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Curriculum Units by Fellows of the National Initiative  
2020 Volume III: Politics and Public Policy in the United States

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## **Money Talks: First Amendment Freedom of Speech and Campaign Finance**

Curriculum Unit 20.03.06, published September 2020  
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### **Introduction**

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“Money Talks: First Amendment Freedom of Speech and Campaign Finance,” is a three-week curricular unit designed to be taught to a fifth-grade social studies class in daily, forty-five minute intervals (though the curriculum could be adapted for American Government classes, as well). The objective of “Money Talks” is to teach students about the fundamental principles of the U.S. government and legislative system, as established in our Constitution, and to enlighten students about how the past forty-four years of campaign finance reform altered the political landscape, in spite or because of these Constitutional principles—especially the Freedom of Speech, as established in the First Amendment to the Constitution.

As such, “Money Talks” will necessarily begin with foundational lessons on the major provisions of the United States Constitution as a whole, and the Bill of Rights more specifically, with particular emphasis on First Amendment Freedom of Speech. Students will examine fundamental principles of the U.S. government including the separation of powers among the Executive, Legislative, and Judicial branches of government; the system of checks and balances between the three branches of government; and the competing and separate powers of the Federal and state governments, with their distinct spheres of control.

### **Rationale and Objectives**

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Each year teachers across America create curriculums that explore the fundamental principles of our government, typically in conformity with state standards. To some, one of the most essential roles of a teacher is to instill students with a sense of their American identity, and a grasp of their civic duties. In fact, it would be shocking to find a single state in our union that omits lessons on U.S. Government from its state-mandated public education curriculum. My State, Oklahoma, certainly requires it.

As a veteran teacher who teaches principles of the U.S. Government to students every year, shouldering the burden of conveying over a hundred years of history and political ideology with each new group of students, it

troubles me that rote memorization of basic historical and political “fact” is the standard practice for teaching these lessons. Certainly, I admit I sometimes lack time to embed lessons which promote students’ critical thinking skills, spending time analyzing and synthesizing these governmental principles, as I believe many teachers do. However, rote memorization of our Constitution and Bill of Rights will not mold our students into informed voters capable of civil discourse. This failing is both unfair to our students, and to our country as a whole.

The blame for the issues with current pedagogy on the U.S. Government certainly does not lie with the students, who are eager to understand this nation that they live in. At ages ten and eleven, my fifth grade students actively question government officials' actions and the passing of policies they view as unfair. Even before we begin our lessons on the Constitution, students incorporate the U.S. Constitution into their individual notions of fairness and their sense of individual identity. Not a school year passes that I do not hear a student defend his or her right to express their opinions with, "It's my freedom of speech," during classroom, cafeteria, or playground arguments. For so long as our nation relies upon the principles contained within the U.S. Constitution and the Bill of Rights, and for so long as my students see themselves as “American,” these foundational documents will form a part of who they are and how they will move through the world, and they seem to understand that.

Because I, like my students, always felt that the U.S. Constitution and the Bill of Rights reflected certain “inalienable” principles for me as a person, and because I benefitted from the teaching of a few influential teachers who encouraged me to think critically about the information I receive, as an adult I grew to appreciate politics and expand my knowledge of how our government and the Supreme Court interpret the Constitution.

In particular, *Citizens United v. F.E.C.*<sup>1</sup> [hereinafter, “*Citizens United*”] really drove home the importance of understanding how our Constitution acts more as a general foundation or framework of our rights and our duties as citizens, to be broadened or constricted through legislation and the interpretations of the United States Supreme Court. When I first read *Citizens United*, it felt like I leapt out of the frying pan and into the fire, seeing for the first time how something as “basic” as the First Amendment’s provision for Freedom of Speech can be manipulated to apply to nearly any area of life, including campaign finance reform. This is something that my students need to understand—that the U.S. Constitution, through the magnifying glass of the Legislature or the United States Supreme Court—can mean so much more than it first appears, such that, for example, our spending power can lead to political power, causing inequality that still, somehow, satisfies the bounds of the U.S. Constitution.

