

Campaign Finance

17.251/252

Spring 2015

Problems Thinking about Campaign Finance

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

Overview History of Campaign Finance Regulation

- Mists of time—Civil War: no regulation
- Civil War—1910
 - “Gilded Age”
 - Muckraking journalism unearthed many scandals
 - 1868: 75% of money used in congressional elections through party assessments
 - 1867: Naval Appropriations Bill prohibits officers and employees of the fed. gov’t from soliciting contributions
 - 1883: Civil Service Reform Act (Pendleton Act) prohibits the same solicitation of all federal workers

Overview History of Campaign Finance Regulation

- Corrupt Practices Acts of 1911 and 1925
 - Set disclosure requirements for House and Senate Elections
 - Spending limits (\$25k for Senate; \$5k for House)
 - Ridiculously weak and regularly violated

More history

- 1971 Federal Election Campaign Act (FECA)
- 1971 Revenue Act
- 1974 FECA Amendments (FECAA)
- 1976: *Buckley v. Valeo* (1976)
- 1979 FECA Amendments: “party building” activities allowed, leading to “soft money”
- 2000: Section 527 reform (reporting)
- 2002: Bipartisan Campaign Reform Act (McCain-Feingold)
- 2010:
 - *Citizens United*
 - *Speechnow.org*
- 2014: *McCutcheon v. FEC*

Campaign Finance Reform and Buckley I

Original Provision	Effect of <i>Buckley v. Valeo</i>
<i>Expenditure limits</i>	
Overall spending limits (Congress and president)	Struck down, except as condition to receiving public funding (freedom of speech)
Limits on the use of candidates' own resources	Struck down entirely (freedom of speech)
Limits on media expenditures	Struck down entirely (freedom of speech)
Independent expenditure limits	Struck down entirely (freedom of speech)

Campaign Finance Reform and Buckley II

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

*Struck down by McCutcheon

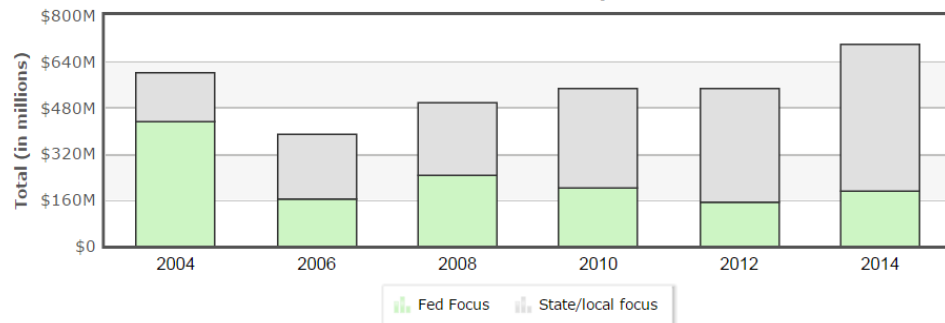
Campaign Finance Reform and Buckley III

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

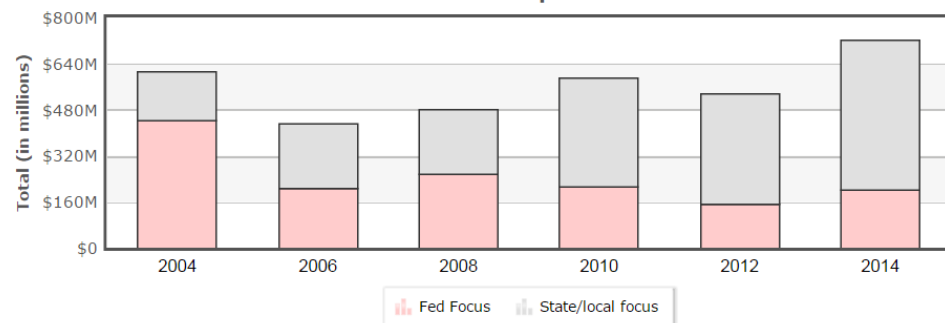
Section 527 Highlights

- Applies to non-profits incorporated under section 527 of the Internal Revenue Code
 - Examples: SEIU, America Votes, Club for Growth, Emily's List
 - George Soros, largest contributor
 - Issue advocacy, not candidate advocacy
 - Previous restriction: they may run issue ads, but not advocate the election of a fed. cand.
- Gist: contributions must now be reported
- Effects:
 - Some have complied
 - Some have re-filed incorporation papers
 - Some have filed lawsuits
- Probably less important, given other possibilities

