POLICY PRIMER

CENTER *for* COMPETITIVE POLITICS

Congress shall make no law...

Campaign Contribution Limits: *A Cap on Free Speech*

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Points in Summary

- Although the Supreme Court has upheld some forms of contribution limits, such laws diminish the First Amendment's guarantee that Congress and the States "shall make no law… abridging the freedom of speech…."
- While many perceive limits to be widespread, many states actually do not limit various forms of contributions to candidates, political parties, or political committees. Twelve states have no limits on individual giving to statewide or state legislative candidates, 25 have no limits on individual giving to political action committees (PACs), and 27 have no limits on individual giving to political parties. Furthermore, 29 states allow corporations to give directly to candidates, and 34 states allow unions to donate to candidates.
- The Supreme Court has made clear that the only justification for regulating contributions is to prevent *quid pro quo* corruption and has struck down limits which are not narrowly tailored to that end.
- In addition to violating the spirit of the First Amendment, contribution limits give a speech advantage to independent groups over candidates and parties and fail to reduce corruption, improve the quality of governance, or curb the legislative influence of businesses, unions, and wealthy donors.
- These limits benefit the status quo and hamper new policy ideas, fail to "level the playing field," and function to restrict the speech of some citizens in order to enhance the speech of others, an idea held by the Supreme Court to be foreign to the First Amendment.
- When amending existing contribution limits, policymakers must be careful to ensure that the amended limits: (1) are not so low as to be susceptible to constitutional challenge; (2) apply to all donors and candidates equally; and (3) are indexed to inflation.
- Because of the Supreme Court's decision in *McCutcheon v. Federal Election Commission*, many of the nineteen states (and D.C.) with aggregate limit, proportional limit, and proportional ban statutes are susceptible to legal challenges and are likely to have their statutes struck down as unconstitutional, if challenged. As a result, many states have already announced that they will no longer enforce their aggregate limit provisions.
- An extensive collection of academic research substantiates the arguments above and also demonstrates that: (1) contribution limits stifle the speech of political entrepreneurs; (2) limits have little discernible impact on voter turnout; (3) individuals are the primary source of campaign contributions, and not so-called "special interests"; (4) campaign contributions as a percentage of GDP have not risen appreciably in over 100 years; and (5) campaign contributions do not "buy" politicians' votes.
- Ultimately, campaign contribution limits restrict the ability of citizens to associate with one another and with candidates to speak. Limits on contributions therefore increase the difficulty of citizens to organize and speak out in American politics while trampling vital First Amendment rights.

Introduction

There is a false perception that most states limit all forms of campaign contributions. While many states impose some limits on political giving, the reality is that most states have chosen to protect First Amendment speech rights by allowing their citizens to give as much as they want to political parties, political committees, or candidates. A majority of states do not impose limits on individual giving to political parties (27 states), and half opt not to levy limits on individual giving to political action committees (25 states). Twelve states do not impose contribution limits on individual giving to candidates for State Representative (or the equivalent), State Senate, or governor.

Although contribution limits are touted as a panacea for diminishing corruption and promoting "good" government, there is no evidence they provide any such benefits, and plenty of evidence that such laws make political participation complicated for citizens who want to run for office or support upstart candidates and unpopular or new causes. Worse, such laws infringe on the First Amendment right to free speech. Contributions to political campaigns are intended to further those campaigns' efforts to speak to and persuade the public. As such, limits on contributions directly infringe upon free speech and association rights.

Because of these free speech and association concerns, the Supreme Court has made clear that the only justification for regulating contributions is to prevent *quid pro quo* corruption and has struck down limits which are not narrowly tailored to that end.

Arguments against Campaign Contribution Limits

I. **Contribution limits violate the spirit of the First Amendment.** Contribution limits stand in stark conflict with the First Amendment's guarantee that "Congress shall make no law… abridging the freedom of speech…." First Amendment principles reject the notion that government should decide who speaks, how much, and with whom. Yet contribution limits do just that, imposing direct restrictions on the ability of citizens to associate with each other and with candidates or parties, and on their ability to speak.

