

Pushing the Limit

The Impacts of Raising Federal Limits on Contributions to Campaigns

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Summary

At least five proposals to increase limits on contributions by individuals to congressional candidates -- either as stand-alone measures or as part of a package of campaign finance measures -- have been floated by important political groups and individuals in the past year.

The following paper analyzes the likely impact of these proposals on which candidates get elected and on the power of wealthy interests vs. the general public in governmental decisionmaking.

Our analysis concludes that all of the proposals to increase contribution limits fail -- in varying degrees -- to move our political system toward the goal of a democracy of the people, by the people, and for the people. In other words, they are not in the public interest.

Instead, they are the wrong solutions to the wrong problems at the wrong time.

These failings fit into three categories:

1. The proposals will give even more power to wealthy individuals. Raising individual contribution limits will result in an even greater percentage of campaign money coming from wealthy donors -- thereby making it more likely that candidates sympathetic to wealthy interests will be elected and lean in their donors' direction when governing. Raising limits will not benefit candidates who don't know anyone that has \$1,000 available to contribute to them, much less \$3,000 or more.

Banning soft money contributions in exchange for an increase in individual contribution limits will also not reduce the influence of wealthy donors on campaigns. An increase in the individual contribution limit to \$2,500 will likely allow wealthy donors to contribute at least an additional \$318 million in hard money, more than the \$224 million removed by a soft money ban.

2. The proposals fail solve the problems they claim to address:

* The proposals will not cause candidates to spend less time raising money. In any competitive race without spending limits, candidates never think they have "enough" money. The fact that they can raise, say, \$1 million in less time because of higher contribution limits will not cause a candidate to relax if his or her opponent is raising \$1 million at the same pace. It will tend to prompt them to raise another \$1 million.

* The proposals will not help challengers. There is not conclusive evidence that states that have lowered contribution limits have experienced any significant difference in the success rate of challengers. Likewise, states such as California, which have no contribution limits, have not experienced significantly lower incumbent re-election rates than Congress or other states that have lower contribution limits.

* The proposals will not restore the intent of the 1974 campaign finance law after inflation. The 1974 law limited both campaign contributions and spending, creating a balance between the two. These proposals raise the contribution limits -- which were already too high in 1974 -- to offset inflation, but do not set spending limits for all candidates -- even at the same level as in 1974 after adjustment for inflation.

3. The proposals attack problems that either do not exist or which are not serious concerns:

* Candidate spending has not been seriously limited by current contribution limits. Candidate spending has gone up at a rate 50% greater than the rate of inflation since 1974 and 2.3 times the rate of increase in the wages of ordinary Americans.

* Parties will not be crippled by the banning of soft money contributions, a concern that some proposals claim justifies an increase in individual contributions to candidates and parties. Parties already raise twice as much "hard" money as "soft" money. Moreover, parties thrived long before they discovered the loophole in FEC regulations that allowed them to solicit and accept soft money contributions.

Introduction

We are witnessing a systematic repeal of the campaign finance laws enacted in 1974 after the Watergate scandals. First, the Supreme Court wrongly threw out the most significant portions of the law. Then, large donors used soft money to circumvent the portions of the law that remained intact. Now they are proposing a scheme where they will agree to play by the rules, but only if the rules are weakened to the point that they will have little impact on wealthy interests' ability to continue dominating the American political landscape. To call such an effort "reform" does gross violence to the meaning of campaign finance reform and to the intelligence of the American public.

In 1974, Congress passed the Federal Elections Campaign Act, FECA, which set limits of \$1,000 on what a candidate could receive ÷ per election ÷ from an individual, and of \$5,000 from a political action committee (PAC). Therefore, an individual could give up to \$2,000 in a two-year cycle, and a PAC up to \$10,000. FECA also established an aggregate limit of \$25,000 per year that an individual can give to all parties, candidates, and PACs combined.¹ These limits were rather high at the time, as only about 6% of donors were giving more than \$1,000 to a candidate. So, the contribution limits initially had little impact.

However, FECA also set mandatory spending limits for congressional campaigns that were comparatively stringent: \$70,000 for House campaigns (both primary and general) and of eight cents per voter for Senate primaries and twelve cents a voter for Senate general elections. Candidates were limited to spending \$35,000 of their own money on a Senate campaign, and \$25,000 on a House campaign. These limits were to be indexed annually for inflation. They would be approximately \$203,000 per election for a House race if in place today (\$406,000 for primary and general combined), considerably less than the \$650,000 that winning House candidates spent on average in the 1998 election.

