certain expenditures be reported on campaign statements, but exempts from its definition of reportable "expenditure" (among other things) expenditures for nonpartisan voter registration or nonpartisan get-out-the-vote activities. The bill would require that all political action committees report certain election day activities, exempting only federally-recognized non-profit organizations and the secretary of state and voter registration officials from having to report voter registration or get-out-the-vote expenditures.

The current exemption of voter registration and get-out-the-vote activities from expenditures that must be reported on campaign finance statements specifically includes such activities when conducted by the secretary of state "and other registration officials" under the provisions of the Michigan Election Law. The act specifically doesn't exempt such activities from reporting when sponsored or financed by candidates or groups of candidates (including elected officials who aren't up for reelection in the year in which the expenditures are made). The bill would restrict the existing reporting exemption of nonpartisan voter registration or get-out-the-vote expenditures to federally-recognized non-profit organizations and the secretary of state (and other registration officials), and would add certain election day activities (poll watchers, challengers, distribution of election day literature, canvassing of voters to get out the vote, or transporting voters to the polls) to the definition of (reportable) "expenditure." Finally, the bill would add a new reporting requirement for all political action committees, namely, an itemized list of all expenditures during the reporting period for election day busing of voters to the polls, get-out-the-vote activities, slate cards, challengers, poll watchers, and poll workers.

Prohibit campaign contributions by public bodies. The bill would define "public body" (which would include, but not be limited to, boards, commissions, authorities, or councils of legislative or governing bodies of the state or political subdivisions of the state that were legally empowered to exercise or perform governmental or proprietary authority), and would prohibit public bodies from making contributions or expenditures or

providing volunteer personal services that were excluded from the act's definition of "contribution." A violation of this prohibition would be a felony, punishable by a fine of up to \$20,000 for violators who were not individuals, and by a fine of up to \$2,000 and imprisonment for up to one year for violators who were individuals.

Penalties for failure to report late contributions. The bill would add penalties for the failure to report late contributions as currently required under the act. The bill would impose late filing fees of \$25 for each business day the report remained unfiled up to a maximum of \$500.

Severability. The bill says that if any of its provisions were found invalid by a court, the remaining portions of the bill would remain in effect unless found invalid by a court also.

### **BACKGROUND INFORMATION:**

Kinds of political action committees. The Michigan Campaign Finance Act defines "committee" (also known more informally as a political action committee or PAC) as a "person" (individual or group) who receives or expends at least \$500 in a calendar year for or against a candidate or ballot question. Currently, under the act, there are five kinds of committees: candidate committees, ballot question committees, independent committees, political committees, and political party committees. Candidate "committees" may be individuals (namely, the candidate); all other committees consist of organizations or groups of people (businesses, proprietorships, firms, partnerships, joint ventures, syndicates, business trusts, labor organizations, companies, corporations, associations, or committees) "acting jointly." As of January 1996, there were 2,767 committees registered with the state under the Campaign Finance Act. (Note: These numbers don't include local candidates and PACs that register with the counties.) According to the Department of State, the current number of committees by type is as follows:

- \* Ballot committees: 122
- \* Candidate committees: 1,533
- \* Independent committees: 616
- \* Political party committees: 289
- \* Political committees: 287

The five kinds of committees are as follows:

1. Ballot question committees act in support of, or in opposition to, the qualification, passage, or defeat of a ballot question. They don't receive contributions or

make expenditures or contributions in support of, or in opposition to, candidates.

2. When someone becomes a candidate for an elective office, he or she must form a candidate committee (and cannot form more than one candidate committee for each office for which he or she is a candidate). A candidate committee must be controlled and directed by the candidate. Thus, the number of candidate committees for the state legislature alone, assuming that two candidates run for each seat, would total 296 (two candidate committees each for the 110 House and 38 Senate seats). This, of course, doesn't include the number of candidate committees for other state elective offices (the governor, the attorney general, the secretary of state, members of the three state universities with publicly elected boards, state supreme court justices and other judicial candidates) or those for candidates for local or regional elective offices.