Therefore, “Money Talks,” intends to fulfill the Oklahoma state curricular standards for a fifth-grade social studies course, while also reaching beyond the basics to instill students with a broader knowledge of their First Amendment rights, and the possible issues raised by the wider application of the First Amendment, in order to foster a future generation of well-informed voters. With this overarching objective in mind, “Money Talks” aims to accomplish certain threshold objectives throughout the curriculum, such as:

(A.) Help students understand not only what the Constitution and Bill of Rights were designed to do, but also how to critically analyze and interpret their meanings, especially as they are used today;

(B.) Engage the students in an examination of the purposes and fundamental responsibilities of government, as described in the Preamble of the Constitution of the United States, which established the Supreme Law of the Land;

(C.) Ensure that the students are able to explain how the Constitution of the United States was amended to include the Bill of Rights and be able to summarize the liberties protected in each of the ten amendments;

(D.) Explore the fundamental principles of government established in the Constitution of the United States, including the (1) separation of powers among three branches of government; (2) the system of checks and balances between the branches of government; and (3) shared powers between the federal and state governments;

(E.) Establish the roles of Congress, the President, and the Supreme Court in the legislative process, both for traditional legislation and “judicial legislation,” in which the United States Supreme Court changes or makes law through interpretation of the U.S. Constitution; and

(F.) Demonstrate for the children what ability we have to elect and influence our politicians, and the role that campaign finance plays in that process.

Accomplishing all these objectives together, students should be imbued with foundational knowledge of the United States Constitution, Bill of Rights, and critical principals of government, and be able to apply those principles to their world, so that they can become informed voters and engage in civil discourse.

## Background Knowledge

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Rising economic inequality adversely affects our democracy's foundational principles, even at local and national elections. However, America falls behind in recognizing the failings of our economic system, at every level. "For years, American economists had tended to downplay the importance of economic inequality in the country, arguing that its growth was simply the inevitable result of huge and unavoidable shifts in the global economy. Over time, they suggested, extreme inequality would naturally stabilize, and a rising tide would lift all boats."<sup>2</sup> Unfortunately, this prediction still has yet to come to fruition, and at the going rate, may never come to pass, as campaign financing demonstrates beautifully.

Ideally, officials in a representative republic like the United States carry out the will of their constituency. Still, elections can prove to be quite expensive, and the success of one's campaign almost always relates to the amount of money spent. For a candidate to build a winning coalition, countless dollars need to be spent on day-to-day operating, legal, advertising, travel, meal, and other expenses. It suffices to say that campaign donations are the keystone to any electoral victory. Those who donate to a campaign can and do hold substantial sway over how a politician behaves in office, and the legislation they support--for better or worse.

### Quid Pro Quo

In today's America, donating near unlimited funds to a campaign is consistently construed as “legal,” provided that it does not obviously violate the “*quid pro quo*” precedent. Translated from Latin, “*quid pro quo*” means “something for something,” or, as embodied by a popular English phrase, “You scratch my back, I’ll scratch your back.”

When pressed to provide an example, most people would describe a *quid pro quo* exchange as something like a crooked corporate crony meeting with a prospective politician in a dark parking garage, each disguised in

trench coats and sunglasses, meeting away from the security cameras, so that the corporate crony can hand the would-be senator or representative a briefcase full of money, to secure the politician's "support" in guiding policies towards the most beneficial ends for the donor corporation. As implicit in this seedy example, most would consider this exchange, between a moneyed entity and a corrupted politician (who is meant to protect constituents over corporations, after all) as corrupt and unlawful.

For the most part, this type of elicited exchange *is* unlawful. For instance, the Hobbs Act,<sup>3</sup> which prohibits extortion and curtails political corruption, or the Travel Act,<sup>4</sup> which punishes acts of bribery criminally, are both typically used to litigate against individuals, including politicians, who participate in a *quid pro quo* exchange implicating their roles as representatives of the people and the U.S. Government.

