OPTIONS FOR CONTINUED REFORM OF MONEY IN POLITICS: CITIZENS UNITED IS NOT THE END

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I. INTRODUCTION: WHAT LEGAL REFORMS REMAIN VIABLE POST-CITIZENS UNITED?

For those concerned with the pressing matter of the influence of money on politics, the 5-4 Citizens United decision was a grave disappointment. Citizens United approved corporations’ rights to make independent political expenditures as a matter of First Amendment law. Before Citizens United, corporations were not permitted, at the federal level and in about half the states, to finance electioneering communications. Corporations could make limited political expenditures or fund “issue ads,” which could not overtly advocate for the election or defeat of a specific candidate, even if these ads made it clear to the listener which candidate was supported. But they could do so only through political action

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4 See Clara Torres-Spelliscy, Brennan Ctr. for Justice, Transparent Elections After CITIZENS UNITED 3, 6 (2011), https://www.brennancenter.org/sites/default/files/legacy/ Disclosure%20in%20the%20States.pdf (discussing that at the time Citizens United was decided, twenty-four states prohibited either corporations or unions from making political contributions).
committees ("PACs").\(^5\) *Citizens United*, however, permits corporations to make unlimited independent political expenditures explicitly in support of, or in opposition to, individual candidates.\(^6\)

*Citizens United* and related cases\(^7\) have led to unfortunate law as well as to psychological impetus resulting in extraordinary spending, especially by individuals.\(^8\) Much of the actual increase in spending after the *Citizens United* cases has not been from publicly traded for-profit corporations or their PACs, as many feared would happen.\(^9\) Instead, much of it has been from individuals, often through various routes that hide their identity, even though they had (cumbersome) ways of making political expenditures supporting individual candidates in the past.\(^10\) The much-increased spending by individuals was undoubtedly spurred by a belief or sense that the *Citizens United* cases reflect the Supreme Court’s endorsement of a virtual free-for-all for those of great means.\(^11\) And, indeed, Justice Kennedy restricted the concept that “corruption,” the justification relied upon in past Court decisions to limit political spending, cannot apply to “independent expenditures” in the absence of an overt *quid pro quo*, thus eviscerating a long history of broader interpretation of the justification for regulation of campaign finance.\(^12\)

\(^5\) See id. at 6. Prior to the Court’s ruling, individuals could give up to $5,000 to a PAC and, of course, could spend unlimited amounts “independently.” See [Contribution Limits for 2015-2016 Federal Elections](http://www.fec.gov/info/contriblimitschart1516.pdf) (last visited Sept. 22, 2016) [hereinafter Contribution Limits].

\(^6\) See *Citizens United*, 558 U.S. at 365 (citations omitted).

\(^7\) See, e.g., *McCutcheon v. FEC*, 134 S. Ct. 1434, 1462 (2014) (voiding federal limits on an individual’s aggregate contributions to candidates, party committees, and PACs because such limits were not narrowly tailored to avoid abridging First Amendment free association); *Ariz. Free Enter. Club’s Freedom Club PAC v. Bennett*, 564 U.S. 721, 753 (2011) (holding that public funding programs may not attempt to equalize candidates’ opportunities by providing additional public funds to publicly financed candidates in direct response to the campaign activities of high-spending non-publicly financed candidates); *Davis v. FEC*, 554 U.S. 724, 743–44 (2008) (holding unconstitutional the so-called “Millionaire’s Provision,” which relaxed contribution limits for candidates whose opponents spent more than a certain amount of personal funds on their own campaigns on the ground that the provision impermissibly burdened the First Amendment); *SpeechNow.org v. FEC*, 599 F.3d 686, 696 (D.C. Cir. 2010) (holding that limits on independent contributions to a nonprofit, unincorporated association violated the First Amendment, as the government had no valid anti-corruption interest in limiting such contributions). This article will use the phrase “*Citizens United* cases” to refer to these and other major cases related to campaign finance reform.


\(^9\) See id. at 120–21.

\(^10\) See id. at 122–24.

\(^11\) See id. at 126.

\(^12\) See *Citizens United v. FEC*, 558 U.S. 310, 360 (2010) (“[I]ndependent expenditures do
In the post-\textit{Citizens United} campaign finance world, several major problems have been posed and exacerbated. Wealthy donors are able to exert greater influence in elections, which creates a greater potential for corruption.\textsuperscript{13} The rise of “dark money” also makes accountability impossible.\textsuperscript{14} Additionally, even in the absence of corruption, it is now even more difficult for average citizens to be heard or to run for office, thus allowing the interests of wealthy donors to distort policy priorities.\textsuperscript{15}

The \textit{Citizens United} cases, however, are not the end of campaign finance reform in the United States.\textsuperscript{16} In fact, nearly all aspects of campaign finance reform remain, technically speaking, unaffected by the \textit{Citizens United} cases, notwithstanding the many deficiencies


\textsuperscript{15} See, e.g., Hiltzik, supra note 13. A related point is that corporations are apparently exerting more pressure than in the past on employees to support their favored political candidates. See, e.g., Paul Blumenthal, \textit{Thanks to \textit{Citizens United}, Your Boss can Bring Politics into the Workplace}, \textsc{Huffington Post} (Feb. 16, 2016), http://www.huffingtonpost.com/entry/citizensunitedworkplace_us_56be5383e4b08ffac1255c74.

\textsuperscript{16} The 2015 presidential primaries may even have demonstrated the limitations of the much-feared “super PACs,” whose influence has not turned out to be nearly as great as some had feared. See Emily Atkin, \textit{New Hampshire’s Biggest Loser: The Super PAC}, \textsc{Think Progress} (Feb. 11, 2016), https://thinkprogress.org/new-hampshires-biggest-loser-the-super-pac-b1a1a86a81f8d441dapl94w. For example, in early 2016, presidential candidates Donald Trump and Bernie Sanders proved able to rise in the polls without the spending of super PACs that supported them. See Editorial, \textit{America, Don’t Despair: Democracy is Working}, \textsc{Newsday} (Feb. 10, 2016), http://www.newsday.com/opinion/editorial/donald-trump-and-bernie-sanders-aren-t-the-end-of-america-1.11457432 (“Sanders and Trump together have undermined \textit{Citizens United} and the power of the super PACs.”); see also Atkin, supra (“\textit{V}oters came out in droves to cast ballots for two candidates who don’t have super PACs.”). In the case of now-President Trump, he was at first a self-funded candidate who said he did not want or need super PAC funding and called them “scams.” See Paul Blumenthal, \textit{Donald Trump Takes Aim at Rivals’ Super PAC Support}, \textsc{Huffington Post} (Oct. 26, 2015), http://www.huffingtonpost.com/entry/trump-super-pac-2016_562e6694e4b00a54a4a5544. In the case of Senator Sanders, he rejected super PACs on ideological grounds and was able to sustain a campaign based primarily on small contributions from individuals. See Philip Bump, \textit{Donald Trump and Bernie Sanders Strike Huge Blows Against the System—But With One Key Difference}, \textsc{Wash. Post} (Feb. 10, 2016), https://www.washingtonpost.com/news/the-fix/wp/2016/02/10/donald-trump-and-bernie-sanders-strike-huge-blows-for-populism-but-with-one-very-key-difference/.
in the current state of campaign finance law. See infra Part II. In particular, the Supreme Court’s stated commitment to limiting spending that is not truly “independent” offers reformers significant opportunities to rein in coordinated spending. See Citizens United, 558 U.S. at 360–61.


19 It should be understood that some of the reform efforts suggested here might be extremely difficult to achieve. That is not to say, however, that they cannot be achieved or that no benefit is to be gained from the effort itself. As discussed below, reform efforts have been successful in the past, and even those efforts that are ultimately not successful bring public attention to the issues and help to lay the foundation for future efforts. See infra Appendix A.

20 See, e.g., infra Appendix A.
II. MOST EFFECTIVE REFORMS TO PURSUE (ABSENT AN OVERRULING OF CITIZENS UNITED)

A. Public Funding Programs to Increase Small Donor Influence—Unaffected by Citizens United

- All levels of government should establish public funding programs;
- Public funding should be contingent on the recipient’s agreement to stipulated conditions, such as participation in public debates and limits on contributions from other sources; and
- Laws establishing public funds programs should protect campaign finance agencies’ budgets as well as the availability of public funding for candidates.

1. Types of Public Funding

Among the most important words for reformers in the field of money and politics that have been uttered by the current United States Supreme Court are those of Chief Justice Roberts in Arizona Free Enterprise (which post-dates Citizens United), explaining that “governments ‘may engage in public financing of election campaigns’ and that doing so can further ‘significant governmental interest[s],’ such as the state interest in preventing corruption.” Arizona Free Enterprise thus affirms the constitutionality of matching funds and other public funding programs, arguably the most important aspect of campaign finance reform. There are several forms of public funding programs, including: (a) matching funds; (b) “clean elections;” (c) tax rebates and credits; and (d) vouchers.

22 Id. at 754 (quoting Buckley v. Valeo, 424 U.S. 1, 57 n.65, 92–93, 96 (1976)); but see Richard L. Hasen, Opening the Political Money Chutes, REUTERS BLOG (Apr. 7, 2014), http://blogs.reuters.com/great-debate/2014/04/07/opening-the-political-money-chutes (describing how the Supreme Court has made it increasingly difficult to enact reform measures by narrowing the justifications for such regulation so that the justifications must essentially aim to prevent actual bribery).
23 See Ariz. Free Enter. Club’s Freedom Club PAC, 564 U.S. at 754 (quoting Buckley, 424 U.S. at 57 n.65).
24 Hybrid models may also be employed by combining two or more of the listed approaches. See Mark Schmitt, Small-Donor Empowerment: A New Menu of Options to Strengthen the Voice of Citizens, NEW AM. (Apr. 29, 2015), http://www.newamerica.org/political-reform/small-donor-empowerment/ (“[A]reas for possible research and experimentation[] includ[e] hybrid systems.”).
a. Matching Funds

The matching funds model is a system by which the government provides matching funds for small private contributions that candidates collect.\textsuperscript{25} Candidates voluntarily opt into these systems.\textsuperscript{26} In some jurisdictions as much as $6 in public money matches $1 for up to $175 in private donations.\textsuperscript{27} In order to demonstrate that the candidate has some public support, candidates must first collect a certain amount in private funds from small contributions before they are eligible to receive public funding.\textsuperscript{28}

There are several reasons to prefer the matching model, including a record of high participation in matching programs by candidates and incentives for small donors to make contributions throughout the campaign period.\textsuperscript{29} Small donors thus have an opportunity for meaningful participation.\textsuperscript{30} There is also evidence that has analyzed how the war chests of candidates in comparable districts compare when there is a matching system available and when there is not.\textsuperscript{31} When a candidate participates in a matching system, the small contributions in combination with the public matching funds he or she receives can generate a very substantial proportion of his or her overall funding, and thus are extremely meaningful to the candidate.\textsuperscript{32} These participating candidates are less dependent on large contributions from wealthy donors.\textsuperscript{33} Where no such matching system exists for otherwise equivalent campaigns, the result is a war chest that relies heavily on high-end donors to the exclusion of “average” voters.\textsuperscript{34} Making it easier for citizens with limited means


\textsuperscript{26} See, e.g., \textit{id.} at 238 (describing New York City’s public financing system, which is completely voluntary).

\textsuperscript{27} See, e.g., N.Y.C. ADMIN. CODE § 3-705(2)(a) (2016) (providing that a $175 contribution, matched at a rate of six to one, entitles a candidate to the statutory maximum public funding amount of $1,050 per contributor).

\textsuperscript{28} See Schmitt, \textit{supra} note 24.

\textsuperscript{29} See \textit{id.}

\textsuperscript{30} See \textit{id.}


\textsuperscript{33} See Genn et al., \textit{supra} note 31, \textit{passim}; Malbin et al., \textit{supra} note 31, \textit{passim}.

\textsuperscript{34} See Malbin et al., \textit{supra} note 31, at 3–4.
to contribute to political campaigns may also encourage other civic behavior, including voting.\textsuperscript{35}

Numerous states and local governments have experimented with programs that match private citizens’ contributions. For example, New York City,\textsuperscript{36} Los Angeles,\textsuperscript{37} and Tucson, Arizona\textsuperscript{38} each have matching funds programs in place. A federal matching funds program, known as the Government by the People Act,\textsuperscript{39} was proposed in Congress in 2014.\textsuperscript{40} That bill was supported by many civic groups\textsuperscript{41} and had 160 co-sponsors in the House, including one Republican co-sponsor.\textsuperscript{42}

b. Clean Elections

“Clean elections” programs provide a flat grant that represents all or most of the funding that is permitted for election spending for the
candidates who choose to join these programs. Like matching programs, candidates typically must demonstrate their public support by collecting a certain number of small donations in order to qualify for public funding. Maine was one of the first states to implement a clean elections program. Other states, such as Connecticut and Arizona, have followed Maine’s example. Although the Arizona Free Enterprise case significantly weakened Maine’s regime (and others like it) by undermining the states’ ability to provide escalating public funds for candidates who face high-spending opponents, Maine voters recently approved measures to reinvigorate Maine’s program by increasing the amount of public funding available and raising spending limits for publicly funded candidates.

c. Tax Rebates and Credits

Tax rebates or credits for small contributions can be made available to donors who apply to the relevant agency for a refund. Tax credits and tax refunds for campaign contributions have been used in several states, including Arkansas and Minnesota. For

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44 See, e.g., The Maine Clean Election Act, ME. COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRAC., http://www.maine.gov/ethics/mcea/ (last visited Sept. 29, 2016) (“To become eligible [for Maine’s public financing of political campaigns], candidates must demonstrate community support through collecting a minimum number of checks or money orders of $5 or more made payable to the Maine Clean Election Fund.”).

45 See ME. STAT. tit. 21-A, § 1124(1) (2016); see also Paul Blumenthal, Maine Voters Hope to Restore Their Revolutionary Election System, HUFFINGTON POST (Sept. 4, 2015), http://www.huffingtonpost.com/entry/maine-campaign-finance-reform_us_55e8bf3be4b093be51bafa2e (noting that Maine was the first state to enact such an act).

46 CONN. GEN. STAT. § 9-701 (2016).

47 ARIZ. REV. STAT. ANN. § 16-940 (2016).


50 See, e.g., ARK. CODE ANN. § 7-6-222(a) (2016).

51 Id.
example, in Minnesota a taxpayer may claim a tax refund of up to $50 for qualified contributions.\textsuperscript{53} Republican John Pudner of Alabama, whose “Take Back the Republic” organization supports campaign finance reform from a conservative viewpoint, favors tax credits.\textsuperscript{54} Former Wisconsin Republican Congressman Tom Petri favors tax credits and tax deductions.\textsuperscript{55}

Tax credits, however, may favor only those individuals who earn enough to pay income taxes, unless the credits are properly structured.\textsuperscript{56} If a credit may only be used to offset a taxpayer’s existing tax liability, taxpayers who do not earn enough to be subject to income taxation will receive no benefit from the credit.\textsuperscript{57} To avoid this inequity, the equivalent of an available tax credit should be paid to the taxpayer to the extent the credit exceeds the taxpayer’s tax liability.\textsuperscript{58}

d. Vouchers

Vouchers may be given by the government for citizens to contribute to a candidate or party.\textsuperscript{59} In late 2015, Seattle voters approved a new voucher initiative that will make Seattle “the first city in the U.S. to give public money to citizens to encourage civic participation in campaign financing.”\textsuperscript{60} Beginning in 2017, Seattle voters will receive four $25 vouchers to give to candidates of their choice. Candidates must agree to comply with certain restrictions

\textsuperscript{52} MINN. STAT. § 290.06, subdiv. 1.23 (2016). Minnesota’s political contribution refund program, however, has been suspended for contributions made between July 1, 2015, and June 30, 2017. See Political Contribution Refund Program Suspended, MINN. REVENUE, http://www.revenue.state.mn.us/individuals/individ_income/Pages/whats-new-PCR.aspx (last updated June 22, 2015).

\textsuperscript{53} MINN. STAT. § 290.06, subdiv. 1.23.


\textsuperscript{57} See id.

\textsuperscript{58} See, e.g., Sharon C. Nantell, The Tax Paradigm of Child Care: Shifting Attitudes toward a Private/Parental/Public Alliance, 80 MARQ. L. REV. 879, 903, 926 (1997) (describing how the Tax Code already provides for a similar structure with other tax credits, such as the Earned Income Tax Credit and certain child care credits).

\textsuperscript{59} See, e.g., SEATTLE MUN. CODE § 2.04.600(a) (2016) (describing Seattle, Washington’s voucher system).

\textsuperscript{60} David Kroman, Seattle Just Changed the Way We Pay for Local Political Campaigns, CROSSCUT (Nov. 4, 2015), http://crosscut.com/2015/11/the-lowdown-on-seattles-campaign-finance-experiment/.
in order to be eligible to use the vouchers.\textsuperscript{61}

One benefit of voucher systems (in contrast to matching systems) is that they make it possible for voters to express their political views, even if they do not have the financial resources to make any contribution at all.\textsuperscript{62} Voucher systems can create very complex scenarios that might undermine their usefulness, however. One concern about this model is that it could lead to citizens “selling” their vouchers to other people.\textsuperscript{63} These others could then use the vouchers for candidates they favor even if the original owner of the vouchers might have chosen a different candidate, but is willing to give up his or her voucher for payment or otherwise.\textsuperscript{64}

2. Establishing Public Funding Programs

Since \textit{Citizens United} has made it more difficult to cap excessive political spending, reformers should instead focus on establishing public funding programs, such as those mentioned above, to move more of the locus of funding resources from a high-end “donor class” to a larger number of small donors. The importance of providing public funds through any of these models cannot be overstated.\textsuperscript{65} First, they can in fact give small donors’ contributions a much greater presence in candidates’ war chests, thus enhancing the influence of small donors.\textsuperscript{66} As stated above, small donor matching funds also attract participants into the political process who are otherwise less likely to be active.\textsuperscript{67} Second, matching programs can liberate candidates to a significant degree from the job of raising money, allowing candidates to concentrate on policy and on

\textsuperscript{61} See \textit{Seattle Mun. Code} § 2.04.630(b).


\textsuperscript{63} See Joshua Rosenthal, Accountability Vouchers: A Proposal to Disrupt the Undue Influence of Wealthy Interests on State Politics, 45 U. Tol. L. Rev. 211, 236 (2014).

\textsuperscript{64} See id.

\textsuperscript{65} See \textit{Malbin}, supra note 35, at 29.

\textsuperscript{66} See generally \textit{Malbin et al.}, supra note 31, at 2, 4 (providing an empirical analysis of New York City’s matching funds system and concluding that the role of small donors is enhanced when this system is used).

