

Big Money in Politics

Executive Summary

The role of wealthy special interest money in U.S. politics has been called a Pay-to-Play or an enormous shell game or a menace to democracy by reformers, citizens and even several politicians, most of whom are Democrats. Its defenders are principally big spending individuals and corporations, their lobbyists and consultants. Those defenders claim that any restriction on political contributions is an assault the constitutional right to free speech and the capitalist system. Democrats are generally in favor of regulating big money, and Republicans oppose it. However, both sides are dependent on big contributions.

There are many ways to sway public policy with money whether by an individual or an organization. One can make small or moderate **contributions, up to \$2,800, directly** to a candidate or to his / her election campaign. Then one could give another **\$5,000 to a Political Action Committee (PAC)** for that candidate. Beyond that, one could give higher, but still be limited to **\$35,500, amounts to local, state and / or national party committees**. If all this is still not enough, and it all too often isn't, one could give **unlimited amounts to super PACs**, which are now **allowed to benefit or attack a candidate by name**, but are **not allowed to "coordinate"** with the candidate's campaign. However, all of these **committees and PACs must disclose the donors to the Federal Election Commission (FEC)** and into the **public record**. In order to make **unlimited contributions anonymously**, one must give to a **501(c) "social welfare"** organization, which then gives to a **super PAC**. There are other ways to give anonymously, either by forming **Limited Liability Companies (LLC's)** or by **timing FEC reports**. This is the byzantine scheme in which politicians have entrapped themselves.

Wealthy special interest money has infected both the Republican and Democratic parties, although not equally in all respects. This report attempts to avoid a partisan slant, however the two parties have starkly opposite positions about the influence of the huge amounts of money spent in elections. The Democratic Party seems at this time ready to adopt reforms, the Republican Party has vowed to remove all limits and regulation of campaign finance.

This report focuses on federal campaign finance, however all state and local governments are facing the same insidious forces, and a few of them have found creative solutions that can adopted at the federal level.

This executive summary explores the major points of the current campaign finance system and some of the reforms that have been proposed. The full report provides supporting information, including its sources.

Recent Campaign Financing Trends

Big Money in Politics is not waning, but **massively expanding**. The 2020 total spending more than **doubles that in 2016**. And despite a major increase in small internet contributions, the pace of large donations is accelerating the most. The contribution share of a few very wealthy individuals and organizations is growing rapidly. About **\$14 billion** was spent for the 2020 election federal elections, half being spent for the office of president. Small donations increased by a lot, but the amount was a third less than large donations. The **top 100** donors made up about **14%** of the total dollar amount.

Reformers and Defenders of the Current System

Reformers argue that elected policy makers should be accountable only to the voters and their consciences, that big money is destroying the peoples' trust in government and in the power of their votes. Elected leaders spend too much time raising money and too little doing the work that they were voted in to do.

The defenders of our current system of giant loop holes and nonexistent enforcement are on the right. They argue that regulation violates freedom of speech because money is a form of speech, that limiting spending advantages incumbents, that no more public money should be spent financing campaigns, and that public campaign financing forces taxpayers to pay for the election of candidates that they disagree with.

The full report describes many other arguments held by both sides.

Public Perception

Polling in 2018 reflected that there is 75% bipartisan agreement among American adults that people who make large political donations should not have more political influence than others; however, 75% largely don't see that situation as a description of the country today.

The Federal Elections Commission

The Federal Elections Commission was created by Congress in 1975. It collects contribution data and provides disclosure. During the era of unlimited-spending, super PACs closely tied to political parties, the commission has **not once punished** a group for illegal campaign coordination. Congress has made sure that it is ineffectual.

Contribution Types

This topic includes four broad categories of as defined and regulated by the FEC, with many other distinctions that determine how they are regulated.