However, a growing reform movement urges the government to reconsider extending its stance on political corruption beyond the simplistic view of *quid pro quo*, to extend to more subtle forms of corruption than the classic "briefcase full of money" example. For instance, giving corporations the ability to donate tremendous amounts of money to a political campaign, or independent expenditure committee, may give the moneyed donors an inequitable influence over the decisions of the receiving politician, creating greater loyalty to the donor than to the constituency the politician should represent. The last forty-four years of campaign finance reform litigation and legislation are highlighted by this conflict.

### **Federal Election Campaign Act**

History presents ample examples of the effect of campaign financing on political policy, and the United States' habit of protecting this legitimized "back-scratching." One infamous case, emerging in the wake of the notorious 1972 Watergate Scandal, concerned the questionable corporate contributions President Nixon received during his reelection campaign, which, much to the horror of the public, resulted in compensatory Presidential policy decisions. In one such case, "a \$2 million pledge to Nixon from milk producers [occurred] simultaneous[ly] with the Nixon administration's increase in milk price supports." <sup>5</sup>

To assuage public outrage over such nefarious "back-scratching," Congress passed the Federal Election Campaign Act Amendment of 1974.<sup>6</sup> The FECA aimed to impose contribution and expenditure limits in addition to disclosure provisions and public financing of presidential campaigns, and it purported to do so with some rigor.

While many felt the FECA represented a significant step forward in the fight against political corruption, certain politicians reacted with outrage to this attack on their traditions. One representative of the enraged politicians, Senator James L. Buckley of New York, attacked the FECA in 1976, challenging the act as an unconstitutional infringement upon the First Amendment right to freedom of speech, culminating in the 1976 United States Supreme Court case *Buckley v. Valeo*.<sup>7</sup> Ultimately, the decision represented a major win for the politicians who stood to lose the most from the enforcement of the FECA.

"In the *Buckley* ruling, the Court upheld the act's limitations on contributions as appropriate legislative tools to guard against the reality or appearance of improper influence stemming from candidates' dependence on large campaign contributions. However, *Buckley* invalidated the act's limitations on independent expenditures, on candidate expenditures from personal funds, and on overall campaign expenditures."<sup>8</sup> As the Court observed in Footnote 18, "being free to engage in unlimited political expression subject to a ceiling on expenditures is like being free to drive an automobile as far and as often as one desires on a single tank of gasoline."<sup>9</sup>

In the eyes of the Court, an entity using its money to advocate for a particular viewpoint or candidate is not seen as corruption, but an exercise of the entity's freedom of speech. Where no obvious *quid pro quo* appeared on the face of a donation, and no reciprocation in the form of favorable action for the donor seemed to be demanded, nothing could be done.

### ***First National Bank of Boston v. Bellotti***

If *Buckley v. Valeo* cracked the defenses raised by the FECA, *First National Bank of Boston v. Bellotti*<sup>10</sup> blew that crack wide open. In this 1978 Supreme Court decision, the Supreme Court struck down a state law that attempted to reinforce and further the purposes of the FECA. Though dissidents of the ruling, like Massachusetts Attorney General Francis Bellotti, would argue: "corporations are creatures of the state and, as such, the state can regulate them however it sees fit,"<sup>11</sup> the Court found otherwise.

In this case, the First National Bank of Boston attempted to use its financial influence to oppose a Massachusetts referendum to enact a graduated personal income tax. However, the Massachusetts General Laws of 1976 expanded FECA prohibitions and disallowed corporate funds' use to influence the outcomes of elections, making First National Bank's plan of action criminal. To circumvent the state law, First National sued the Massachusetts Attorney General, claiming that the law unconstitutionally violated its right to free speech by denying it the right to fund political activities. When the Massachusetts Supreme Court ruled against the bank and upheld the Massachusetts law, First National appealed to the Supreme Court. The Supreme Court, led by Chief Justice Warren Burger, reversed the Massachusetts Supreme Court by a narrow 5-4 majority ruling.