\textsuperscript{67} See id. at 3 (“[Matching funds] increase the number and importance of low-dollar donors . . . help[ing] to shift the demographic and class profile of those who give.”). One report even compares donor behavior in city council districts in New York City, which have a matching program, to State Assembly districts in New York City, which do not. See \textit{Genn et al.}, supra note 31, passim. That report concludes, among other things, that “[s]mall donors to 2009 City Council candidates came from a much broader array of city neighborhoods than did the city’s small donors to 2010 State Assembly candidates[,]” and that the data “support the claim that small donor matching funds help bring participants into the political process who traditionally are less likely to be active.” See id. at 4.
engaging with their potential constituents on policy, not just asking them for donations.\textsuperscript{68} Third, they assist candidates who do take office in carrying out their responsibilities as office-holders by reducing the importance of pleasing large donors.\textsuperscript{69}

In addition, it has been suggested that when small donors contribute, they may also exhibit other kinds of citizen engagement—other than making campaign contributions—that is healthy for democracy, such as volunteering, involvement in campaigns (in addition to giving contributions), and voting.\textsuperscript{70} These are tremendous achievements for campaign finance reform. And in light of the Supreme Court’s explicit recognition of public funding for the purpose (at the least) of curbing corruption, public funding programs present a ripe area for reform.\textsuperscript{71} Public funding programs may also impose certain conditions on a candidate’s acceptance of public funding, including contribution limits, expenditure limits, and participation in mandatory debates.\textsuperscript{72}

Today, thirteen state governments\textsuperscript{73} have public funding programs in place. Although ultimately unsuccessful, vibrant efforts to enact reform measures in New York State in 2014 and later\textsuperscript{74} suggest continuing action in the foreseeable future. Public funding programs have also been established by local governments: for example, in 2014, Maryland’s Montgomery County passed the first matching funds program since \textit{Citizens United}.\textsuperscript{75} Maryland’s statewide public funding program has been revitalized and the current Republican Governor, Larry Hogan, was significantly


\textsuperscript{69} See id. at 15 (arguing that catering to large donors adversely affects working and middle class voters).

\textsuperscript{70} See MIMI MARZIANI ET AL., BRENNAN CTR. FOR JUSTICE, MORE THAN COMBATING CORRUPTION: THE OTHER BENEFITS OF PUBLIC FINANCING 1–2 (2011) (“[Funding programs] promote contested and competitive elections, foster diversity in the electoral process, and encourage voter-centered campaigns.”).


\textsuperscript{72} See, e.g., SEATTLE MUN. CODE § 2.04.630(b) (2016).

\textsuperscript{73} See infra Appendix B.

\textsuperscript{74} See Editorial, Can New York Lead on Campaign Finance Reform?, N.Y. TIMES (Mar. 13, 2014), http://www.nytimes.com/2014/03/14/opinion/can-new-york-lead-on-campaign-finance-reform.html; see also David Howard King, For Cuomo, Passing Ethics Bill was Urgent, Signing it is Not, GOTHAM GAZETTE (Aug. 12, 2016), http://www.gothamgazette.com/state/6476-for-cuomo-passing-ethics-bill-was-urgent-signing-it-is-not (describing more recent developments in New York State).


However difficult it is to pass public financing through legislatures, it must be remembered: the cost of these programs is minuscule notwithstanding many claims to the contrary, and the benefits are incalculable. New York City’s Republican Mayor Rudolph Giuliani stated in 1991: “The amount of money [distributed through the New York City public funding program] is, in the budget of New York City . . . infinitesimal. You can’t find it. It’s a percentage of a percentage of a percentage.”\footnote{78}{N.Y.C. CAMPAIGN FIN. BD., A DECADE OF REFORM: 1988–1998, at 61 (1998) (alteration in original).}

In New York State, a small-donor matching system of public financing might cost “about $41.4 million per year over the course of four years, or $2.12 per New Yorker per year.”\footnote{79}{Press Release, Campaign Fin. Inst., CFI’s Malbin Presents Testimony to NY’s Moreland Commission on Public Corruption (Oct. 28, 2013), http://www.cfinst.org/Press/PressReleases/13-10-28/CFI’s_Malbin_Presents_Testimony_to_NY’s_Moreland_Commission_on_Public_Corruption.aspx [hereinafter Press Release, Campaign Fin. Inst.]. Of course these figures will have changed over time, as the matching rate has increased.} Even at a cost of $42.7 million, that would only be 0.003% of the state budget.\footnote{80}{STEVEN M. LEVIN, CTR. FOR GOVERNMENTAL STUD., KEEPING IT CLEAN: PUBLIC FINANCING IN AMERICAN ELECTIONS 13 (2006) (“The cost of even the largest public financing programs (like those in Arizona and New York City) represent only a small fraction of the jurisdiction’s budget.”).} Administrative and enforcement costs would add another $17 to $21 million per year, for a total annual cost of about $60 million.\footnote{81}{Press Release, Campaign Fin. Inst., supra note 79.} Maine’s campaign financing system draws only $2 million from the state’s general fund each year at an estimated cost of $2 per year for Maine residents.\footnote{82}{See Michael Clyburn, \textit{Public Campaign Financing: The Path from Plutocracy to Pluralism}, 7 SEATTLE J. SOC. JUST. 285, 291 (2008).} In Arizona, the Citizens’ Clean Elections Commission paid out over $5.3 million to candidates in 2014, without drawing from the state’s general fund at all.\footnote{83}{2014 ARIZ. CITIZENS CLEAN ELECTIONS COMM’N ANN. REP. 10.} (The funding for Arizona’s program comes primarily from a ten percent surcharge on civil penalties and criminal fines.\footnote{84}{Id. at 10.}) In the 2014 election, gubernatorial candidates received $753,616 for the primary election,
and candidates for the position of corporate commissioner received $97,620 for the primary election and $146,430 for the general election. Legislative candidates received $15,253 for the primary election and $22,880 for the general election.

Funding for public funding programs typically comes from tax check-offs, tax add-ons, and general funds. Reformers, however, should push to ensure that campaign finance programs have more secure funding. In New York City, for example, public funds for candidates and for funding the agency are protected under the New York City Charter.

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85 Id. at 13, 22.
86 Id. at 14, 22.
87 See Clyburn, supra note 82, at 291.
88 See 46 RULES OF N.Y.C. § 1052 (2016) ("[a](10) If at any time, the [campaign finance] board determines that the amount of money in any special fund or funds established by any such local law, establishing a voluntary system of campaign finance reform, to fund a system of optional public campaign financing for candidates abiding by the requirements of such law, is insufficient, or is likely to be insufficient, for payment to such participating candidates pursuant to such law for elections to be held in perpetuity, it shall report this determination to the commissioner of finance, along with its estimate of the additional amount which will be necessary to provide such participating candidates with financing pursuant to such law and a detailed statement of the assumptions and methodologies on which such estimate is based. Not more than four days after receiving such estimate and supporting materials, the commissioner of finance shall transfer an amount equal to such estimate from the general fund to such special fund or funds. All monies transferred to such special fund or funds shall not be considered revenues of the city and payments from such fund or funds shall be made without appropriation and shall not be included in the expense budget of the city. . . . The comptroller shall submit monthly reports to the board regarding the status of the fund or funds and more frequent reports when the board requires. . . . The comptroller shall submit its estimate of the amount of public funds which will be necessary to provide candidates sufficient financing for elections in the next year in which elections are scheduled pursuant to the charter and for elections to fill vacancies to be held prior to such year, and a reserve for contingencies. Such estimates shall be submitted in such manner and at such times as to assure that such amounts as shall be necessary may be appropriated in full by the beginning of the fiscal year prior to that in which elections are scheduled . . . and that additional amounts may be appropriated as necessary. . . . Any payment from the fund in the possession of a candidate . . . on the date of a final disqualification or invalidation may not thereafter be expended for any purpose except the payment of liabilities incurred in qualified campaign expenditures before such date and shall be promptly repaid to the fund. . . . Prior to the first distribution of funds . . .").
B. Regulation of Political Expenditures by Corporations and Unions—Largely Unaffected by Citizens United

- The independence of political expenditures should be policed to determine the legality of fundraising activities;
- The burden should be on candidates and PACs to prove that spending is not “coordinated” whenever certain factors are present (e.g., a PAC uses language identical to candidates’ materials or photos from the candidate’s campaign materials);
- Individuals who have close family or working relationships with a candidate should be precluded from making independent expenditures on behalf of that candidate for a specified period of time (similar to revolving door ethics rules in Congress); and
- The FEC should tighten the definition of “foreign corporation” so that non-citizens do not have influence over American elections.

1. Coordination

Pre-Citizens United, as mentioned above, corporations were not permitted, at the federal level and in about half the states, to finance independent expenditures or certain other electioneering communications. See The Federal Election Campaign Laws: A Short History, FED. ELECTION COMMISSION, http://www.fec.gov/info/appfour.htm (last visit ed Sept. 30, 2016); supra notes 4–5 and accompanying text.

 Currently, it would seem that the action of the Court, combined with the inaction of the FEC, has rendered these expenditures entirely unlimited. See Coordinated Communications and Independent Expenditures, FED. ELECTION COMMISSION, http://www.fec.gov/pages/brochures/indexp.shtml (last updated Jan. 2015) [hereinafter Coordinated Communications] (“In general, amounts spent for coordinated communications are limited, but independent expenditures are unlimited.”).
area that remains to be fully exploited.91

The definition of what is either “independent” or “coordinated” spending is crucial to effective campaign finance regulation.92 Explaining the meaning of its regulations on “coordination,” the FEC has stated:

When an individual or political committee pays for a communication that is coordinated with a candidate or party committee, the communication is considered an in-kind contribution to that candidate or party committee and is subject to the limits, prohibitions and reporting requirements of the federal campaign finance law. In general, a payment for a communication is “coordinated” if it is made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate’s authorized committee or their agents, or a political party committee or its agents.93

Notwithstanding the above, the FEC has failed to enforce its regulations on independent spending.94 No matter what regime is in place, regulation of independent expenditures to prevent coordination is meaningless without a strong enforcement mechanism. And the definitions of “independent” and “coordinated” seem to become, in practice, murkier every day.95

Part of the problem is that the FEC regulations cover expenditures, but not fundraising. For example, the FEC regulations permit a candidate to appear at an event held by an “independent” entity and to solicit funding at that event as long as the candidate abides by the federal solicitation limit and personally makes no specific “ask” for contributions.96 Some states and

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92 See Citizens United, 558 U.S. at 360.
93 Coordinated Communications, supra note 90.
94 See Scott E. Thomas & Jeffrey H. Bowman, Obstacles to Effective Enforcement of the Federal Election Campaign Act, 52 ADMIN. L. REV. 575, 577–78 (2000) (“Through the years, the Commission has received a great deal of criticism for allegedly not satisfying its enforcement mandate. Critics charge that the Commission has failed to provide strong and timely enforcement of the campaign finance laws. The FEC has been called, among other things, ‘a lapdog,’ a ‘toothless watchdog,’ a ‘toothless tiger,’ a ‘watchdog without a bite,’ ‘reckless,’ ‘beleaguered,’ ‘a self-licking ice cream cone,’ ‘pathetic,’ and ‘nerts.’”).
95 See Steve Benen, Nothing Like This has Been Done Before, MSNBC: MADDOWBLOG (Apr. 23, 2015), http://www.msnbc.com/rachel-maddow-show/nothing-has-been-done.
localities, however, have better addressed the issue of preventing coordination through fundraising. The Brennan Center testified on the (ultimately successful) Philadelphia initiative that:

Philadelphia would not be the first jurisdiction to enact a rule taking into account candidate fundraising for an outside group to determine whether that group’s expenditures in the candidate’s race are coordinated. Recently, for example, Minnesota’s Campaign Finance and Public Disclosure Board determined that “fundraising for, or promotion of, an [independent expenditure committee] constitutes cooperation that destroys the independence of any subsequent expenditures made . . . to affect the Candidate’s election.” Similarly, under Connecticut law as interpreted by its State Elections Enforcement Commission, candidate fundraising for an outside group can be evidence of coordination.

Another approach to help prevent coordinated spending, in effect in New York City, is to define “coordination” so that when certain criteria are met, political spending is presumed to be coordinated with a campaign. Of course the campaign has the opportunity to rebut the rule’s presumption.

Another difficulty in preventing coordinated spending is that many super PACs are run by individuals closely related to the candidate. Super PACs for Republicans, like Ben Carson and Jeb Bush, were advised by friends and “allies who intimately know their candidate’s thinking.” Similarly, a number of close friends and supporters of Hillary Clinton were deeply involved in running a super PAC that supported her presidential nomination.


101 See id.

102 See Maggie Haberman & Nicholas Confessore, ‘Super PAC’ Raises $15.6 Million for Hillary Clinton Campaign, N.Y. TIMES (July 2, 2015), http://www.nytimes.com/politics/first-
difficulty could be reduced to an extent by precluding individuals who have close family or working relationships with the candidate from making independent expenditures or running super PACs on behalf of the candidate for a specified period of time (similar to revolving door ethics rules in Congress).103

One of the most comprehensive proposals to combat coordinated spending has been Democracy 21’s “Model Bill.”104 The Model Bill would deem a super PAC to be “coordinated” with a candidate if the candidate, the candidate’s agents, advisers, or family has been involved in establishing, managing, advising, or fundraising for the super PAC.105

2. Foreign Interests

Another concern is that corporations controlled by foreign interests could be making political expenditures.106 Ways must be found to ensure that existing prohibitions on contributions from foreign nationals are not undermined by corporate campaign spending.107 This problem is an issue of particular concern to “Take Back Our Republic,” an organization that seeks to reform campaign finances consistent with conservative principles.108 This could be addressed by having the FEC define a “foreign corporation” (which is already forbidden by law to make political expenditures) as one the majority of whose board members are non-citizens or which has non-citizen shareholders who have a controlling interest in the corporation.109 As a result, corporations would be prohibited by FEC regulation from engaging in political spending.110
C. Enhanced Disclosure and Regulation of All Political Spending—Unaffected by Citizens United

- The IRS should conform its regulation on 501(c)(4) organization political spending to the law, to prevent opportunities for “dark money” spending;
- Disclosure systems should encompass all political spending activity, including “independent” expenditures;
- Congress and the states should require campaign advertisements to be “approved” and attributed to the donor on the face of the advertisements;
- Comprehensive public disclosure should be adopted that would allow all citizens to see the actual sources of private funding for elections, regardless of the legal form of the spender;
- The Securities and Exchange Commission (“SEC”) should require detailed information on corporate political spending; and
- If not accomplished by law, non-governmental entities (and stockholder groups) should work to persuade corporations to disclose their political spending and to set up accountability structures for their political expenditures.

1. Dark Money

Disclosure is a necessary (but insufficient) condition of meaningful campaign finance reform. Disclosure assists reform, but is not itself a solution to the deficiencies in campaign finance regimes. As Professor Lawrence Lessig has said, comparing campaign finance disclosure to the video stream of the BP oil spill: “The point is to stop the guck from pouring into the Gulf, not [merely] to see it more clearly.” Nevertheless, disclosure

required to file confirmation that a majority of their board members and any shareholders holding a controlling interest are not foreign nationals and therefore prohibited from political spending in the United States. This issue may take on an added importance given recent allegations of Russian interference in the 2016 American election.

111 See Buckley v. Am. Constitutional Law Found., 525 U.S. 182, 223 (1999) (“Total disclosure' has been recognized as the 'essential cornerstone' to effective campaign finance reform . . . ” (citations omitted)).
112 See Rosenthal, supra note 63, at 223 (“Disclosure of campaign funds may play a role in any campaign finance system, but it is insufficient as a lone policy.”).
113 James Warren, His Mouth Where His Money Is, N.Y. DAILY NEWS (Nov. 16, 2014),
enhances: enforcement of campaign finance laws and regulations by exposing to the public who gives what to whom. It also permits researchers, including those at enforcement agencies, to study important matters of concern to a democracy, such as the relationships among donors and recipients of funding (including across jurisdictions); relationships between funding and the steps toward passage or rejection of legislation; and connections between money spent and voting.  

In general, the focus on disclosure has been on direct contributions to campaigns. At the federal level, disclosure is required for contributions of $200 or more. After Citizens United, however, the focus on disclosure must also be directed toward “independent” expenditures that are now permitted to be made in unlimited amounts by corporations. Independent spending, in particular, should be regulated to avoid misuse of tax-deductible funds.

http://www.nydailynews.com/opinion/mouth-money-article-1.2011596.

114 See Clyde Wilcox, Transparency and Disclosure in Political Finance: Lessons from the United States 37–38 (June 2001) (unpublished manuscript), http://faculty.georgetown.edu/wilcock/Disclosure.pdf (“Disclosure can be an important component of any system of campaign finance regulation. . . . It can enhance accountability by allowing citizens to hold elites accountable for any policies that they exchange for rents. It can enable governments to earn the trust of their citizens, and allow policymakers and academics to monitor the relationship between money and politics and to adapt to changing conditions.”).

115 See, e.g., Citizens United v. Gessler, 773 F.3d 200, 211 (10th Cir. 2014) (stating that direct contributions have a greater tendency to promote corruption and quid pro quo arrangements between donors and political candidates, and are therefore subject to more regulation).

116 See The FEC and the Federal Campaign Finance Law, Fed. Election Commission, http://www.fec.gov/pages/brochures/fecfeca.shtml#Disclosure (last updated Jan. 2015). Some argue that the amount is too low, has not kept up with inflation, and should be raised to $500 to protect free speech and privacy rights. See, e.g., Educational Papers: Disclosure Levels, TAKE BACK OUR REPUBLIC, http://takeback.org/educational-papers/ (last visited Sept. 16, 2016). On the other hand, the median household income is just under $54,000 and “[o]nly a tiny fraction of Americans actually give campaign contributions to political candidates, parties or PACs. The ones who give contributions large enough to be itemized (over $200) is even smaller. The impact of those donations, however, is huge.” Donor Demographics, OPENSECRETS.ORG, https://www.opensecrets.org/overview/donordemographics.php (last visited Jan. 31, 2017) (providing a detailed analysis of federal contributions by the top one percent of one percent of the population in the 2014 election cycle); see infra note 184 and accompanying text; see also Daily Data, How Much do the 1% of the 1% Control Politics?, CROWDPAC (Apr. 21, 2015), https://www.crowdpac.com/blog/the-1-percent-of-the-1-percent (“[C]lose to [half] the money in American politics is coming from 0.01% of the wealthiest donors—that’s around 25,000 compared to nearly 150 million registered voters.”).

117 Citizens United v. FEC, 558 U.S. 310, 314 (2010) (citation omitted). As noted above, individuals could always make unlimited independent expenditures. See supra note 5.

Significant—but reparable—loopholes permit tax-exempt 501(c)(4) entities to make political expenditures and circumvent federal disclosure requirements.\(^{119}\) This is a result of the IRS’ administration of the Internal Revenue Code, whereby\(^ {120}\) a critical IRS regulation is not faithful to the statute to which it pertains.\(^ {121}\) The Internal Revenue Code permits 501(c)(4) non-profit organizations, or “civic leagues” that are “operated exclusively for the promotion of social welfare” and whose net earnings “are devoted exclusively to charitable, educational, or recreational purposes[\(]” to function as tax-exempt organizations.\(^ {122}\) These tax-exempt organizations are not required under law to disclose the names of donors who give them money, and there is no limit on the amount that a donor can give.\(^ {123}\)

One would think that tax-exempt, charitable, educational, and recreational organizations would have nothing to do with political campaigns. The regulations promulgated by the IRS pursuant to Section 501(c)(4), however, significantly depart from the statute, providing that “[a]n organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.”\(^ {124}\) And groups that have obtained 501(c)(4) status have interpreted the “primary activity” requirement to refer to fifty-one percent of their activity, leaving them free to spend forty-nine percent of their total expenditures on political campaign activities without losing tax-exempt status.\(^ {125}\) The IRS has not challenged this practice.