- **Hard Money** – Contributions are made directly to candidate's campaign and subject to FEC limits. Contributions from corporations and unions prohibited.
- **Soft Money** - The definition has been modified by court decisions, laws and regulations to allow any organization that makes Independent Expenditures (IE's), which are not allowed to be made in coordination with candidate campaign, to ignore contribution limits and their sources, and expressed advocacy restrictions. This category includes super PACs, IE Committees, 527 orgs, and 501(c) orgs. See **Contributor Organizations** below.
- **Large Contributions** – Greater than \$200. They must be reported to FEC, but not necessarily back to the original donor. The **dollar gap** between small and large donations is **widening**, not narrowing.
- **Small Contributions** - For contributions less than \$200, **reporting** to the FEC is **not required**. Small contributions comprised **27%** of money raised in 2020 elections, **14%** more than in 2016. Small contributions **increased more than 220%** in the 2020 election cycle thanks to technical innovation, and perhaps **to the fact** that most campaigning happened online due to the pandemic. **The increased number of** small contributions have increased the number of out-of-state **contributions**, for some candidates very significantly.

Donor Characteristics

Donations of fewer than **400 super wealthy families** comprise **nearly half** of all publicly disclosed presidential campaign financing. About **12%** of Americans said they **gave to candidates in 2016**, 9% gave to parties and 5% gave to other groups. **Less than 2%** of the American adult population contributed **more than \$200**. Approximately **0.2% contributed up to the \$2,800 limit** to any candidate by an individual.

Contributor Organizations

Political Action Committee (PAC) — a political committee that raises and spends limited hard money contributions for the express purpose of electing or defeating candidates. Organizations that raise soft money for issue advocacy may also set up a PAC. Most PACs represent business, labor, or ideological interests. An

organization's PAC will collect money from the group's employees or members and make contributions in the name of the PAC to candidates and political parties. All PACs must disclose donors to the FEC. There are several types of PACs:

- **Connected PACs** can collect from “restricted class” (employees, shareholders, union members) and make hard money contribution to a candidate
- **Non-connected PACs** can accept contributions from non-restricted class donors. These PACs must not cooperate with the candidate campaign and are subject to FEC contribution limits.
- **Leadership PACs** are formed most often by elected office holders and candidates to circumvent limits to individuals and parties. These PACs make **unlimited Independent Expenditures (IE’s), which cannot be coordinated with the other candidate’s campaign and are now allowed to expressly advocate for a candidate. Less than 45 percent** of leadership PAC money goes to candidates. Instead, members use them to pay for vacations, meals, golf club memberships or jobs for relatives.
- **Parties** can contribute directly to candidate campaigns, subject to generous limits and can also make coordinated expenditures for candidates outside their campaigns.
- **Super PACs** can make only IE’s. The top 1% of donors account for 96% of Super PAC funders. Contributor **disclosure can be defeated** by FEC rules allowing monthly or quarterly reports or by listing an LLC (Limited Liability Company).
- **Hybrid PACs** are **not affiliated with a candidate** and have the ability to operate both as a **traditional PAC**, contributing funds to a candidate's committee, and as a **super PAC**, which makes independent expenditures. They must have separate bank accounts for each purpose. They can collect unlimited contributions from almost any source for its IE account. They may not use those IE funds for its traditional PAC contributions.

FEC classifications of political groups blend together with the IRS classifications of many of the same groups that are defined by sections (501, 527) of IRS regulations.

501(c) Groups — Nonprofit, tax-exempt groups organized under section 501(c) of the Internal Revenue code that can engage in varying amounts of political activity, depending on the type of group. For example, 501(c)(3) groups operate for religious, charitable, scientific or educational purposes. These groups are not supposed to engage in any political activities, though some voter registration activities are permitted. 501(c)(4) groups are commonly called "social welfare" organizations that may engage in political activities, as long as these activities do not become their primary purpose. Similar restrictions apply to Section 501(c)(5) labor and agricultural groups, and to Section 501(c)(6) business leagues, chambers of commerce, etc.