II. **Limits give a speech advantage to independent groups and penalize candidates and political parties.** Individuals donate to political campaigns to express their support for a candidate or party. Contribution limits on giving to candidates and parties do nothing to deter individuals from wanting to express this support; they merely shift these donations to independent groups, to which donations cannot be limited as a matter of law. As such, limits have the unintended consequence of increasing donations to independent groups at the expense of candidates and political parties. As the Supreme Court has found that it is unconstitutional to limit contributions to and expenditures from independent groups, contribution limits place candidates and parties at a permanent disadvantage.

III. **Four of the ten least corrupt states (Oregon, Nebraska, Utah, and Iowa) in the country impose no limits on individual giving to statewide and legislative candidates.** Contribution limits have not been shown to reduce corruption in states that impose them. The Center for Competitive Politics compared contribution limits on individuals in all 50 states to public corruption data and found no relationship between the existence of contribution limits and a state's corruption rate.[1] Another academic study even found that "making the amount of money that can be [donated] smaller actually increased the likelihood of corruption."[2]

IV. **Of the 13 best managed states in the country, seven (Utah, Virginia, Missouri, Texas, Nebraska, Indiana, and Iowa) have no limits on individual giving to candidates.** There is no evidence that contribution limits improve the quality of governance. After comparing *Governing* magazine's ranking of all 50 states on the quality of their governance with whether a state has either no or high, moderate, or low contribution limits on individual giving to candidates, we found no correlation. To the extent there is a correlation, the states with no limits at all ranked highest. Moreover, Utah and Virginia, two of the top three states – and the only three states to achieve "A-" grades in *Governing*'s rankings – have no limits at all on the size or source of campaign contributions.[3]

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1 Matt Nese and Luke Wachob, "Do Lower Contribution Limits Decrease Public Corruption?," Center for Competitive Politics' Issue Analysis No. 5. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2013/08/2013-08-01_Issue-Analysis-5_Do-Lower-Contribution-Limits-Decrease-Public-Corruption1.pdf (August 2013).

2 Philip M. Nichols, "The Perverse Effect of Campaign Contribution Limits: Making the Amount of Money that can be Offered Smaller Increases the Likelihood of Corruption in the Federal Legislature," The Wharton School of the University of Pennsylvania. Retrieved on July 18, 2014. Available at: http://works.bepress.com/cgi/viewcontent.cgi?article=1001&context=philip_nichols (April 2008), p. 25.

3 Matt Nese and Luke Wachob, "Do Lower Contribution Limits Produce 'Good' Government?," Center for Competitive

V. **Two of the top three and four of the top ten best managed states have no limits on giving to candidates by corporations and unions.** Restrictions on corporate and union giving have not been found to improve the quality of governance. Most states treat limits on corporate and union giving to candidates differently than limits imposed on individuals giving to candidates. Historically, many states have either placed more restrictive limits, or prohibited altogether, corporations and unions from contributing to candidates. However, 29 states allow corporations to give directly to candidates, and 34 states allow unions to donate to candidates. Ultimately, research reveals little difference in the quality of government management between states that restrict, or ban, corporate and union giving to candidates and states that allow these entities to donate directly to candidates. In fact, there is no correlation between limits or bans on corporate and union giving to candidates and the quality of a state's government management.[4]

VI. **There is no link between campaign contributions and legislative influence.** Contribution limits do not decrease the legislative influence of corporations, labor unions, and wealthy donors. Political scientists have found that "campaign contributions had no statistically significant effects on legislation…."[5] Ironically, as discussed previously, limits tend to divert money away from candidates' campaign committees and into independent groups like Super PACs.