From time to time the IRS has considered changing the regulation to bring it into line with the statute, but it has never done so.\(^ {126}\) The results are staggering. In the 2012 election cycle,

\(^{119}\) See id. at 24; infra. text accompanying notes 121–22 (explaining how some organizations classify themselves as 501(c)(4) entities specifically to take advantage of the IRS’s unjustifiable interpretation of the law, allowing substantial political spending by 501(c)(4) organizations so that they may engage in unlimited spending without disclosure obligations).

\(^{120}\) See id. at 25.

\(^{121}\) See id.


\(^{123}\) See Colinvaux, supra note 118, at 24.


\(^{125}\) See B. HOLLY SCHADLER, ALLIANCE FOR JUSTICE, THE CONNECTION: STRATEGIES FOR CREATING AND OPERATING 501(C)(3)S, 501(C)(4)S AND POLITICAL ORGANIZATIONS 13 (3d ed. 2012). Without that status, the unrestricted and undisclosed donations that 501(c)(4) organizations receive would be significantly taxed. See id.

\(^{126}\) See generally ADAM RAPPAPORT, CITIZENS FOR RESPONSIBILITY & ETHICS IN WASH., THE DARK MONEY DEBATE 2 (2014) (describing how the IRS has yet to take any action despite
501(c)(4) tax-exempt organizations spent over $257 million on political campaigns.\(^{127}\) The IRS currently has a petition before it for a change in the rule.\(^{128}\) Only strong citizen activism on this subject can bring about correction of this absurd misuse of language.\(^{129}\) Meanwhile, from a different angle, the “Bright Lines Project” (“Project”) created by Public Citizen has proposed guidance for an IRS rulemaking underway for 501(c)(4) and other tax-exempt organizations on political spending.\(^{130}\) The Project proposes that the IRS give detailed guidance to define “political activity” (or “political intervention”) that will clarify comprehensively what is and is not legitimate spending by 501(c)(4) organizations under the existing IRS regulations.\(^{131}\) As the Project states, it is attempting to establish “a method for judging cases of potential political intervention, accompanied by definitions that can capture more or less activity, depending on how one wants to draw lines that encourage free speech while discouraging tax abuse.”\(^{132}\) The rulemaking—and the Project’s submission—may at least lead to some reasonable rules governing political activity by tax-exempt organizations. Laudable as the Project’s plan may be, the current law is already clear enough, in its description of tax-exempt organizations, to prevent such political activity entirely.

The federal government also currently requires that campaign advertisements include “adequate notice of the identity of the person or political committee that paid for and, where required, that authorized the communication.”\(^{133}\) The attribution is often, clear controversies about the agency’s interpretation of section 501(c)(4)).


\(^{129}\) See RAPPAPORT, supra note 126, at 21.


\(^{131}\) See id. It should be noted that, more generally, President Trump has recently called for repeal of the “Johnson Amendment” (which amended section 501(c)(3) to prohibit tax-exempt organizations from participating in political activity). See Jeremy W. Peters, The Johnson Amendment, Which Trump Vows to “Destroy,” Explained, N.Y. TIMES (Feb. 2, 2017), https://www.nytimes.com/2017/02/02/us/politics/johnson-amendment-trump.html?r=0.

\(^{132}\) Letter, supra note 130.

\(^{133}\) 11 C.F.R. § 110.11(c)(1) (2016); see also 52 U.S.C. § 30120(a) (2012) (requiring that political advertisements disclose who paid for it).
However, simply the name of an innocuous-sounding organization, say, “Americans for Apple Pie,” while the actual donors remain anonymous. Avoiding attribution is easily accomplished by the use of shell corporations or non-profit organizations as intermediaries to shield individual donors’ identities by having the shell corporations make political donations on behalf of the individual donors. Under current law, if a donor contributes to a shell corporation, which then donates that money to a super PAC, the super PAC must disclose only the name of the shell corporation—allowing the original donor to remain anonymous.

Disclosure of innocuous-sounding organizational spending tells the public nothing. Meaningful disclosure would reveal who is behind the spending. The Democracy Is Strengthened by Casting Light on Spending in Elections (“DISCLOSE”) Act of 2014 is an example of a comprehensive bill that has been proposed at the federal level to establish additional disclosure requirements. If passed, the DISCLOSE Act would reveal the actual sources of political spending. The act would require individuals and organizations that transfer more than $50,000 to other organizations that engage in campaign spending to disclose the original donors to the recipients, who in turn would be required to disclose those donors in the recipients’ own disclosure reports. California, Maryland, and Connecticut are currently among national leaders in requiring disclosure of the ultimate donors to

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136 See id. at 686.
137 See id.
138 See id. at 710.
organizations that spend on political activities. In April 2015, Montana passed “sweeping” disclosure laws, which address independent expenditures and dark money; it remains to be seen how successfully the laws will be implemented. New York City has comprehensive independent expenditure disclosure laws, which require organizations that make independent expenditures to disclose the names of their owners and CEOs as well as any contributors who give more than $50,000—including the names of owners, executive officers, and board members of any contributor organization.

2. Other Disclosure Issues

The SEC is another body with the power to increase political spending disclosure. The Brennan Center for Justice, among many others, has advocated for SEC “regulations requiring public corporations to disclose all of their political expenditures on a periodic basis.” Another organization, Demos, has stated:

[The SEC] has received more than one million public comments, the most in agency history, on a proposed rule to require publicly traded corporations to disclose their political spending. The SEC has the authority and the responsibility to promulgate this rule for the protection of investors and in the public interest in response [to] the newly allowed corporate political spending resulting from Citizens United.

According to the Corporate Reform Coalition, “holding management accountable and ensuring that political spending

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144 See, e.g., infra Appendix C.
148 See id. at 12; see also Ciara Torres-Spelliscy, Not Because It Is Easy, SEC, BRENNAN CTR. FOR JUST.: BLOG (Dec. 4, 2013), https://www.brennancenter.org/blog/not-because-it-easy-see ("I hope this . . . will inspire the Chair of the SEC . . . to do the right thing and revive a rulemaking to bring light to dark political spending by corporations.").
decisions are made transparently and in pursuit of sound business is important for both the market and for democracy.”

An SEC regulation would have the additional benefit of replacing ad hoc aggregations of information obtained through inconsistent state and federal disclosure regimes—which may be difficult, or even impossible, to compare—with a uniform standard for disclosure that would be readily available on a dependable, national database. Different state and federal agencies that receive disclosed information each have different disclosure regimes, different accessibility, and, perhaps most important, different levels of substantive information. In addition, notwithstanding our technological ability to make disclosure almost instantaneous, much of the disclosure becomes available so long after the fact that it renders the information virtually useless to the public. An SEC regulation could alleviate some of these obstacles to meaningful and timely disclosure by creating a uniform standard for disclosure and providing a single database from which the public can get access to all available information.

Non-governmental approaches are also available to encourage disclosure of corporate political expenditures. The Center for Public Accountability (“CPA”), for example, has been successful in persuading a number of corporations to disclose their political spending and to put an accountability structure in place that must pass on any political spending considered by the corporation. The CPA publishes information provided by the corporations, describes corporations that are leaders in disclosure and accountability, and

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151 See EARLEY & VANDEWALKER, supra note 147, at 12.
152 See id. at 11.
rates corporations by various criteria, including what their policies and accountability structures are, what they disclose, and how accessible the information is to the public.\footnote{See Bruce Freed et al., The 2015 CPA-Zicklin Index of Corporate Political Disclosure and Accountability, 2015 CTR. FOR POL. ACCOUNTABILITY 8, 13, 17, http://files.politicalaccountability.net/index/CPA-Zicklin_Index_Final_with_links.pdf.} The CPA-Zicklin Index measures the extent to which companies adopt political disclosure policies, examining the companies in the S&P 500.\footnote{See id. at 10.} The 2015 index found that the trend among much of this group is toward increased disclosure.\footnote{See id. at 12.} While there is still a long way to go—some companies’ records are abysmal—the progress being made is encouraging.\footnote{See id. at 25, app. at 36–41.}

The best asset we currently have for detailed, complete disclosure at the federal level is the Center for Responsive Politics’ “OpenSecrets.org.”\footnote{See Ctr. for Responsive Politics, Our Vision and Mission: Inform, Empower & Advocate, OPENSECRETS.ORG, http://www.opensecrets.org/about/ (last visited Sept. 23, 2016).} It acts as “a clearinghouse for data and analysis on multiple aspects of money in politics—including the independent interest groups, such as super PACs and political nonprofits, flooding politics with outside spending, federal lobbying, Washington’s ‘revolving door’ and the personal finances of members of Congress, the president and other officials.”\footnote{Ctr. for Responsive Politics, About the Site, OPENSECRETS.ORG, https://www.opensecrets.org/about/tour.php (last visited Sept. 23, 2016).} The best source for detailed, complete disclosure at the state level is the National Institute on Money in State Politics’ “FollowTheMoney.org”—also not a government agency.\footnote{See Nat’l Inst. on Money in State Politics, About Our Data, FOLLOWTHEMONEY.ORG, http://followthemoney.org/about/our-data/about-our-data/ (last visited Sept. 23, 2016).} It “compile[s] comprehensive donor information from all [fifty] state disclosure agencies [and] form[s] that data into one unique database with industry codes and unique donor identifiers, and provid[es] unparalleled access to that data to journalists, scholars, advocates, and the public.”\footnote{Discover the World’s Tech Nonprofits: National Institute on Money in State Politics, FAST FORWARD, http://www.ffwd.org/tech-nonprofits/national-institute-money-state-politics/ (last visited Sept. 23, 2016) [hereinafter Discover Tech Nonprofits].} For more than a decade, the institute has worked with local agencies to upgrade their disclosure systems.\footnote{See Nat’l Inst. on Money in State Politics, Mission & History, FOLLOWTHEMONEY.ORG, http://followthemoney.org/about-us/mission-and-history/ (last visited Sept. 23, 2016).} It has also worked with journalists to inform their investigative reporting on money and politics, as well as with scholars and
lawyers involved in analyses and court battles over campaign finance reform and disclosure.164

Comparing political donations across state boundaries and election cycles [can] provide[] powerful insights into how policy agendas are set, how donors court incumbents and winners to ensure [that] they have a seat at the policy table, and even how legislation is shepherded through legislative committees. The Institute leads the way with [twenty-first] century transparency standards that will transform how citizens hold elected officials accountable.165

Other not-for-profits like MapLight in California and Wisconsin166 also make state-level disclosure information more accessible to the public. MapLight attempts to operate not only as a centralized disclosure resource, but also links campaign contributions to lobbying and even legislators’ votes.167 The Sunlight Foundation, another valuable contributor to public information on campaign finance, provides useful guidance about best practices for data collection.168

D. Contribution Limits—Unaffected by Citizens United

- Public funding programs should restrict contributions so that the predominant amount received by a publicly funded candidate is from within the jurisdiction in which the candidate is running;

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165 Discover Tech Nonprofits, supra note 162.


167 See About MapLight, MAPLIGHT, http://maplight.org/content/about-maplight (last visited Sept. 21, 2016). Some have argued that there may be limitations on the approach of connecting contributions with votes, because so much activity occurs outside this kind of proxy. Tracking the legislative process to expose where the real influence lies and the connection between contributions and votes goes beyond the vote on particular legislation. Influence can be exercised long before any vote is (or is not) taken. Agenda-setting, committee or leadership decisions about what comes to the floor of the legislature, who sits on the relevant committees, and party affiliation, are all relevant avenues of inquiry. See, e.g., Lynda W. Powell, The Influence of Campaign Contributions on Legislative Policy, 11 FORUM: J. APPLIED RES. CONT. POL. 339, 341–43 (2013); Michael J. Malbin & John Fortier, Campaign Fin. Inst., Bipartisan Policy Ctr., An Agenda for Future Research on Money in Politics in the United States 1, 2–3, 10 (2013).

• There should be a requirement in any public funding program that public funds match only contributions made from donors who are residents of the candidate’s state; and
• Stricter contribution limits should be established to limit what candidates may accept from donors.

1. Aggregate Contributions by Individuals and Contributions from Foreign Nationals

*McCutcheon* allows virtually unlimited influence for high-end donors by undermining the government’s ability to limit individuals’ aggregate political contributions.\(^\text{169}\) By voiding federal limits on an individual’s aggregate contributions to candidates, party committees, and PACs, *McCutcheon* gave large donors unfettered ability to spread their contributions across the nation to help elect their favored candidates and influence government policy in a way that most Americans cannot.\(^\text{170}\)

*McCutcheon* allows an out-of-state contributor to make donations to multiple candidates for multiple offices.\(^\text{171}\) This could very likely result in alignments of elected officials with donors who do not reside in their jurisdiction.\(^\text{172}\) To mitigate that concern, states should restrict the contributions that candidates may accept so that the predominant amount received by the candidate is from within the state in which the candidate is running for local office.\(^\text{173}\)

Although the Supreme Court has not directly addressed “whether the Government has a compelling interest in preventing foreign individuals or associations from influencing our Nation’s political process[,]”\(^\text{174}\) the Court has affirmed an opinion by the D.C. Circuit permitting federal bans on soft money campaign contributions by non-U.S. citizens.\(^\text{175}\) It is yet to be seen whether a state could

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\(^{169}\) See *McCutcheon* v. FEC, 134 S. Ct. 1434, 1441, 1448–49 (2014). The Court, however, did not feel that it had to void limits on contributions to individual candidates. See id. at 1452.

\(^{170}\) See id. at 1441, 1448–49, 1452.

\(^{171}\) See id. at 1448.


\(^{173}\) See id. at 33. This may favor wealthy districts over poorer districts. The costs of running a campaign do not always vary by district, but the ability to raise money often does. See id. at 41–42.


permissibly prohibit a non-resident U.S. citizen from making contributions to a state or local campaign. But certainly, states and local governments can limit or proscribe publicly financed candidates’ receipt of contributions from outside of their jurisdictions. Connecticut, for example, requires publicly financed candidates, who must raise a threshold amount of private funding in order to qualify for Connecticut’s program, to raise ninety percent of that funding from within the state.176 New York City has similar requirements.177 Matching programs should also limit eligibility so that only contributions made from within the candidate’s state are matched with public funds.

2. Contributions to an Individual Candidate

_McCutcheon_ and other cases do not preclude limits on the amount of contributions that individual candidates may accept, as long as they are not unconstitutionally low.178 Many would argue that current federal contribution limits are quite high.179 Individual limits are $2,700 per candidate/committee per election, and $33,400 per national party committee per calendar year.180 And, as stated above, there are now no aggregate limits on how much in contributions donors may make throughout the country.181 Passage of federal legislation known as “CRRomnibus” has effectively raised the limits on individual contributions to national party committees from $33,400 to $334,000.182 In addition to the original $33,400

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177 See _How It Works: New York City’s Landmark Campaign Finance Program Provides Public Funds to Candidates for City Office_, N.Y.C. CAMPAIGN FIN. BOARD, www.nycfb.info/program/how-it-works (last visited Sept. 20, 2016) (“[C]andidates must c]ollect a minimum number of contributions (of $10 or more) from the area they seek to represent.”).

178 See McCutcheon v. FEC, 134 S. Ct. 1434, 1449 (2014); Randall v. Sorrell, 548 U.S. 230, 236–37 (2006). Vermont state laws prohibiting candidates from accepting contributions of over $100 for an individual, and prohibiting state political parties from contributing more than $400 to their gubernatorial candidates, were held to be unconstitutionally low by the U.S. Supreme Court. See _Randall_, 548 U.S. at 236–37, 238, 239.


180 Contribution Limits, supra note 5.

181 These donors must still observe the individual contribution limits to candidates that are in effect in any given jurisdiction. See Contribution Limits, supra note 5.

limit for contributions to national party committees, CRomnibus now permits individuals to make additional contributions of $100,200 to each of three segregated accounts that the party committees may establish to support: (1) conventions; (2) facilities; and (3) legal matters such as recounts. For context, the median yearly average family income in 2014 in the U.S. was $53,657.

Some states and localities also have overly generous contribution limits, exceeding those at the federal level. For example, California has a limit of $28,200 for gubernatorial candidates per election. Of New York State’s various too-high limits, the most extreme is the $44,000 that statewide candidates may receive for the general election. What’s more, Democratic and Republican statewide candidates in New York State are permitted to receive more money in additional donations for the primary election alone than their counterparts in many other states can receive in an entire election cycle. For example, Ohio allows individual contributions of up to $12,532.34 in the primary and general elections. In a change that took effect just in 2015, Maryland raised its contribution limits from $4,000 to $6,000 per election. Alabama, Iowa, Missouri, Nebraska, North Dakota, Oregon, Texas, Utah, and Virginia have no contribution limits at all.

Other states have corporate limits, but have no limits for individuals. For example, Indiana and Mississippi have limits for corporate contributions, but not for individuals or PACs. Pennsylvania prohibits corporate contributions, but for PACs and


187 See infra Appendix F.


190 See infra Appendix F.

191 See infra Appendix F.

192 See infra Appendix F.
individuals there are no limits. South Dakota prohibits corporate contributions and has individual limits, but has no limits on PACs. Perhaps most bizarre of all is a quirk in Illinois law nullifying contribution limits for all candidates once a candidate donates $250,000 or more to his or her own campaign. Critics have compared the ensuing free-for-all to the “wild west” era of unregulated political contributions, when money was thrown around like confetti. Candidates have taken advantage of this loophole in two recent high-profile elections. In the 2014 cycle, Republican gubernatorial candidate Bruce Rauner, independently wealthy from his years in private equity, donated more than $6.5 million to his own campaign. By blowing past the $250,000 trigger, he also cleared the way for a staggering $2.5 million donation from Illinois’ richest man. Rauner heavily outspent defeated incumbent Pat Quinn to win the governorship. In Chicago’s 2015 mayoral election, another candidate crossed a similar threshold of $100,000 for local elections. William J. Kelly, who was a little-known contender, loaned the money to his own campaign—and in doing so, lifted donation limits for all the other candidates in the race. This ultimately allowed incumbent Rahm Emanuel to tap his large network of wealthy donors. After a bruising runoff election, Emanuel secured another term in 2015.

Some jurisdictions have allowed particular types of entities to make greater contributions than others. For example, small-donor PACs are a specific type of political committee that accepts only small contributions—e.g., a maximum of $50—from natural

193 See infra Appendix F.
194 See infra Appendix F.
196 Id.
197 See id.
198 See id.
201 See id.
These PACs have been conceived to encourage small donors to pool their funding and thus have a greater say in elections. In order to achieve that goal, small-donor PACs are permitted to donate more money to candidates and parties than individuals or other types of PACs. Colorado has had success in establishing such a regime. Arkansas, however, has seen its small-donor PAC law struck down by the Eighth Circuit as a violation of the equal protection clause. It is not yet clear whether the Eighth Circuit's decision will be followed in other circuits.

3. Government Contracts

Conflicts of interest should not be permitted to determine public policy or practice arising from “doing business” contributions from contractors and contributions from lobbyists. Federal conflicts of interest laws limit gifts and activities paid for by those with business before the government. Limits on “pay to play,” or “doing business,” contributions are currently inadequate at the federal level. The FEC is currently considering regulatory changes on this subject.

