Campaign Finance

17.251

Spring 2016
Problems Thinking about Campaign Finance

- Anti-incumbency/politician hysteria
- Problem of strategic behavior
  - Why the “no effects” finding of $$
- What we want to know:
  - Why do politicians need campaign $$ and how much is “enough”
  - Does private money “buy access” or...
    - Why do people contribute to campaigns?
    - What do MCs do in return for $$?
  - How do principals respond to changes in circumstances
Brief historical overview of campaign finance regulation

1911 & 1925 Corrupt Practices Acts

1971: FECA
1971: Revenue Act
1974: FECA Amendments
1976: Buckley v. Valeo
1979: FECA Amendments

2000: Section 527 reform
2002: BCRA (McCain-Feingold)
2010: Citizens United
2010: Speechnow.org
2014: McCutcheon vs. FEC
## Campaign Finance Reform and Buckley I

<table>
<thead>
<tr>
<th>Original Provision</th>
<th>Effect of <em>Buckley v. Valeo</em></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Expenditure limits</em></td>
<td></td>
</tr>
<tr>
<td>Overall spending limits (Congress and president)</td>
<td>Struck down, except as condition to receiving public funding (freedom of speech)</td>
</tr>
<tr>
<td>Limits on the use of candidates’ own resources</td>
<td>Struck down entirely (freedom of speech)</td>
</tr>
<tr>
<td>Limits on media expenditures</td>
<td>Struck down entirely (freedom of speech)</td>
</tr>
<tr>
<td>Independent expenditure limits</td>
<td>Struck down entirely (freedom of speech)</td>
</tr>
</tbody>
</table>
### Campaign Finance Reform and Buckley II

<table>
<thead>
<tr>
<th>Original Provision</th>
<th>Effect of <em>Buckley v. Valeo</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contribution limits</td>
<td></td>
</tr>
<tr>
<td>Individual limits: $1k/candidate/election</td>
<td>Affirmed</td>
</tr>
<tr>
<td>PAC limits: $5k/candidate/election</td>
<td>Affirmed</td>
</tr>
<tr>
<td>Party committee limits: $5k/candidate/election</td>
<td>Affirmed</td>
</tr>
<tr>
<td>Cap on total contributions individual can make to all candidates ($25k)</td>
<td>Affirmed*</td>
</tr>
<tr>
<td>Cap on spending “on behalf of candidates” by parties</td>
<td>Affirmed</td>
</tr>
</tbody>
</table>

*Struck down by McCutcheon*
## Campaign Finance Reform and Buckley III

<table>
<thead>
<tr>
<th>Original Provision</th>
<th>Effect of <em>Buckley v. Valeo</em></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Federal Election Commission</em></td>
<td></td>
</tr>
<tr>
<td>Receive reports; implement FECA</td>
<td>Upheld</td>
</tr>
<tr>
<td>Appointed by Congress</td>
<td>Struck down (separation of powers)</td>
</tr>
<tr>
<td><em>Public funding (presidential elections)</em></td>
<td></td>
</tr>
<tr>
<td>Check-off system to fund system</td>
<td>Upheld</td>
</tr>
<tr>
<td>Partial funding during primaries; total funding during general election</td>
<td>Upheld</td>
</tr>
<tr>
<td>Spending limits as price of participating</td>
<td>Upheld</td>
</tr>
<tr>
<td><em>Disclosure</em></td>
<td></td>
</tr>
<tr>
<td>All expenditures</td>
<td>Upheld</td>
</tr>
<tr>
<td>Contributions over $100 (raised later to $200)</td>
<td>Upheld</td>
</tr>
</tbody>
</table>
McCain-Feingold Main Features* (I)

• Hard money
  • Limit increased to $2k/election/candidate, $25k to national parties; indexed to inflation
  • Likely outcome: Reps. Gain (until Obama figured it out)

• Soft money
  • National parties totally prohibited
  • State & local parties: $10k/year for registration & gotv; regulated by states
  • Likely outcome: National parties lose in favor of states

• Organizations
  • No limits, if $$ not used for fed. election activity
  • Likely outcomes:
    • More $$ for these groups
    • Law suits

*The actual bill was the Shays-Meehan bill
McCain-Feingold Main Features (II)

• Election advertising
  • “Stand by your ad”
• Limits*
  • Broadcast “issue ads” that refer to specific candidate paid for by soft money
  • No limit if the ad refers to the issue and not a cand.
• Likely effects
  • Money diverted to other ads and other strategies
  • More law suits

*One of the Citizens United issues
McCain-Feingold Controversies

• Lawsuits
    • Upheld broadcast & soft money restrictions
  • FEC v. Wisconsin Right to Life (2007)
    • Struck down limits on corps. mentioning candidates.
  • Davis v. FEC (2008)
    • Stuck down “millionaire’s amendment”
  • Citizens United (2010)
    • See next slide
Citizens United