VII. **Contribution limits serve to benefit the status quo and hamper new ideas. Limits also benefit incumbents and disadvantage challengers.** By nature of their office, incumbent politicians have established donor lists, name recognition, media access, franking privileges, and myriad other advantages unavailable to their electoral challengers. Challengers often require great funding to compete with incumbent politicians and overcome these advantages. By capping what supportive donors can give to a campaign, contribution limits prevent challengers from amassing the funding they need to wage a competitive election against an entrenched incumbent. One excellent example of an absence of contribution limits allowing new policy ideas to gain prominence came in the late Sixties, before contribution limits were imposed on giving to federal candidates. In late November 1967, Minnesota Senator Eugene McCarthy challenged President Lyndon Johnson for the Democratic nomination with a platform opposing the war in Vietnam. At first, people thought McCarthy's campaign would be quixotic. But with no contribution limits, Senator McCarthy raised $10 million in today's dollars from a handful of donors who shared his opposition to the war. McCarthy not

Politics' Issue Analysis No. 6. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2013/10/2013-10-08_Issue-Analysis-6_Do-Lower-Contribution-Limits-Produce-Good-Government1.pdf (October 2013). No states received a grade of "A" in *Governing*'s rankings.

4 Matt Nese, "Do Limits on Corporate and Union Giving to Candidates Lead to 'Good' Government?," Center for Competitive Politics' Issue Analysis No. 7. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2013/11/2013-11-20_Issue-Analysis-7_Do-Limits-On-Corporate-And-Union-Giving-To-Candidates-Lead-To-Good-Government.pdf (November 2013).

5 Stephen Ansolabehere, John M. de Figueiredo, and James M. Snyder Jr., "Why is There so Little Money in U.S. Politics?," *Journal of Economic Perspectives*, Vol. 17:1. Retrieved on July 18, 2014. Available at: http://tinyurl.com/nlvrun9 (Winter 2003), p. 17.

only forced President Johnson out of the race (a feat not duplicated since the enactment of contribution limits), but also helped change the national debate about the Vietnam War.

VIII. **Contribution limits hurt the ability of certain groups, like the elderly and small business owners, to support candidates.** Limits do not "level the playing field," as is often said, but rather distort it in other directions. All political activity/activism can be divided into two categories (which sometimes overlap): contributions of time and contributions of money. Volunteering activities, for example, are clearly time contributions, whereas donations to political campaigns are clearly financial contributions. Some volunteer activities are highly valuable, such as a free performance by a popular musician at a fundraising concert. Contribution limits naturally restrict financial contributions, lending greater influence to groups and individuals who are able to invest time in political activities free of charge. Thus, contribution limits may benefit volunteer or low-budget advocacy activities, but may hurt groups of elderly individuals or entrepreneurs, who may have the financial capability, but lack the fame, health, or time to meaningfully engage in volunteer activities.[6] Although contribution limits are often improperly instituted to "level the playing field," they are likely only to shift influence from one group or person to another.

IX. ***The New York Times*** **and famous celebrities, like Oprah Winfrey, should not have a greater "right to speak" than other Americans.** Contribution limits restrict the speech of some citizens in order to enhance the speech of others, an idea held by the Supreme Court in *Buckley v. Valeo* to be "wholly foreign to the First Amendment."[7] The oft-cited goal of limits on political contributions is to "level the playing field" of political influence. As discussed above, the actual effects of limits are very different. Such limits give advantages to large media corporations and celebrities. However, even the goal is predicated on a belief that runs contrary to the very essence of the First Amendment: that each member of society has a positive right to be heard, rather than a negative right not to be restricted from speaking by the government. The notion of positive liberty underlies the claim that some elements of society, whose voices are believed to be less-heard or not well-enough heard, have a right to be enhanced through affirmative government action by denying speech to those who "crowd" them out. As a constitutional matter, this "is exactly what the First Amendment prohibits when free speech is at stake."[8]

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6 Bradley A. Smith, *Unfree Speech*, Princeton University Press (2001), p. 120.

7 *Buckley v. Valeo*, 424 U.S. 1, 48-49 (1976).

8 *Ibid*. 6, p. 142.

