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2013 State Legislative Trends: *Campaign Contribution Limits Increase in Nine States*

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Executive Summary

The Center for Competitive Politics' survey of 2013 state legislative activity shows that nine states – Alabama, Arizona, Connecticut, Florida, Maryland, Michigan, Minnesota, North Carolina, and Wyoming – raised or eliminated various campaign contribution limits last year.

Five states increased their limits by 100% or more, two more increased their limits by 50%, and one repealed its limit on direct corporate contributions to candidates.

Since the Supreme Court's 2010 Citizens United ruling that allowed trade associations, corporations, and labor unions to spend independently of candidates without limit and the D.C. Circuit Court of Appeals ruling in SpeechNow.org v. FEC that created Super PACs, 13 states, or over one-third of the 38 states that impose contribution limits on individuals, have increased or repealed contribution limits in some manner. (Twelve states do not limit candidate contributions by individuals).

Also in 2013, two more states – Montana and Tennessee – were a gubernatorial veto and two votes short of House passage to a favorable Senate, respectively, of raising their limits.

Following this trend, in the first month of 2014, Vermont increased its contribution limits, and Oklahoma appears poised to act too.

While there are many strong First Amendment and pro-competitiveness reasons for increasing or eliminating contribution limits, lawmakers appear to be most concerned with giving candidates and political parties a stronger voice in election campaigns by allowing candidates and parties to raise more funds.

The following table summarizes legislative changes in the nine states that amended their contribution limits in 2013:

State	Bill Number	Summary of Campaign Contribution Limit Changes
Alabama	Senate Bill 445	<ul style="list-style-type: none"> ✓ Eliminated \$500 per election limit on direct corporate contributions to candidates
Arizona	House Bill 2593	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to candidates: <ul style="list-style-type: none"> - From \$488 per election cycle to \$2,500 per election for legislative candidates - From \$1,010 per election cycle to \$2,500 per election for statewide candidates ✓ Increased limits on contribution from PACs to candidates: <ul style="list-style-type: none"> - From \$2,000 per election cycle to \$5,000 per election for legislative and statewide candidates ✓ Eliminated aggregate limit on individual and PAC contributions to candidates
Connecticut	House Bill 6580	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to political parties: <ul style="list-style-type: none"> - From \$5,000 per year to \$10,000 per year for state parties - From \$1,000 per year to \$2,000 per year for local parties ✓ Increased limits on contributions from individuals to PACs: <ul style="list-style-type: none"> - From \$750 per year to \$1,000 per year for PACs ✓ Increased aggregate limit on individual contributions from \$15,000 per election cycle to \$30,000 per election cycle
Florida	House Bill 0569	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to candidates: <ul style="list-style-type: none"> - From \$500 per election to \$1,000 per election for legislative candidates - From \$500 per election to \$3,000 per election for statewide candidates ✓ Eliminated limit on contributions from individuals to PACs
Maryland	House Bill 1499	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals: <ul style="list-style-type: none"> - From \$4,000 per four-year election cycle to \$6,000 per four-year election cycle for candidates, parties, and PACs ✓ Increased aggregate limit on individual contributions to all candidates, parties, and PACs from \$10,000 to \$24,000 over a four-year election cycle
Michigan	Senate Bill 661	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to candidates: <ul style="list-style-type: none"> - From \$500 to \$1,000 for State House candidates per election cycle - From \$1,000 to \$2,000 for State Senate candidates per election cycle - From \$3,400 to \$6,800 for statewide candidates per election cycle ✓ Increased limits on contributions from Independent PACs to candidates: <ul style="list-style-type: none"> - From \$5,000 to \$10,000 for state house candidates per election cycle - From \$10,000 to \$20,000 for state senate candidates per election cycle - From \$34,000 to \$68,000 for statewide candidates per election cycle
Minnesota	Senate File 661	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to candidates: <ul style="list-style-type: none"> - From \$500 to \$1,000 for legislative candidates in election years - From \$2,000 to \$4,000 for gubernatorial candidates in election years
North Carolina	House Bill 0589	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to candidates and PACs: <ul style="list-style-type: none"> - From \$4,000 per election to \$5,000 per election for legislative and statewide candidates - From \$4,000 per election to \$5,000 per election for PACs
Wyoming	House Bill 0187	<ul style="list-style-type: none"> ✓ Increased limits on contributions from individuals to candidates: <ul style="list-style-type: none"> - From \$1,000 per election to \$1,500 per election for legislative candidates - From \$1,000 per election to \$2,500 per election for statewide candidates ✓ Created limits on contributions from PACs to candidates: <ul style="list-style-type: none"> - To \$3,000 per election for legislative candidates - To \$7,500 per election for statewide candidates ✓ Increased aggregate limit on individual contributions: <ul style="list-style-type: none"> - From \$25,000 to \$50,000 per two-year period



Why Are States Eliminating or Raising Contribution Limits?

First Amendment political speech freedoms dramatically increased last year as nine state legislatures continued to liberalize campaign finance laws in the wake of the 2010 Supreme Court ruling in *Citizens United v. FEC* that allowed corporations and labor groups to spend independently of campaigns and the *SpeechNow.org v. FEC* decision that created Super PACs. The rising importance of unlimited independent expenditures in election campaigns appears to have spurred lawmakers to raise contribution limits on donations to candidates and parties.

Indeed, prior to 2013, from 2010 to 2012, notwithstanding automatic adjustments for inflation, three states also eliminated or modified their campaign contribution limits. Illinois amended its law so that when Super PACs spend a specified amount in a given race, contribution limits on giving to the candidates in that race no longer apply,¹ Nebraska's Accountability and Disclosure Commission issued an order that it will no longer enforce any of the state's limits, as a result of a separate 2011 Supreme Court decision dealing with campaign finance (*Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*,² and, after previously prohibiting such giving, Tennessee allowed corporate entities to give directly to candidate campaigns under the same limits as Political Action Committees (PACs), due to concerns over future legal ramifications of the *Citizens United* decision.³

In 2013, legislators on both sides of the aisle garnered support for increasing or eliminating existing campaign contribution limits using five primary arguments:

1) Increased contribution limits allow candidates and parties to have a stronger voice during election campaigns and better compete with independent groups.