• *FEC v. Wisconsin Right to Life* (2007)
  • “black-out” period for independent ads struck down on 5-4 vote

• *Citizens United v. FEC* (2010)
  • prohibitions on independent campaign spending by corporations/unions struck down 5-4

• *speechnow.org v. FEC* (2010)
  • allowed corporations to give to PACs that only engaged in *independent expenditures*
Where we are

• Supreme Court has generally
  • Rejected efforts to equalize elections through campaign finance laws
  • Rejected efforts to regulate what campaigns do with their money (s.t. bribery laws, etc.)
  • Rejected efforts to limit what people/ groups/ corporations can do with their own money if it doesn’t coordinate with candidates
  • Accepted (for now) “reasonable” contribution limits
  • Accepted (for now) registration and reporting requirements
## Current Contribution Limits for 2015--2016

### Table: Contribution Limits for 2015-2016 Federal Elections

<table>
<thead>
<tr>
<th>DONORS</th>
<th>Candidate Committee</th>
<th>PAC(^1) (SSF and Nonconnected)</th>
<th>State/District/Local Party Committee</th>
<th>National Party Committee</th>
<th>Additional National Party Committee Accounts(^2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>$2,700* per election</td>
<td>$5,000 per year</td>
<td>$10,000 per year (combined)</td>
<td>$33,400* per year</td>
<td>$100,200* per account, per year</td>
</tr>
<tr>
<td>Candidate Committee</td>
<td>$2,000 per election</td>
<td>$5,000 per year</td>
<td>Unlimited Transfers</td>
<td>Unlimited Transfers</td>
<td></td>
</tr>
<tr>
<td>PAC-Multicandidate</td>
<td>$5,000 per election</td>
<td>$5,000 per year</td>
<td>$5,000 per year (combined)</td>
<td>$15,000 per year</td>
<td>$45,000 per account, per year</td>
</tr>
<tr>
<td>PAC-Nonmulticandidate</td>
<td>$2,700 per election</td>
<td>$5,000 per year</td>
<td>$10,000 per year (combined)</td>
<td>$33,400* per year</td>
<td>$100,200* per account, per year</td>
</tr>
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<td>State/District/Local Party Committee</td>
<td>$5,000 per election</td>
<td>$5,000 per year</td>
<td>Unlimited Transfers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Party Committee</td>
<td>$5,000 per election</td>
<td>$5,000 per year</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^*\): Indexed for inflation in odd-numbered years.

## Sources of Campaign Receipts for Congressional Races, 2012 (Table 6.7 update)

<table>
<thead>
<tr>
<th></th>
<th>Incumbents</th>
<th></th>
<th></th>
<th>Open Seats</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ millions</td>
<td>%</td>
<td>$ millions</td>
<td>%</td>
<td>$ millions</td>
</tr>
<tr>
<td><strong>House</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individuals</td>
<td>359.8</td>
<td>52.3</td>
<td>194.3</td>
<td>61.9</td>
<td>263.0</td>
</tr>
<tr>
<td>PACS</td>
<td>287.8</td>
<td>41.9</td>
<td>41.1</td>
<td>13.1</td>
<td>23.1</td>
</tr>
<tr>
<td>Candidate &amp; loans</td>
<td>9.2</td>
<td>1.3</td>
<td>70.7</td>
<td>22.5</td>
<td>39.6</td>
</tr>
<tr>
<td><strong>Total income</strong></td>
<td>687.6</td>
<td>314.0</td>
<td>150.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Spending</strong></td>
<td>660.5</td>
<td>96.1%</td>
<td>307.1</td>
<td>97.8%</td>
<td>146.4</td>
</tr>
<tr>
<td><strong>Senate</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individuals</td>
<td>188.7</td>
<td>66.2</td>
<td>142.3</td>
<td>63.8</td>
<td>135.1</td>
</tr>
<tr>
<td>PACS</td>
<td>47.6</td>
<td>29.5</td>
<td>13.0</td>
<td>5.8</td>
<td>20.3</td>
</tr>
<tr>
<td>Candidate &amp; loans</td>
<td>6.0</td>
<td>4.3</td>
<td>60.7</td>
<td>27.2</td>
<td>100.7</td>
</tr>
<tr>
<td><strong>Total income</strong></td>
<td>256.1</td>
<td>223.2</td>
<td>263.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Spending</strong></td>
<td>260.8</td>
<td>101.1%</td>
<td>225.2</td>
<td>100.9%</td>
<td>262.0</td>
</tr>
</tbody>
</table>