The Supreme Court ruled that Massachusetts General Laws violated First National's corporate First Amendment Rights, implicitly permitting First National, and other entities like it, to bankroll political action (or stonewalling) and prohibiting the states from infringing upon that right. By denying states the ability to regulate entity political financing further, this case laid the groundwork for one of the most controversial Supreme Court Rulings more than thirty years later, which most United States citizens know best: *Citizens United v. Federal Election Commission*.

### ***Citizens United v. F.E.C.***

At present, *Citizens United v. F.E.C.*<sup>12</sup> is perhaps the most well-known Supreme Court decision concerning corporate, speech-related spending and currently the "final chapter" on the subject. This 2010 split Supreme Court ruling (a narrow 5-4 decision), "struck down a federal statute limiting independent expenditures by corporations and unions supporting a candidate."<sup>13</sup> Though the decision raised a massive public outcry, even from President Barack Obama, most failed to see that *Citizens United* merely followed the trend established in the 1970s, favoring corporate political action. The public widely criticized the ruling as opening the floodgates for special interests, though it merely opened the gate another inch wider. *Citizens United v. F.E.C.* represents the logical conclusion to campaign finance reform as preceded by *Buckley v. Valeo* and *First National Bank of Boston v. Bellotti*.

### ***SpeechNow.org v. F.E.C.***

Although *Citizens United v. F.E.C.* is the Supreme Court's final chapter on corporate speech-related spending (for the time being), *SpeechNow.org v. F.E.C.*<sup>14</sup> represents an interesting footnote to *Citizens United*, suggesting that the principles set forth in *Citizen United* and its predecessors may also apply to advocacy

group spending, due to the U.S. Supreme Court's *inaction*.

SpeechNow was an unincorporated nonprofit association head by David Keating. Their primary mission was the advocacy of the First Amendment and advocating for any federal candidate that shared this viewpoint. SpeechNow intended to operate by contributing to campaign expenditures rather than direct campaign finance. What would lead the case to the D.C. Circuit Court of Appeals occurred on November 19, 2007 when SpeechNow inquired with the FEC as to whether it must register as a political committee and if it qualified for specific contribution limits. In January 2008 the FEC issued an advisory opinion that SpeechNow should register as political committee. SpeechNow countered that, "the Act unconstitutionally restricts the individuals' freedom of speech by limiting the amount that an individual can contribute to SpeechNow.org and thus the amount the organization may spend."<sup>15</sup> On March 26, 2010, just three months shy from the *Citizens United v. F.E.C.* ruling the D.C. Circuit Court of Appeals extended the precedents first established in *Buckley v. Valeo* to cover contributions only from corporate interests but also to advocacy groups. Because the U.S. Supreme Court declined to review the decision, the decision was impliedly affirmed by the Supreme Court.

### ***McCutcheon v. F.E.C.***

The fight to identify money with free speech rages on even after *Citizens United v. F.E.C.* or *SpeechNow.org vs. F.E.C.* One of the latest legal precedents occurred in 2012 when Alabama resident, Shaun McCutcheon, filed suit against the F.E.C., challenging the F.E.C.A.'s biennial limits on an individual's combined contributions to federal candidates. McCutcheon argued that after donating the base limit of \$2,500 to sixteen federal candidates, that he was unable to donate to the twelve other candidates he supported due to the 2011-2012 biennial limits of \$46,200. McCutcheon proceeded to sue the F.E.C. arguing such limitations were an infringement on his First Amendment rights. However, the United States District Court for the District of Columbia upheld the biennial limit as a means of preventing corruption or the appearance of corruption. McCutcheon would go on to appeal his case to the Supreme Court on February 19, 2013 in *McCutcheon v. F.E.C.*<sup>16</sup> Following the precedent set by *Buckley v. Valeo*, the United States Supreme Court struck down this limit on biennial campaign contributions as a direct infringement on the First Amendment in a 5-4 decision. This ruling allowed for individuals to donate the maximum contribution to as many candidates they see fit, all in the name of free speech.