3. An independent committee is a committee, other than a political party committee, that must meet certain requirements regarding organization and receipt of contributions before it is allowed to contribute to candidates for state elective office. More specifically, before an independent committee can contribute to a candidate for state elective office it must file a statement of organization at least six months before an election for which it expects to receive contributions or make expenditures for or against a candidate for state elective office; it also must receive contributions from at least twenty-five "persons" (individuals or groups) for or against at least three candidates for state elective office. An independent committee can be "a separate level, subsidiary, subunit, or affiliate" of another independent committee if decisions to make contributions or expenditures on behalf of candidates are "independently" made within the two related independent committees. Legislative caucuses establish multiple independent committees (currently, the four caucuses reportedly have over 70 such "caucus" committees).

4. Political party committees are established by partisan political parties. They may be statewide ("state central" political party committees), they may encompass a U.S. Congressional district, or they may be countywide. Each state central party designates each of its official party county committees and U.S. Congressional district committees. The act doesn't allow more than one officially designated political party committee for each county or U.S. Congressional district, so theoretically each political party could have 83 county political party committees, 16 U.S. Representative district political party committees, and two U.S. Senate district political party committees (in

addition to its state central party committee). So each political party could have as many as 102 political party committees in the state (in addition to any independent committees or political committees that a political party might participate in).

5. Finally, a political committee is a committee which isn't any of the other four committees. Generally, these committees function like independent committees, but have lower contribution limits (for example, they do not have to meet the requirement for independent committees of receiving contributions from at least 25 "persons" for or against at least three candidates for state elective office) and reportedly tend to be used more at the level of local rather than state politics (where they would register with the county rather than the state).

Current contribution limits. Currently, except for independent committees and political party committees, the Campaign Finance Act limits election cycle contributions by "persons" (individuals and groups other than independent committees and political party committees) to candidates (technically, to "a candidate committee of a candidate") for state office as follows:

- \* \$500 for candidates for state representative;
- \* \$1,000 for candidates for state senator; and
- \* \$3,400 for other state candidates (governor, secretary of state, Michigan supreme court, board of education, and so forth).

Political action committees (PACs) -- independent committees and political committees other than state central committees (that is, Congressional district or county committees) -- can make contributions to candidate committees that are up to ten times the amounts listed above (that is, \$5,000 for candidates for state representative, \$10,000 for candidates for state senator, and \$34,000 for statewide candidates). State central committees of political parties can make contributions to candidates for the state legislature (either for the state Senate or for the House of Representatives) that are up to ten times the amounts listed above for legislative candidates; for other statewide offices, state central committees may contribute up to 20 times the amounts listed.

The rise of legislative caucus campaign committees. According to a June 1994 article in State Legislatures, legislative caucus campaign committees (LCCCs) have proliferated in recent years and "legislative parties" have emerged as "the new engine of campaign power in state politics." Ten years ago, only 15 states had

caucus campaign committees in all four legislative caucuses (though another eight had "fledgling efforts" in at least one caucus). At the time the article was published last year, the number of states that had developed legislature-based campaign committees that operated in all four caucuses (or, in some cases, as joint House-Senate efforts) had risen to 40. According to the article, the rise of LCCCs is the result of a number of factors: increased "legislative professionalism" (the first legislatures to develop caucus campaign committees were those with longer sessions, large professional staffs, and relatively well-paid, full-time members, namely, New York, Wisconsin, Ohio, California, and Illinois); heightened party competition, especially in "swing" districts, and the resulting, increasingly costly campaigns; party decline in the 1960s and early 1970s, which paralleled the erosion of patronage powers, the increasing independence of voters and candidates, and the loss of party control over the recruitment and selection of candidates; historically weak parties in states with nonpartisan and reform traditions; the fact that some state parties are "the governor's" party or focus on statewide races and provide little help to legislators; and, as some political observers have speculated, because of campaign finance restrictions.

The article says, "Ultimately, the new legislative parties have a lot to do with money, the cost of legislative campaigns and changes in the campaign finance law. As campaign costs increase and restrictions limit PAC contributions, legislative caucus campaign committees become a strategic link between those who can raise money and those who need it most . . . Legislative campaign committees help nonincumbent candidates and legislators in swing districts raise the necessary money to pay for increasingly costly campaigns." However, "[s]ince both caucuses have the same goal of winning seats, the escalating effect can be considerable."