From the perspective of incumbents, limits on how much can be raised by candidates and parties leads to campaigns becoming more influenced by independent groups, which candidates by law cannot control. This is leading to frustration among candidates and party officials.

For example, Florida House Speaker Will Weatherford (R), an advocate of eliminating contribution limits, explained, "We all know people are spending a lot of money on campaigns. Unfortunately, none of it's going through the actual campaign."⁴ In Arizona, a newspaper reported that Republican Governor Jan Brewer's spokesman said "that Brewer signed into

1 Mitchell Holzrichter, John Janicik, and Joseph Seliga, "Illinois Amends Campaign Finance Law to Address Independent Expenditures by 'Super PACs,'" Mayer Brown. Retrieved on April 22, 2014. Available at: http://www.mayerbrown.com/files/Publication/5ea920af-7e3c-4126-8fb6-520e3b3a9247/Presentation/PublicationAttachment/cbf5de12-890c-4a6f-be8e-ca97c88fc34d/UPDATE-IL_Amends_Campaign_Finance_Law_0812_V2.pdf (August 6, 2012).

2 Carol A. Laham and Timothy A. Libutti, "Nebraska Will No Longer Enforce Corporate Contribution Restriction," Wiley Rein LLP. Retrieved on April 22, 2014. Available at: <http://www.wileyrein.com/publications.cfm?sp=articles&newletter=8&id=7461> (September 2011).

3 "Tennessee allows corporate political donations," *Associated Press*. Retrieved on April 22, 2014. Available at: <http://www.timesfreepress.com/news/2011/jun/03/tennessee-allows-corporate-political-donations/> (June 3, 2011).

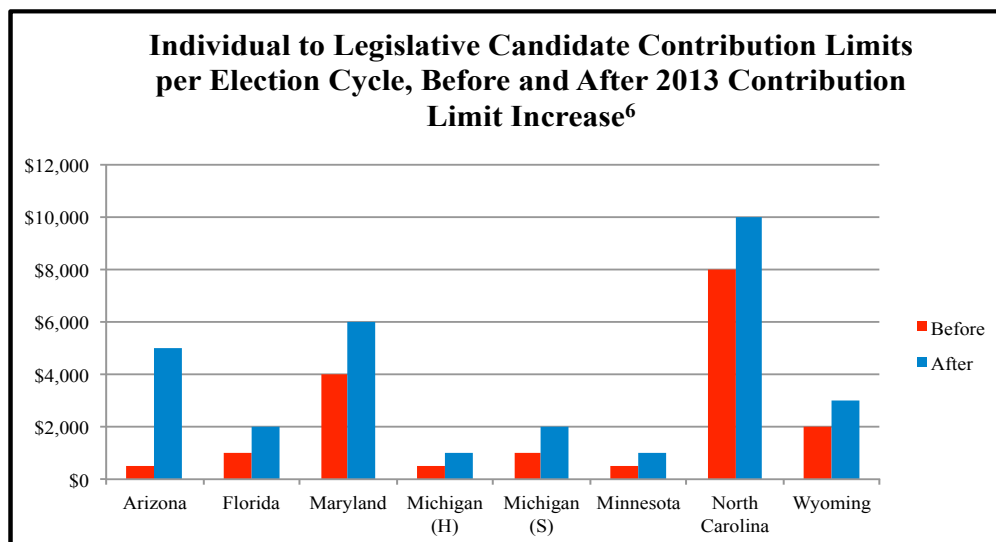
4 Brandon Larrabee, "Weatherford: Disband CCEs, raise contribution limits," *Financial News and Daily Record*. Retrieved on April 22, 2014. Available at: http://www.jaxdailyrecord.com/showstory.php?Story_id=538032 (November 14, 2012).

law the measure that wildly increases campaign finance limits because candidates have become bystanders in their own elections.”⁵ In Minnesota, the Democratic sponsor of a bill that doubled contribution limits, Representative Ryan Winkler, was cited in a news account explaining that “Low limits mean big dollar donors give their money to third party groups that spend on behalf of candidates. As a result, ‘the candidate becomes relatively insignificant in their election, [said Representative Winkler]. ‘While I’d like to keep the limits low, I think it’s a necessary adjustment in order to deal with the flood of outside money that’s coming into races.’”

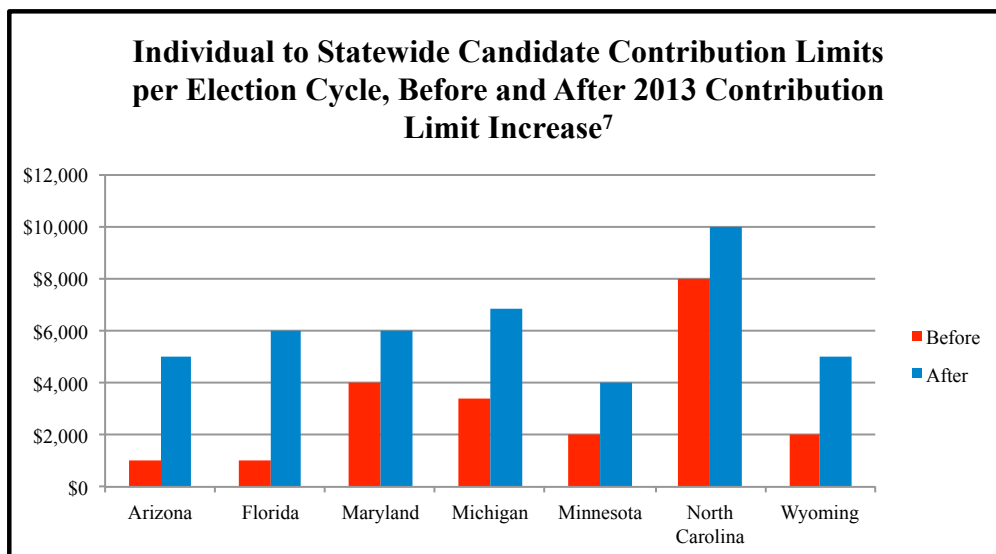
As these policymakers of different political backgrounds note, allowing individuals to make larger contributions directly to candidates and parties increases candidate and party speech compared to independent speech. Many donors to candidates and political parties would like to support more speech by candidates and parties, but the candidate and party contribution limits force them to look for alternatives like independent groups in order to speak out. Simply put, if donors can give more to candidates and parties, they will. With higher donation limits, donors are likely to give less to independent groups.