### **501(c)(4)s and Independent Expenditure-only Political Action Committees or Super P.A.C.s**

With *Citizens United v. F.E.C.* and *SpeechNow.org v. F.E.C.* in the books, the rise of the dark money interest could now fully take hold in American politics. There are two components which allow for dark money interests to influence political actions and campaigns—501(c)(4)s and Super P.A.C.s.

The Internal Revenue Service (I.R.S.) categorizes a 501(c)(4) as a tax-exempt non-profit social welfare organization. People are concerned that a 501(c)(4) acts as a covert channel through which individuals and organizations may anonymously donate to political organizations with no one the wiser (except perhaps the recipient of these funds). In this way, under the table and off the books, certain political figures and movements enjoy the backing of wealthy patrons, above and beyond what they might otherwise be able to receive under Federal law and within Constitutional bounds.

Secrecy is the main concern when thinking about 501(c)(4) organizations and "Independent Expenditure-only Political Action Committees," better known as Super P.A.C.s. Super P.A.C.s are allowed to take unlimited donations from individuals, corporations, unions, and other similar groups. Super P.A.C.s are also permitted to participate in unlimited campaign spending but are not allowed to coordinate or contribute to a candidate's

campaign. Many concerned citizens are critical of the fact that a 501(c)(4) organization can donate to a Super P.A.C. This donation can be made anonymously due to the 501(c)(4)'s status as a non-profit organization. Super P.A.C.s can finance independent expenditures for a candidate or organization. While this does not cross into *quid pro quo* territory, many people believe contributing in such a manner can discreetly gain political influence and loyalty.

### **Voting with Dollars**

The exploitation of tax code "gray areas" and legal "loop holes" is a concern for many Americans. However, "Patriot dollars" may be the solution to these issues with the current state of campaign finance. In the book *Voting with Dollars: A New Paradigm for Campaign Finance*, the authors Bruce Ackerman and Ian Ayres propose a solution to such dilemmas. Throughout the book, Ackerman and Ayres propose a government-run system that provides each voter a special credit card account containing fifty "Patriot dollars" for presidential elections. To use this money, citizens go to their local automated teller machine and anonymously send their Patriot dollars to their favorite candidate or political organization.<sup>17</sup> To not limit any contributor's free speech, they propose that additional funds can also be given anonymously through a similar method in the hopes of not buying political influence. If such a method of campaign finance were ever adopted, would ideally renew interest and faith in the democratic process while also not infringing on big-money donor's right to free speech as defined in *Buckley v. Valeo*.

## **Teaching Strategies**

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### **Graphic Organizers (Preamble to the Constitution and the Bill of Rights)**

After learning about the Preamble to the Constitution and the Bill of Rights, students will complete graphic organizers in order to modernize and simplify these documents. The graphic organizers are serve as a method of review before engaging students in any form of discussion, and before expanding upon any prior lesson.

### **Cooperative Learning (How a Bill becomes a Law)**

Students will model how a bill becomes a law, by simulating how a bill makes its way through the House, Senate, and the President's desk, possibly with a component highlighting judicial review. This activity allows students to experience a rudimentary concept of how the three branches of government work. In addition, this activity will mimic the debating and compromising our elected officials face when legislating a bill.

### **Classroom Discussions (The First Amendment and Free Speech)**

Classroom discussions covering the First Amendment and what constitutes free speech are excellent ways for students to critically reflect upon the cooperative learning activities. Also, classroom discussions allow students who may have missed critical information another opportunity to learn.