In the 1976 case *Buckley v. Valeo*, the Supreme Court struck these limits down, but left the contribution limits in place.

In the ongoing debate about campaign finance law, some voices have suggested that one desirable "reform" in the current system would be to raise the contribution limits set forth in FECA. This paper analyzes the impact of such a raise, and concludes that it would not be in the public interest to do so.

Recent proposals to increase contribution limits

Senator McConnell:

Senator Mitch McConnell (R-KY) is the chair of the National Republican Senatorial Committee as well as the new chair of the Senate Rules Committee, which has jurisdiction over campaign finance issues. Senator McConnell has held a hearing to determine whether the current contribution limits should be raised ÷ a move he has long supported.

At those hearings, former Senator Dan Coats testified that if contribution limits were raised, candidates would spend less time raising money. Demaris Miller, a Republican candidate who lost a recent bid for Congress, testified that she was "seriously constrained" by the limits. It has been reported that Senator McConnell is considering brokering a deal with Senate Democrats that would limit soft money contributions in exchange for raising the limits on hard money, although no specific proposal has yet been put forward. Senator Dodd, the ranking Democrat on the Rules Committee expressed some concern about the idea of raising limits, saying that such a move could lead to greater cynicism among those voters who can't afford such large sums.

Norm Ornstein:

Norm Ornstein has put forth several proposals in recent years, all calling for an increase in hard money contribution limits. Ornstein is a fellow at the American Enterprise Institute, a business oriented think-tank that recently hired Newt Gingrich as a fellow. AEI's Board of Trustees is comprised of corporate leaders and includes Steve Forbes, President and CEO of Forbes Inc., Harvey Golub, Chairman and CEO of American Express Company, Paul O'Neill, Chairman and CEO of Alcoa, John Snow, Chairman of CSX, and William S. Stavropoulos, President and CEO of the Dow Chemical Company.

In 1997, Ornstein teamed up with Thomas Mann, Paul Taylor, Michael Malbin, and Anthony Corrado to issue "5 Ideas for Practical Campaign Reform," a plan which called for a ban on soft money to federal parties, but created a new \$25,000 limit that individuals could give to parties on top of the aggregate \$25,000 that individuals can currently give to candidates, parties, and PACs combined. The plan also called for tax credits for in-state contributions of \$100 or less to a candidate. In exchange, the plan

called for considering increases in the individual contribution limit from \$1,000 to \$3,000. On March 11, 1999, Ornstein unveiled a "new" five point reform proposal in an article in *Roll Call* magazine. Not surprisingly, the plan called for increasing the individual contribution limit from \$1,000 to \$3,000. This was portrayed as a compromise, with Ornstein saying, "Frankly, if I had my way, I would raise the limit on what donors can give to \$5,000 per candidate." The plan also called for the creation of a new hard money limit of \$25,000 to the parties and included the \$100 tax credit.

The Hutchinson bill:

In the last Congress, Representatives Asa Hutchinson (R-AR) and Tom Allen (D-ME) introduced the so called Freshman Reform bill. The bill contained a ban on soft money to federal parties (but left open a loophole for soft money to flow to state parties) and contained a provision that would in effect double the aggregate amount of hard money an individual can give from \$25,000 per two-year election cycle to \$50,000 per two-year election cycle. Further, it would have increased the individual and PAC contribution limits in the future based upon inflation. This proposal was defeated on the House floor on August 6, 1998, by a vote of 147 to 222. However, the freshmen leaders, now sophomores in the 106th Congress, are undeterred. Hutchinson has reintroduced essentially the same bill this year, H.R. 1867 and Representative Allen has said that he hopes to amend this year's Shays-Meehan bill to include a contribution limits increase.

The Whitfield amendment:

Representative Edward Whitfield (R-KY) offered an amendment to the Shays-Meehan campaign reform bill on the floor of the 105th Congress that would have increased the individual contribution limit from \$1,000 to \$3,000. U.S. PIRG, Public Campaign, Common Cause, the League of Women Voters, and Public Citizen all urged members of Congress to defeat the measure, as did reform sponsors Representative Chris Shays (R-CT) and Marty Meehan (D-MA). The amendment was defeated by a vote of 102 to 315.