If policymakers are concerned that independent political speech reduces the voice of candidates and parties, then allowing more money to go to candidates and parties will re-establish a balance. Regardless of how one views independent expenditures and Super PACs, the only way to give parties and candidates a louder voice is to allow candidates, parties, and PACs to raise more money. States appear to be moving in that direction, and that’s a positive development for the First Amendment and competitive elections.

5 “Brewer worried about third-party campaign money,” *Associated Press*. Retrieved on April 22, 2014. Available at: <http://www.myfoxphoenix.com/story/21951557/brewer-increases-arizona-campaign-finance-limits#ixzz2ruzTnmSJ> (April 12, 2013).



Graph data represents the election cycle limits on contributions from individuals to legislative candidates. States that have 'per election' limits (Arizona, Florida, North Carolina, and Wyoming) have their limits doubled in the chart to reflect the annual amount an individual could contribute to a candidate in both the primary and general elections. Arizona's new \$2,500 limit on giving to legislative candidates applies per election, and is therefore doubled; its old limit of \$488 applied per election cycle, and is therefore not doubled. Michigan has different limits for State House candidates (Michigan (H)) and State Senate candidates (Michigan (S)). Minnesota's limits are different in non-election years versus election years; in this graph, election year limits are used.



Graph data represents the election cycle limits on contributions from individuals to statewide candidates. States that have 'per election' limits (Arizona, Florida, North Carolina, and Wyoming) have their limits doubled in the chart to reflect the annual amount an individual could contribute to a candidate in both the primary and general elections. Arizona's new \$2,500 limit on giving to statewide candidates applies per election, and is therefore doubled; its old limit of \$1,010 applied per election cycle, and is therefore not doubled. Minnesota's limits are different in non-election years versus election years; in this graph, election year limits are used.

⁶ Prior contribution limit data taken from: Jennie Drage Bowser, "State Limits on Contributions to Candidates: 2011-2012 Election Cycle," National Conference of State Legislatures. Retrieved on April 21, 2014. Available at: http://www.ncsl.org/Portals/1/documents/legismgt/Limits_to_Candidates_2011-2012v2.pdf (June 1, 2012).

⁷ Ibid.

2) Contribution limits have no impact on reducing corruption or trust in government, but reduce campaign speech.

The diversity of contribution limits in the fifty states is vast, and it should make assessing their value straightforward. Ultimately, there's no evidence that lower contribution limits reduce corruption⁸ or produce good government.⁹

In fact, many of the best run states in the nation have the greatest election campaign freedoms and protections for free political speech.

Twenty-eight states allow unlimited contributions from individuals and PACs to political parties, and 25 allow unlimited contributions from individuals to PACs. When half or more of the country is operating without limits, it becomes difficult for states to justify limiting such contributions to just a few thousand (or hundred, in some cases) dollars per election (or election cycle).

Contributions from individuals to statewide and legislative candidates are unlimited in 12 states, contributions from PACs to candidates are unlimited in 13 states, and contributions from parties to candidates are unlimited in 25 states. These are not small samples or homogenous states. Among the 12 states to allow unlimited contributions from individuals to candidates are big states (Texas), small states (Iowa), states with higher population (Missouri), states with lower population (North Dakota), Northern states (Pennsylvania), Southern states (Alabama, Mississippi, Virginia), Midwestern states (Indiana, Nebraska), and Western states (Oregon, Utah). A table summarizing current contribution limits per election cycle on individual giving to candidates for governor, State Senate, and State Representative (or the equivalent) follows for comparison's sake. The table highlights those seven states that raised their contribution limits on individual giving in 2013.

Attempts to raise contribution limits should always be considered in the context of these many and diverse states that have no limits. If states truly function as “laboratories of democracy,” where good ideas catch on, then it should be no surprise that the experiences of these states have led others to follow their lead by raising their own contribution limits.

8 Adriana Cordis and Jeff Milyo, “Working Paper No. 13-09: Do State Campaign Finance Reforms Reduce Public Corruption?” Mercatus Center at George Mason University. Retrieved on April 23, 2014. Available at: mercatus.org/sites/default/files/Milyo_CampaignFinanceReforms_v2.pdf (April 2013); Matt Nese and Luke Wachob, “Do Lower Contribution Limits Decrease Public Corruption?” Center for Competitive Politics’ Issue Analysis No. 5. Retrieved on April 23, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2013/08/2013-08-01_Issue-Analysis-5_Do-Lower-Contribution-Limits-Decrease-Public-Corruption1.pdf (August 2013).

9 Matt Nese and Luke Wachob, “Do Lower Contribution Limits Produce ‘Good’ Government?” Center for Competitive Politics’ Issue Analysis No. 6. Retrieved on April 23, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2013/10/2013-10-08_Issue-Analysis-6_Do-Lower-Contribution-Limits-Produce-Good-Government1.pdf (October 2013); Matt Nese, “Do Limits on Corporate and Union Giving to Candidates Lead to ‘Good’ Government?” Center for Competitive Politics’ Issue Analysis 7. Retrieved on April 23, 2014. Available at: http://www.campaignfreedom.org/wp-content/uploads/2013/11/2013-11-20_Issue-Analysis-7_Do-Limits-On-Corporate-And-Union-Giving-To-Candidates-Lead-To-Good-Government.pdf (November 2013).