Three Pitfalls to Avoid When Amending Existing Limits

I. **Contribution limits must not be so low as to be susceptible to constitutional challenge.** In *Randall v. Sorrell,* which dealt with Vermont's state contribution limits, the Supreme Court ruled that limits could be *unconstitutionally* low. The Court found that a failure to index contribution limits to inflation, in combination with other factors, may substantially burden First Amendment rights, and therefore render a state's contribution regime unconstitutional.[9]

II. **Contribution limits should apply to all donors and candidates equally.** Some states impose limits on a yearly basis. This construction disadvantages challengers, who often choose to run in an election year, while incumbents are able to collect donations for their re-election campaign in the year prior to the election. Other states impose stricter limits on giving to minor party candidates than to major party candidates. This further disadvantages minor party candidates, who struggle to amass the financial resources necessary to disseminate their message and wage an effective campaign. By amending state laws to apply limits equally, states will be able to maintain fair and competitive elections without discriminatorily favoring incumbents or major parties.

III. **Contribution limits should always be indexed to inflation.** Inflation indexing is an uncontroversial method for a state to mitigate the risk of constitutional litigation on its limits, and will also help ensure that inflation does not erode the value of existing limits and that state elections remain competitive.

9 *See Randall v. Sorrell*, 548 U.S. 230, 261-62 (2006) (opinion of Breyer, J.).

The Impact of the Supreme Court's McCutcheon *Decision*

The Supreme Court's 2014 decision in *McCutcheon v. Federal Election Commission* struck down the federal aggregate limit on how much an individual could give to all federal political candidates and party committees in an election cycle.[10] These aggregate limits are separate from the base limits enforced by the federal government and most states on contributions to each candidate, political party committee, or PAC. In the Court's 5-4 decision, it invalidated the federal aggregate limit as unconstitutional under the First Amendment. Chief Justice Roberts summarized that the aggregate limits "intrude without justification on a citizen's ability to exercise 'the most fundamental First Amendment activities.'"[11]

The decision appears to significantly narrow the basis for regulation of political contributions, as the Court ruled that "Congress may target only a specific type of corruption-'*quid pro quo*' corruption…. The definition of corruption that we apply…has firm roots in *Buckley* itself…. In addition, '[i]n drawing that line, the First Amendment requires us to err on the side of protecting political speech rather than suppressing it.'"[12] *Quid pro quo*, Latin for "this for that," narrowly limits what may be considered corruption; it must involve more than just a large check. Rather, it requires "an effort to control the exercise of an officeholder's official duties."[13] Gratitude is not "*quid pro quo* corruption."[14] Thus, the federal aggregate limit, which capped the amount individuals could spend in total on political contributions, and functioned as a limit on how many candidates and committees an individual may support, did not serve an anti-*quid pro quo* corruption purpose and was struck down.

Prior to the decision nine states and the District of Columbia imposed aggregate limits in some form on the overall amount that entities may contribute to candidates and causes.[15] These limits appear to be clearly unconstitutional, according to the precedent set in *McCutcheon*. Another 14 states – four of which also have aggregate limits on individual giving (Kentucky, Massachusetts, New York, and Wisconsin) – impose other forms of limits that operate in similar fashion to an aggregate limit, likely leaving these statutes vulnerable to a legal challenge.[16]

In an illustration of the overwhelming complexity of campaign finance laws, these other limits fall into seven categories, collectively classified as "proportional limits" or "proportional bans":

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10 572 U.S. __, No. 12-536 (Apr. 2, 2014).

11 *Id*. slip op. at (Roberts, C.J. for the plurality) (quoting .*Buckley v. Valeo*, 424 U.S. 1, 14 (1976) (per curiam)).

12 *Id*. at 19-20 (discussing *Buckley*, 424 U.S. at 26-27 and quoting *Federal Election Comm'n v. Wisconsin Right to Life*, 551 U.S. 449, 457 (2007) ("*WRTL II*")) (opinion of Roberts, C. J.).

13 *Id*. at 19 (Roberts, C.J. for the plurality) (internal citation omitted).