The CED proposal:

The Committee for Economic Development is a policy and research organization consisting of some 250 business leaders and academics. Its self-described purpose is to "propose policies that bring about steady economic growth at high employment and reasonably stable prices, increased productivity and living standards, greater and more equal opportunity for every citizen, and an improved quality of life for all." CED's Research and Policy Committee includes Kathleen Cooper, Chief Economist of Exxon Corporation, Frank Doyle, retired Executive Vice President of GE, Allen Krowe, retired Vice Chairman of Texaco, A.V. Liventals, Vice President of Strategic Planning for Mobil Corporation, Henry McKinnell, Executive Vice President of Pfizer, John Ong, Chairman Emeritus of BF Goodrich Company, Steffen Palko, Vice Chairman and President of Cross Timbers Oil Company, and Martin Zimmerman, Vice President of Government Affairs for Ford Motor Company. CED's largest supporters (\$50,000 and over) are AT&T, Bell Atlantic, Exxon Corporation, GE Fund, GTE Foundation, Mobil

Corporation, Northern Telecom, Pfizer Inc, the Procter & Gamble Fund, the Prudential Foundation, and Texaco Foundation.

On March 18, 1999, CED took the unusual step, for a business group, of advocating a campaign finance reform platform. CED's proposal includes some laudable provisions, including a call for a voluntary public financing plan that would match individual contributions under \$200 with a 2-to-1 match in public funding for all candidates who have accepted voluntary spending limits (about twice as high as those approved in 1974, after factoring in inflation.) However, this provision is very unlikely to be passed in this Congress. CED's other proposals look strikingly similar to Ornstein's, including an incomplete ban on soft money (it would still allow soft money to flow to state parties), a tripling of the individual contribution limit from \$1,000 to \$3,000, and the creation of a new \$25,000 contribution limit to the parties on top of the current \$25,000 limit for all parties, candidates, and PACs combined.

The CFA letter:

The Campaign For America is a non-profit, non-partisan lobbying organization founded and funded by Jerome Kohlberg, Jr. to work on campaign finance issues. On March 22, 1999, CFA sent a letter to Senators Mitch McConnell and Chris Dodd, urging that Congress modify current campaign finance law and specifically suggesting (among other proposals) that: A) contribution limits be increased from \$1,000 to \$3,000 to "eliminate some of the time candidates have to spend fundraising, and B) "to compensate parties for closing the soft money loophole" a separate \$25,000 limit be established for contributions to political parties above and beyond the current \$25,000 that individuals can give to parties, candidates, and PACs combined.

Impacts of Raising Limits

We shall now examine the impacts of raising contribution limits on our electoral process.

1. THE PROPOSALS WOULD GIVE EVEN MORE POWER TO WEALTHY INDIVIDUALS.

Candidates would raise an even higher percentage of money from wealthy donors.

We can safely assume that elected officials grant access to and are influenced by those who are responsible for getting them elected. This process is entirely appropriate. We would expect politicians to be influenced by those citizens who had voted for them, volunteered on their campaigns, and contributed to their election funds. Indeed, if elected officials felt no need to listen to those who had placed them in office, representative democracy would not be possible.

Democracy is seriously threatened, however, when it is no longer the voters who are responsible for placing a candidate in office, but a tiny number of wealthy campaign

contributors. While money is not the only factor in determining the outcome of elections, the fact that the candidate who spends the most money wins their race about 90% of the time is alarming.³ When campaign contributors determine who can successfully run for office and who wins elections, elected officials become more accountable to their cash constituents than to their real constituents.

Candidates already raise the vast majority of their funds from wealthy donors as opposed to ordinary Americans. In 1976, one-third of campaign contributions to congressional candidates came from individual contributions of under \$100.⁴ Twenty years later, in the 1996 elections, only an estimated one in ten dollars contributed came from individual contributions under \$100.⁵ A study of FEC contributions by the reform group Public Campaign reveals that only six one-hundredths of one percent of Americans made a contribution of \$1000 in the last election.

While it is certainly troubling that so few Americans feel it worthwhile to make a contribution to a candidate, we might take some consolation if those who did contribute were somewhat representative of the public at large. This, however, is far from the case. A survey conducted by John Green of the University of Akron, Paul Herrson of the University of Maryland, Lynda Powell of the University of Rochester, and Clyde Wilcox of Georgetown University found that individual donors who give more than \$200 are, not surprisingly, much more wealthy than most Americans. Of large donors, 95% had family incomes greater than \$50,000, while almost two-thirds of American households had incomes below that level. Large donors are disproportionately white, male, and from high status occupations. The survey also found large donors to be more conservative than the public at large on economic matters and environmental issues.