State Limits on Individual Contributions to Candidates, per Election Cycle								
Governor			State Senate			State House		
Ranking	State	Limit	Ranking	State	Limit	Ranking	State	Limit
1	Alabama	Unlimited	1	Alabama	Unlimited	1	Alabama	Unlimited
	Indiana	Unlimited		Indiana	Unlimited		Indiana	Unlimited
	Iowa	Unlimited		Iowa	Unlimited		Iowa	Unlimited
	Mississippi	Unlimited		Mississippi	Unlimited		Mississippi	Unlimited
	Missouri	Unlimited		Missouri	Unlimited		Missouri	Unlimited
	Nebraska	Unlimited		Nebraska	Unlimited		Nebraska	Unlimited
	North Dakota	Unlimited		North Dakota	Unlimited		North Dakota	Unlimited
	Oregon	Unlimited		Oregon	Unlimited		Oregon	Unlimited
	Pennsylvania	Unlimited		Pennsylvania	Unlimited		Pennsylvania	Unlimited
	Texas	Unlimited		Texas	Unlimited		Texas	Unlimited
	Utah	Unlimited		Utah	Unlimited		Utah	Unlimited
	Virginia	Unlimited		Virginia	Unlimited		Virginia	Unlimited
13	California	\$54,400	13	Ohio	\$24,311.04	13	Ohio	\$24,311.04
14	New York	\$54,391.67	14	New York	\$16,800	14	Nevada	\$10,000
15	Ohio	\$24,311.04	15	Nevada	\$10,000		North Carolina	\$10,000
16	Georgia	\$12,600		North Carolina	\$10,000	16	California	\$8,200
17	New Mexico	\$10,400	17	California	\$8,200		New York	\$8,200
18	Idaho	\$10,000	18	Maryland	\$6,000	18	Maryland	\$6,000
	Louisiana	\$10,000	19	New Jersey	\$5,200	19	New Jersey	\$5,200
	Nevada	\$10,000	20	Arizona	\$5,000	20	Arizona	\$5,000
	North Carolina	\$10,000		Georgia	\$5,000		Georgia	\$5,000
	Wisconsin	\$10,000		Illinois *	\$5,000		Illinois *	\$5,000
23	New Jersey	\$7,600		Louisiana	\$5,000		Louisiana	\$5,000
	Tennessee	\$7,600	24	New Mexico	\$4,800	24	New Mexico	\$4,800
25	Connecticut	\$7,000	25	Arkansas	\$4,000	25	Arkansas	\$4,000
	South Carolina	\$7,000		Hawaii	\$4,000	26	Tennessee	\$3,000
27	Michigan	\$6,800	27	Tennessee	\$3,000		Wyoming	\$3,000
28	Florida	\$6,000		Wyoming	\$3,000	28	Oklahoma	\$2,500
	Hawaii	\$6,000	29	Oklahoma	\$2,500	29	Florida	\$2,000
	Maryland	\$6,000	30	Connecticut	\$2,000		Hawaii	\$2,000
31	Arizona	\$5,000		Florida	\$2,000		Idaho	\$2,000
	Illinois *	\$5,000		Idaho	\$2,000		Kentucky	\$2,000
	Wyoming	\$5,000		Kansas	\$2,000		New Hampshire	\$2,000
34	Arkansas	\$4,000		Kentucky	\$2,000		South Carolina	\$2,000
	Kansas	\$4,000		Michigan	\$2,000		Vermont	\$2,000
	Minnesota	\$4,000		New Hampshire	\$2,000		West Virginia	\$2,000
	South Dakota	\$4,000		South Carolina	\$2,000	37	Washington	\$1,800
38	Washington	\$3,600		Vermont	\$2,000	38	Kansas	\$1,000
39	Maine	\$3,000		West Virginia	\$2,000		Michigan	\$1,000
40	Oklahoma	\$2,500	40	Washington	\$1,800		Minnesota	\$1,000
41	Kentucky	\$2,000	41	Minnesota	\$1,000		Rhode Island	\$1,000
	New Hampshire	\$2,000		Rhode Island	\$1,000		South Dakota	\$1,000
	Vermont	\$2,000		South Dakota	\$1,000	43	Maine	\$750
	West Virginia	\$2,000		Wisconsin	\$1,000	44	Delaware	\$600
45	Montana	\$1,260	45	Maine	\$750		Alaska	\$500
46	Delaware	\$1,200	46	Delaware	\$600		Connecticut	\$500
47	Colorado	\$1,100	47	Alaska	\$500		Massachusetts	\$500
48	Rhode Island	\$1,000		Massachusetts	\$500		Wisconsin	\$500
49	Alaska	\$500	49	Colorado	\$400	49	Colorado	\$400
	Massachusetts	\$500	50	Montana	\$320	50	Montana	\$320
<p>Using NCSL's data on campaign contribution limits, we calculated each state's contribution limit on individual giving to candidates for governor, State Senator, and State Representative (or the equivalent) on an election cycle basis. In states that allocate their limits on an election basis, we doubled the limit to account for the maximum an individual could give to a candidate in both a primary and general election. States that regulate contribution limits on a yearly or campaign basis (as in Oklahoma) were considered to have limits equivalent to an election cycle for the purposes of this chart. Contribution limit data available at: Jennie Drage Bowser, "State Limits on Contributions to Candidates: 2011-2012 Election Cycle," National Conference of State Legislatures. Retrieved on August 12, 2013. Available at: http://www.ncsl.org/Portals/1/documents/legismgt/Limits_to_Candidates_2011-2012v2.pdf (June 1, 2012). States highlighted in yellow increased their individual to candidate contribution limits in 2013.</p> <p>* In Illinois, if spending by Super PACs hits a defined amount in a given race, then existing candidate contribution limits no longer apply.</p>								

3) **Academic research demonstrates that campaign cash and legislative votes are not linked.**

The causal link posited between campaign contributions and the voting patterns of elected officials falls apart in practice. A wealth of empirical research¹⁰ has debunked¹¹ this oft-repeated myth.¹² In short, academic research shows that campaign donations are given by individuals and entities to prospective candidates because those individuals and entities agree with the candidate's policy positions; not the other way around, as is often incorrectly suggested. Politicians of all stripes are recognizing this fact and adjusting limits on the ability of those they represent to demonstrate support for their campaigns and their values accordingly.