### **Inquiry-Based Learning (Mock Election)**

The unit will culminate with students participating in a mock election, during which students are to observe and study the mock election, in order to formulate an argument as to whether spending money on a political

campaign constitutes free speech. Students will review what they have learned in the previous lessons before donating to campaigns so candidates may buy advertisements and qualify for future debates. After the election has concluded, students will draw upon their experiences and what they have learned to respond to an opinion-based writing prompt concerning whether money in fact is a form of free speech.

## Classroom Activities

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### Preamble to the Constitution and the Bill of Rights

The unit will begin by introducing students to the Preamble to the Constitution. To establish interest in the lesson, I will inform students that we will be voting for their favorite ice cream flavor to celebrate the unit upon completion. Votes will be written and tallied on the board. No matter what the winning flavor is I will tell the class I do not like the results of the vote and demand a different flavor. Naturally, I expect some grunts and moans from the class. This will lead to my first group discussion question, “Do you feel by changing the result I have silenced your voice and caused an injustice in the class?” Ultimately, I will lead students to the Preamble to the Constitution which established the supreme law of the land.

After discussing this activity, and the significance of the Preamble as a whole, we will return to our seats to read the Preamble to the Constitution. I will use the book, *We the Kids: the Preamble to the Constitution of the United States* for its beautiful illustrations and for the rudimentary breakdown of each aspect of the Preamble. Due to the Preamble’s complexity, students will use a graphic organizer in which we draw out each of the ideas established in the Preamble. I will assign each group one part of the Preamble to the Constitution and have them discuss in groups what they think it means. Afterward, I will discuss with the class as we touch upon each idea and write a modernized version of each core tenet to the Preamble on our graphic organizers, to synthesize the ideas discussed and to help the students understand the Preamble in their own words.

As we continue to explore the Preamble to the Constitution, I will prepare some flashcards with an illustration of each purpose of the Constitution to quiz students at the beginning of each subsequent lesson. These flashcards can be used when students have finished any work and want to review themselves or with another student.

Afterward, students will learn how some states refused to ratify the Constitution until they knew certain rights and liberties were protected. At this point, I will present the ten amendments to the class. Using a graphic organizer, we will discuss the meaning of each amendment and modernize the language for the sake of comprehension.

### The Branches of Government

Next, students will participate in a classroom activity to learn about the three branches of government. I will first introduce students to a flowchart that walks students through how a bill becomes a law. I will explain to the students how Congress represents the legislative branch and is responsible for writing bills. I will explain how the Executive branch, which includes the President, is responsible for approving or vetoing a bill. Lastly, I will explain the Judicial Branch, which is responsible for enforcing and determining whether a bill is constitutional. Drawing these ideas together, I will explain the system of “checks and balances” and why this concept bore such importance for the drafters of the Constitution, from a historical perspective.



For the students to better understand this process of checks and balances, we will perform a classroom simulation where students write a bill that would apply to their everyday school life. Next, we will collect the bills and form committees for students to review the bills. In committee, students can decide which bill from their list will be pushed to become a law. Once students have decided which bills will become a law, the class will be divided in half, representing the House and the other the Senate. Students will then present the bill they have selected to the House while the Senate observes. The House will make any amendments before voting on the bill. Any bills approved in the House will then move onto the Senate, where a similar process will occur. Finally, all amended bills will be given to myself, who will be the acting President to either veto or approve the bill. As an extension, and depending on time and the content of any prospective "bill," we may also form a Supreme Court from selected students that will review any approved laws. One way to review these laws would be by using the school code of conduct guide as a "Constitution," making sure laws adhere to school guidelines.

### **Mock Election**

Following the legislative simulation, I will begin to focus on the First Amendment, to demonstrate how difficult it is to interpret the law. As a warm-up exercise, students will gather in our large group meeting area where we will review why the Bill of Rights exists, specifically focusing on the intent and purposes of the First Amendment. Through discussion, I will guide students to understand and discuss how freedom of speech extends beyond what you can say, and also applies to religion, the press, petition, assembly, or even the right to what you wear. Then I will propose the question to students, "Well, is how you spend your money and exercise of free speech?" With myself moderating, students will have a group discussion on whether or not spending money constitutes an exercise of free speech. Whether a classroom consensus is met or not, I will ask, "Should there be a limit on how much money you can spend as an exercise of free speech?" Again, I will lead students in a discussion before holding a demonstration.