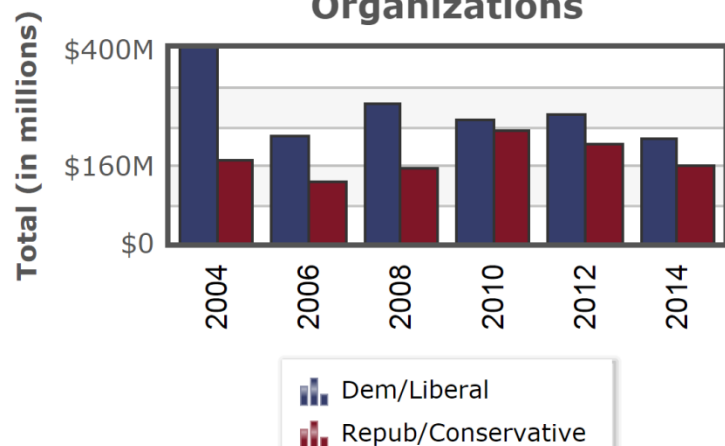
Total 527 Receipts



Total 527 Expenditures



Total Receipts All Organizations



Committee	Total Receipts	Expenditures	Federal PAC	2004 Major Player Profile
NextGen Climate Action	\$23,642,715	\$23,174,713		
ActBlue	\$19,445,910	\$14,432,536	X	
Service Employees International Union	\$19,356,116	\$19,582,096	X	X
EMILY's List	\$17,333,442	\$17,098,043	X	
American Federation of Teachers	\$13,400,173	\$12,870,136	X	
College Republican National Cmte	\$11,818,780	\$12,663,537		
Laborers Union	\$8,366,830	\$7,488,806	X	
Intl Brotherhood of Electrical Workers	\$7,597,453	\$8,147,575	X	
Plumbers/Pipefitters Union	\$7,168,741	\$7,728,830	X	
Citizens United	\$4,502,755	\$4,644,589	X	
Gay & Lesbian Victory Fund	\$4,327,280	\$8,001,493	X	
GOPAC	\$3,300,291	\$3,161,526		
Sierra Club	\$2,924,164	\$2,638,598	X	X
National Education Assn	\$2,731,235	\$3,057,676	X	
National Assn/Mutual Insurance Companies	\$2,669,266	\$2,247,061	X	
Carpenters & Joiners Union	\$2,520,000	\$1,571,959	X	
United Food & Commercial Workers Union	\$2,248,100	\$2,671,238	X	
United Steelworkers	\$2,085,787	\$1,976,080	X	
Emerge America	\$2,030,126	\$1,755,941		
United Brotherhood of Carpenters	\$1,917,756	\$1,980,946	X	
American Beverage Assn	\$1,500,000	\$1,359,500	X	
American Dental Assn	\$1,352,543	\$1,439,104	X	
New Approach PAC	\$1,260,000	\$1,637,356		
Progressive Change Campaign Cmte	\$1,251,852	\$1,151,884	X	
Sheet Metal Workers Union	\$1,235,868	\$1,110,217	X	



NextGen founder, Steve Steyer



Not a picture of a younger Steve Steyer



NextGen founder, Steve Steyer

From the Election Law Blog

4/8/2015

[“Billionaire plans to target GOP presidential hopefuls”](#)

Posted on [April 8, 2015 7:48 am](#) by [Rick Hasen](#)

[USA Today](#):

Billionaire environmentalist Tom Steyer’s political aides unveiled a campaign Monday to target the 2016 Republican presidential field on climate-change issues in battleground states.

At the center of Steyer’s strategy: linking the candidates to the billionaire industrialists Charles and David Koch, whose network has committed to spend nearly \$900 million to advance its free-market agenda before the 2016 presidential election.

Glad we can let the billionaires all sort it out for us as to who should be president. Very helpful.