4) **Low contribution limits deter good candidates from running for office.**

An analysis of how contribution limits distort election campaigns helps explain why states without limits have fared as well or better in corruption rankings and good governance measurements than states with low limits. First, many people wrongly assume that in the absence of financial contributions, all citizens would have equal access to candidates. In reality, established interested groups like trade associations, labor unions, media, well-organized public interest groups, celebrities, and established political players already have an overwhelming advantage in access to elected officials.

Even more importantly, contribution limits reduce the ability of average citizens to run for office. Equal limits don't have equal impacts; candidates who are personally wealthy are able to spend much more on their campaigns than candidates from ordinary backgrounds. The ability to receive large contributions is an important equalizer for candidates with modest personal wealth or who are relatively unknown. While contribution limits are intended to reduce the influence of wealth, in reality they make it difficult for an average citizen to run against a famous or wealthy opponent. As a result, political parties spend a disproportionate amount of time and effort recruiting rich people to run for office instead of focusing solely on recruiting the best candidates. Both the overall pool of viable candidates for office, and the diversity within that pool, shrinks as a result of capping donation amounts.

5) **Most importantly, contribution limits infringe upon the free speech rights guaranteed under the First Amendment.**

While courts have upheld many limits on contributions as constitutional due to a government interest in combating corruption or the appearance of corruption, there is broad agreement that limits on campaign contribution harm the right to free speech guaranteed by the First Amendment. However, now that evidence proves that contribution limits do not reduce

10 Steven Levitt, "How Do Senators Vote? Disentangling the Role of Party Affiliation, Voter Preferences and Senator Ideology," *American Economic Review*, Vol. 86 (1996): 425–441.

11 Gregory Wawro, "Legislative Entrepreneurship in the United States House of Representatives." (Ann Arbor: University of Michigan Press, 2000).

12 Stephen Ansolebehere, John M. de Figuerido, and James M. Snyder Jr., "Why Is There So Little Money in U.S. Politics?," *Journal of Economic Perspectives*, Vol. 17:1 (Winter 2003): 105–130.



corruption or increase trust in government, citizens and policymakers alike have recognized that the logic underlying contribution limits is weak at best. Limiting free speech rights should not be undertaken lightly, even when it is constitutionally permissible to do so. Many state legislators now believe that raising or eliminating limits entirely better conforms to the First Amendment, and therefore better fulfills every lawmaker's commitment to upholding the Constitution.

The Outlook for 2014

More states are likely to increase their campaign contribution limits in 2014. In Oklahoma, the State Ethics Commission has approved rule changes that would see the state's contribution limits increase in line with current federal limits.¹³ Under the proposed rules, individuals would be able to donate \$2,600 to a legislative candidate per election. This is a significant change, as Oklahoma currently implements its limits on a family basis – the only state to do so – at \$5,000 per campaign. In Oklahoma, “family” is defined as married couples and their children under 18 living at home. So, under current law, a married couple and their children under 18 can only give \$5,000 to a candidate collectively over the course of a campaign. The new limits will become law unless they are rejected by the full Legislature in the 2014 legislative session.

In Vermont, Governor Peter Shumlin (D) signed legislation, S. 82, on January 23, 2014 that raises the state's contribution limits on individual giving to candidates and significantly increases the amount individuals, corporations, and unions may give to political parties. Previously, state law permitted individuals, corporations, and unions to donate \$1,000 per candidate per election. The new law allows individuals and political committees to give \$1,000 per election cycle to candidates for State Representative, \$1,500 per election cycle to candidates for State Senate, and \$4,000 per election cycle to statewide candidates.¹⁴ In addition, S. 82 allows individuals, corporations, unions, and PACs to donate \$10,000 per election cycle to political parties, a significant increase from the former \$2,000 per election cycle limit. The enacted legislation also indexes these contribution limits to inflation.

13 Randy Ellis, “Proposed rule changes would change Oklahoma's political contribution limits,” *The Oklahoman*. Retrieved on April 21, 2014. Available at: <http://newsok.com/proposed-rule-changes-would-change-oklahomas-political-contribution-limits/article/3914436> (December 14, 2013).

14 Paul Heintz, “Campaign Finance Bill Passes Senate; Shumlin Expected to Sign It,” *SevenDaysVT.com*. Retrieved on April 21, 2014. Available at: <http://www.sevendaysvt.com/OffMessage/archives/2014/01/16/campaign-finance-bill-passes-senate-shumlin-expected-to-sign-it> (January 16, 2014).



Conclusion

The increasing importance of independent speech gives free speech supporters an unusual opportunity to make progress on First Amendment political speech rights by aligning free speech interests with the political interests of candidates and parties in having a stronger voice in campaigns.

There is growing recognition that some of the best run and least corrupt states in the nation have had no limits on contributions for decades. Emphasizing these facts will hopefully encourage the trend of rising contribution limits to continue in 2014 and beyond.

Including Vermont's legislative action in early 2014, since 2010, 13 states have raised limits on what individuals and other entities can give to candidate campaigns to varying degrees. With at least one more state (Oklahoma) poised to join that number in 2014, it's clear that the trend of states policymakers respecting the First Amendment is likely to continue in the future. For defenders of free speech, this is a trend worth celebrating.