14 *Id*. at 2 (Roberts, C.J. for the plurality).

15 For more information on these nine states, please see: Matt Nese, "State Aggregate Limits and Proportional Bans under *McCutcheon*: Likely Unconstitutional or Highly Vulnerable," Center for Competitive Politics' Issue Review. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2014/07/2014-10-22_Issue-Review_McCutcheon_State-Aggregate-Limits-And-Proportional-Bans-Under-McCutcheon.pdf (July 2014).

16 For more information on these fourteen states, please see note 15.

1) *"First Come, First Served" Limits* – the earliest donors to a candidate get to give the maximum allowed by law until a certain aggregate threshold is reached, while later supporters either are banned from donating any amount, must wait to give a donation until other donors make more donations, or face lower donation limits

2) *Aggregate Limits on Recipient Candidates (Party Version)* – candidates face limits on how much they can receive from all political party committees

3) *Aggregate Limits on Recipient Candidates (PAC Version)* – candidates face limits on how much they can receive from all PACs

4) *Proportional Bans* – limits on the amount candidates can receive from certain types of donors relative to their total fundraising

5) *Non-Resident Aggregate Limits on Candidates, Parties, or PACs* – limits on how much or what proportion of an entity's funds may be donated by non-residents

6) *Aggregate Limits on PAC Donations* – limits on how much each PAC may donate to all candidates, parties, and/or PACs

7) *Aggregate Limits on Corporate or Union Donations* – limits on how much each corporation or union may donate to all candidates and/or political parties

The Nineteen States with Aggregate or Proportional Limits or Bans		
States with Aggregate Limits that are Likely Unconstitutional (9 States Plus D.C.)		
Connecticut* [6]	Maine*	Rhode Island [6]
District of Columbia	Maryland*	Wisconsin* [1, 2, 3]
Kentucky* [1, 2, 3, 4]	Massachusetts* [1, 3, 6]	Wyoming
	New York* [7]	
Other States with Limits that are Highly Vulnerable (10 States)		
Alaska [1, 5]	Hawaii [1, 5]	Montana [1, 2, 3]
Arizona [1, 2]	Indiana [7]	South Carolina [1, 2]
Florida [1, 2]	Louisiana [1, 3]	Tennessee [1, 2, 3, 4]
	Minnesota [1, 2, 3, 4]	

Superscript numbers indicate the type of limit, as described in the seven categories above. An asterisk indicates that the state has announced it will no longer enforce some or all of its aggregate limit provisions, or the state lost in court in a challenge to its aggregate limit statute.

Because of the Supreme Court's ruling in *McCutcheon*, the aggregate limit statutes in nine states and D.C., in particular, are highly likely to be deemed unconstitutional, if challenged. However, because of the nature of the regulations in the states with proportional limits and proportional bans, those statutes too face an uncertain future.

Consequently, many states quickly responded quickly to the *McCutcheon* ruling by announcing that they will no longer enforce their aggregate limit statutes (Connecticut,[17] Kentucky,[18] Maine,[19] Maryland,[20] Massachusetts,[21] and New York[22]) while one state's limit has been struck down in court (Wisconsin[23]), and another's proportional ban provision is the subject of an ongoing legal challenge (Minnesota[24]). Additionally, both Rhode Island[25] and Wyoming's[26] legislatures are working on legislative remedies to repeal their state's aggregate limit provisions.

If other states fail to act in similar fashion to these ten states, it's highly likely that many, if not all, of the remaining nine states' and D.C.'s aggregate limit statutes, will eventually be subjected to a lawsuit and declared unconstitutional, according to the precedent set by the Court in *McCutcheon*. Given the Court's statement in *McCutcheon* that "[W]e have made clear that Congress may not regulate contributions simply to reduce the amount of money in politics, or to restrict the political participation of some in order to enhance the relative influence of others,"[27] states with proportional limits and proportional bans are also susceptible to legal challenges under the Court's reasoning.