Any increase in the amount that wealthy donors can give would only further exacerbate the already alarmingly undue influence that a small number of people have on elections in America. Even if candidates made no changes in their fundraising patterns, the larger amounts of money that they would raise from the same number of wealthy donors would only further reduce the percentage of funds coming from ordinary citizens. Since these funds largely determine how successful a candidate will be, ordinary citizens will have a smaller and smaller role in holding elected officials accountable. Wealthy special interests will have all the more access and influence with officeholders and even more influence in determining the outcome of elections than they do today. Raising contribution limits in any amount would only serve to worsen the most fundamental problem with our campaign finance system.

Party loophole would allow complete evasion of individual contribution limit.

Creating a new limit of \$25,000 for contributions to the political parties would open up a gigantic loophole in the individual contribution limits to candidates. The U.S. Supreme Court has ruled that parties may make unlimited expenditures on behalf of their candidates, so long as they do so independently without coordinating with the candidate. A lower court in Colorado has ruled that parties can, in fact, now coordinate those expenditures with candidates. So a wealthy donor who has already given their

maximum \$1000 contribution to a candidate would need only to turn to the parties and make a contribution of up to \$25,000 with the request that the party spend that money in the race that the donor is concerned about. While the party could not legally promise to spend the money on that race, they could certainly decide to do so. In practice, this is what large donors and parties are doing now with the soft money system, although at present the parties cannot legally coordinate soft money expenditures with the candidates nor can they expressly advocate the election or defeat of a candidate with soft money. In effect, the proposed \$25,000 loophole for direct party contributions is nothing short of an attempt to legalize a significant part of the current soft money system and convert the funds into something all the more useful to candidates and donors alike.

Increasing individual limits would disadvantage small donors organized in PACs.

By increasing the amount that a single large donor can give, all of the proposals outlined in this paper would reduce the relative importance of PACs. The CED report makes this as an overt claim, saying that "by expanding the amounts individuals may give, our proposal should reduce the incentive for candidates to seek PAC funding. It will make it easier for candidates to eschew PAC contributions, since it will be easier to replace PAC monies with funds raised from individual donors."

In our current system that is dominated by large contributions of up to \$1,000, one of the only ways for an ordinary citizen to have an impact on the political process is to join forces with other like-minded citizens. Together, they may be able to pool enough small contributions to compete with the contributions of large individuals. The Political Action Committee is often the best means available for ordinary citizens under the current system.

Our current PAC system is flawed in that it allows corporate PACs to have disproportionate influence compared to labor or ideological PACs because the limit of a person giving to a PAC is \$5,000. While some business executives and shareholders can afford to support a PAC at this level, the typical worker in a labor PAC or ordinary American in an ideological PAC can not. Thus, one important reform would be to lower the amount that individuals can give to a PAC. However, as long as we are dealing with a system where candidates depend upon privately raised dollars, the concept of a PAC is a sound one and we should be taking steps to increase the role of small donors PACs rather than reducing their influence vis a vis large individual donors.

Increasing limits would advantage business interests.

Precisely because the labor movement is so dependent upon PACs to pool small contributions, the proposals to increase individual contribution limits would decidedly tilt the playing field even further in the direction of business interests.

According to the Center for Responsive Politics, labor interests gave only \$202,000 in individual contributions in 1998, compared to \$319 million from large individual business contributors. Similarly, environmental interests that are organized through PACs

by the Sierra Club and the League of Conservation Voters, as well as other ideological interests ranging from issues of abortion to gun control to school prayer, would gain little by having their supporters be able to give up to \$3000 directly to a candidate.

In contrast, corporate executives have the means necessary to make large individual contributions, and would certainly take advantage of an increase in the amount they are allowed to give. Raising the individual contribution limits would only make it that much easier for corporate interests to continue pouring the same levels of money into politics that they do now, if not even more.

2. THE PROPOSALS FAIL TO SOLVE THE PROBLEMS THAT THEIR PROPONENTS CLAIM TO BE THEIR OBJECTIVES.

Despite these deleterious ramifications of increasing contribution limits, many proponents of an increase in limits argue that the positive effects of an increase would offset the downsides and that on balance increasing contribution limits would be a good policy decision. We shall now examine those points.

Higher contribution limits would not cause candidates to spend less time raising money.

Proponents of higher contribution limits, such as former Senator Coats, suggest that candidates would spend less time raising money if they could raise it in larger amounts. But there is no logical reason or any empirical evidence to suggest that this is true. In fact, it is much more likely that candidates will simply raise more money from the same people they are currently raising it from. The arms race mentality of keeping pace with what one's opponent is raising will continue to push all candidates to raise as much as physically possible.