Positive change could also be made by executive order of the president, prohibiting contributions to federal campaigns by those who have contracts with the government and have managed to evade existing restrictions, by requiring full disclosure by these

204 See id. at 1299.
205 See id. For example, a small-donor PAC may contribute up to $6,125 to a gubernatorial candidate, while individuals and other PACs may only contribute $575. See, e.g., COLO. SEC’Y STATE, COLORADO CAMPAIGN AND POLITICAL FINANCE MANUAL app. at 41 (2015), https://www.sos.state.co.us/pubs/elections/CampaignFinance/files/CPFManual.pdf.
206 See generally COLO. SEC’Y STATE, supra note 205 (outlining and providing guidelines for Colorado’s campaign finance program).
207 See Russell v. Burris, 146 F.3d 563, 572–73 (8th Cir. 1998).
209 One defect in the regulatory framework is how federal bans apply to individual contractors, like consulting professors, but not to executives and corporations that can create PACs. See 48 C.F.R. § 37.104 (2016) (discussing restrictions on personal service contracts).
entities of all their political spending. States should bring their lobbying regulations up to similar standards.

E. Effective, Non-Partisan Enforcement of Existing (and Future) Laws—Unaffected by Citizens United

- State and local enforcement agencies should be non-partisan, and the president should nominate distinguished FEC commissioners from each party who are not beholden to their respective parties and are committed to enforcing the law;
- Adequate funding for enforcement agencies must be provided, as well as a system to protect public funding; and
- Agencies at all levels should have the power to audit and impose strict penalties on campaigns and contributors who violate the law and regulations.

Enforcement is an essential aspect of a successful campaign finance regime. To ensure that elections are fair, candidates, office-holders, and their campaigns must be held accountable when the rules are broken. Effective enforcement of campaign finance regulation requires: (1) a non-partisan enforcement agency; (2) an adequate and protected budget and sufficient funds for qualifying candidates; (3) meaningful enforcement powers; (4) an aggressive enforcement policy; (5) meaningful disclosure; and (6) periodic program evaluations.

1. Non-Partisan Campaign Finance Enforcement Agency

The culture of an agency should reflect even-handed enforcement of the law without regard to partisan affiliation. This means having a tie-breaking mechanism, and thus an uneven number of members, who should serve staggered terms and have a mandate to operate in a non-partisan manner. Third-party voters must also be a part of

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211 Then-President Obama was “considering an executive order that would [have] require[d]” federal contractors “to disclose their political contributions . . . .” Julie Hirschfeld Davis, President Obama May Require Federal Contractors to List Campaign Gifts, N.Y. TIMES (Jan. 19, 2016), https://www.nytimes.com/2016/01/20/us/president-obama-may-require-federal-contractors-to-list-campaign-gifts.html?_r=0.


213 See, e.g., id. at 85 n.23 (providing an example of staggered appointments in New York City).
the system. Rather than a bi-partisan agency, in which the model is for Republicans and Democrats to police each other, the best model has proven to be a non-partisan enforcement agency. New York City, for example, has a long history of non-partisan decision-making—nearly always unanimous—that ensures that the public is protected while providing public funds to reduce candidates’ reliance on large donors. In November 2015, Wisconsin—once a model for campaign finance agencies—further weakened its already diminished system by changing its non-partisan board into a partisan one.

The FEC has suffered from partisan deadlock and, even more important, plain inaction, leading to minimal penalties for campaign finance violations. The FEC is evenly divided between Republicans and Democrats, which allows each party to protect itself from enforcement. Both parties seem to believe that they benefit from a lack of oversight. FEC Commissioner and former Chairwoman, Ann Ravel, has criticized Republican commissioners for refusing “to enforce the law, except in the most obvious cases.” According to one FEC expert with the Campaign Legal Center, it is especially difficult for the FEC to enforce the law because the three Republican commissioners tend to believe that “campaign finance laws are largely unconstitutional” and frequently vote against enforcement actions.

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215 See generally Malbin et al., supra note 31; see also 2013 Post-Election Report: By the People: The New York City Campaign Finance Program in the 2013 Elections, 2013 N.Y.C. CAMPAIGN FIN. BOARD 1, 41–51, http://www.nyccfb.info/pdf/per/2013_per/2013_per.pdf (discussing how the New York City Campaign Finance Board—a nonpartisan agency—was successful in enforcing the Campaign Finance Act by encouraging and increasing the role of small contributions in the 2013 election).

216 See M.D. Kittle, Senate Passes GAB Overhaul, Campaign Finance Reform in ‘Extraordinary’ Session, WIS. WATCHDOG (Nov. 7, 2015), http://watchdog.org/246177/gab-campaign-finance-senate/. Legislation was passed, changing the enforcement board of nonpartisan judges to a board of six partisan appointees and two retired judges. See id.


218 See id.


220 Lichtblau, supra note 217.

As matters stand, the president nominates all six commissioners, subject to confirmation by the Senate. As a practical matter, however, leaders of the Democratic and Republican Parties each supply their three candidates to be nominated by the president in deference to the party leaders and then the nominees are rubber-stamped by the Senate.

Of the reforms in this report, only one at the federal level has the dual distinction of being both the easiest to put in motion and of having the most potential for immediate effect. At the time of this writing, five of the six FEC commissioners are serving past their terms. There is nothing to stop the president from putting forward the names of four highly respected Democrats and Republicans, without consultation with the parties, who have served in positions of responsibility with great distinction and who are not beholden to their respective parties on campaign finance issues. The Senate then would have to decide whether to embarrass itself by refusing to confirm clearly qualified and well-known figures or to go forward, as it should, with confirmations of people who will in fact enforce existing law; although the potential for embarrassment has not as of late appeared to motivate the U.S. Senate.

2. Adequate and Protected Budget

Enforcement agencies must also have sufficient funding to sustain adequate financing for candidates and to guarantee the

With Her Own Agency, ATLANTIC (Oct. 13, 2015), http://www.theatlantic.com/politics/archive/2015/10/the-chairwoman-whos-at-war-with-her-own-agency/440031/ (“Republican commissioners . . . decline to enforce campaign-finance laws because they largely don’t think the laws should exist in the first place.”).


For example, people such as Colin Powell, Benjamin Bernanke, Warren Buffett, Condoleezza Rice, or former judges, could be nominated.

See, e.g., Editorial, Senate Republicans’ Refusal to Consider Merrick Garland’s Supreme Court Nomination is Dangerous Obstructionism, L.A. TIMES (Mar. 16, 2016), http://www.latimes.com/opinion/editorials/la-ed-garland-scotus-20160317-story.html (discussing how President Obama’s Supreme Court nomination of Merrick Garland demonstrates the U.S. Senate’s apparent willingness to refuse to consider clearly qualified nominees when power and politics are at stake); see also Nathan J. Muller, Reflections on the Election Commission—An Interview with Neil O. Staebler, AM. ENTER. INST. (Apr. 5, 1979), https://www.aei.org/publication/reflections-on-the-election-commission-an-interview-with-neil-o-staebler/ (providing an arguably parallel refusal by the Senate to confirm appointees to the FEC during the Carter administration, when the president nominated candidates to the commission without first consulting party leadership).
resources that agencies need to ensure compliance with applicable rules. Many agencies suffer from lack of resources. Programs such as those in Minnesota and Wisconsin have suffered from being unfunded or defunded. Under-funding has also been a major factor in discouraging participation in the federal presidential public financing system. Although for many years the presidential public financing had been a huge success, used by both Democrats and Republicans (including President Reagan), the amount of funding available to candidates is now inadequate. Federal public funding comes from a tax check-off system that requires taxpayers to choose to allocate $3 of their taxes for public campaign financing. This has proven to be an inadequate framework for at least five reasons. First, taxpayers do not realize that the check-off does not increase their tax liability, so they are less inclined to check off the box. Second, taxpayers are typically uninformed about the significant but complex value of public funding programs. Third, it is unusual to permit taxpayers to micro-manage government expenditures by using tax check-offs for funding individual public programs. Fourth, the check-off has the effect of a quasi-referendum on campaign finance reform every year. Fifth, the taxpayer check-off system has never sufficed to fund any campaign finance program in its entirety.

Public funding programs should be securely backed up by the

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226 See generally Schmitt, supra note 24 (providing a list of several states in which enforcement agencies suffer from a lack of funding).
227 See id. (“Minnesota’s tax credit has not been as politically resilient as other state’s programs, as it was defunded by a Republican governor and relaunched only when a Democrat was elected.”).
233 See id.
235 See id. at 392 n.21.
government’s general fund. Tying an agency’s budget to the budget of another agency that tends to be well-funded is one way to ensure adequate resources. In addition, local charters and laws can provide protection to these agencies and the public funding available to candidates who qualify for it. For example, the budget of the New York City Campaign Finance Board is provided for by the New York City Charter.

3. Meaningful Enforcement Powers

An agency’s lack of adequate power is another obstacle to effective enforcement. Without subpoena power, the power to audit campaigns, the power to assess meaningful penalties, and the power to go to court to enforce them, a campaign finance agency cannot assure the public that it is receiving accurate disclosure, that contribution limits are being adhered to, or that public money is being spent in accordance with the law. With these powers and a competent audit staff, a campaign agency can prove to be an effective enforcer. One example of a weak enforcement agency is the FEC, which is restricted by law even from performing random audits. Such audits are absolutely necessary in order to ensure compliance with campaign finance laws, including disclosure laws.

4. Aggressive Enforcement Policy

A policy of aggressive enforcement is also vital. The FEC’s record for enforcement has deteriorated over time and, as of this writing, it hardly enforces existing law at all. The FEC has assessed far

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237 State public funding programs have also failed as a direct result of inadequate sources of funding. The Massachusetts public funding program that was passed in 1998, for example, had to be abandoned after the state legislature refused to release funds that had previously been appropriated to fund the program. See id. at 785–86.


239 See supra note 88.

240 See Lauren Eber, Note, Waiting for Watergate: The Long Road to FEC Reform, 79 S. CAL. L. REV. 1155, 1171 (2006) (“Deficiencies both in the FEC’s structure and in the tools the Commission has to carry out enforcement interfere with its performance.”).

241 See id. at 1177, 1179–80.


243 See Eber, supra note 240, at 1188.

244 See Lichtblau, supra note 217. Former FEC Chairwoman Ann Ravel has stated: “The likelihood of the laws being enforced is slim . . . [p]eople think the F.E.C. is dysfunctional. It’s worse than dysfunctional.” Id.; see also Ann M. Ravel, How Not to Enforce Campaign Laws,
fewer penalties in recent years. This ensures that candidates can generally break the rules with impunity, including coordinating with “independent” spenders. It is particularly disappointing that the FEC has so often chosen either not to come to decisions on the legal interpretation of its own regulations or has interpreted them excessively narrowly. For example, the FEC has read the “independent spending” disclosure rules to require disclosure only when the spending has essentially been earmarked for a particular independent expenditure or electioneering communication.

Congressional committees can hardly claim a better record of looking into campaign finance or ethical violations. In contrast, the Department of Justice has taken some meaningful action on campaign finance violations.

Real-time enforcement—especially in respect to the disbursement of public funds—is also extremely important. Agencies should not shy away from finding violations even during the heat of a campaign. Once the campaign is over, it is often the case that an “empty” organization is left standing with no funds to reimburse the public if monies are owed or penalties are to be assessed.


245 See, e.g., 2015 FED. ELECTION COMM’N AGENCY FIN. REP.: FISCAL YEAR 2015, at 16, http://www.fec.gov/pages/budget/fy2015/FY2015_AFR.pdf; see also Lichtblau, supra note 217 (“With the commission so often deadlocked, the major fines assessed by the commission dropped precipitously last year to $135,813 from $627,408 in 2013.”).


York City performs real-time auditing, before, during, and after elections and gives virtually instant computerized, searchable public disclosure of campaigns’ filings.\footnote{251}{See generally Follow the Money, N.Y.C. CAMPAIGN FIN. BOARD, www.nyccfb.info/follow-the-money (last visited Sept. 21, 2016) (providing up-to-date information on candidate finance databases, summaries, and reports); see also Post-Election/Enforcement, N.Y.C. CAMPAIGN FIN. BOARD, www.nyccfb.info/follow-the-money/post-election (last visited Sept. 21, 2016) (providing information on campaign audit procedures).} It also assesses meaningful real-time penalties, including during the campaign period.\footnote{252}{See Post-Election/Enforcement, supra note 251.}

5. Meaningful Disclosure

Disclosure is another prerequisite to adequate enforcement of campaign finance laws. Without a detailed, complete disclosure regime that makes disclosed information available in a timely manner, laws are far less likely to have the desired effect for reformers.\footnote{253}{See Calder Burgum, Best Practices for Disclosure of Local Candidates’ Campaign Finance Data, FOLLOWTHEMONEY.ORG (Sept. 23, 2015), http://www.followthemoney.org/research/institute-reports/best-practices-for-disclosure-of-local-candidates-campaign-finance-data/ (discussing how disclosure laws can help bring inconsistencies or violations to light).} Ideally, information should be made available on the Internet via a single repository.\footnote{254}{See id.} When a candidate’s opponents, the press, and the public are able to examine campaign finance disclosure documents closely, it is more likely that they may bring inconsistencies to the enforcement agency’s attention.\footnote{255}{See generally Richard L. Hasen, Show Me the Donors, SLATE (Oct. 14, 2010), http://www.slate.com/articles/news_and_politics/politics/2010/10/show_me_the_donors.html (discussing how disclosure laws can help bring inconsistencies or violations to light).} In this way, the effectiveness of a campaign finance disclosure scheme helps support the agency’s enforcement efforts.

6. Ongoing Program Evaluations

Finally, after each election, the public finance agency should be required to review how well the program it administers worked and should report to the public and to the elected officials on successes, failures, and needs for administrative changes and law reform. Otherwise, as we know well from experience, a culture will grow among the regulated community that learns how to find loopholes and exploit them, and the law and regulations will not remain effective.\footnote{256}{See, e.g., EARLEY & VANDEWALKER, supra note 147, at 3–4.}
III. TOP STRATEGIC OPTIONS

A. Concentrate on Public Funding

Adopting public financing in campaigns at every level of government is the most effective way to give the least wealthy and least heard citizens an important avenue through which to exert their own influence. Particularly, matching funds programs, backed by meaningful enforcement of campaign finance laws, is very likely the single most important reform that can be enacted. Better disclosure and contribution limits should also be pursued, but, realistically, they do not alone shift the balance of power away from corporations and the wealthy in the campaign finance arena. Disclosure gives people information, but it does not give them any confidence in government, or greater political power. Contribution limits are laudable as a way of “leveling the playing field,” but they are easily circumvented and even the most rigorous changes may easily fail to stem the tide of money that flows in ways that influence our decision-makers. Public funding, however, has been shown to empower smaller contributors, and can easily shift the political mix at relatively small cost to the government.

Matching small donations has the greatest potential to enhance the value of small contributions, and hence to give average voters a meaningful presence in candidates’ war chests. Matching funds for small donations, in turn, provides incentives for candidates to take into account the needs and opinions of those who cannot make the largest contributions, thus democratizing the campaign process and, consequently, the governing process as well. Public funding programs also, because they are voluntary, may include

257 See generally John C. Bonifaz, Not the Rich, More Than the Poor: Poverty, Race, and Campaign Finance Reform, 8 POVERTY & RACE RES. ACTION COUNCIL (Sept./Oct. 1999), http://www.prrac.org/full_text.php?text_id=152&item_id=1840&newsletter_id=46&header=Poverty (discussing the influence of the rich and the exclusion of the poor within the campaign finance system and recommending a public financing system which puts wealthy and poor individuals on equal political ground).

258 See, e.g., Malbin et al., supra note 31, at 12 (describing the importance of matching fund programs).

259 See Rosenthal, supra note 63, at 223 (“Disclosure of campaign funds may play a role in any campaign finance system, but it is insufficient as a lone policy.”).

260 See, e.g., supra Part II(D); see generally McCutcheon v. FEC, 134 S. Ct. 1434, 1450 (2014) (citation omitted) (stating how efforts to ‘level the playing field’ have not occurred).

261 See, e.g., MALBIN, supra note 35 (demonstrating how New York City’s campaign fund matching system affected the role of small donors in the election).

262 See generally id. at 3 (“[Matching programs] help shift the demographic and class profile of those who give.”).

263 See Schmitt, supra note 24.
restrictions on campaign behavior that cannot otherwise be imposed by the government. For example, public funding can be conditioned on participation in public debates, as is the case for citywide participating candidates in New York City and Los Angeles.264

But, here again, there are caveats: funding must be adequate and must be accompanied by effective enforcement mechanisms that will ensure that public funds are spent properly and received only by those who are entitled to them under applicable law. Legislative reform must mean something, and without follow-up funding, implementation, and rigorous enforcement, campaign finance reforms may be virtually worthless or worse, resulting in waste of taxpayer funds. Coordination rules must also be strictly enforced so that taxpayers are not merely subsidizing big “outside” fundraising.

Establishing public funding programs is always difficult, but it does carry support across the political spectrum.265 In fact, public funding programs have helped Democrats, Republicans, and third-party candidates be heard and elected.266 Although often misunderstood as “a Democrats’ issue,” many Republicans have been elected with the help of public funding, including the recently elected governor of Maryland and elected officials in Arizona.267 New York City, a predominantly Democratic jurisdiction, has experienced the election and re-election of a Republican mayor who participated in the city’s public finance program as well as an increase in the number of Republican city council members who also participated in public campaign financing.268

B. Concentrate on State (Rather than Federal) Efforts

At a time when Congress is routinely deadlocked on whether the federal government should be shut down or its debt service paid,269 Congress is unlikely to turn its attention to the subject of campaign finance reform any time soon. Even if Congress were functioning normally, there is no indication that leadership has an interest in

264 See L.A. MUN. CODE § 49.7.23 (2014); N.Y.C. ADMIN. CODE § 3-709.5 (2016).
265 See, e.g., supra notes 39–42 (discussing a federal matching program that has support from politicians in both major political parties).
267 See ARIZ. CITIZENS CLEAN ELECTIONS COMM’N ANN. REP., supra note 83, at 13, 14, 22; Cella & Howell, supra note 76.
268 See Gordon & Wagner, supra note 266, at 617.
addressing the subject. The FEC is not enforcing existing laws, much less supporting improvement. Additionally, the Supreme Court is, by any reasonable measure, antagonistic to campaign finance reform. While a constitutional amendment that would overturn *Citizens United* would be welcome, this is a difficult, long-term effort for those who can manage much-delayed gratification and, if successful, would still require enacting and implementing reform laws.

That said, “fortune favors the prepared.” It is therefore important to have draft legislation in hand, as well as the research and thinking that goes behind it. As has been shown in many cases, reform generally comes about as a result of scandal, as when critical reform elements were established through amendments of the Federal Election Campaign Act (“FECA”), spurred by the Nixon campaign’s unacceptable campaign practices. Yet, recent Supreme Court rulings have dismissed many rationales for reform, paving the way for corporations, as well as wealthy individuals, to have even more influence on the political scene than they have had already. In this way, the public may come to see the *Citizens United* cases themselves as a kind of scandal. Thus, continued work on drafting federal reform legislation is appropriate so that when the moment does come for change, reformers are prepared.

Despite poor prospects for reform at the federal level, the *Citizens United* cases provide a “teachable moment” for states and localities, where, for now, there are the most possibilities for reform. In

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270 See Lichtblau, supra note 217 (“[The Chairwoman of the FEC] said she was resigned to the fact that ‘there is not going to be any real enforcement’ in the coming election.”).