Legislation and Court Decisions

There have been many early and recent legislative attempts to reform the corrupting influence of money in politics and Supreme Court decisions to defeat those reforms. This summary lists two most consequential court decisions and two reform measures that have been introduced in the current Congress.

- The **Buckley v. Valeo** (1976) Supreme Court decision held that caps on the amount of campaign spending violated rights to free speech, i.e. **Money is speech.** It also upheld contribution limits.
- The **Citizens United v. FEC** (2010) Supreme Court decision **struck down**, on free speech grounds, the **limits** on the ability of organizations running political ads if they accepted corporate or union money.
- The **“For the People Act”** – House Joint Resolution 1 (HJR 1 – 2021). The bill contains 3 Divisions. The 2nd Division would reduce the influence of big money in politics.
 - Division 1 - **[Protecting and expanding voting rights and election security:](#)** See full report
 - Division 2 - **[Reduce the influence of big money in our politics:](#)**
 - Require secret money organizations that spend money in elections to **disclose their donors**

- Upgrade online political **spending transparency** rules to ensure voters know who is paying for the advertisements they see
- Create a small donor-focused **matching system** so candidates for Congress aren't just reliant on big money donors to fund their campaigns and set their priorities
- **Strengthen oversight** rules
- **Overhaul the Federal Election Commission** to enforce campaign finance law
- **Prohibit** the use of **shell companies** to funnel foreign money in U.S. elections
- Require **government contractors** to **disclose** their political spending
- Division 3 - [Ensure an ethical government accountable to the people](#): See full report
- The **"We the People Amendment"** - House Joint Resolution 48 – (HJR 48 - 2021) would declare that **Money is not speech** in all Constitutional matters, that **No Artificial entities**, including, but not limited to, corporations, **have constitutional rights, only humans do**, and that nothing in this amendment shall be construed to abridge **freedom of the press**.

Dark Money

Of the \$14 billion spent on federal elections in 2020, **\$1 billion** was dark money. Dark Money contributions are commonly made using "common welfare" (501)(c) groups that don't have to report donors' names or addresses, or by LLC's or by gaming FEC reporting deadlines. The explosion of big money and secret spending wasn't spurred on by **Citizens United** alone. It was enabled by a number of **court decisions** that surgically removed many restrictions in campaign finance law and by gridlock in Congress

Dialing for Dollars

For decades, members of Congress in both houses have been spending **30 hours per week** or more in tiny party offices near Capitol Hill cold calling high dollar contributors and asking them of contributions.

Legal Corruption

There are many, many accounts of anecdotal or circumstantial evidence that point to quid pro quo arrangements between contributors and elected leaders, some of which are in the full report section of this document. Because of our campaign financing system, these arrangements are impossible to prove.

Public Financing Solutions

In 1971 a presidential public campaign finance system was enacted for candidates who agreed to forgo private contributions. No major party candidate in the general election has opted for public financing since 2004 because funding is too low.

Public financing for any of our elective offices would be a transformative reform. It would allow candidates to stop chasing big checks and special interest money, and to focus instead on grassroots supporters. Although it's a new idea for congressional elections, public financing already has an established track record in state and local elections, by issuing vouchers to voters, by the matching of small contributions, or simply replacing private funding with public funds.

Conclusion

Practically from our country's founding, the power of big money in politics has prevented America from fulfilling its promise of government accountability to only the voters instead of wealthy special interests. That power continues to grow at an accelerating rate. Economic disparity and environmental destruction now threaten our survival as a democracy, as a just society, and even as a civilization.

Now serious efforts are made by many Democratic leaders to deliver on that promise. **H.R.1 \ S.1** and the **“We the People Amendment”**. H.R.1 would reverse many of the past and current assaults on our democracy. The **“We the People Amendment”** would nullify many of the damaging court decisions that have allowed those assaults to succeed.