McCain-Feingold Main Features* (I)

- Hard money
 - Limit increased to \$2k/election/candidate, \$25k to national parties; indexed to inflation
 - Likely outcome: Reps. Gain (until Obama figured it out)
- Soft money
 - National parties totally prohibited
 - State & local parties: \$10k/year for registration & gotv; regulated by states
 - Likely outcome: National parties lose in favor of states
- Organizations
 - No limits, if \$\$ not used for fed. election activity
 - Likely outcomes:
 - More \$\$ for these groups
 - Law suits

*The actual bill was the Shays-Meehan bill

McCain-Feingold Main Features (II)

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



*One of the Citizens United issues

McCain-Feingold Controversies

- Lawsuits
 - McConnell v. FEC, 540 U.S. 93 (2003)
 - Upheld broadcast & soft money restrictions
 - FEC v. Wisconsin Right to Life (2007)
 - Struck down limits on corps. mentioning candidates.
 - Davis v. FEC (2008)
 - Struck down “millionaire’s amendment”
 - Citizens United (2010)
 - See next slide
- FEC regulations
 - Lax regulation of 527’s
 - Narrow definition of “solicit”
 - Internet excluded from regulation
 - Overturned by trial court
 - Reluctantly implemented by FEC

Citizens United

- *FEC v. Wisconsin Right to Life* (2007)
 - “black-out” period for independent ads struck down on 5-4 vote
- *Citizens United v. FEC* (2010)
 - prohibitions on independent campaign spending by corporations/unions struck down 5-4
- *speechnow.org v. FEC* (2010)
 - allowed corporations to give to PACs that only engaged in *independent expenditures*

Where we are

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

Current Contribution Limits for 2013--2014

	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year	Special Limits	
Individual may give	\$2,600*	\$32,400	\$10,000 (combined limit)	\$5,000	STRUCK DOWN ☠	
National Party Committee may give	\$5,000	No limit	No limit	\$5,000	\$45,400* to Senate candidate per campaign	
State, District & Local Party Committee may give	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit	
PAC (multicandidate) may give	\$5,000	\$15,000	\$5,000	\$5,000	No limit	
PAC (not multicandidate) may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	No limit	
Authorized Campaign Committee may give	\$2,000	No limit	No limit	\$5,000	No limit	

Source: <http://www.fec.gov/pages/brochures/contriblimits.shtml>

Campaign Facts

- Total spending and receipts
- Growth in congressional money
- Incumbent vs. challenger vs. open seats
- Growth of PACs
 - Regular PACs
 - Leadership PACs
 - Super PACs

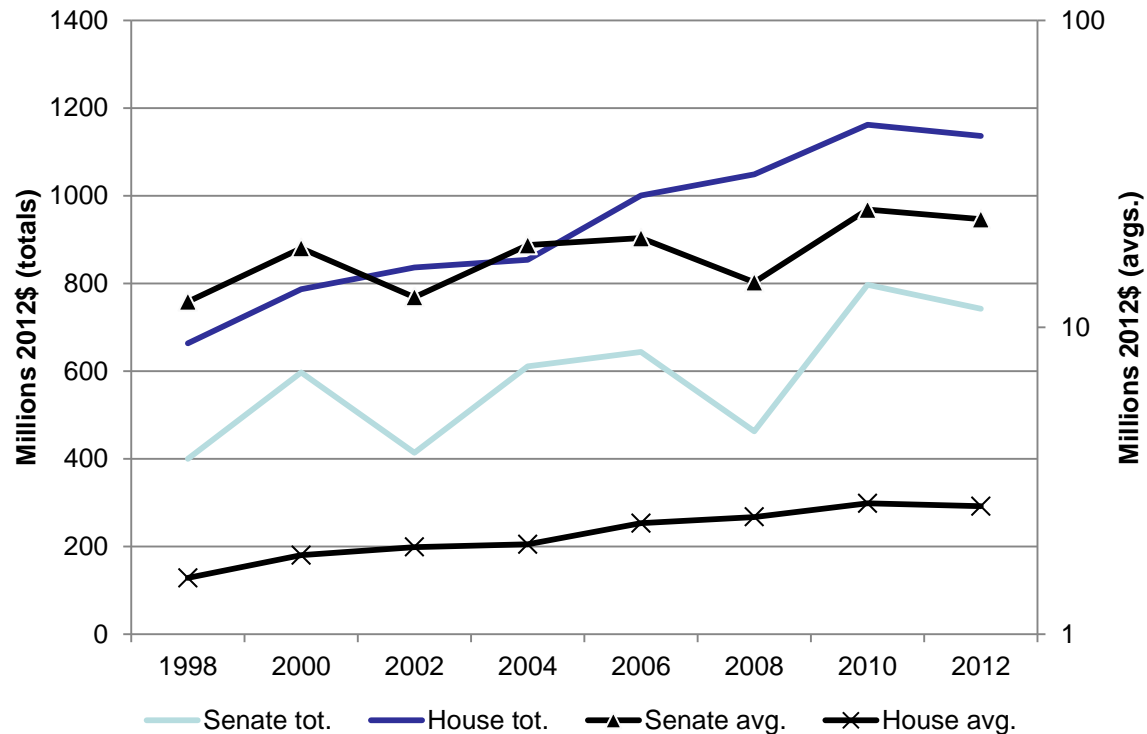
Sources of Campaign Receipts for Congressional Races, 2012 (Table 6.7 update)