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17 Anthony J. Castagno, "ADVISORY OPINION 2014-03: Application and Enforcement of Connecticut's Aggregate Contribution Limits from Individuals to Candidates and Committees after *McCutcheon*," State of Connecticut State Elections Enforcement Commission. Retrieved on July 18, 2014. Available at: http://www.ct.gov/seec/lib/seec/laws_and_regulations/ao_2014-03.pdf (May 14, 2014).

18 Emily Dennis, "ADVISORY OPINION 2014-003," Kentucky Registry of Election Finance. Retrieved on July 18, 2014. Available at: http://kref.ky.gov/Contributions/2014_003_Opinion.pdf (June 5, 2014).

19 "Policy Statement of the Maine Ethics Commission on Enforceability of Aggregate Contribution Limits," State of Maine Commission on Governmental Ethics and Election Practices. Retrieved on July 18, 2014. Available at: http://www.maine.gov/ethics/pdf/ProposedStatementNottoEnforceAggLimit.pdf (2014).

20 Bobbie S. Mack et al., "Contribution Limits," Maryland State Board of Elections. Retrieved on July 18, 2014. Available at: http://elections.maryland.gov/campaign_finance/documents/aggregate_limits_04112014_final.pdf (April 11, 2014).

21 "OCPF's statement on today's Supreme Court decision, McCutcheon vs. FEC," Massachusetts Office of Campaign and Political Finance. Retrieved on July 18, 2014. Available at: http://www.ocpf.net/releases/statement.pdf (April 2, 2014).

22 Michael Gormley, "State: No limit on individual political donations," *Newsday*. Retrieved on July 18, 2014. Available at: http://www.newsday.com/long-island/politics/state-no-limit-on-individual-political-donations-1.8186788 (May 26, 2014).

23 Scott Bauer, "Deal reached to kill campaign funding limits," The Associated Press. Retrieved on July 18, 2014. Available at: http://www.washingtontimes.com/news/2014/may/8/deal-reached-to-kill-wisconsin-campaign-limits/ (May 8, 2014).

24 Devin Henry, "Judge halts Minnesota campaign finance law," *MinnPost*. Retrieved on July 18, 2014. Available at: http://www.minnpost.com/effective-democracy/2014/05/judge-halts-minnesota-campaign-finance-law (May 19, 2014).

25 Michael P. McKinney, "R.I. Board of Elections backs repeal of 'total' campaign contribution limit," *Rhode Island Providence Journal*. Retrieved on July 18, 2014. Available at: http://www.providencejournal.com/breaking-news/content/20140417-r.i.-board-of-elections-backs-repeal-of-total-campaign-contribution-limit.ece (April 17, 2014).

26 Laura Hancock, "Wyoming lawmakers want to repeal caps to PAC spending," *Casper Star-Tribune*. Retrieved on July 18, 2014. Available at: http://trib.com/news/state-and-regional/govt-and-politics/wyoming-lawmakers-want-to-repeal-caps-to-pac-spending/article_9a4c8196-d5ff-5eb3-a99b-a53214e8e8d7.html (June 6, 2014).

27 *McCutcheon* at 1.

Furthermore, the actual effects of aggregate limits and proportional limits/bans are questionable. Thirty-one states do not have aggregate limits of any kind, and states with aggregate or proportional contribution limits are not any less corrupt than those states without these limits (and arguably more so).[28] Further, states with aggregate limits, proportional limits, and/or proportional bans generally are worse governed than those states that do not impose such limits.[29]

Ultimately, if states that currently have aggregate or proportional limits or bans find their statutes challenged and defeated in court, they can rest assured knowing that these speech-restrictive laws have not been shown to reduce corruption or improve the quality of government management. More importantly, repealing these regulations will also enhance the First Amendment freedoms of the citizens residing in each of these states.

28 Matt Nese, "Aggregate and Proportional Limits in the States: Have they Reduced Corruption or Promoted Better Government?," Center for Competitive Politics' Issue Analysis No. 9. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2014/04/2014-07-08_Issue-Analysis-9_Aggregate-And-Proportional-Limits-In-The-States-Have-They-Reduced-Corruption-Or-Promoted-Better-Government.pdf (July 2014).