Any politician who claims that he or she would spend less time raising funds under higher limits should be prepared to provide a list of donors who they are currently raising money from who they would not ask for money under a higher limits regime. Absent this assurance, the public should deduce that a politician will call through any list that his or her campaign consultants provide them with, knowing that their opponent will be doing the same thing. They will spend the same amount of time doing so as they do now, if not more so, as each phone call could become potentially three times as valuable as it is today, thus providing that much more incentive to make another call.

Election financing is subject to the law of supply and demand. Currently, there is a virtually unlimited demand for money in politics from candidates, parties, and interest groups, fed by political consultants who have developed new and expensive ways to influence elections. The only thing now holding back that demand is a set of increasingly flouted limits on supply ÷ contribution limits. Loosening those limits will thus only feed the insatiable demand.

Only spending limits, which are proposed only in the CED proposal among the schemes that call for higher limits, would potentially save time by placing some limits on the demand side of the equation. Once a candidate had reached their limit, there would

supposedly be no reason to continue fundraising for their own campaign. Even then, as we have seen with presidential races that do have spending limits and public financing, candidates continue to fundraise for entities other than their own campaigns. They raise soft and hard money for political parties; they raise funds for their legal defense funds; they attend fundraisers for other candidates; they raise money for advocacy groups that they support. While campaign law can and should be reformed to abolish some of these practices such as soft money, we can be assured that candidates will always find ways of spending time that will benefit their own candidacies, their parties, and the causes they believe in.

Further, time spent campaigning is not a problem from the public interest perspective. As long as candidates are elected, we ought to expect them to spend some of their time seeking re-election. The problem with candidate fundraising is not the time expended, which is inevitable in electoral politics and necessary to have any electoral accountability, but with whom the time is spent. When politicians are spending their time raising money from extremely wealthy donors, or from Washington lobbyists at fancy receptions, they are constantly hearing the concerns of only a narrow section of society.

Moreover, since politicians are dependent upon those narrow interests for their re-election, they are, in a very real way, accountable to them. No *quid pro quo* transaction need take place for a politician to realize that voting against a certain industry will result in fewer contributions from that industry when it comes time to make the fundraising calls. Raising contribution limits will severely worsen this dynamic, as candidates will become all the more beholden to wealthy interests. Lowering the contribution limits might not save candidates any time in raising money either, but it would force them to spend that time with citizens who could afford to give smaller amounts, thus forcing accountability to a much broader segment of society.

Higher contribution limits would not help challengers.

As the accompanying charts show, congressional incumbents as a whole usually outraise challengers under the current system, sometimes by ratios approaching four to one. This is true of overall fundraising, and also true of funds raised from individuals. In fact, for most Senate elections, incumbents have an advantage compared to challengers in funds raised from individuals as opposed to total receipts. Since there is no reason to believe that higher contribution limits will allow either challengers or incumbents to find additional donors, but only receive more from existing donors, it is certain that higher contribution levels will only increase the fundraising disparity between challengers and incumbents.

Incumbent vs Challenger Fundraising ÷ Total Receipts

Senate 1998 1996 1994 1992 1990

Dem Inc: \$66,941,216 \$35,109,799 \$79,961,555 \$47,624,647 \$63,521,904
Rep Inc: \$68,577,760 \$46,739,485 \$3,388,182 \$52,073,046 \$55,214,262
Total Inc: \$ 135,518,976 \$81,849,284 \$113,349,737 \$99,697,693 \$118,736,166
D. Chall: \$43,616,521 \$40,516,067 \$15,746,348 \$63,194,623 \$21,333,387

R. Chall: \$70,258,720 \$38,001,323 \$102,292,631 \$31,227,160 \$33,451,596

Tot.Chall:\$ 113,875,241 \$78,517,390 \$118,038,979 \$94,421,783 \$54,784,983

Ratio 1.2/1 1.0/1 1.0/1 1.1 /12.2/1

House

Dem Inc: \$ 128,722,292 \$107,523,830 \$ 140,783,403 \$126,814,618 \$11,854,917

Rep Inc: \$ 164,944,830 \$172,284,125 \$82,512,946 \$76,096,950 \$70,029,416

Total Inc: \$ 293,667,122 \$279,807,955 \$223,296,349 \$202,911,568 \$181,884,333