*For some reason, doesn’t add to the components*

Growth in congressional money (General + primary elections)
Outside spending

<table>
<thead>
<tr>
<th>Type of Group</th>
<th>Total Spent</th>
<th># of Groups Registered</th>
<th># of Groups Spending to date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Super PACs</td>
<td>$348,545,054</td>
<td>1,336</td>
<td>230</td>
</tr>
<tr>
<td>Social Welfare 501(c)(4)</td>
<td>$117,857,743</td>
<td>N/A</td>
<td>91</td>
</tr>
<tr>
<td>Trade Assns 501(c)(6)</td>
<td>$40,387,198</td>
<td>N/A</td>
<td>11</td>
</tr>
<tr>
<td>Unions 501(c)(5)</td>
<td>$1,729,425</td>
<td>N/A</td>
<td>19</td>
</tr>
<tr>
<td>Parties</td>
<td>$230,912,599</td>
<td>71</td>
<td>26</td>
</tr>
<tr>
<td>Other (corporations, individual people, other groups, etc)</td>
<td>$56,502,937</td>
<td>205</td>
<td>158</td>
</tr>
<tr>
<td><strong>Grand Total:</strong></td>
<td><strong>$795,934,956</strong></td>
<td><strong>1,736</strong></td>
<td><strong>535</strong></td>
</tr>
</tbody>
</table>

PAC giving 2014
Source: Open Secrets

Leadership PACs

Super PAC spending

2014 Outside Spending, by Super PAC

2014 financial activity for super PACs
1,349 number of super PACs
$690,011,919 total raised by super PACs
$348,545,654 total spent by super PACs

Group | Independent Expenditures | View | Support/opposition | Total Raised |
-----------------------------------------------|------|------------------|-------------|
Senate Majority PAC  | $44,651,416 | L  |  | $56,814,485 |
House Majority PAC   | $29,651,763 | L  |  | $39,841,217 |
Freedom Partners Action Fund | $23,410,114 | C  |  | $28,111,418 |
American Crossroads  | $12,704,003 | C  |  | $15,704,299 |
Ending Spending Action Fund | $22,685,431 | L  |  | $24,480,982 |
New iris Climate Action | $18,505,003 | L  |  | $27,836,075 |
National Assn of Realtors | $11,214,056 | L  |  | $18,082,115 |
Pull Alaska Petrol PAC | $10,187,355 | L  |  | $18,082,115 |
Congressional Leadership Fund | $10,023,748 | C  |  | $12,612,897 |
League of Conservation Voters | $9,905,029 | L  |  | $10,229,171 |
Americans for Responsible Solutions | $8,220,102 | L  |  | $21,340,357 |
Women Vote!          | $5,172,268  | L  |  | $12,380,893 |
Club for Growth Action | $7,041,415  | C  |  | $8,310,683 |

Spending by viewpoint for Super PACs
by Group viewpoint
by Recipient Party
by Disclosure of Group
Where (I think) the money came from/went to in 2014

- Individual
- Corporation
- Social Welfare Orgs (501(c)(4))
- PAC
- Candidate
- Party
Where (I think) the money came from/went to in 2014

Individual

$148m → Candidate
$998m

$1.6b

$436m

PAC

$2.4b

$771m

$4.3m

Party

$48.8m

$137m

$257m*

Candidate Party

$1.6b

$4.3m

Corporation

$696m

$346m

Social Welfare Orgs (501(c)(4))

~$50m-$400m

*Mostly independent
~10% coord.
Where does it go?  
What good does it do?

• Where does it go?
  • Safe incumbents: consumption
  • Unsafe incumbents: campaign (media, etc.)
  • Everyone else: Campaign activities

• To what effect?
  • The paradox of the spendthrift incumbent
  • The paradox of the spendthrift Super PAC?
Does Private Money “Buy” Access?

• Why do people contribute to campaigns?
  • Participation (Ansolabehere and Snyder)
  • Investors vs. consumers
  • Access and compositional effects
    • Lobbying expenses>>PAC contributions

• What do contributors get?
  • Talk to contributors: it’s protection money
  • Empirical studies of legislating: mixed results
Thinking about Reform

• Never underestimate the power of unintended consequences
  • Shift to PACs
  • Shift to millionaires
  • Shift to 527s
Problems with Particular Reforms

• Spending limits:
  • Generally favors incumbents
  • Generally unconstitutional

• Limit activities of non-candidates
  • Encourages shifting to other behaviors
  • Generally unconstitutional

• Subsidies (free TV, etc.)
  • Is this enough?
  • Do we want more TV?
  • Does anyone watch TV?

• Public Financing
  • Citizens don’t like paying for politics
  • People can still opt out

• Disclosure
  • Intimidation?