271 See Kennedy, supra note 149 (“T]he Roberts Court has struck down each money in politics regulation that has come before it; McCutcheon v. FEC was the seventh case to strike down a campaign finance law since 2006.”).

272 See The Truth about *Citizens United*, REPRESENT.US, http://act.represent.us/sign/Citizens-United/ (last visited Sept. 22, 2016) (opining that constitutional amendments are difficult to pass and that even if *Citizens United* were overturned, it would not be the panacea some have been hoping for).

273 A common derivation of: “[C]hance favors only the prepared mind.” Louis Pasteur, Address at Inauguration of Faculty of Science, University of Lille (Dec. 7, 1854), in *The Yale Book of Quotations* 585 (Fred R. Shapiro ed., 2006).

274 See, e.g., Melvin I. Urofsky, *Campaign Finance Reform Before 1971*, 1 ALB. GOV’T L. REV. 1, 55–56 (2008) (“[A]s the facts of how Nixon had raised and used money became public, it fed a growing public outrage... [that] grew so powerful that it enabled reformers in Congress to push through substantial changes to FECA...”).

response to *Citizens United*, states have demonstrated a willingness to reform local campaign finance laws. For instance, “California, Delaware, Massachusetts, Maryland, Hawaii, Vermont, and North Carolina each passed new disclosure laws” since *Citizens United* was decided. In addition, voters in Maine have passed a bill to increase the role of “clean” public funding, and North Carolina is “organizing to fight back against cuts to . . . [its own] public financing program.” New York State, which “ought to be a leader in the nation” in reforming campaign finance, came close in 2014 and later years to passing a popular Fair Elections Bill, largely modeled on the successful New York City program.

The issues for counties and cities are quite similar to those of the states. The main difference is that counties and cities must be mindful of “home rule” laws that can limit what these localities can do if the state has already pre-empted the field of campaign finance. In other words, if the state has public funding, contribution limits, and other campaign finance laws in effect, localities must evaluate whether their own proposals would be legal under state law. In general, any voluntary program that a locality enacts is likely to be legal because there is no mandate being forced on campaigns or candidates that directly conflicts with state laws. For involuntary programs, each locality must evaluate whether the program in question is likely to be upheld given the laws of the individual state. Additionally, after acceptance of reforms, such as publicly funded campaigns, becomes a reality at the state and local level, the effort to fund federal

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276 Kennedy, *supra* note 149.


278 Kennedy, *supra* note 149.


280 See Richard Briffault, *Home Rule and Local Political Innovation*, 22 J. L. & Pol. 1, 3 (2006) (“[B]ecause, typically, state laws address many aspects of local government structure and local elections, local political innovations are often subject to the claim that they are preempted by inconsistent state laws or state occupation of the field.”).

281 See id.

282 See, e.g., Johnson v. Bradley, 841 P.2d 990, 991, 996 (Cal. 1992) (quoting California Fed. Sav. & Loan Ass’n v. City of Los Angeles, 812 P.2d 916, 925 (Cal. 1991)) (describing that the first step in a home rule analysis is determining whether there is an “actual conflict” between the state and local authority that is otherwise “unresolvable” without judicial decision of which authority is valid).

283 See generally Briffault, *supra* note 280, at 17–18 (mentioning that local legislation can be enacted without express state authorization).
legislative and executive office races should become easier by virtue of the “experiment in democracy” offered by successful state reform.

C. Concentrate on Judicial Elections

As reformers pursue all avenues for reform and build a record for each, judicial elections should be made a priority for public financing of campaigns.\textsuperscript{284} It is a wonder that the cause even needs an advocate, yet unfortunately, judicial elections have been left largely under the radar screen.\textsuperscript{285} Justice is impossible if the arbiter is under a donor’s influence.\textsuperscript{286} Especially in an area of government in which public perception is so vital, it is imperative to keep judicial elections clean and fair—and seen to be so.\textsuperscript{287} The Supreme Court has acknowledged that judicial elections deserve special protection, explaining that “a State’s interest in preserving public confidence in the integrity of its judiciary extends beyond its interest in preventing the appearance of corruption in legislative and executive elections.”\textsuperscript{288} In \textit{Williams-Yulee}, the Court upheld a Florida ban against judicial candidates personally soliciting contributions, noting the state’s compelling interest in protecting the public’s faith in the impartiality of its judiciary.\textsuperscript{289} Millions of dollars are now being spent in this arena that were not being spent even ten years ago.\textsuperscript{290} In 2014, judicial candidates spent over $9 million on television ads alone.\textsuperscript{291} Contributions are

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\footnote{285 See Daniel Angster, 5 Years After Citizens United, Newspapers Fail To Cover Its Impact On Judicial Elections, MEDIA MATTERS FOR AM. (Jan. 21, 2015), http://mediamatters.org/research/2015/01/21/5-years-after-citizens-united-newspapers-fail-t/202212.}
\footnote{287 See \textit{id.} at 1666–67.}
\footnote{288 \textit{Id.} at 1667. In another case, the Supreme Court held that it violated due process for a state justice to deny a recusal motion when the opposing party had contributed $3 million to the justice’s election campaign. See Caperton v. A. T. Massey Coal Co., 556 U.S. 868, 884, 886, 887, 890 (2009). \textit{Williams-Yulee} and \textit{Caperton} might be stepping back from this view, as suggested by \textit{Republican Party v. White}, in which the Supreme Court held that a state could not prohibit judicial candidates “from announcing their views on disputed legal and political issues . . . .” \textit{Republican Party v. White}, 536 U.S. 765, 788 (2002).}
\footnote{289 See \textit{Williams-Yulee}, 135 S. Ct. at 1662, 1673.}
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pouring into these elections all over the country, and in the 2013-2014 judicial election cycle, interested donors—such as business interests, lawyers, and lobbyists—were “collectively responsible for sixty-three percent of all donations.”

It is not difficult to see how such an influx of money into judicial elections can lead to a distorted judicial system and a negative public perception of that system, and reformers will find many instances of—at best—questionable decision-making that will help them build a record to support public financing. For example, one West Virginia justice invoked public scrutiny for voting to overturn a $76 million verdict against a company whose CEO had spent $3 million to help the judge get elected. Another justice faced public criticism for writing “an opinion that saved the Enron Corporation about $15 million after accepting campaign contributions from the company.” In Iowa, three state supreme court “justices who participated in a ruling . . . to permit same-sex marriage” were voted off the court after choosing not to raise money to campaign in the face of an “unusually aggressive ouster campaign . . . [f]inanced largely by out-of-state organizations opposed to gay marriage . . . .”

The State of California’s first female Chief Justice lost a retention election because of her opposition to the death penalty. The big money interests “poured more than $5.6 million into a campaign that would unseat her.” Thus, advocates have the opportunity to—and must—build a convincing record that supports the need for reform.

Every party appearing before a judge should feel confident that the judge has had no business dealings with or contributions from any lawyer or party to a matter before that judge, because no party

292 Press Release, Outside Spending, supra note 284.
297 Id. Other information on gifts to judges from monied interests, free vacations on which judges are “educated,” and the influence of money on judicial campaigns is also available from various sources. See, e.g., Editorial, Justice and Junkets, N.Y. TIMES (Jan. 27, 2006), http://www.nytimes.com/2006/01/27/opinion/27fri4.html?_r=0; JUST AT STAKE, http://www.justiceatstake.org/ (last visited Sept. 22, 2016) (providing information on campaign financing and spending).
appearing before a judge should ever have to wonder whether a campaign contribution might sway a judge’s thinking. 298 In an October 2011 poll of voters, business leaders, and judges, eighty-three percent expressed the opinion that campaign contributions influenced judges’ decisions. 299 Reformers should look to local judicial elections as an urgent area for change. 300 In fact, two states—West Virginia and New Mexico—have public funding for judicial elections. 301 Wisconsin and North Carolina had such programs in the past, 302 and, indeed, North Carolina’s system was considered a model, but nonetheless both programs were abandoned. 303

Public funding programs might be used to prohibit conduct by judicial candidates that undermines the perceived integrity of the judicial system by the public, such as the use of attack ads, 304 by making funding conditional on certain requirements. Public funding may also be easier to pass locally for judicial elections by legislators who fear such programs as applied to themselves. 305 Once the success of judicial campaign-funding programs is established, it might then create a better chance for extending these programs to executive and legislative elections.

302 See id.
303 See id.
305 See, e.g., Bill Corriher & Sean Wright, Dirty Money, Dirty Water, CTR. FOR AM. PROGRESS (Nov. 17, 2014), https://www.americanprogress.org/issues/courts/reports/2014/11/17/100889/dirty-money-dirty-water/ infra Appendix B (reporting that the West Virginia legislature passed public funding only for state supreme court candidates, but not for legislative members).
IV. CONCLUSION

However difficult the goal of campaign finance reform may appear to be in the wake of the *Citizens United* cases, current efforts are absolutely vital. For example, pressing for a constitutional amendment that would overturn the *Citizen United* cases, as mentioned above, is a time-consuming and extremely difficult process, but also brings public attention to the issues.\(^{306}\) The public is woefully ignorant about campaign finance reform and publicly financed campaigns.\(^{307}\) Reformers must continue to find the right arguments to demonstrate that elected officials are often too consumed with special interests and with raising money to address the issues important to average citizens.

From the grassroots, Doris “Granny D.” Haddock and the New Hampshire Rebellion have used walks and parades to bring national attention to the problem of money in politics.\(^{308}\) In April 2015, a “gyrocopter” landed on the lawn of the Capitol building, piloted by a citizen who wanted to bring attention to the issue.\(^{309}\)

“Grass tops” organizations have also been a part of the effort. Ben & Jerry’s “Stamp Stampede” involves “tens of thousands of Americans legally stamping messages on our [n]ation’s currency to #GetMoneyOut of [p]olitics.”\(^{310}\) The Pluribus Project hopes to stimulate more experimental research and is attempting interventions to increase the quantity and quality of public participation in civic and political life.\(^{311}\) The “Price We All Pay”

\(^{306}\) *See Join the Debate: Driving the Conversation: A Constitutional Amendment to Reverse Citizens United?*, POLITICO: THE ARENA (June 19, 2012), http://www.politico.com/arena/archive/a-constitutional-amendment-to-reverse-citizens-united.html. Under Article 5 of the U.S. Constitution, there are two routes to amend the Constitution: one via a state ratification process and the other through a constitutional convention. It is conceivable that the Congress could choose to convene a constitutional convention rather than use a state ratification process. In that case, though, there is the danger that a constitutional convention, which would open the door to discussion of the entire document, would be a nightmare of conflicting views and very possibly retrogressive changes. *See U.S. CONST. art. V.*


\(^{308}\) *See N.H. REBELLION, http://www.nhrebellion.org (last visited Sept. 19, 2016).*


\(^{311}\) *See PLURIBUS PROJECT, http:// pluribusproject.org/ (last visited Oct. 15, 2016).*
campaign, an effort of the California League of Conservation Voters, addresses reform through an environmentalist lens by focusing on the effect of chemical companies and dirty energy on the environment.³¹²

Though perceived as a primarily “liberal” interest, campaign finance reform is not a partisan issue.³¹³ Presidential candidates on both sides of the aisle have recommended campaign finance reform.³¹⁴ Before dropping out of the 2016 race for the Democratic presidential nomination, Professor Lawrence Lessig’s campaign focused on the need for campaign finance reform.³¹⁵ Both Bernie Sanders and Hillary Clinton also made campaign finance reform major priorities in their campaigns.³¹⁶ As described above, earlier in the campaign, the Republican nominee Donald Trump referred to the use of super PACs as a “scam” and called upon his fellow presidential candidates to disavow them.³¹⁷ In addition, many

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³¹⁷ See Blumenthal, supra note 16. Recently-elected President Donald Trump appeared to have changed his position during the campaign, as by the end of the 2016 election there existed at least one pro-Trump super PAC. See Danny M. Francis, Opinion, Trump Now Embracing Super PAC Money, WATERTOWN DAILY TIMES (May 14, 2016), http://www.watertowndailytimes.com/opinion/trump-now-embracing-super-pac-money-20160514. In addition, President Trump eventually accepted outside contributions and substantial assistance from the National Republican Committee, causing him to lose his “self-funded candidate” status. See Monica Langley & Rebecca Ballhaus, Donald Trump Won’t Self-Fund General-Election Campaign, WALL STREET J. (May 4, 2016), http://www.wsj.com/articles/donald-trump-wont-self-fund-general-election-campaign-14623399502; see also Maggie Haberman et al., Donald Trump, in Switch, Turns to Republican Party for Fund-Raising Help, N.Y. TIMES (May 9, 2016), http://www.nytimes.com/2016/05/10/us/politics/donald-trump-campaign.html?_r=0 (stating that Trump took steps to appropriate funds from the Republican National

As stated in an blog post written by Republican Robert Carpenter in support of a constitutional amendment to overturn 
*Citizens United*:

Sixteen states, and more than 550 cities and towns have supported an amendment, either by resolution or ballot initiative. Millions of citizens have signed petitions for an amendment; tens of thousands of people have called congressional offices demanding an amendment; and hundreds of demonstrations have taken place throughout the country. President Barack Obama has voiced support for an amendment. . . . [This is] not a partisan issue for voters. For them, it is a commonsense solution.\footnote{Carpenter, supra note 313.}

Non-partisan business-oriented organizations, such as the Committee for Economic Development\footnote{See CED's Longstanding, Nonpartisan Call to Action on Money in Politics, COMMITTEE FOR ECON. DEV. (Nov. 22, 2013), https://www.ced.org/reports/single/ceds-longstanding-nonpartisan-call-to-action-on-money-in-politics.} and the American Sustainable Business Council,\footnote{See Issues: Election Integrity, AM. SUSTAINABLE BUS. COUNCIL, http://asbcouncil.org/issues/election-integrity#VTk31ZMaOVo (last visited Sept. 16, 2016).} have also recognized that enforcement of campaign finance regulation is not a partisan issue.

The above references to some of the remaining options for reform and efforts already underway should bring a sense of realistic optimism about the state of campaign finance in our country. Although not treated in-depth in this article, additional important options for reform in fields of ethics and lobbying are unaffected by the *Citizens United* cases, and also deserve public attention.\footnote{See, e.g., Fight Corruption in America: Stop Political Bribery, End Secret Money, & Give Voters a Stronger Voice, AM. ANTI-CORRUPTION ACT, http://anticorruptionact.org/full-text/ (last visited Oct. 15, 2016) (outlining requirements in the proposed American Anti-Corruption Committee).}
Notwithstanding the *Citizens United* cases, numerous options for effective reform remain legally viable and should be pursued.
A. Maryland—Public Funding Revived and “Dark Money” Exposed

Maryland has a public funding system that is funded with a tax “add-on.”\(^{324}\) The Maryland system matches contributions at 1-1 up to $250, although a candidate can accept up to $6,000 from a single contributor.\(^{325}\) The program has only been used in 1974, 1994, and 2014, perhaps somewhat hindered by the lack of a reliable funding source.\(^{326}\) In 2014, however, enough funding was available for two primary candidates and for the general election.\(^{327}\) Republican gubernatorial nominee Larry Hogan elected to accept $2.6 million from the state’s Fair Campaign Financing fund, effectively preventing his own campaign from spending any more than that on the election.\(^{328}\) Hogan’s Democratic opponent, Lieutenant Governor Anthony Brown, instead relied on the many Democratic donors in the state.\(^{329}\) In November, Hogan—the publicly funded candidate—eked out a win against all odds, despite having been significantly outspent by his opponent.\(^{330}\) Maryland has only rarely elected Republicans for governor, and Hogan is the first gubernatorial candidate from either party to win in Maryland after accepting public funding.\(^{331}\)

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\(^{330}\) See Cella & Howell, supra note 76.

\(^{331}\) See id.; see also Wagner, supra note 328 (discussing Hogan’s participation in the public financing system).
Maryland is also a leader in disclosure of “dark money”—i.e., money which passes through 501(c)(4), 501(c)(6), and 527s—and requires entities to report their top five donors if they make political expenditures or independent expenditures.332

B. Montgomery County, Maryland—Matching Small Contributions

Maryland lawmakers had included a public-funding option for counties in its campaign finance bill passed in 2013.333 In 2014, Maryland’s Montgomery County became the first county to take steps to use it.334 Montgomery established what one council member called “a [twenty-first]-century model for public financing[]” a contribution-matching program for donations up to $150 for county executive and council candidates.335 It is possibly the first post-Citizens United law establishing a new public financing program.336 Candidates who choose to participate when the program is implemented in 2018 will not be permitted to accept contributions from PACs or corporations.337

The measure—well-received and unanimously passed by the council—will entitle participating candidates to between $125,000 and $750,000 for the primary and general elections each, depending on the office sought.338

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C. Maine—Second Coming of the Clean Elections Act

Maine, which in 1996 became the first state to pass a Clean Elections Act, recently approved a ballot measure to establish a new public financing system—funded by closing corporate tax loopholes—and increase the transparency of outside groups’ funding. Maine Citizens for Clean Elections, a nonpartisan organization, spearheaded the effort to get the initiative on the ballot.

The original 1996 law was weakened significantly by the U.S. Supreme Court’s 2011 decision in Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett, which held that giving candidates “bonus” public funding when faced with a high-spending opponent would be infringing on the privately-funded candidates’ freedom of speech. Since that decision, the percentage of candidates running in “clean election” jurisdictions in Maine who participate in public financing has dropped from a peak of eighty-one percent to just fifty-three percent. The new initiative relies on a two-phase distribution: in order to receive the first round of funding, “candidates must demonstrate community support through collecting a minimum number of checks or money orders of $5 [or] more made payable to the Maine Clean Election Fund.” Then to receive the second round, candidates must collect a set number of additional small donations in order to demonstrate that they have community support.