D. Chall: \$ 44,484,497 \$73,068,768 \$29,112,523 \$34,630,942 \$20,096,056

R. Chall: \$48,349,114 \$45,978,650 \$69,931,620 \$53,922,759 \$26,569,242

Tot. Chall: \$92,833,611 \$119,047,418 \$99,044,143 \$88,553,701 \$46,665,298

Ratio 3.2/1 2.4/1 2.3/1 2.3/13.9/1

Incumbent vs Challenger Fundraising ÷ Individual Contributions

1998 1996 1994 1992 1990

Senate

Dem Inc: \$47,019,710 \$26,835,409 \$46,998,469 \$26,829,041 \$43,131,914

Rep Inc: \$43,876,916 \$29,079,171 \$21,164,824 \$34,534,699 \$38,349,238

Total Inc: \$90,896,626 \$ 55,914,580 \$68,163,293 \$61,363,740 \$81,481,152

D. Chall: \$23,713,949 \$ 21,453,005 \$8,495,976 \$41,392,107 \$2,258,750

R. Chall: \$32,236,577 \$23,517,000 \$49,488,598 \$20,650,206 \$18,945,606

Tot. Chall: \$55,950,526 \$44,970,005 \$57,984,574 \$62,042,313 \$31,204,356

Ratio	1.6	1.2	1.2	1.0	2.6
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House

Dem Inc: \$60,724,348 \$51,290,671 \$61,382,892 \$52,469,905 \$42,302,058

Rep Inc: \$90,311,219 \$98,942,867 \$48,862,706 \$39,894,671 \$35,641,624

Total Inc: \$151,035,567 \$150,233,538 \$110,245,598 \$92,364,576 \$77,943,682

D. Chall: \$23,924,306 \$39,537,981 \$15,714,552 \$17,707,784 \$9,887,413

R. Chall: \$26,956,475 \$29,121,383 \$38,846,667 \$28,232,123 \$14,745,440

Tot. Chall: \$50,880,781 \$68,659,364 \$54,561,219 \$45,939,907 \$24,632,853

Ratio	3.0	2.2	2.0	2.0	3.2
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There is a legitimate policy debate as to whether the total amount raised by a challenger matters more or less than the total amount that they are outspent by. Some political consultants hold that it doesn't matter how much an incumbent spends, so long as the challenger can spend enough to "get out their message." Others will note that unless a challenger has enough to not only put out a positive message but also respond to the negative attacks of an opponent, they will lose. In this view, parity between the two candidates is paramount. No doubt a challenger's success depends somewhat on both how much they raise and on how much their opponent raises. However, the fact that the candidate who spends the most money generally wins 90 percent of the time is certainly an indication that the ratio may matter more than the amount.

Some political scientists are fond of using regression analysis to "prove" the obvious point that challengers who raise more money under the current system have a much better chance of winning than those who raise less. But it is faulty reasoning to then presume that any new system that allows challengers to raise more money than they do now will therefore benefit challengers as a class. This is because their opponents will also be raising more money, and the cost of running a successful campaign will inevitably go up.

A more appropriate methodology for measuring the impact of contribution limits on challengers would be to look at the track record of state election law. If we were to find, for instance, that across the board whenever a state lowered its contribution limits that challengers fared worse, we might then conclude that contribution limits do have a negative impact on challengers. However, the general trend in America over the past 30 years at both the state and federal level has been an explosion of candidate spending and some of the highest incumbent re-election levels in history. Further, incumbent re-election rates are as high in states like California that have no limits on contributions as they are at the federal level or in states that have lower contribution limits. This overall story suggests that contribution and spending limits might, if anything, benefit challengers, but may also have little effect one way or the other.

Helping challengers does not necessarily enhance representative democracy.

But beyond this empirical question of whether various limits help or hurt challengers as a class, we should remember that helping challengers per se does not necessarily improve representative democracy. We ought to remember that while incumbents often do have higher levels of name recognition than some challengers, this can be either an advantage or a disadvantage depending upon whether or not the incumbent is well-liked in their district. Incumbents have the necessity of defending a voting record, some of which is bound to be unfavorable with some of the voters in their district.

For instance, congressional incumbents running in the 2000 elections will have to defend their votes on controversial matters, such as impeachment and the Serbian war, and will certainly find that a sizable number of voters will disagree with whatever position they took in the matter. Indeed, critical to the concept of representative democracy is the notion that incumbents who have by-and-large voted in ways that meet the approval of their district are likely to be re-elected and those who have not ought not be re-elected. Hence, we should not despair from a representative democracy point of view that some incumbents do get re-elected. Whether or not it is desirable to have elected officials in office for long periods of time, or for shorter tenures, is a question to be handled by the debate over term limits.