Appendix I: Summary of Enacted Contribution Limit Increases in 2013

The following section discusses the nine states that increased their campaign contribution limits in some fashion in 2013. A few states, like North Carolina, made relatively minor changes to their existing limits while most others, like Alabama and Michigan, made significant changes to their donation caps. Alabama is notable for becoming the sixth state to have no limits on the size or source of campaign contributions by eliminating their \$500 per election limit on direct corporate contributions to candidates in 2013 while Michigan doubled its existing limits for the first time since 1976 and tied regular future increases to inflation. This first appendix examines the details of the contribution limit increase legislation enacted in these nine states and sheds some light on the political environment surrounding these legislative changes.

Alabama

Governor Robert Bentley (R) signed Senate Bill 445 into law on May 20, 2013. Among other campaign finance changes unrelated to the state's contribution limits, S.B. 445 eliminated Alabama's existing \$500 limit per election on direct corporate contributions to candidates.¹⁵ As a result, Alabama joins Missouri, Nebraska (which is no longer enforcing its limits on the books), Oregon, Utah, and Virginia, in becoming the sixth state to have no limits on the size or source of campaign contributions. In addition to these six states, 23 additional states allow corporations to contribute directly to candidate campaigns at some limit, meaning that nearly three-fifths of the states in the country (29) allow business entities to donate to candidates.

Arizona

On April 11, Governor Jan Brewer (R) signed into law House Bill 2593, raising existing state contribution limits on the amount individuals and PACs may give to candidate campaigns. Although the new law was challenged in state court, and the higher limits enacted by H.B. 2593 were originally delayed by the Arizona State Supreme Court, the Court ultimately ruled that the new limits were indeed constitutional. The bill achieved enormous support among Republicans in the State Legislature, although no Democrats supported the legislation. Limits on contributions from individuals to legislative and statewide candidates are now set at \$2,500 per election. Previously, Arizonans had been limited to contributing just \$488 per election cycle to a candidate for legislative office, and \$1,010 per election cycle to a candidate for statewide office.¹⁶ Both raising the limit and making it apply per election rather than per election cycle are significant changes. Previously, under Arizona law, if a donor gave \$488 to a candidate during the primary, that donor would have been unable to contribute to that candidate during the general election. Since challengers are much more likely than incumbents to face a difficult primary, the previous restrictions gave incumbents an unfair advantage. Under the new regulations, that donor could give \$2,500 to a candidate during

15 "SB445 as Enrolled (Regular Session 2013)," Alabama Legislative Information System Online (ALISON). Retrieved on April 24, 2014. Available at: <http://alisondb.legislature.state.al.us/acas/acasloginFire.asp?SESSION=1061> (2013).

16 Cristina Silva, "Brewer increases Arizona campaign finance limits," *Arizona Capitol Times*. Retrieved on April 24, 2014. Available at: <http://azcapitoltimes.com/news/2013/04/12/jan-brewer-increases-arizona-campaign-finance-limits/> (April 12, 2013).



the primary, and give another \$2,500 to that candidate during the general election. This change promotes fairness for incumbents and challengers alike. Likewise, the bill increased the amount some PACs can give to statewide and legislative candidates from \$2,000 per election cycle to \$5,000 per election.¹⁷ H.B. 2593 also removed Arizona's aggregate limits on contributions from individuals and PACs to statewide and legislative candidates, freeing these entities to contribute up to the limit for as many candidates as they wish. The majority of states do not impose aggregate limits, and now Arizona has joined the club.

Connecticut

Governor Dan Malloy (D) signed House Bill 6580 on June 18, relaxing Connecticut's harsh restrictions on individual giving to parties and political committees, among other campaign finance law changes.¹⁸ Limits on contributions from individuals to state political parties were doubled from \$5,000 per year to \$10,000 per year, and limits on contributions from individuals to local political parties were similarly doubled from \$1,000 per year to \$2,000 per year. H.B. 6580 more moderately increased the limits imposed on individuals giving to PACs from \$750 per year to \$1,000 per year. The measure also doubled the state's existing aggregate limit on individual contributions from \$15,000 per election cycle to \$30,000 per election cycle. However, because of the Supreme Court's decision in *McCutcheon v. FEC*, this aggregate limit is on shaky constitutional ground.¹⁹ In stark contrast to Arizona, Connecticut's bill was a Democratic-backed measure that faced significant opposition from Republicans. H.B. 6580 was sponsored by five legislators, all Democrats, and the final version of the bill received no votes in favor from Republicans in either the House of Representatives or the Senate. This realization, along with the fact that the majority of states do not impose any limits on what individuals may contribute to state political parties, should demonstrate that these limits are not related to "fairness" or "good government," as their proponents claim. Although the Constitution State has acted to increase the amount that citizens can give to political parties and PACs, it is still outside the norm for imposing limits of any amount on these contributions.

Florida

Florida's limits on contributions from individuals to legislative candidates, gubernatorial candidates, and PACs were among the lowest in the nation before Governor Rick Scott (R) inked House Bill 569 into law on May 1. Individual limits were previously set at just \$500 per election to candidates for Governor, State Senate, and State House. For legislative candidates, that amount has been doubled to \$1,000 per election. For gubernatorial candidates, it has been raised to \$3,000 per election.²⁰ These

17 "House Summary: 4/15/2013 AsTransmittedtoGovernor," Arizona State Legislature. Retrieved on April 24, 2014. Available at: http://www.azleg.gov/legtext/51leg/1r/summary/h.hb2593_04-15-13_astransmittedtogovernor.pdf (April 15, 2013), p. 1.

18 Office of Legislative Research, "Summary for Public Act No. 13-180," Connecticut General Assembly. Retrieved on April 24, 2014. Available at: <http://www.cga.ct.gov/2013/SUM/2013SUM00180-R02HB-06580-SUM.htm> (June 7, 2013).