D. Chicago, Illinois—Advisory Ballot Initiative Endorsing Public Funding

Chicago voters passed a nonbinding ballot measure in 2015 in support of establishing a citywide system for public campaign financing. The measure was supported by all five mayoral

339 See Higgins, supra note 49. The initiative also imposes new disclosure requirements and increases the penalties for violations of the state’s campaign finance laws. See Deborah McDermott, Maine Group Looks to Revive Campaign Finance Reform, SEACOAST ONLINE (Jan. 11, 2015), http://www.seacoastonline.com/article/20150111/News/150119931.
340 See McDermott, supra note 339.
342 See McDermott, supra note 339.
343 The Maine Clean Election Act, supra note 44; see also McDermott, supra note 339 (describing Maine Citizens for Clean Elections’ petition to require candidates to receive more donations in order to receive additional funding).
344 See McDermott, supra note 339.
345 See Levine, supra note 77.
candidates.\footnote{See Chicago Mayoral Candidates Back Fair Elections Ballot Measure, PROGRESS ILL. (Feb. 12, 2015), http://progressillinois.com/news/content/2015/02/12/chicago-mayoral-candidates-back-fair-elections-ballot-measure.} It asked residents of the Windy City whether they supported a system of small contributions and “a limited amount of public money,” and sailed through with seventy-nine percent of voters in support.\footnote{See Levine, supra note 77; Chicago Mayoral Candidates Back Fair Elections Ballot Measure, supra note 346.} Implementing public financing, advocates hope, could be a step toward reducing the influence of private money on Chicago’s political system.\footnote{See Levine, supra note 77; Chicago Mayoral Candidates Back Fair Elections Ballot Measure, supra note 346; Press Release, Common Cause, Hails Chicago Vote to Rein in Big Money in Politics (Feb. 24, 2015), http://www.commoncause.org/press/press-releases/common-cause-hails-chicago-vote.html.}

\subsection*{E. Seattle, Washington—Voucher Program}

In 2013, Seattle seemed poised to become a leader in campaign finance reform. A “citizen-funded election system” measure was on the ballot—essentially a public donation matching program modeled on the successful program implemented in New York City.\footnote{See J.B. Wogan, Seattle Voters Reject Public Financing of Council Campaigns, GOVERNING (Nov. 6, 2013), http://www.governing.com/news/headlines/gov-seattle-voters-reject-public-financing-of-council-campaigns.html.} The measure failed by only a small margin despite having faced significant opposition.\footnote{See id.}

When it came time to consider putting the measure back on the ballot in 2014, supporters hit another snag. The motion to place it on the city council’s agenda failed, with members deadlocked at 4-4.\footnote{See Ansel Herz, Campaign Finance Reform Rejected by Seattle City Council, STRANGER: SLOG (June 30, 2014), http://slog.thestranger.com/slog/archives/2014/06/30/campaign-finance-reform-rejected-by-seattle-city-council.} The four members of the city council who opposed the legislation broke with established practice by barring it from being introduced at all.\footnote{See id.}

Despite those initial setbacks, in 2015, voters approved a different public financing proposal.\footnote{See Daniel Beekman, Seattle Initiative Drive Seeks Public Campaign Financing Reform, SEATTLE TIMES (Apr. 3, 2015), http://www.seattletimes.com/seattle-news/politics/seattle-initiative-drive-seeks-public-campaign-financing-reform; Kroman, supra note 60.} The initiative, effective in 2017, will give every voter in the city four $25 vouchers to be donated to a candidate or candidates running for city office.\footnote{See Beekman, supra note 353; Kroman, supra note 60.} It will also include a range of reforms designed to control campaign spending
and increase transparency.355

F. Buffalo, New York—Exploration of Public Financing

In 2014, Buffalo’s Common Council established a committee to explore the possibility of future public financing for city elections.356 While any action would not take place for some time, the council’s openness to reform is encouraging.357

G. California—Dark Money Revealed

California, with its Fair Political Practices Commission, is a standout among the states for its commitments to transparency and disclosure in campaign finance, as well as its strong enforcement.358 Emblematic of this is the state legislation signed in 2014 that took aim at dark money.359 The law mandates disclosure of donors for groups that spend more than $50,000 on political expenditures, or that accrue at least $100,000 over the course of four consecutive years.360

H. Colorado—“People PACs”

Colorado allows the formation of “small donor committees,” which aim to collect a high number of small donations.361 These committees are permitted to make larger donations than other types of committees, but benefactors must limit their donations to no more than $50 per calendar year.362 There is a loophole, though: unions can ask their members to sign over a portion of their dues to a union small-donor committee, which is free from the restrictions placed on the unions themselves.363

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355 See Beekman, supra note 353; Kroman, supra note 60.
357 See id.
359 See id.
362 See COLO. SEC’Y STATE, supra note 205, at 20–21.
363 See Crummy, supra note 361.
I. Tallahassee, Florida—Charter Amendment and New Ethics Regulations

In 2014, Tallahassee voters approved a referendum, framed as an anti-corruption measure and designed to limit large contributions and encourage small ones.\textsuperscript{364} The initiative, which enjoyed the support of two-thirds of Tallahassee voters, combines new contribution limits and tax rebates.\textsuperscript{365} The bill was originally conceived by an advocacy group called Represent.Us, which advocates for anti-corruption legislation such as the American Anti-Corruption Act,\textsuperscript{366} and support for the effort came from both ends of the political spectrum, including Tea Party proponents and progressives; the influence of money in politics is, it seems, one of the few issues on which these groups can agree.\textsuperscript{367}

J. Philadelphia, Pennsylvania—New Coordinated Spending Regulation

In response to widespread flouting of restrictions on coordinated spending, Philadelphia’s Board of Ethics recently adopted a number of new regulations.\textsuperscript{368} The existing language had been sufficiently vague that it was common for candidates to find workarounds, effectively loosening restrictions on coordinated spending.\textsuperscript{369} The new language makes explicit that such spending is prohibited.\textsuperscript{370} In response, the Brennan Center for Justice, which consulted on the new rules, said the regulation was “one of the most innovative in the country, for which the [b]oard should be applauded. . . . States


\textsuperscript{365} See id.

\textsuperscript{366} See id.; see also About Us, REPRESENT.US, https://represent.us/about/ (last visited Oct. 1, 2016) (providing background information about Represent.Us as well as the initiatives that the organization supports, such as the American Anti-Corruption Act).


\textsuperscript{369} See id.

\textsuperscript{370} See, e.g., PHILA. BD. OF ETHICS, REG. NO. 1(H)(1.38) (2016) (“An expenditure is coordinated with a candidate’s campaign if . . . [t]he candidate’s campaign has solicited funds for or directed funds to the person making the expenditure . . . ”).
and municipalities should look to Philadelphia as an example of strong, effective campaign finance regulation.” Reform advocates should hope they do.

K. New Mexico—Public Opinion Unambiguously Favors Reform

A January 2015 poll commissioned by Common Cause New Mexico found near-unanimous support in the state for rules requiring greater disclosure of political contributions: nine in ten of those surveyed were in favor of establishing such regulations. Voters also favored other reforms by significant margins: tightening of public financing rules, a two-year cooling-off period between leaving the legislature and becoming a lobbyist, and the establishment of independent ethics and redistricting commissions. Business leaders, too, support these reforms; a poll the following month, commissioned by the Committee for Economic Development, found broad support among New Mexico business leaders for similar reforms. Especially notable is the eighty-nine percent support for regulations requiring greater disclosure of political contributions.

L. New York, New York—Increased Independent Spending Disclosure

In August 2014, New York City passed a more comprehensive set of independent expenditure disclosure requirements. Under the new law, all organizations that contribute to other entities that engage in independent expenditures must disclose their owners, officers, and board members. Organizations that contribute more than $50,000 to these spenders must disclose where their own funding comes from—i.e., the contributors to major contributors.

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571 Hartman, supra note 368.
573 See id. at 11.
575 See id. at 27.
577 See N.Y.C. Local Law No. 41.
578 See id.
Finally, independent spenders must list their top three donors on campaign materials and also display the Campaign Finance Board’s web address where voters can get more information.379

M. Connecticut—Ensuring Sustainability of Public Financing

Connecticut’s public financing program enjoys high participation with more than eighty percent of candidates taking part during the 2014 cycle.380 In the wake of Citizens United, however, outside money has poured into the state, far outstripping the public funds that candidates themselves spend on their races.381 Reform leaders are considering proposals to counter the fast-increasing independent expenditures.382

379 See id.
381 See id.
382 See id.; see also Mark Pazniokas, Can Connecticut’s Campaign Finance Reforms Be Saved?, CT MIRROR (Jan. 19, 2015), http://ctmirror.org/2015/01/19/can-connecticuts-campaign-finance-reforms-be-saved/ (describing different reform proposals by legislators).
APPENDIX B: STATES WITH PUBLIC FUNDING PROGRAMS

<table>
<thead>
<tr>
<th>State</th>
<th>Who qualifies?</th>
<th>Amount a Candidate Can Raise from a Single Source</th>
<th>Number of Contributions Needed to Qualify</th>
<th>Premise</th>
<th>Funding Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>All statewide and legislative offices</td>
<td>$5</td>
<td>200</td>
<td>No contributions from PACs, labor unions, corporations, or political parties</td>
<td>full</td>
</tr>
<tr>
<td>Connecticut</td>
<td>C.G.S.A. § 9-137</td>
<td>$5-$20</td>
<td>900 (governor)</td>
<td>No contributions in excess of $1000 from any one source, give any excess contributions to the general fund</td>
<td>full</td>
</tr>
<tr>
<td>Florida</td>
<td>Governor and Cabinet members</td>
<td>$250</td>
<td>600 (governor) to 400 (cabinet)</td>
<td>Limit expenditures to $2/registered voter for governor and $1/registered voter for cabinet; limit loans and contributions from political parties</td>
<td>partial</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Governor, Mayor, Prosecutor, County Council, State legislative offices</td>
<td>$100</td>
<td>From 15 (state representative) to 1,000 (governor)</td>
<td>Limit expenditures to members found in HRS § 11-423</td>
<td>partial</td>
</tr>
<tr>
<td>Maine</td>
<td>Governor, State Senate, State House</td>
<td>$5</td>
<td>60-3,250 individuals</td>
<td>After choosing to participate, candidates cannot receive private contributions</td>
<td>full</td>
</tr>
<tr>
<td>Maryland</td>
<td>Governor, Lieutenant Governor</td>
<td>$250</td>
<td>Must raise 10 percent of the maximum campaign expenditure limit</td>
<td>Must not exceed the maximum campaign expenditure limit, repay funds not used</td>
<td>partial</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Statewide offices</td>
<td>$250</td>
<td>$50</td>
<td>Must agree to spending limits, not solicit outside contributions</td>
<td>partial</td>
</tr>
<tr>
<td>Michigan</td>
<td>Governor</td>
<td>$100</td>
<td>750</td>
<td>Spend no more than $2 million on the election, can only make qualified expenditures</td>
<td>partial</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Statewide and legislative offices</td>
<td>$50</td>
<td>From 30 (state representative) to 70 (governor)</td>
<td>Agree to spend no more than a specific amount, listed in Minn. Stat. § 296.06, subd. 2</td>
<td>partial</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Public Regulation Commission, Supreme Court Justices</td>
<td>$100</td>
<td>For statewide, need contributions from 1/30 of 1 percent of voters in state for public regulation, need contributions from 1/200 of 1 percent of voters in the district</td>
<td>Agree to spending requirements and not to raise money from other sources</td>
<td>full</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Statewide Offices</td>
<td>$50</td>
<td>1,500</td>
<td>Agrees to spend the money raised through public matching, and agrees to expenditure limits</td>
<td>partial</td>
</tr>
<tr>
<td>Vermont</td>
<td>Governor/Lieutenant Governor</td>
<td>$90</td>
<td>7,100 (legislative governor) to 1,500 (governor)</td>
<td>Agrees to solicit no donations except qualifying contributions</td>
<td>partial</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Supreme Court Justices</td>
<td>$100</td>
<td>$50-500</td>
<td>Agrees to contribute and expenditure requirements, must not have raised more than $20,000 before expensing for public financing</td>
<td>partial</td>
</tr>
</tbody>
</table>

Source: National Conference of State Legislatures

This data is provided for information purposes only and should not be considered legal advice.

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For Appendices B through F, similar comprehensive information does not appear to be available for cities or other localities.
### States’ Independent Expenditure Reporting 2014

<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Political committees</td>
<td>Over $3,000 during a calendar year for registrants</td>
<td>Annual reports due by January 31.</td>
</tr>
<tr>
<td>Alaska</td>
<td>Individuals, corporations, and other group entities, political committees</td>
<td>Any independent expenditure</td>
<td>Independent Expenditure Reporting: due 10 days after independent expenditure is made. Independent expenditures exceeding $2,000 made within nine days of an election must be reported within 24 hours.</td>
</tr>
<tr>
<td>Arizona</td>
<td>Individuals, political committees, corporations, and other group entities</td>
<td>Alternative Reporting Exemption for Corporations, Unions, and LLCs: Aggregate amount of $1,000 or more in an election cycle.</td>
<td>Committees and Other Spenders: Original report due upon exceeding threshold. Independent Expenditure Reporting: due 10 days after independent expenditure is made. Independent expenditures exceeding $2,000 made within nine days of an election must be reported within 24 hours.</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Individuals, corporations, and other group entities, independent expenditure committees</td>
<td>Aggregate amount over $500 in a calendar year.</td>
<td>Pre-Election Reports: due 30 and 7 days before primary and general elections, covering periods ending 35 days and 15 days prior to election, respectively. Final Report: due no later than 30 days after the last day of the month-on-month cycle.</td>
</tr>
<tr>
<td>California</td>
<td>Individuals, corporations, and other group entities, political committees</td>
<td>An aggregate amount of $1,000 or more during a calendar year.</td>
<td>Independent Expenditure Reporting: due at time expenditures are reported to the Secretary of State or campaign statements, except independent expenditure report is due within 24 hours of making independent expenditure. Independent Expenditure Verification: due at time of making independent expenditure. Supplemental Independent Expenditure Reports: due October 31, covering July 1 through September 30, and October 31 covering October 1 through October 15.</td>
</tr>
</tbody>
</table>

Source: National Conference of State Legislatures

<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td>Individuals, corporations, and other groups</td>
<td>Aggregate amount over $5,000</td>
<td>Quarterly reports in non-election years may be by the fifteenth calendar day following the end of the applicable quarter. Primary Election Weekly Reports: due on the first Monday in May and on each Monday thereafter until the primary election. Monthly Reports: due on the first day of each month beginning the month before the primary election, except that no monthly report shall be required on the first day of the month in which the primary election is held. Major Election Bi-Weekly Reports: due on the first Monday in September and on each Monday every two weeks thereafter before the major election. Pre-Election Report: due 30 days before a major election. Special Election Reports: due 15 days before and 15 days after a special legislative election held within 30 days of the election date. Hourly Report of Independent Expenditures: due within 15 days of a primary or general election, reports must be filed within 15 days of obligations.</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Individuals, corporations, and other groups</td>
<td>Aggregate amount over $5,000</td>
<td>Non-Committees: Long Form Reports: due at time of next periodic filing (see below) for each candidate during &quot;primary or general election campaign period&quot; if made during &quot;primary or general election campaign period,&quot; general reports due within 24 hours of initially exceeding threshold. Short Form Reports: due at time of next periodic filing (see below) for each candidate during &quot;primary or general election campaign period,&quot; report due within 24 hours of initially exceeding threshold. Committees: Reports due on January 15, April 15, July 15, and October 15. Report due 7 days before primary or referendum if committee has made 1,000 or more contributions. Report due 7 days before general election. Report due 45 days after the general election when the general election is held in November. 24-hour reporting during &quot;primary or general election campaign period&quot; if committee makes $5,000 or more contribution. Over $5,000 spending during a campaign period. Third Party Advertising Report: if expenditure is made within 30 days of a primary or special election, or within 60 days of a general election, then report must be filed within 24 hours after the expenditure is made. If expenditure is made within 30 days of a primary or special election, or within 60 days before a general election, general reports due within 48 hours.</td>
</tr>
<tr>
<td>Delaware</td>
<td>Individuals, corporations, and other groups</td>
<td>Over $1000 during an election period.</td>
<td>Third Party Advertising Report: if expenditure is made within 30 days of a primary or special election, or within 60 days of a general election, then report must be filed within 24 hours after the expenditure is made. If expenditure is made within 30 days of a primary or special election, or within 60 days before a general election, general reports due within 48 hours.</td>
</tr>
<tr>
<td>Florida</td>
<td>Individuals, corporations, and other groups</td>
<td>Aggregate amount of $5,000 for independent expenditures.</td>
<td>Non-Committees: Monthly Reports: due on the 10th of each month. Weekly Reports: due on the 6th of each week following the primary election, and each week thereafter, with the last weekly report being filed on the 4th day before the general election. Daily Reports: due on the 4th day immediately preceding the general election, and 14 days thereafter, with the last daily report being filed on the 4th day immediately preceding the general election.</td>
</tr>
<tr>
<td>Georgia</td>
<td>Corporations and other groups</td>
<td>Any independent expenditure.</td>
<td>Monthly Disclosure Reports: due on the 5th day of each of the two calendar months preceding any election. Year-End Business Report: within the three-month period prior to the date of an election, an independent committee must report within 2 business days any contribution or expenditure of more than $1,000.00. Final report due prior to December 31 of the election year. Supplemental Reports: due on June 30 and December 31 of each year that entity continues to accept contributions or make expenditures.</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Corporations and other groups</td>
<td>$10,000.</td>
<td>Preliminary Reports: due 30 calendar days prior to a primary or general election, current through the day before report is due. Final Primary Reports: due 30 days after the primary election, current through the day of the election. Final Election Period Report: due 30 calendar days after the general election, current through the day of the election. Supplemental Reports (more than $5,000): due January 20, and July 20 of each election year, current through December 31, for the report Election-January 10 and current through June 30 for the report April-July 31. Late Expenditure Reports: due 5 days before an election if EARs of more than $500 are made within 14 days of the election.</td>
</tr>
<tr>
<td>Idaho</td>
<td>Individuals, corporations, and other groups</td>
<td>Aggregate amount over $1000</td>
<td>Non-Committees: Any independent expenditure of more than $500 shall be reported within 15 days of the expenditure, but no less than 45 days before an election. For independent expenditures made over $1,000 made within 15 days of the election, reports due within 48 hours.</td>
</tr>
</tbody>
</table>

Source: National Conference of State Legislatures
### Options for Continued Reform of Money in Politics

<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>Individuals, corporations and other group entities; political committees.</td>
<td>$300 or more during any 12 month period, Committees and other group entities: $100 or more during any 12 month period.</td>
<td>Written disclosure due within ten days of making independent expenditure that exceeds statutory threshold, unless it is an aggregate expenditure over $625,000 for statewide office or $100,000 for all other elective offices.</td>
</tr>
</tbody>
</table>

### States’ Independent Expenditure Reporting: 2015

<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
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### States’ Independent Expenditure Reporting: 2016

<table>
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<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
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### States’ Independent Expenditure Reporting: 2017

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<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
</tr>
</thead>
</table>

### States’ Independent Expenditure Reporting: 2018

<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>Statute</td>
<td>Who is required to report?</td>
<td>Dollar Threshold</td>
</tr>
<tr>
<td>-----------</td>
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<td>----------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Maine</td>
<td>R.S.A. 21-A § 101.08 (1)(A)</td>
<td>Individuals and other group entities, political committees, party units.</td>
<td>Over $100 during any one candidate’s election.</td>
</tr>
<tr>
<td></td>
<td>§ 13-B.09</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>§ 13-B.10</td>
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<td></td>
<td>§ 13-B.11</td>
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<tr>
<td></td>
<td>§ 13-B.90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>S.B. 20, § 4(b)</td>
<td>Individuals and other group entities, political committees.</td>
<td>Over $250 during a calendar year.</td>
</tr>
<tr>
<td></td>
<td>§ 4(b)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>§ 4(c)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>S.H. 278, §§ 1, 2, 3, 4; 1, § 2, 3, 4</td>
<td>Individuals and other group entities, political committees.</td>
<td>Over $250 during a calendar year.</td>
</tr>
<tr>
<td></td>
<td>§ 14.01</td>
<td></td>
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<tr>
<td></td>
<td>§ 10.20</td>
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<tr>
<td></td>
<td>§ 20.20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>S.B. 278, §§ 1, 2</td>
<td>Individuals and other group entities, political committees, party units.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>§ 27.01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>S.B. 278, §§ 1, 2</td>
<td>Individuals and other group entities, political committees, party units.</td>
<td>Over $250 during a calendar year.</td>
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<td>§ 27.01</td>
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<td>§ 27.01</td>
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</tr>
</tbody>
</table>