29 *Ibid*.

Research on Contribution Limits

A varied and extensive collection of academic research substantiates and informs the arguments made against contribution limits above. This research shows that: (1) there is "no strong or convincing evidence that state campaign finance reforms [including contribution limits] reduce public corruption";[30] (2) limits often do more harm to individuals' constitutionally protected First Amendment rights to participate in the political system than is justifiable;[31] (3) contribution limits stifle the speech of political entrepreneurs – the individuals and organizations who form and grow new political voices and movements;[32] (4) contribution limits have little impact on voter turnout and, in so doing, fail to place more electoral power in the hands of everyday citizens;[33] (5) individuals, not so-called "special interests,"[34] are the main source of campaign contributions; (6) campaign contributions as a percentage of GDP have not risen appreciably in over 100 years;[35] (7) contribution limits add to the inherent advantages of incumbency;[36] and (8) campaign contributions do not "buy" politician's votes, as legislative voting patterns have been shown to remain stable over time.[37]

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30 Adriana Cordis and Jeff Milyo, "Working Paper No. 13-09: Do State Campaign Finance Reforms Reduce Public Corruption?," Mercatus Center at George Mason Univer¬sity. Retrieved on July 18, 2014. Available at: mercatus.org/sites/default/files/Milyo_CampaignFinanceReforms_v2.pdf (April 2013).

31 Melanie D. Reed, "Regulating Political Contributions by State Contractors: The First Amendment and State Pay-to-Play Legislation," William Mitchell Law Review, Vol. 34:2. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2012/11/reed2007paytopay.pdf (February 2008).

32 Jeffrey Milyo, Ph. D., "Keep Out: How State Campaign Finance Laws Erect Barriers to Entry for Political Entrepreneurs," The Institute for Justice. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/doclib/20101001_Milyo2010ContribReport.pdf (September 2010).

33 David M. Primo and Jeffrey Milyo, "The Effects of Campaign Finance Laws on Turnout, 1950-2000," Department of Economics and Truman School of Public Affairs, University of Missouri. Retrieved on July 18, 2014. Available at: http://economics.missouri.edu/working-papers/2005/wp0516_milyo.pdf (February 2006).

34 *Ibid. 5.*

35 *Ibid.*

36 Joel M. Gora, "Buckley v. Valeo: A Landmark of Political Freedom," Akron Law Review, Vol. 33:1. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/doclib/20101217_Gora1999Buckleyv.Valeo.pdf (January 1999).

37 Stephen G. Bronars and John R. Lott, Jr., "Do Campaign Donations Alter How a Politician Votes? Or, Do Donors Support Candidates Who Value the Same Things that they Do?," The Journal of Law and Economics, Vol. XL. Retrieved on July 18, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2012/11/Bronars-1997-Money-And-Votes.pdf (October 1997).

Conclusion

Considering the concerns raised above and the findings of the academic community, contribution limits infringe upon the First Amendment's guarantee of freedom of speech, and legislative proposals to institute or lower existing contribution limits should be approached with great caution.

These limits have not been shown to prevent corruption. On the contrary, one such study has shown limits to increase the likelihood of corruption. Research shows they have no effect on the quality of governance, and in fact suggests the opposite: states with the best quality of governance have no limits on the size or source of campaign contributions. In addition, contributions do not "buy politicians' votes," and thus do not have the "corrupting influence" many opponents of free speech imagine. By contrast, research shows politicians' voting patterns are remarkably stable over time, regardless of who donates to a legislator's campaign. Additionally, campaign contributions do not "level the playing field," but rather distort it in other directions, benefitting certain groups over others, and incumbents over challengers. Finally, contribution limits are likely to divert political spending to independent groups and away from candidates and political parties.

State legislators should keep these considerations, the positive experience of the many states without limits, and the First Amendment in mind when faced with proposals to amend or institute campaign contribution limits.

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