	Incumbents		Challengers		Open Seats	
	\$ millions	%	\$ millions	%	\$ millions	%
House						
Individuals	359.8	52.3	194.3	61.9	263.0	57.0
PACS	287.8	41.9	41.1	13.1	23.1	15.3
Candidate & loans	9.2	1.3	70.7	22.5	39.6	26.3
Total income*	687.6		314.0		150.7	
Spending	660.5	96.1%	307.1	97.8%	146.4	97.2%
Senate						
Individuals	188.7	66.2	142.3	63.8	135.1	51.4
PACs	47.6	29.5	13.0	5.8	20.3	7.7
Candidate & loans	6.0	4.3	60.7	27.2	100.7	38.3
Total income*	256.1		223.2		263.0	
Spending	260.8	101.1%	225.2	100.9%	262.0	99.6%

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

Source: http://www.fec.gov/press/summaries/2012/tables/congressional/ConCand3_2012_24m.pdf

Growth in congressional money (General + primary elections)



Outside spending

Total by Type of Spender, 2014

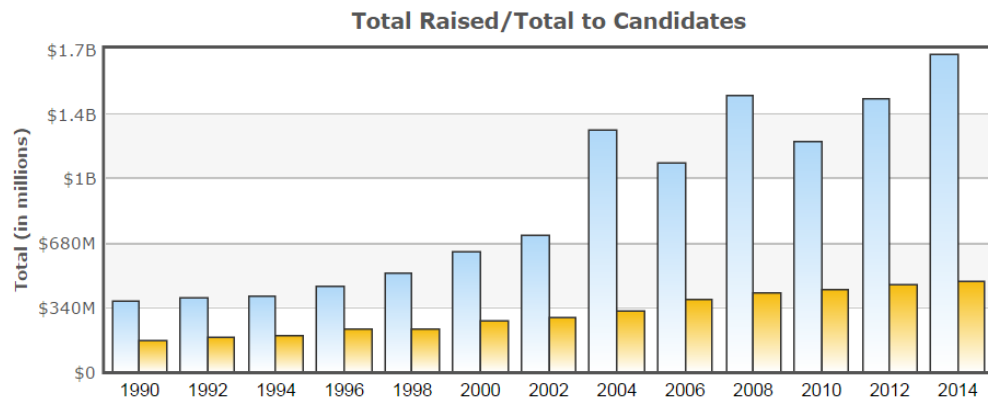
Type of Group	Total Spent	# of Groups Registered	# of Groups Spending to date
Super PACs	\$348,545,054	1,336	230
Social Welfare 501(c)(4)	\$117,857,743	N/A	91
Trade Assns 501(c)(6)	\$40,387,198	N/A	11
Unions 501(c)(5)	\$1,729,425	N/A	19
Parties	\$230,912,599	71	26
Other (corporations, individual people,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