19 *McCutcheon v. Federal Election Comm'n*, 572 U.S. ___ (2014).

20 "House of Representatives Final Bill Analysis: HB 569," Florida House of Representatives. Retrieved on April 24, 2014. Available at: <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=h0569z.EES.DOCX&DocumentType=Analysis&BillNumber=0569&Session=2013> (May 15, 2013), p. 7-8.

limits are an improvement, but they are still lower than in most states. The necessity of having any limit on these contributions is also unclear, since there are 12 states that place no limits on how much individuals can give to legislative and gubernatorial candidates.²¹ H.B. 569 also eliminated Florida's limit on individual giving to PACs, which had previously been set at only \$500 per election.²² Florida became the 25th state to allow its citizens to contribute in unlimited amounts to PACs, recognizing that the experiences of 24 other states demonstrate that such limits stifle speech, are unnecessary, and fail to produce "good government," or safeguard against corruption. The bill passed with overwhelming bipartisan support in the Senate by a 37-2 vote, and while being a Republican-backed measure, it managed to win a few votes from Democrats in the House as well.

Maryland

Maryland made many changes to its campaign finance laws when Governor Martin O'Malley (D) approved House Bill 1499, the "Campaign Finance Reform Act of 2013," on May 2. The measure embodied the end result of recommendations made by a two-year commission created by the General Assembly to study the state's campaign finance laws. While some of its provisions are troubling for free speech, for the purposes of this analysis, the bill moderately raised existing contribution limits for individuals who choose to donate to candidates or groups. Previously, individuals were limited to contributing \$4,000 per four-year election cycle to candidates for Governor, State Senate, State Delegate, or to political parties or PACs. This limit had not been raised in more than two decades or adjusted for inflation, so it was well past due for an increase. Maryland increased the limit to \$6,000 per four-year election cycle for all offices and entities.²³ However, this modest increase is far from radical, as it actually doesn't even raise the current limits past the effects of inflation. Maryland had last changed its limits in 1991, when it set them to \$4,000. In 2014 dollars, this amount is equivalent to \$6,939.59, according to the Bureau of Labor Statistics,²⁴ a significantly greater amount than the new law's \$6,000 limit. That means that even with the change, Marylanders in 1991 had more freedom to contribute to candidates than do Marylanders today. Additionally, H.B. 1499 increased the state's existing aggregate limit imposed on individual giving to all campaign finance entities per four-year election cycle from \$10,000 to \$24,000. However, because of the Supreme Court's ruling in *McCutcheon v. FEC*, which invalidated the federal aggregate limit imposed on contributions by individuals to candidate campaigns, political parties, and political committees on First Amendment grounds,²⁵ the Maryland State Board of Elections announced that it would no longer enforce the state's aggregate limit on overall individual giving to all campaign finance entities.²⁶ The bill was co-sponsored by one Democrat and one Republican, and received bipartisan votes, passing nearly

21 These twelve states are: Alabama, Indiana, Iowa, Mississippi, Missouri, Nebraska, North Dakota, Oregon, Pennsylvania, Texas, Utah, and Virginia.

22 *Ibid.* 5, p. 8.

23 Department of Legislative Services, "Fiscal and Policy Note—Revised: HB 1499," Maryland General Assembly. Retrieved on April 24, 2014. Available at: http://mgaleg.maryland.gov/2013RS/fnotes/bil_0009/hb1499.pdf (2013), p. 2.

24 "CPI Inflation Calculator," Bureau of Labor Statistics. Retrieved on April 24, 2014. Available at: http://www.bls.gov/data/inflation_calculator.htm (2014).

25 *McCutcheon v. Federal Election Comm'n*, 572 U.S. __ (2014).

26 "Contribution Limits," Maryland State Board of Elections. Retrieved on April 24, 2014. Available at: http://elections.maryland.gov/campaign_finance/documents/aggregate_limits_04112014_final.pdf (April 11, 2014).



unanimously in both the State House of Delegates and State Senate.

Michigan

Michigan became the ninth state to increase contribution limits in 2013 when Governor Rick Snyder (R) signed Senate Bill 661 into law on December 26. Both individuals and Independent PACs saw their ability to contribute to candidates double under the bill. Whereas previously Michiganders had been limited to contributing \$500 to State House candidates, \$1,000 to State Senate candidates, and \$3,400 to statewide candidates, the new limits allow individuals to contribute \$1,000 to State House candidates, \$2,000 to State Senate candidates, and \$6,800 to statewide candidates. All limits apply per election cycle.²⁷ The legislation also doubled the amount Independent PACs are able to contribute to State House candidates (from \$5,000 to \$10,000), State Senate candidates (from \$10,000 to \$20,000), and gubernatorial candidates (from \$34,000 to \$68,000) per election cycle. Additionally, Senate Bill 661 includes a provision to automatically raise contribution limits every four years beginning in 2019 in accordance with the Detroit consumer price index. These changes were sorely needed, as contribution limits had not been raised by the Michigan Legislature since 1976. Amendments proposed to water-down the impact of the bill, by lowering contribution limits or by stripping the inflation-indexing provision, failed in the Senate. Senate Bill 661 was supported largely by Republican legislators in both chambers, and ultimately passed 23-14 in the Senate and 56-52 in the House, with support from a key vote by the House's only Independent.

Minnesota

On May 24, Minnesota joined the trend of states raising their contribution limits. Based off recommendations from the Minnesota Campaign Finance and Public Disclosure Board, Senate File 661 raised contribution limits for individuals giving to candidates. Whereas previously these limits had been set at \$500 for legislative candidates in election years and \$2,000 for gubernatorial candidates, they have now both been doubled to \$1,000 for legislative candidates and \$4,000 for gubernatorial candidates in election years.²⁸ The \$500 to \$1,000 increase is enough to pull Minnesota out of the bottom 5 states for contribution limits to legislative candidates; however, its limits are still far lower than in most states. The bill was sponsored by several legislators from the Democratic-Farmer-Labor Party and signed into law by Governor Mark Dayton (DFL).