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## Options for Continued Reform of Money in Politics

<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar threshold</th>
<th>Report(s)</th>
</tr>
</thead>
</table>
| Minnesota | Conventions and other group entities, political committees. | Any independent expenditure above $5,000 or in absence of committing to register as "independent expenditure committee." | Entries must file: Certification is required within 5 days of making an independent expenditure (file the following reports):  
- Pre-election Report: due 12 days before an election for which entity last made an expenditure or on the date of the election  
- 24-Hour Reporting: if entity makes expenditures or incurs debt of $500 or more between the 19th day prior to election and the date of the election. |  
- Closing Report: due at close of each calendar year. |
| Nevada | Individuals, corporations and other group entities; political committees. | Over $1,000 in a reporting period. | Pre-primaries Reports: due 21 days before the primary election, covering expenditure from the primary election and the period from 21 days before the primary election through 2 days before the primary election.  
- Pre-General Election Report: due 35 days before the general election, covering the period from 24 days before the general election through 8 days before the general election.  
- Annual Report: due by January 15 of each year, covering the period from January 1 of the previous year through December 31 of the previous year. |  
- Statement due within 24 hours after threshold is exceeded. Additional reports due 24 hours after each $500 threshold is exceeded. |
- Pre-primaries: due 24 days before an election, covering expenditure from the primary election and the period from 24 days before the primary election through 8 days before the primary election. |  
- 24 hour: due within 24 hours after threshold is exceeded. Additional reports due 24 hours after each $500 threshold is exceeded. |
| New Jersey | Individuals, corporations and other group entities. | Over $1,000 in an election | |  
- Pre-primaries: due 24 days before an election, covering expenditure from the primary election and the period from 24 days before the primary election through 8 days before the primary election. |  
- 24 hour: due within 24 hours after threshold is exceeded. Additional reports due 24 hours after each $500 threshold is exceeded. |
| New Mexico: No independent expenditure reporting. | n/a | n/a | n/a |
| New York | Individuals, corporations and other group entities; political committees. | Any independent expenditure triggers requirement to register as "independent expenditure committee." | Periodic Reports: due July 15th, covering the period from June 13th to July 13th; January 15th, covering the period from January 13th to January 15th.  
- Election Cycle Reports: 20 days Pre-Primary Report: due July 5th; Pre-Primary Report: due July 15th; Pre-General Report: due July 25th.  
- Pre-primaries: due 24 days before an election, covering expenditure from the primary election and the period from 24 days before the primary election through 8 days before the primary election.  
- 24 hour: due within 24 hours after threshold is exceeded. Additional reports due 24 hours after each $500 threshold is exceeded. |  
- 24 hour: due within 24 hours after threshold is exceeded. Additional reports due 24 hours after each $500 threshold is exceeded. |

Source: National Conference of State Legislatures  
Last updated July 2014  
For more information, contact Morgan Geller at 202-698-7790.
<table>
<thead>
<tr>
<th>State</th>
<th>North Carolina</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Carolina</td>
<td>Individuals, corporations and other group entities; political committees</td>
<td>Non-Cumulative: Over $1,000; Committee: Any independent expenditure.</td>
<td>Non-Cumulative: Initial Report: due within 30 days of making the independent expenditure, or 10 days before the election, whichever is earlier. After making the initial report, an individual or entity making subsequent independent expenditures must comply with political committees’ reporting submittal (see below)). If expenditure is over $5,000 or donation received for the purpose of mailing or TV is over $1000, and sooner, after the end of the last reporting period before an election, then expenditures must be reported within 18 hours.</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td>Corporations and other group entities; political committees</td>
<td>Non-Cumulative: Any independent expenditure.</td>
<td>Non-Cumulative: Pre-Election Report: due 12 days before an election if person or entity agrees or expected $5,000 or more between filing of last report and 30 days before election.</td>
<td>Pre-Election Report: due 30 days before election if person or entity received any contributions or independent expenditures between time of last report and 30th day before election.</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Corporations and other group entities; political committees</td>
<td>Non-Cumulative: An aggregate amount of $5,000 or more; Committee: $500 or more in a calendar year.</td>
<td>Non-Cumulative: Pre-Election Report; due no later than 8 days before an election, covering contributions made since the end of the last reporting period through 8 days before election.</td>
<td>Pre-Election Report: due no later than 8 days before an election, covering all contributions made since the end of the last reporting period through 8 days before election.</td>
</tr>
<tr>
<td>Oregon</td>
<td>Individuals, corporations and other group entities; political committees</td>
<td>Non-Cumulative: An aggregate amount of $7,000 or more; Committee: Any independent expenditure.</td>
<td>Non-Cumulative: Report due within 7 days of initiation exceeding threshold amount.</td>
<td>Report due within 7 days of initiation exceeding threshold amount.</td>
</tr>
</tbody>
</table>

**Disclosure Statement:** Due Within 48 hours of making an independent expenditure.

**Non-Cumulative:** Independent Expenditure Statement due at time of expenditure (committee reports are due in 5 business days).

**Committees:** Quarterly Reports: Due January 31, March 31, May 31, and July 31, covering contributions made or received as of December 31, April 30, covering contributions made or received as of March 31, and so on. Semi-Annual Report: Due on the last business day of January, covering the period since the last report through the last day of June, and June 30, covering the period since the last report through the last day of December, if person or entity did not file a report after the immediately preceding primary election. Annual Report: Due on the last business day of August, covering all reports since the last report and through the last day of September, if person or entity did not file a report after the immediately preceding primary election.
<table>
<thead>
<tr>
<th>State</th>
<th>Who is required to report?</th>
<th>Dollar Threshold</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pennsylvania</td>
<td>Individuals, corporations, and other group entities, political committees.</td>
<td>Non-Commitees: $100,000 or more during election cycle.</td>
<td>Non-Committees: Aggregate annual over $100,000 in a calendar year.</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Individuals, corporations, and other group entities, political committees, non-profit 501 organizations.</td>
<td>Over $1,000 in a calendar year.</td>
<td>Report due within 7 days of making independent expenditure exceeding threshold. If an independent expenditure is made within 30 days of an election, then report due within 24 hours. Additional reports are due each time an independent expenditure over $1,000 is made.</td>
</tr>
<tr>
<td>South Carolina</td>
<td>No independent expenditure reporting.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td>Individuals, corporations, and other group entities, political committees.</td>
<td>Non-Committees: $500 or more.</td>
<td>Non-Committees: Communication Statement due within 48 hours of disbursement of communication funded by independent expenditure that exceeds threshold. Additional Communication Statements due when time committee spends at least $1,000 as independent expenditure. Committees: Communication Statement due within 48 hours of disbursement of communication funded by independent expenditure that exceeds threshold. Additional Communication Statements due when time committee spends at least $1,000 as independent expenditure. Annual Campaign Finance Disclosure Statement: Due February 1st, covering all contributions and expenditures, from the preceding calendar year. Pre-Primary and Pre-Primary Election Disclosure Statement: Due the second Friday before a primary or general election, and complete through 30 days before election. Supplemenal Disclosure Statements: Covering independent expenditures made within 10 days of the election.</td>
</tr>
<tr>
<td>Tennessee</td>
<td>Corporations and other group entities, political committees.</td>
<td>Any independent expenditure.</td>
<td>Semi-Annual Reports due within 60 days of election: Due January 31, covering period from July 1st through January 31st and from July 1st through December 31st. Quarterly Reports during Election Year: Due within 10 days of quarter ending March 31, June 30, September 30, and December 30. Pre-Primary Statement: Due 10 days before primary, covering 30 days before the primary election. Pre-General Election Statement: Due seven days before general election, covering period from the last day in October to the election date. Post-General Election Statement: Due seven days after general election, covering period from the election date to the 30th day after the general election. Next Day Reporting for certain late contributions made within 10 days of primary or general election.</td>
</tr>
<tr>
<td>Texas</td>
<td>Individually, corporations, and other group entities, political committees (covering all state and federal committees).</td>
<td>Non-Committees: $100,000 or more during election cycle.</td>
<td>Non-Committees: Semi Annual Reports due July 31, covering January 1 through June 30 and January 1 through December 31. Monthly Reports: Quarterly Semi-Annual Reports for General Purpose Committees covers period beginning the 20th day of one month (except for the first quarterly report) and ending on the 20th day of the next month. The report for that period due by the 5th day of the month after the month in which the reporting period ends. Pre-Election Reports: Due 30 days before an election, covering period beginning the day the committee’s campaign treasurer appointment is filed or the first account report is due and the next day after the period covered by the committee’s last required report through the 45th day before an election. Post-Election Reports: Due 30 days after an election, covering the period from the 30th day before an election through the 45th day after an election. Late Expenditure Reports: Independent expenditures exceeding $1,000 are due as a single contribution or $300 (two contributions) within 24 hours of making independent expenditure exceeding or equaling threshold. Committees may also report late on their regularly scheduled campaign reports.</td>
</tr>
<tr>
<td>Utah</td>
<td>Individuals, corporations, and other group entities, political committees.</td>
<td>Aggregate amount of $5,000 or more during election cycle.</td>
<td>Independent Expenditure Reports due within 24 hours of making independent expenditure exceeding or equaling threshold. Committees may also report late on their regularly scheduled campaign reports.</td>
</tr>
</tbody>
</table>

Source: National Conference of State Legislatures
For more information, contact Morgan Galles at 202-663-7700.
<table>
<thead>
<tr>
<th>State</th>
<th>Reporting Entities</th>
<th>Dollar Threshold</th>
<th>Non-Compliance</th>
<th>Required Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vermont</td>
<td>17 V.S.A. § 2966(11) V.S.A. § 2966(12) V.S.A. § 2977.</td>
<td>Individual contributions and other group entities; political committees; candidates and parties.</td>
<td>Campaign Reports. Racing and spending $500 or more.</td>
<td>Independent Expenditure Disclosure Reports. For independent expenditure reporting, see 17 V.S.A. § 2977.</td>
</tr>
<tr>
<td>Washington</td>
<td>42.17A.380.</td>
<td>Individual contributions and other group entities; political committees.</td>
<td>Committee Reports. Racing and spending $1,000 or more.</td>
<td>Independent Expenditure Disclosure Reports. For independent expenditure reporting, see 42.17A.380.</td>
</tr>
<tr>
<td>West Virginia</td>
<td>§ 5-8.1-2.</td>
<td>Individual contributions and other group entities; political committees.</td>
<td>Aggregate amount over $5,000 in a calendar year.</td>
<td>Statement of Expenditures. See 30 days after election.</td>
</tr>
</tbody>
</table>

Notes:

1. "General election campaign" means (a) in the case of a candidate nominated at a primary, the period beginning on the day following the primary and ending on the date the candidate files a statement of financial expenditure for such candidate pursuant to section 9-9-09, or (b) in the case of a candidate nominated without a primary, the period beginning on the day following the day on which the candidate is nominated and ending on the date the candidate files the final statement for such campaign pursuant to section 9-9-09. 2 C.G.L. § 5-8.1(B)(5)(c)(2013). *Political campaign" means the period beginning on the day following the close of a convention held pursuant to section 9-302 for the purpose of endorsing a candidate for nomination to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, State Treasurer or Secretary of State, or for the purpose of enacting a candidate for nomination to the office of state senator or state representative, or (b) a caucus, convention or other meeting held pursuant to section 9-302 for the purpose of endorsing a candidate for the primary election of the office of state senator or state representative, whether or not the candidate is nominated at that meeting. 2 C.G.L. § 5-903(b)(9)(c)(2013). *Aggregating period" means: (a) For a political committee, except a political committee which supports only one candidate, the period from January first of the calendar year through December thirty-first of the same calendar year. (b) For a candidate, the period from the date on which he becomes a candidate as defined herein through the closing date for the current reports. (c) For a committee which supports only one candidate, the period from the time when the committee first participates in the election through the closing date for the current reports. (d) For a committee which participates in both the primary and general elections, the period from the time when the committee first participates in the election through the closing date for the current reports. 2 C.G.L. §§ 9-101(3), 9-102(3), 9-107(4), 9-108(3). 3 C.G.L. §§ 5-906(3), 5-907(3). 

Source: National Conference of State Legislatures

For more information, contact Morgan Gillett at 202-667-7780.
### APPENDIX D: DISCLOSURE REQUIREMENTS

State Campaign Finance Disclosure Requirements  
2015-2016 Election Cycle

<table>
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<tr>
<th>State/Statute</th>
<th>Who Needs to Disclose</th>
<th>What Needs to Be Disclosed</th>
<th>When Is It Disclosed</th>
<th>Electronic Filing Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Candidates (Annually, Monthly, Weekly, Daily), PAC, (annually)</td>
<td>Contributions, Expenditures, Debts</td>
<td>Monthly, starting a year before the election, weekly, four weeks before the election, daily, starting 8 days before the election</td>
<td>Yes</td>
</tr>
<tr>
<td>Arizona</td>
<td>Candidate, PAC</td>
<td>Contributions, Expenditures</td>
<td>Semi-annually (Jan 1, Aug 1), before election, 10 days after election</td>
<td>Yes</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Candidate, PAC</td>
<td>Contributions, Expenditures</td>
<td>Quarterly, Monthly (beginning year before the election), 7 days before the election, 30 days after the election</td>
<td>No</td>
</tr>
<tr>
<td>California</td>
<td>Candidates, PAC, Independent Expenditure Committees, Parties</td>
<td>Contributions, Expenditures</td>
<td>Quarterly in non-election years, First Monday in January during election year, every two weeks before primary, Monthly six months before election, First Monday in September three to two weeks before general, 30 days after elections, 14 days before and 30 days after, special election</td>
<td>Yes</td>
</tr>
<tr>
<td>Colorado</td>
<td>Candidates, PAC, House Committees, Small Donor Committees, Parties</td>
<td>Contributions, Expenditures</td>
<td>Quarterly in non-election years, First Monday in January during election year, every two weeks before primary, Monthly six months before election, First Monday in September three to two weeks before general, 30 days after elections, 14 days before and 30 days after, special election</td>
<td>Yes</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Committees (Candidate and Issue)</td>
<td>Contributions, Expenditures, Expenses</td>
<td>January, April, June, October, Weekly before election, 30 days after primary.</td>
<td>No</td>
</tr>
<tr>
<td>Delaware</td>
<td>Candidates</td>
<td>Contributions, Expenditures</td>
<td>Every year on Dec 31, 30 days before election, 8 days before election</td>
<td>No</td>
</tr>
<tr>
<td>Florida</td>
<td>Candidates, PAC</td>
<td>Contributions, Expenditures</td>
<td>Monthly, 40 days before primary then weekly, 10 days before general then daily</td>
<td>No</td>
</tr>
<tr>
<td>Georgia</td>
<td>Candidate Committees</td>
<td>Contributions, Expenditures, Loans</td>
<td>Biannually in non-election year, Every other month in election year, 5 days before election, 24 hours if receiving $1,000 or more, 15 days before special election</td>
<td>Yes</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Candidates</td>
<td>Contributions, Expenditures, Loans</td>
<td>30 days before primary, 10 days before primary, 22 days after primary, 30 days after general, January 31 after election year, July 31 after election year</td>
<td>Yes</td>
</tr>
<tr>
<td>Idaho</td>
<td>Candidates, PAC</td>
<td>Contributions, Expenditures</td>
<td>Weekly before primary, 30 days after primary, October 10 before general, 22 days after general, 30 days after general</td>
<td>No</td>
</tr>
<tr>
<td>Illinois</td>
<td>Political Committees</td>
<td>Contributions, Expenditures</td>
<td>Quarterly, within 5 days of receiving contribution of $1,000 or more,</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Source: National Conference of State Legislatures  
Joint updated July 13, 2015  
This data is presented for information purposes only and should not be considered legal advice.

© National Conference of State Legislatures  
Source: State Campaign Finance Disclosure Requirements 2015-2016 Election Cycle, NAT’L CONF. ST. LEGISLATURES,  
<table>
<thead>
<tr>
<th>State/Statute</th>
<th>Who Needs to Disclose</th>
<th>What Needs to Be Disclosed</th>
<th>When Is It Disclosed</th>
<th>Electronic Filing Required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indiana IC 9-3-5-6</td>
<td>Candidates, Parties, PACs</td>
<td>Contributions, Expenditures</td>
<td>Annually, 25 days before nomination; 25 days before general election</td>
<td>No</td>
</tr>
<tr>
<td>Iowa Code § 68A.491</td>
<td>Candidates, PACs, issue committees</td>
<td>Contributions, Expenditures</td>
<td>May 19, July 15, October 15, January 19</td>
<td>No</td>
</tr>
<tr>
<td>Kansas K.S.A. 25-4516</td>
<td>Candidates</td>
<td>Contributions, Expenditures</td>
<td>8 days before primary, 8 days before general; January 30 after election, annually when candidate is not participating in an election</td>
<td>No</td>
</tr>
<tr>
<td>Kentucky KRS § 122.380</td>
<td>Candidate, Political issue Committees</td>
<td>Contributions, Expenditures, Fundraising sales</td>
<td>Quarterly, 32 days before election, 30 days after election</td>
<td>No</td>
</tr>
<tr>
<td>Louisiana LSA R.S. 18:494-4</td>
<td>Candidates, PACs</td>
<td>Contributions, Loans, Expenditures</td>
<td>SSL, 30, 10 days before primary, 30 days before general, 40 days after general</td>
<td>No</td>
</tr>
<tr>
<td>Maine 23-A M.R.S.A. § 1087</td>
<td>Candidates, PACs, Political issue Committees, Parties</td>
<td>Contributions, Expenditures</td>
<td>Biannually in non-election year when candidate raises $200 or more; 10 days before election, daily if contribution is $1,000 or more, 42 days before general election, 42 days after election</td>
<td>Yes</td>
</tr>
<tr>
<td>Maryland MD Code, Election Law, §13-304</td>
<td>Candidates</td>
<td>Contributions (Employee) and expenditures</td>
<td>Third Tuesday in April, Ninth Tuesday before primary, last Tuesday in August before general, second Friday before general, Second Tuesday after general</td>
<td>Yes</td>
</tr>
<tr>
<td>Massachusetts M.G.L. A. 55 § 6A</td>
<td>Candidates, PACs</td>
<td>Contributions, Expenditures</td>
<td>8 days before primary, 8 days before general, January 20 after election</td>
<td>Yes</td>
</tr>
<tr>
<td>Michigan M.C.L. § 148.211A(2)</td>
<td>Candidates, PACs, Parties, Candidate, PAC</td>
<td>Contributions, Expenditures</td>
<td>Annually, Quarterly, 10 days before election, Annually, 10 days before primary, 10 days before general, 30 days after general</td>
<td>No</td>
</tr>
<tr>
<td>Minnesota Minn. Stat. Ann. § 221-25-807</td>
<td>Candidates, PACs</td>
<td>Contributions, Expenditures</td>
<td>Annually, 7 days before election</td>
<td>Yes</td>
</tr>
<tr>
<td>Missouri V.A.M.S. § 270.046</td>
<td>Candidates, PACs</td>
<td>Contributions, Expenditures</td>
<td>Quarterly, 30 days before election, 8 days before election, 30 days after election</td>
<td>Yes</td>
</tr>
<tr>
<td>Montana MCA 19-37-204</td>
<td>Candidates, PACs, Ballot Initiative Committees</td>
<td>Contributions, Expenditures</td>
<td>Quarterly, March 10, April 10, June 10, August 10, September 10 and 15 and 3 days before election, within 24 hours of receiving $200 or more, 3 days before election</td>
<td>Yes</td>
</tr>
<tr>
<td>Nebraska Neb. Rev. St. § 49-1445</td>
<td>Candidates, PACs, Parties</td>
<td>Contributions, Expenditures</td>
<td>General: May 11 through June 15, Election: April 22, June 15</td>
<td>No</td>
</tr>
<tr>
<td>New Mexico N.M. Stat. Ann. § 11-13-16</td>
<td>Candidates, PACs, Party</td>
<td>Contributions, Expenditures</td>
<td>1 day before primary, 4 days before primary, 1 day before general, 4 days before general</td>
<td>No</td>
</tr>
<tr>
<td>New Hampshire N.H. Rev. Stat. § 644-B</td>
<td>Candidate, Political issue Committees</td>
<td>Contributions, Expenditures</td>
<td>3 Wednesdays before election, Wednesday before election, 3rd Wednesday after election</td>
<td>No</td>
</tr>
<tr>
<td>New Jersey N.J.S.A. § 19-48-5</td>
<td>Candidates</td>
<td>Contributions, Expenditures</td>
<td>Quarterly, 20 days before election, 13 days before election, 10 days after election</td>
<td>Yes</td>
</tr>
<tr>
<td>New Mexico N.M. Stat. Ann. § 11-13-16</td>
<td>Candidates</td>
<td>Contributions, Expenditures</td>
<td>Biennially, 2nd Monday in April, 2nd Monday in May, 2nd Monday in September, 2nd Monday in October, Thursday before election, 30 days after election</td>
<td>Yes</td>
</tr>
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Source: National Conference of State Legislatures
Last updated July 25, 2015
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© National Conference of State Legislatures
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<th>State/Statute</th>
<th>Who Needs to Disclose</th>
<th>What Needs to be Disclosed</th>
<th>When is it Disclosed</th>
<th>Electronic Filing Required?</th>
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<td>New York</td>
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<td>May 15th, prior to major party conventions, Oct. 15th, before general election, 30 days after election, last business day of every January, last business day of every July</td>
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Source: National Conference of State Legislatures