In the demonstration, using a skateboard, I will ask my students, "This is my skateboard, and I own it just like I own my voice. In America, we have freedom of speech, and you can't limit how many words come out of my mouth. Let's say this skateboard represents a political cause I'm interested in, like global warming. And if I want my cause to move forward, I have to put energy, foot on the ground, to move the skateboard." I will then get on the skateboard to finish my demonstration. "If every time I put my foot on the ground that's a dollar I'm donating to stop global warming, do you think the government should limit how many times I can push the board forward?" It is important to note with students that the First Amendment protects political, ideological, and commercial speech. The true question at hand for students is, should money be identified as free speech if it's used to promote political and ideological ideas?

The unit will culminate with a mock election for class president, with the purpose of applying what the students have learned for the last two weeks and offering the students an opportunity to think critically about the First Amendment.

The election will start by allowing any student to declare their intention to run for office. Students will be asked to come up with a speech in which they lay out their platform to the class. Students who are not running for office will watch the speeches to decide who they will endorse. Since I teach two classes, some students will be unable to hear every speech given very much in the same way that not every American can listen to every presidential candidate's speech (which point I will later discuss with the students). A lot of a candidates' exposure to the opposing class will come in the form of advertisements.

I will be using a simplified hybrid model of both "patriot dollars" and Super P.A.C. funding to afford

advertisement.

Each student will be given \$100 "Patriot dollars" to donate to a campaign. However, there will be an individual contribution limit of fifty dollars to any one candidate. The only way a student can donate above the fifty-dollar limit is to form a Super P.A.C. Any group of students will be allowed to file paperwork with me, declaring their intention to form a Super P.A.C. The Super P.A.C. will then be able to pool their money to donate to a single candidate collectively. Donations will be made by students placing their donations into an envelope with their name and to whom they are donating. I will then collect the donations to give each candidate, having removed the money from the envelope to ensure privacy.

Once candidates have received their donations, they will be able to choose from a menu of resources to campaign. Options will include: hiring staff, buying copy paper to make fliers, buying poster board and paint to make hallway banners, or filming a video to show to any class. Also, students who raised a certain amount in funds will qualify for a debate to be held between both classes towards the end of the election cycle. The audience will be provided with a debate score sheet to help with decision making.

Lastly, students will be asked to cast their votes for class president. After the congratulatory celebration and swearing in, we will have a large group meeting to gauge our opinion on what helped make student's final decisions. Important discussion questions to ask include:

"Was your opinion made from policy or advertisements?"

"Was it fair that some campaigns had the support of a Super P.A.C.?"

"Was it fair that you only got to participate in the big debate if you raised a specific amount of funds?"

"Did the winning candidate have the most in donations?"

"Do you think this method is fair?"

"Do you think money should be considered a form a free speech?"

After the election has concluded students will use their last day of the unit answering an opinion based prompt: "Is spending money on a political candidate a form of exercising free speech?" Students will realize the laws we have in this country are not as black and white as some think they are and they should always be well informed before supporting a politician or a law.

## Resources

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### Teacher Reading List

Below are the resources I utilized while writing this unit that may prove useful for teachers broaden their understanding of campaign finance reform.

Ackerman, Bruce A., and Ian Ayres. Voting with Dollars: A New Paradigm for Campaign Finance. New Haven, CT: Yale University Press, 2004.

Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612 (1976)

Cantor, Joseph E., Campaign Finance: An Overview. Washington, D.C.: Library of Congress, Congressional Research Service, 2007.

Citizens United v. F.E.C., 558 U.S. 310 (2010).

First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765 (1978).

Graetz, Michael J., and Linda Greenhouse. The Burger Court and the Rise of the Judicial Right. New York: Simon & Schuster Paperbacks, 2017.