North Carolina

North Carolina became the eighth state to raise its contribution limits in 2013 when Governor Pat McCrory (R) signed House Bill 589 into law on August 12. The bill will have far-reaching effects on North Carolina's elections and campaign finance systems.²⁹ While we don't take any position on

²⁷ Jonathan Oosting, "Gov. Snyder signs law to double Michigan campaign contribution limits, codify 'issue ad' rules," *Michigan Live*. Retrieved on April 24, 2014. Available at: http://www.mlive.com/politics/index.ssf/2013/12/snyder_contributions_issue_ads.html (December 27, 2013).

²⁸ "Chapter 138—S.F.No. 661," Office of the Revisor of Statutes. Retrieved on April 24, 2014. Available at: <https://www.revisor.mn.gov/data/revisor/law/2013/0/2013-138.pdf> (May 24, 2013), p. 16.

²⁹ Reid Wilson, "27 other things the North Carolina voting law changes," *The Washington Post*. Retrieved on April 24, 2014. Available at: <http://www.washingtonpost.com/blogs/govbeat/wp/2013/09/08/27-other-things-the-north-carolina->

most of the provisions of H.B. 589, it bears noting that the legislation raised North Carolina's existing contribution limits and set in place a mechanism to raise these limits every two years to keep up with inflation. Most states do not index their contribution limits to inflation, and often limits stay in place for decades, meaning that in real dollars, citizens typically face lower and lower limits every year. North Carolina can hope to avoid the fate of limits in states like Maryland, which gradually decline in relative value due to the effects of inflation, by adding this mechanism. Specifically, the bill raises the limit on contributions from individuals to legislative and statewide candidates or PACs, from \$4,000 per election to \$5,000 per election.

Wyoming

Governor Matt Mead (R) signed House Bill 187 on March 13, making Wyoming the first state to raise (some of) its contribution limits in 2013. H.B. 187 raised the limit on contributions from individuals to legislative candidates from \$1,000 per election to \$1,500 per election, and raised the limit for gubernatorial candidates from \$1,000 per election to \$2,500 per election.³⁰ These changes are both modest improvements, but Wyoming still ranks among the more restrictive half of states in the nation in regards to its donation limits. The legislation also doubled the aggregate amount individuals could contribute over a two-year period from \$25,000 to \$50,000. However, as with Connecticut, because of the Supreme Court's decision in *McCutcheon v. FEC*, this aggregate limit is on tenuous constitutional ground.³¹ In addition, the legislation created a \$7,500 limit per election on contributions from PACs to statewide candidates and a \$3,000 limit per election on contributions from PACs to legislative candidates. Previously, Wyoming was like the other 13 states that have no limit on contributions from PACs to candidates. H.B. 187 was ultimately a bipartisan effort, with three Republican sponsors and one Democratic sponsor, and it passed the House and Senate with a mix of Republicans and Democrats on both sides of the vote.

voting-law-changes/ (September 8, 2013).

30 "CH0189: Amending limitations on campaign contributions," Wyoming Legislature. Retrieved on April 24, 2014. Available at: <http://legisweb.state.wy.us/2013/Summaries/HB0187.htm> (March 13, 2013).

31 *McCutcheon v. Federal Election Comm'n*, 572 U.S. __ (2014).



Appendix II: Two States Almost Raise Contribution Limits

In addition to the nine states that eliminated or raised their contribution limits in 2013, two others came close to changing their contribution limits. These states will be ones to watch in upcoming legislative sessions. This second appendix examines the political context and the specifics of the contribution limit increase legislation considered in both Montana and Tennessee in 2013.

Montana

The Montana Legislature passed a bill (House Bill 265) that would have increased the existing limits in the state and indexed them to inflation. This would have been a significant change, since most states do not index their limits to inflation, and Montana's limit on individual giving to legislative candidates is the nation's lowest. However, the bill was vetoed by Governor Steve Bullock (D), who said he would have accepted the higher contribution limits if the bill also included measures to increase existing disclosure and apply it to a broad swath of organizations and entities.³²

Tennessee

Tennessee considered a significant increase to its limit on contributions from political parties to candidates. Many lawmakers in Tennessee have come to view contribution limits as ineffective and unnecessary, given the rise in independent spending as politically engaged citizens seek avenues to exercise their First Amendment rights. As a result, House Bill 643 set out to increase the amount that parties could contribute: from \$374,300 to \$500,000 per election for gubernatorial candidates, from \$59,900 to \$150,000 per election for State Senate candidates, and from \$30,000 to \$75,000 per election for State House and local offices.³³ This change would have moved Tennessee closer to the majority, as 25 states currently allow unlimited contributions from state political parties to candidates for any statewide or legislative office. The bill needed 50 votes to pass the House, and fell just short, achieving 48 votes in favor and 41 opposed. It was supported by most Republicans, but no Democrats.³⁴

32 Governor Steve Bullock, "HB 265: VETO TEXT," Office of the Governor, State of Montana. Retrieved on April 24, 2014. Available at: <http://leg.mt.gov/bills/2013/AmdHtmH/HB0265GovVeto.pdf> (May 6, 2013).

33 "Bill Summary: HB 0643/SB 0787," Tennessee General Assembly. Retrieved on April 24, 2014. Available at: <http://wapp.capitol.tn.gov/apps/billinfo/BillSummaryArchive.aspx?BillNumber=HB0643&ga=108> (2013).

34 Tom Humphrey, "Casada's Campaign Finance Bill Flops in House," *Knoxnews.com*. Retrieved on April 24, 2014. Available at: <http://blogs.knoxnews.com/humphrey/2013/04/casada.html> (April 17, 2013).



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