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APPENDIX E: RATINGS OF STATE DISCLOSURE REGIMES

Scorecard: Essential Disclosure Requirements for Independent Spending, 2014

By Pete Quist | 2014-12-03

In this report, the Institute updated—and upgraded—its assessment of essential independent spending disclosure requirements that were in effect in the states as of September 2014. This 2014 Scorecard replaces the Institute’s 2013 Scorecard.1

Overall, scores improved in 2014 compared to 2013—even though 24 states still received an “F” for their lack of disclosure. The increase was most pronounced for electioneering communications—those messages that feature candidates during a defined-election period while stopping short of explicitly urging voters to vote for or against a candidate. Currently, 33 states require the disclosure of this form of spending, up from 25 in 2013. Four states—Arizona, Kansas, Montana, and Nevada—saw the greatest change in their scores, generally because state agencies informed the Institute they were requiring these communications to be reported.

Failure to require disclosure of electioneering communications can have profound effects on transparency. While a comprehensive analysis of undisclosed spending is not possible, this report from the Michigan Campaign Finance Network (MCFN) documented $30 million spent during a 10-year period on electioneering communications in Michigan alone. A recent update from MCFN illustrates that undisclosed spending continued in earnest in certain 2014 statewide races.

Methodology

The 2014 scoring methodology is identical to the Institute’s 2013 methodology except that it adds a new question on disclosure requirements for donors to independent spenders. States could receive a maximum of 130 points, using the scoring methodology below. Portion credit was given when disclosure was required in only some instances.

- Does the state require reporting of independent expenditures (IEPs)? (30 points)
- Does the state require reporting of electioneering communications (ECs)? (30 points)
- Does the state require reporting of the spender’s target? (10 points each for IEs and ECs)
- Does the state require reporting of the spender’s position on whom the spending is spent on or opposed by? (10 points each for IEs and ECs)
- Does the state require reporting of contributors to independent spenders? (20 points)

If a state received a zero or partial score for independent expenditure disclosure or electioneering communications disclosure, scores for target and position disclosure on that spending were limited to a zero or partial score. Because the donor disclosure assessment examines how feasible it is to identify donors to independent spenders, donor disclosure scores were also limited in cases where these kinds of spending were not fully disclosed.

Findings

This 2014 Scorecard’s primary focus is the disclosure of independent spending that targets candidates for state-level offices; that is, disclosure requirements for the spending itself (as opposed to the funding) were responsible for 81 percent of the possible score. Identifying how much independent spending occurs in state elections, which candidates are targeted, and whether the spending is spent on or opposed by the candidates are fundamental questions of campaign finance data.

The most gaping hole in disclosure centers around electioneering communications. In 24 states, it is not possible to fully know how much was spent, and by whom, on electioneering communications, either due to two common disclosure flaws:

1. The state may not require clear disclosure of electioneering communications at all.
2. The state may require electioneering communications to be disclosed, but the reporting forms may not differentiate independent spending from other expenditures. For example, a committee might report a $50,000 political广告 campaign to pay for the form may not indicate if that was for independent spending or for another purpose (such as an in-kind contribution). In these cases, a relatively simple redesign of the reporting form would result in greater transparency.

The Institute’s analysis examined whether a spender must disclose its direct donors. It stops short of determining if the original donor source is required to be disclosed. This is often a legal gray area, and original donor disclosure for nonprofits involved in political activity has been one of the main focuses of litigation around money in politics transparency in recent years, as detailed in this February 2014 blog post. California is not the only state by passing legislation requiring the disclosure of donors to these groups in a “fast-in, fast-out” accounting method, where the most recent donation to the group is reported and disclosure works backward chronologically until the sum of the disclosed donations reaches the sum of political spending by the nonprofit group.

© National Institute on Money in State Politics
Table 2: State Scorecard of Essential Independent Spending Disclosure Requirements

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Table 2: Improvements in Independent Spending Disclosure Scores, 2013 vs. 2014

|--------------|---------------------|----------------------|---------------------|----------------------|---------------------|---------------------|---------------------|---------------------|

1. The Institute does not assess compliance or enforcement of these disclosure requirements, other than incorporation of relevant feedback from state agencies.

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APPENDIX F: CONTRIBUTION LIMITS

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<th>PAC → Candidate Contributions</th>
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<th>Union → Candidate Contributions</th>
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<td>$15,000/year, $10,000/year for state or federal candidates</td>
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<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
<td>Prohibited*</td>
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<tr>
<td>Illinois</td>
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<tr>
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<td>Kansas</td>
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<tr>
<td>Kentucky</td>
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<tr>
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<td>Michigan</td>
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<tr>
<td>New Hampshire</td>
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<tr>
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<td>New York</td>
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<tr>
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<tr>
<td>North Dakota</td>
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<tr>
<td>Ohio</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
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<tr>
<td>Oklahoma</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
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<td>Oregon</td>
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<tr>
<td>Rhode Island</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
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<tr>
<td>South Carolina</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
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<tr>
<td>Tennessee</td>
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</tr>
<tr>
<td>Texas</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
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<tr>
<td>Utah</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
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<tr>
<td>Vermont</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
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<td>Prohibited*</td>
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<tr>
<td>Virginia</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
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<tr>
<td>Washington</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
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<tr>
<td>West Virginia</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
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<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
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<td></td>
</tr>
<tr>
<td>Wyoming</td>
<td>$1,000/year, $2,000/year for state or federal candidates</td>
<td>$2,000/year, $4,000/year for state or federal candidates</td>
<td>Prohibited*</td>
<td></td>
</tr>
</tbody>
</table>

* The Arizona Citizens Clean Elections Commission has ruled that in Maricopa County Superior Court to block the increases, claiming that the legislation establishing them (H.B. 235, 2013) violated the Arizona Constitution, which bars the legislature from enacting changes in any nonrepresentative law without a second popular vote or a 2/3rds vote of the legislature. The Arizona Appeals Court ruled in an unsigned opinion that the increase was beyond the states' authority. The Arizona Personal PACs, which fund candidates, are subject to these limits.

** In four states—Alaska, Hawaii, Maine, and Vermont—the limits apply to contributions from PACs. In the other states, the limits apply to contributions from individuals and PACs.

*** In California, a “small campaign committee” is a committee with no more than five contributors that has not more than $10,000 in contributions from any one contributor or $30,000 in contributions from any one person. These limits do not apply to contributions from PACs.

Nonprofit organizations, LLCs, political committees, and other organizations are subject to the same limits as PACs.

Source: National Conference of State Legislatures

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## 2016/2017 Options for Continued Reform of Money in Politics

<table>
<thead>
<tr>
<th>State</th>
<th>Individual Contributions</th>
<th>State Party Contributions</th>
<th>PAC Contributions</th>
<th>Corporate Contributions</th>
<th>Union Contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Arkansas</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$2,500 gubernatorial candidate</td>
<td>$2,500 other statewide candidate</td>
<td>$10,000 Senate candidate</td>
<td>$5,000 House candidate</td>
<td><strong>$10,000 aggregate individual to all candidates and committees per Qt, Jan, Mar, May, July, Oct, Dec.</strong>&lt;sup&gt;2&lt;/sup&gt; All amounts are per election&lt;sup&gt;3&lt;/sup&gt;</td>
</tr>
<tr>
<td><strong>Delaware</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$1,200 statewide candidate</td>
<td>$1,000 other candidate</td>
<td>$5,000 gubernatorial candidate</td>
<td>$1,000 other statewide candidate</td>
<td>$5,000 Senate candidate</td>
</tr>
<tr>
<td><strong>Florida</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$3,000 statewide candidate</td>
<td>$1,000 legislative candidate</td>
<td>$3,000 gubernatorial candidate</td>
<td>$1,000 other statewide candidate</td>
<td>$6,000 Senate candidate</td>
</tr>
<tr>
<td><strong>Georgia</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$3,000 primary or general $6,000 statewide candidate</td>
<td>$1,000 legislative candidate</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
</tr>
<tr>
<td><strong>Hawaii</strong>&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$6,000 statewide candidate</td>
<td>$1,000 Senate candidate</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
</tr>
</tbody>
</table>

---

**Sources:**
- National Conference of State Legislatures

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<sup>1</sup> As of July 2015

<sup>2</sup> In certain elections, the contribution limit is raised to $10,000.

<sup>3</sup> Aggregate limits per contributions to PACs to candidates.

<sup>4</sup> Limits for federal candidates.

<sup>5</sup> Limits for federal candidates.

<sup>6</sup> Limits for federal candidates.

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<table>
<thead>
<tr>
<th>State</th>
<th>Individual Contributions</th>
<th>Party-Pac Contributions</th>
<th>PAC → Candidate Contributions</th>
<th>Corporations → Candidate Contributions</th>
<th>Unions → Candidate Contributions</th>
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</thead>
<tbody>
<tr>
<td>Idaho</td>
<td>$1,000/statewide candidate</td>
<td>unlimited per cycle</td>
<td>unlimited per cycle</td>
<td>unlimited per cycle</td>
<td>unlimited per election cycle</td>
</tr>
<tr>
<td>Illinois</td>
<td>$10,000/candidate/election cycle</td>
<td>unlimited if in a primary or general election</td>
<td>$5,000 per candidate/election cycle</td>
<td>$5,000 per candidate/election cycle</td>
<td>$5,000 per candidate/election cycle</td>
</tr>
<tr>
<td>Indiana</td>
<td>$1,000</td>
<td>unlimited</td>
<td>unlimited</td>
<td>unlimited</td>
<td>unlimited</td>
</tr>
<tr>
<td>Iowa</td>
<td>$1,000</td>
<td>unlimited</td>
<td>unlimited</td>
<td>unlimited</td>
<td>unlimited</td>
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<tr>
<td>Kansas</td>
<td>$1,000</td>
<td>unlimited</td>
<td>unlimited</td>
<td>unlimited</td>
<td>unlimited</td>
</tr>
<tr>
<td>Kentucky</td>
<td>$1,000/candidate/election cycle</td>
<td>unlimited</td>
<td>unlimited</td>
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</tbody>
</table>

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<table>
<thead>
<tr>
<th>State</th>
<th>Candidate Contributions</th>
<th>State Party – Candidate Contributions</th>
<th>PAC – Candidate Contributions</th>
<th>Governor – Candidate Contributions</th>
<th>Union – Candidate Contributions</th>
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<tr>
<td>Louisiana</td>
<td>$25,000 per candidate; $50,000 legislative candidate</td>
<td>Unlimited</td>
<td>Regular PAC: $10,000; Senate $50,000; $250,000 legislative candidate</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
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<tr>
<td>Massachusetts</td>
<td>$3,000 per candidate; $5,000 legislative candidate</td>
<td>$5,000 aggregate to candidates, per calendar year</td>
<td>$250,000 aggregate to candidates, per calendar year</td>
<td>Transfer limit: $5,000 per election cycle</td>
<td>Transfer limit: $5,000 per election cycle</td>
</tr>
<tr>
<td>Michigan</td>
<td>$1,000 per candidate; $10,000 aggregate to candidates</td>
<td>$10,000 per candidate; no more than $25,000 to a single candidate</td>
<td>$10,000 per year of PAC activity</td>
<td>$10,000 per year of PAC activity</td>
<td>$10,000 per year of PAC activity</td>
</tr>
</tbody>
</table>

Note: In Louisiana, a “Big PAC” is a PAC with over 350 members who contributed over $50 to the PAC during the preceding calendar year and has been certified as meeting the membership requirements.

In Maine, candidates who are members of a political party may contribute more than $50 from one individual contribution to committees for that party; individual contributions to committees are unlimited for primary elections.

In Minnesota, a “PAC” is a political action committee as defined by Minnesota law; it is a political organization that has been in existence for six months, has more than 300 members, and has contributed to two candidates.

In Texas, “Independent Committee” must have filed a statement of organization at least four months before the election in which the committee wishes to make contributions, must have supported or opposed 3 or more candidates for nomination or election, and must have received contributions from at least 35 persons.

Source: National Conference of State Legislatures

http://www.ncsl.org/Pages/legisinfo/2015-2016-election-cycle.aspx

(last updated May 2016)
<table>
<thead>
<tr>
<th>State</th>
<th>Individual/Party Contribution</th>
<th>Corporate Contribution</th>
<th>FEC/Candidate Contribution</th>
<th>Legislative Candidates</th>
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</thead>
<tbody>
<tr>
<td>Minnesota</td>
<td>$1,000/year per election cycle</td>
<td>$10,000/year per election cycle</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$1,000/year per general or House candidate</td>
<td>$10,000/year per general or House candidate</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
</tr>
<tr>
<td>Missouri</td>
<td>$1,000/year per election cycle</td>
<td>$10,000/year per election cycle</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
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<tr>
<td>Nebraska</td>
<td>$1,000/year per election cycle</td>
<td>$10,000/year per election cycle</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
</tr>
<tr>
<td>Nevada</td>
<td>$1,000/year per election cycle</td>
<td>$10,000/year per election cycle</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>$1,000/year per election cycle</td>
<td>$10,000/year per election cycle</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
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<tr>
<td>New Jersey</td>
<td>$1,000/year per election cycle</td>
<td>$10,000/year per election cycle</td>
<td>Same as individual limits</td>
<td>Prohibited**</td>
</tr>
</tbody>
</table>

11 Minnesota’s ST 1993 (2015) directed candidates in one two-year period, and made limits applicable to every two-year period since the single term. The limit is higher for the two-year period during which an election is held for the office, and lower during the non-election two-year period for candidates that serve a four-year term.
12 Vermont’s contribution limits have been the subject of ongoing litigation over the past several years. See the Vermont Commission on Political Practices website for latest information.
13 Contributions are no longer prohibited from making political contributions under New Hampshire law because the language of the initiative was interpreted by a federal district court in 2009. A June 6, 2000 letter from Deputy Attorney General Steven M. Houts indicates that the limits on individual contributions now apply to corporate contributions as well.

Source: National Conference of State Legislatures

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## Options for Continued Reform of Money in Politics

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<tr>
<th>State</th>
<th>Candidate Contributions</th>
<th>Party PRIMARY Candidates</th>
<th>PAC PRIMARY Candidates</th>
<th>Corporations PRIMARY Candidates</th>
<th>Unions PRIMARY Candidates</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Mexico</td>
<td>$1,400 statewide candidate</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
</tr>
<tr>
<td>New York</td>
<td>Prohibited in primary elections</td>
<td>Some as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$1,000 statewide candidate</td>
<td>$200,000/year for all PACs</td>
<td>$3,000/year for state office</td>
<td>$1,000/year for state office</td>
<td>$1,000/year for state office</td>
</tr>
<tr>
<td>Oregon</td>
<td>Prohibited in primary elections</td>
<td>Some as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
<td>Same as individual limits</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>$1,000/year for all PACs</td>
<td>$200,000/year for all PACs</td>
<td>$500/year for state office</td>
<td>$200,000/year for state office</td>
<td>$200,000/year for state office</td>
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<tr>
<td>South Dakota</td>
<td>$1,000/year for all PACs</td>
<td>$200,000/year for all PACs</td>
<td>$1,000/year for state office</td>
<td>$200,000/year for state office</td>
<td>$200,000/year for state office</td>
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</tbody>
</table>

Note: The limits apply to contributions from all family members in the aggregate. A PAC that has been registered for less than a year is subject to the aggregate limit of $15,000 per year, even if fewer than 25 contributors. The limits are rounded up to the next dollar amount.

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<tr>
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<th>Candidate Contributions</th>
<th>PACs</th>
<th>Corporate Contributions</th>
<th>Union Contributions</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tennessee</td>
<td>$1,000/year/candidate; $1,000/year/legislative candidate</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>Amounts are per election cycle.</td>
</tr>
<tr>
<td>Texas</td>
<td>$6,000/year/candidate; $6,000/year/legislative candidate</td>
<td>$10,000/year/candidate; $10,000/year/legislative candidate</td>
<td>$10,000/year/candidate; $10,000/year/legislative candidate</td>
<td>$10,000/year/candidate; $10,000/year/legislative candidate</td>
<td>Amounts are per election cycle.</td>
</tr>
<tr>
<td>Utah</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>$5,000/year/candidate; $5,000/year/legislative candidate</td>
<td>Amounts are per election cycle.</td>
</tr>
<tr>
<td>Virginia</td>
<td>$1,000/year/candidate; $1,000/year/legislative candidate</td>
<td>$1,000/year/candidate; $1,000/year/legislative candidate</td>
<td>$1,000/year/candidate; $1,000/year/legislative candidate</td>
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</tr>
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</tr>
</tbody>
</table>

(a) Primary and general election contributions are separate elections. Amounts may be contributed in each election.
(b) Candidates participating in the public financing program may not accept contributions after qualifying for public financing. Limits for candidates not participating in the public financing program do not apply. PACs are limited to $25,000 per candidate in any election cycle. In those states, the limits apply only when seeking office for the first time or when seeking re-election to a higher office. The maximum amount of a contribution from a political committee or PAC to a candidate is limited to $5,000 per candidate in any election cycle. PACs are limited to $5,000 per candidate in any election cycle.
(c) Contributions received or accepted by candidates as a result of their service as a candidate would not be subject to these limits.

Source: National Conference of State Legislatures