Lunder K., Erika and Whitaker L., Paige, 501(c)(4) Organizations and Campaign

Activity: Analysis Under Tax and Campaign Finance Laws: Library of Congress, Congressional Research Service, 2009.

Mayer, Jane. Dark Money: the Hidden History of the Billionaires behind the Rise of the Radical Right. New York: Doubleday, 2017.

McCutcheon v. F.E.C., 572 US 185 (2014)

"McCutcheon v. Federal Election Commission." Oyez. Accessed July 22, 2020.  
<https://www.oyez.org/cases/2013/12-536>.

Speechnow.org v. Federal Com'n, 599 F.3d 686 (D.C. Cir. 2010)

### **Students Reading List**

Below is a list of books that may prove useful when teaching students about the Constitution and the Bill of Rights

Fritz, Jean. Shh! We're Writing the Constitution. Glenview, IL: Braille Institute, 2016.

Krull, Kathleen, and Anna DiVito. A Kids Guide to Americas Bill of Rights. New York: Harper, an Imprint of Harper Collins Publishers, 2015.

Maestro, Betsy, and Giulio Maestro. A More Perfect Union: The Story of Our Constitution. New York: Collins, 2017.

## **Appendix on Implementing District Standards**

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Below are the Oklahoma Academics Standards that will be followed in order for students to think critically about how our government functions and the interpretations of our First

Amendment right.

## Social Studies

5.4.3 Examine the purposes and basic responsibilities of government as described in the Preamble of the Constitution of the United States, which established the supreme law of the land.

5.4.6 Explain how the Constitution of the United States was amended to include the Bill of Rights and summarize the liberties protected in each of the ten amendments.

5.5.1 Examine the key principles of government established in the Constitution of the United States including:

- A. separation of powers among three branches of government
- B. the system of checks and balances
- C. shared powers between the federal and state governments

5.5.3 Describe the responsibilities of United States citizens including:

- A. registration and voting in public elections
- B. becoming informed voters
- C. engagement in civil discourse

## Language Arts

5.3.W.3 Students will clearly state an opinion supported with facts and details.

5.3.W.4 Students will show relationships among facts, opinions, and supporting details

## Endnotes

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<sup>1</sup>*Citizens United v. F.E.C.*, 558 U.S. 310 (2010).

<sup>2</sup> Mayer, Jane. *Dark Money: the Hidden History of the Billionaires behind the Rise of the Radical Right* (New York: Doubleday, 2017: 15).

<sup>3</sup> 18 U.S.C. § 1951 (1946).

<sup>4</sup> 18 U.S.C. § 1952 (1961).

<sup>5</sup> Graetz, Michael J., and Linda Greenhouse. *The Burger Court and the Rise of the Judicial Right* (New York: Simon & Schuster Paperbacks, 2017: 256).

<sup>6</sup> 52 U.S.C. § 30101 (1972)

<sup>7</sup>*Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>8</sup> Cantor, Joseph E., *Campaign Finance: An Overview* (Washington, D.C.: Library of Congress, Congressional Research Service, 2007: 4).

<sup>9</sup> Buckley, 424 U.S. at n. 18

<sup>10</sup>*First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

<sup>11</sup> Graetz and Geenhouse, 263

<sup>12</sup> . Citizens United v. F.E.C., 558 U.S. 310

<sup>13</sup> Graetz and Greenhouse, 266

<sup>14</sup> *SpeechNow.Org v. Federal Com'n*, 599 F.3d 686 (D.C. Cir. 2010).

<sup>15</sup>*SpeechNow.Org*, 599 F.3d at background.

<sup>16</sup>*McCutcheon v. F.E.C.*, 572 US 185 (2014)

<sup>17</sup> Ackerman, Bruce A., and Ian Ayres. *Voting with Dollars: A New Paradigm for Campaign Finance* (New Haven, CT: Yale University Press, 2004).

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