The debate over "political bingo" in Michigan. Ever since April 1994, when both houses of the legislature had a Republican majority for the first time in decades and succeeded in passing legislation (Public Act 118 of 1994, enrolled Senate Bill 3) banning political bingo, there has been intense partisan political debate and litigation over the use of bingo for political fundraising. For a summary of various actions taken by state agencies and in the courts, see the analysis for enrolled House Bill 4729 (which would regulate the use of bingo games and millionaire parties for political fundraising under the Campaign Finance Act as amended by House Bill 5410).

### **FISCAL IMPLICATIONS:**

Fiscal information is not available.

### **ARGUMENTS:**

#### **For:**

By abolishing the plethora of existing "caucus" PACs, and allowing new single political party caucus committees for each caucus in the House and Senate, the bill would make it much easier to track expenditures made by the political parties. Currently, there reportedly are more than 70 legislative caucus committees among the four legislative caucuses. These "independent committees," moreover, are in addition to the 205 political party committees maintained by the political parties in the state and the 148 candidate committees for the 100 state representatives and 38 state senators (which also doesn't include the 148 candidate committees for candidates for the legislature that lost the last election for the House or Senate). Disclosure of partisan political expenditures would be much easier to find -- and would be more complete -- under the bill because each of the four proposed caucus committees would have to report all caucus expenditures on behalf of candidates, as well as having to report four times each calendar year, instead of the three reports required for other independent committees.

Proponents of the bill also argue that by consolidating all of the existing caucus committees into single committee for each of the legislative caucuses, the bill will make the caucus committees' campaign practices more accountable to the caucus leaders. Under the current system, the content and quality of advertising by independent committees is difficult to control, and even if caucus members object to certain campaign advertising themselves, they really have little recourse. Clearly there is a need for someone to be responsible for overall caucus campaigning, and this would be facilitated by the bill.

Other positive changes that proponents of the bill point to include:

- Public schools (and other public bodies) would clearly be prohibited from using their employees' time to send out literature in support of millage proposals.
- Truly nonpartisan get-out-the-vote and election day activities, by federally tax-exempt organizations and the secretary of state and other voter registration officials, would continue to be exempt from the act's reporting requirements, while partisan expenditures on these activities would have to be disclosed as part of total campaign expenditures.
- Failure to report late contributions would result in financial penalties, which should help encourage timely reporting of such contributions.

**For:**

The bill would provide a workable compromise to the intense, and intensely partisan, debate that has been raging over the issue of political bingo. Currently, the "problem" with placing political bingo under the Campaign Finance Act's cash contribution limits and reporting requirements has to do with an easily-resolved conflict between the Campaign Finance Act's cash contribution limit of \$20 and the bingo act's administrative rule requiring that only cash be used at bingo games. Since, reportedly, an average bingo player spends (in cash) between \$21 and \$22 a night at bingo games, he or she is a dollar or two above the cash contribution limit allowed under the Campaign Finance Act. The bill would resolve this "conflict" by allowing individuals to "contribute" up to \$50 in cash at any one "event" (bingo game, millionaire party, or charity game). It also would relieve the most onerous of the Campaign Finance Act's reporting requirements by allowing individuals to "contribute" up to \$25 -- instead of the current \$20 limit -- before they have to be reported on campaign statements. Thus, the average bingo player spending \$21 or \$22 a night at a bingo game would be exempt from the reporting requirement, while those who might spend considerably more at a single game would fall under the bill's disclosure requirements. Finally, the bill would exempt from all Campaign Finance Act reporting requirements "charity games" (raffles or "break open" tickets) conducted as political fundraisers, since such games are joint ventures with the state (which, under Public Act 229 of 1981, gets a percentage of the gross revenue from the resale of the tickets).