It is no doubt true that some challengers would benefit from higher contribution limits, even if challengers as a class would not. A challenger who had little support among small donors, but had much greater appeal among large donors than an incumbent did, would obviously be better off if those large donors could contribute more to his or her campaign. But, helping those challengers would not necessarily enhance representative democracy. Rather, allowing big money to skew either the advantages or disadvantages of incumbency is a mistake.

Even taking inflation into account, increasing limits would not restore the intent of the 1974 law.

Perhaps the most repeated critique of the current \$1,000 limits is that they have been eroded by inflation, and that Congress should now raise them in order to restore the intent of the 1974 law. This argument ignores the fact that the 1974 Congress intended candidates to be spending no more than \$406,000 in 1998 dollars on their campaigns. However, in 1998 the average winning House candidate spent more than \$650,000, with many spending vastly more. At the levels set in the 1974 law, it would still be conceivable that many candidates could run for office entirely based upon the support of small donors who live within their district. But at today's levels, candidates are all but forced to raise money from large donors to remain competitive.

If Congress wanted to restore the intent of the 1974 law after taking into account inflation, it should either establish a voluntary spending limit program, or re-enact the 1974 mandatory spending limits to again challenge the Supreme Court to reconsider its misguided *Buckley v. Valeo* decision. Alternatively, it could lower contribution levels to

the point where candidates were only likely to raise \$406,000, and then allow for future adjustments for inflation.

Moreover, there is no reason to believe that the 1974 law set contribution limits at the appropriate level. Ordinary citizens cannot afford a \$1,000 contribution now any more than they could in 1974, so the current limit still skews the system toward wealthy interests. If restoring a level playing field between citizens is the goal of campaign finance reform, then the \$1,000 limits should be lowered, not raised.

3. THE PROPOSALS ATTACK PROBLEMS THAT EITHER DO NOT EXIST OR WHICH ARE NOT SERIOUS CONCERNS.

Current limits have not prevented candidates from raising ever increasing amounts.

CED's report assumes that one of the problems that needs to be solved is that candidates do not have enough "access to resources." The report cites the onerous demands of fundraising on candidates and stresses that increasing individual contribution limits will "encourage candidates to rely more on individuals for campaign funds and allow them to receive more money from their most generous supporters."

It certainly is not the case that the current \$1,000 limits have prevented candidates from raising funds at a pace that well exceeds that of inflation. The following chart illustrates how total fundraising by all congressional candidates has increased from \$199 million in 1978 to \$781 million in 1998, while the inflation adjusted value of the 1978 fundraising levels only increase to \$516 million by 1998.

Even more illustrative is how candidate fundraising has far outstripped increases in citizens' ability to give, as measured by the average hourly wage. While congressional fundraising increased from \$199 million in 1978 to \$781 million in 1998, a 292% increase, the wages of ordinary Americans went from \$5.47 in 1978 to \$12.54 in 1998, an increase of only 129%.

Clearly, politicians are raising more money than ever before, and the \$1,000 limits on individual contributions have not inhibited candidates' abilities to increase their fundraising at a pace far outstripping inflation. Higher contribution limits would only further accelerate the levels at which candidates raise funds.

Parties will not be crippled by the banning of unlimited soft money contributions.

The CED proposal claims that a ban on soft money will "have a significant effect on the resources available to national parties and may diminish their role in the electoral process." Thus to "compensate for this loss," CED and others propose a new limit to allow large donors to give \$25,000 to parties on top of a \$25,000 aggregate limit to candidates.

We should first remember that the Republican and Democratic parties raise the majority of their funds in hard dollars that are subject to the contribution limits and restrictions of

federal law. According to FEC data, the Republican Party committees raised \$285 million in hard money in 1997-98 and the Democratic committees raised \$160 million, for a combined total of \$445 million. In comparison, the two parties raised just \$224 million in soft money. A complete ban of soft money would hardly leave the parties bankrupt.

More fundamentally, however, the notion that parties somehow need to be compensated for giving up something that never should have been legal in the first place is preposterous. Soft money did not exist until the 1980s, when the two parties discovered how to exploit a loophole in FEC regulations. The FECA law passed in 1974 clearly prohibits contributions from corporations and labor unions in connection with federal limits and states that parties can not accept any more than \$20,000 from an individual (subject to the \$25,000 aggregate limit on all contributions to candidates, parties, and PACs.) Parties got along fine prior to 1980. There is no need to allow parties to become conduits for large donor money to compensate them for abandoning a practice that is a flagrant violation of the intent of the law.