**For:**

Currently, political contributions made by Indian tribes are not regulated under Michigan law, and are only minimally limited at the federal level. (Reportedly, the Federal Election Commission has ruled that tribal contributions to candidates for federal office are considered to be individual contributions, and so are subject to the \$1,000 individual contribution limit. But federal law doesn't require Indian tribes to form PACs in order to make political contributions, nor are tribes required to report their political contributions to the Federal Election Commission.) This absence of regulation of Indian tribes' political contributions wasn't an issue until recently when, with the profits from their casinos, Michigan's once-impoverished Indian tribes became major players in the political arena. In 1994, according to the Detroit News, the gambling industry as a whole spent at least \$675,000 on Michigan campaigns in its drive to expand gambling in the state. Nearly half that amount -- \$330,000 -- was spent by a single tribe, the Sault Ste. Marie Tribe of Chippewa Indians, with all but \$60,000 of that amount going to Democratic

campaigns. None of the money spent by the Sault Chippewas on political contributions had to be reported under Michigan law (the Detroit News documented the tribe's contributions by searching through hundreds of records of the candidates and committees that received tribal money), which is particularly troubling, given that the tribe is seeking to expand its casino operations into the Detroit area, despite the governor's public opposition to off-reservation casinos. The business community has long sought to place its political competitors on an equal footing with respect to regulation of campaign contributions. Last session, Public Act 117 of 1994 placed labor unions under campaign finance regulations similar to those that corporations must follow, and it seems only fair to put Indian tribes under similar kinds of restrictions with regard to their political contributions.

**Response:**

Indian tribes are not like either corporations or labor unions, so why should they be treated as such? Tribes are sovereign nations, and their members are neither like corporation employees nor like dues-paying labor union members. The bill's proposal to regulate Indian tribes under the Campaign Finance Act in the same way that corporations (and, since 1994, labor unions) are treated is not so much an attempt at campaign finance reform as it is an attempt to limit tribes' ability to exercise their sovereign rights to advocate politically for their interests. To attempt to treat sovereign nations as though they were corporations or labor unions is legally questionable at best.

**Against:**

While disclosure may be the cornerstone of campaign finance reform, and while the bill may indeed make it easier to track expenditures by (and contributions to) political parties in election campaigns, the elimination of the limits on what these new legislative caucus committees could expend creates an enormous loophole in the Campaign Finance Act. It's not enough just to ensure disclosure of expenditures in election campaigns; the amount of money that can be spent by campaign contributors also needs to be limited. As the June 1994 State Legislatures article points out, even where legislative caucuses have supplanted the party structure in many states, their purpose is "traditional and time-honored -- to win election and to secure or protect legislative majorities . . . Legislative campaign committees help nonincumbent candidates and legislators in swing districts to raise the necessary money to pay for increasingly costly campaigns. Since both caucuses have the same goal of winning seats, the escalating effect can be considerable." Not only could the bill drive up the already exorbitant costs of elections even higher -- thereby making candidates and

officeholders even more indebted to the special interests paying for their campaigns -- this seems to go against other campaign finance reforms undertaken in Michigan and elsewhere. Last year the House acted on a bill (House Bill 5074) that would put limits on contributions to candidates for local elections, with proponents arguing that imposition of contribution limits was necessary to prevent individuals and groups from having undue influence over local elected officials through large campaign contributions and that if contributors to candidates for state office had limits on their contributions, then surely contributors to candidates for local office should too. Other states that have, or have had, legislative caucus campaign committees have not taken this drastic move. In 1993, New Jersey passed a package of reforms that strictly limits how much individuals and PACs can contribute directly to candidates, but allows contributions of up to \$25,000 per year to four designated legislative caucus committees or the state parties. Arizona, on the other hand, eliminated legislative caucus campaign committees altogether, but allows slightly more generous contributions by the state parties (as compared to other PACs) and exempts state party-coordinated campaign activities that benefit three or more candidates.

Proponents of the bill argue that it simply would preserve what already is going on (the targeting of particular candidates for contributions above those currently allowed in law) while at least greatly improving access to information on contributions and expenditures. But disclosure -- tracking who gives money to whom and how -- is possible now, as a flow chart presented to the House Oversight and Ethics Committee graphically illustrated.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.