The notion that we need to strengthen the role of parties in US politics is a good one. But, the presumption that the way to do that is to allow extremely wealthy interests to give very large amounts to parties, who can then redirect funds into candidate races, is faulty. This would simply result in both major political parties taking similar positions aimed at placating the interests of a wealthy minority. Parties played a much greater role in US politics when candidates needed the support of the party through endorsements, volunteer work, strategic advice, and by providing a programmatic platform to run under. Now that candidates can run their own professional campaign machines, with TV ad campaigns and consultant-laden staffs, they have no need for cooperation with their parties and feel no need to support their party's platform. A better way to strengthen the role of the parties would be to reduce candidate spending in elections, forcing the cooperation and coalition building that parties are conducive to.

Is it worth a compromise?

The above analysis shows that higher contribution limits are clearly not in the public interest. However, reforms that some proposals have included with an increase in hard money limits are in the public interest, such as a soft money ban, tighter issue ad regulation, and tax credits or public financing to encourage small donors.

The question then becomes, should the public allow their elected officials to pass a compromise bill that contains items contrary to the public interest such as an increase in contribution limits, or should the public insist that Congress pass a bill that serves the public interest only. This is a question of strategy for the reform movement, as entrenched incumbents might only be inclined to support public interest reform legislation if they see something in it for themselves.

We should first recall that the leading reform proposal in this Congress, introduced by Representatives Shays and Meehan, already contains significant compromises. The bill

once took steps to lower contributions, not raise them. Earlier versions of the Shays-Meehan bill forbade candidates from raising more than \$150,000 in contributions over \$250. While these limits pale in comparison to what citizens have been enacting at the state level via voter initiatives, they would have been a good first step toward reducing the amount that large donors contribute to candidates. The current version of Shays-Meehan has dropped these provisions, and makes no attempt to improve the financing of congressional candidate campaigns.

The cause of reform, as embodied in the current Shays-Meehan bill, has been reduced to the minimal goal of banning soft money. Yet soft money is not the bulk of the problem. The Democratic and Republican parties raised \$224 million in soft money in the 1997-98 election cycle. This amounts to only 15% of \$1.45 billion in hard and soft funds raised by candidates and parties combined. Congress should ban soft money immediately, but only as a first step toward more comprehensive reform. Any compromise should only be considered further down the road.

To trade a soft money ban for increases in hard money limits could well bring more large donor money into the system than it would remove. While there is no way to predict with exact certainty the effects of a contribution limits increase, a 1997 report by U.S. PIRG estimated that an increase in the individual contribution limit from \$1,000 to \$2,500 would have allowed wealthy donors to contribute at least \$318 million more in hard money in 1995-96, well over the \$224 million that would have been removed by a soft money ban.

Even if increases in hard money limits were much smaller than the increases called for in the proposals analyzed in this paper, and conceivably would increase large donor money less than a soft money ban would reduce it, this is still a bad deal for the public. Hard money is inherently more useful both to the donor and the candidate than soft money is, so solving a minor problem with our current campaign finance system while worsening a bigger one is unacceptable.

The Goal of Campaign Finance Reform

The proposals examined in this paper would almost certainly result in a net increase in the total money in politics, and many reformers would assume that this is automatically a bad thing. But, this is not, in itself, the fundamental problem with these proposals. The goal of campaign finance reform is not to increase or decrease the amount of money spent on politics. In a working democracy, we would expect total campaign spending to reflect the intensity of voters' feelings about issues at stake in elections. During relatively calm moments in history, voters might be inclined to spend less on influencing elections than at times when their interest was piqued.

Rather, the goal of campaign finance reform is to have candidates raise money from, and hence be accountable to, ordinary citizens. On this score, the proposals examined in this paper would make a broken campaign finance system much worse. True reforms that make candidates more responsive to voters might indeed lead to less money being raised by politicians. The fact that current politicians have been selected due in large part to their

support of the interests of wealthy donors probably means that the current set of politicians would be less successful in raising money from small donors than they are from large donors. That's not to say that other future politicians would not be able to raise significant sums from regular voters. It does explain, however, why current politicians would be more interested in increasing contribution limits than in lowering them as they ought to.