https://www.opensecrets.org/outsidespending/fes_summ.php?cycle=2014

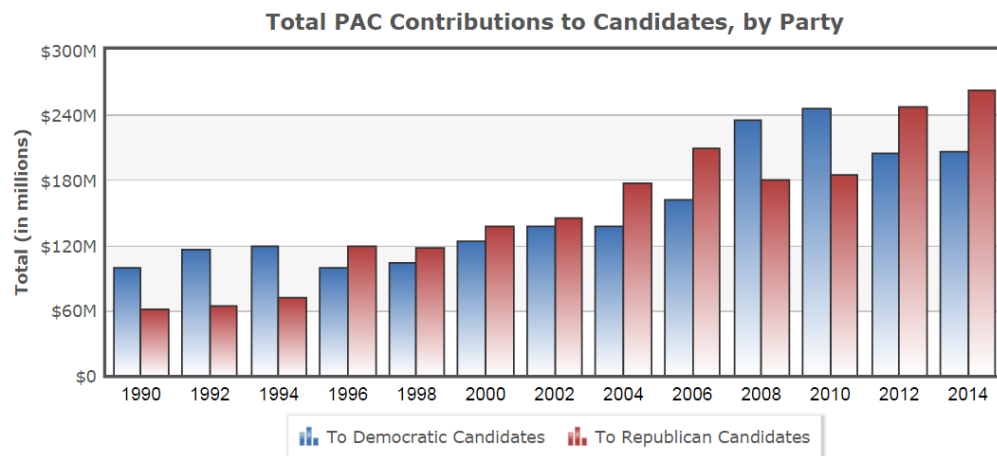
PAC giving 2014

Source: Open Secrets

PAC Summary: Total Raised/Total to Candidates | Party Split



PAC Summary: Total Raised/Total to Candidates | Party Split



Top PACs Giving to Candidates

Top PACs for: 2013-2014

ALL | DEMS | REPUBS

PAC Name	Dem Total
Intl Brotherhood of Electrical Workers	\$2,387,374
American Assn for Justice	\$2,114,000
American Federation of Teachers	\$2,054,000
American Fedn of St/Cnty/Munic Employees	\$2,014,600
Operating Engineers Union	\$1,985,742
Plumbers/Pipefitters Union	\$1,855,750
National Assn of Realtors	\$1,850,669
Laborers Union	\$1,843,499
Machinists/Aerospace Workers Union	\$1,835,900
United Food & Commercial Workers Union	\$1,737,775

Top PACs Giving to Candidates

Top PACs for: 2013-2014

ALL | DEMS | REPUBS

PAC Name	Repub Total
National Auto Dealers Assn	\$2,019,250
National Assn of Realtors	\$1,972,570
American Bankers Assn	\$1,946,375
Every Republican is Crucial PAC	\$1,850,000
National Beer Wholesalers Assn	\$1,810,000
Honeywell International	\$1,659,836
Koch Industries	\$1,640,500
National Rural Electric Cooperative Assn	\$1,585,522
Lockheed Martin	\$1,520,250
AT&T Inc	\$1,503,250
National Assn of Insurance & Financial Advisors	\$1,457,500

(See Top 20 List)

<https://www.opensecrets.org/pacs/index.php?chart=T>

Leadership PACs

Search for a PAC

Enter at least 3 characters



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Thanks to support from individuals like yourself, our work makes possible the daily examination of the industries, organizations and individuals trying to influence the democratic process.

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Street City, State Zip Code



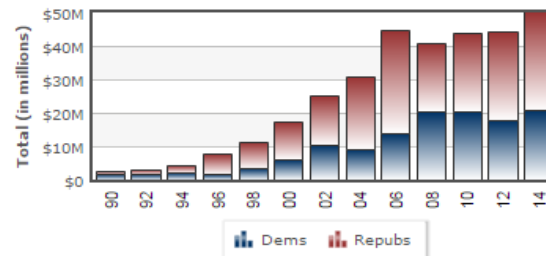
AdChoices



PAC Contributions to Federal Candidates

Election cycle:

2014



Total Amount:	\$49,781,634	
Total to Democrats:	\$20,818,172	(42%)
Total to Republicans:	\$28,921,038	(58%)
Number of PACs making contributions:	506	

View Total Contributions to Candidates

PAC Name	Affiliate	Total	Dems	Repubs
Every Republican is Crucial PAC	Eric Cantor (R-Va)	\$1,850,000	\$0	\$1,850,000
Freedom Project	John A. Boehner (R-Ohio)	\$1,400,000	\$0	\$1,400,000
AmeriPAC: The Fund for a Greater America	Steny H. Hoyer (D-Md)	\$1,369,000	\$1,374,000	\$0
Majority Cmte PAC	Kevin McCarthy (R-Calif)	\$1,209,073	\$0	\$1,209,073
Prosperity Action	Paul Ryan (R-Wis)	\$895,500	\$0	\$895,500
BRIDGE PAC	James E. Clyburn (D-SC)	\$731,500	\$731,500	\$0
Jobs, Economy & Budget Fund	Jeb Hensarling (R-Texas)	\$730,403	\$0	\$730,403
Democrats Win Seats PAC	Debbie Wasserman Schultz (D-Fla)	\$624,200	\$625,200	\$0
PAC to the Future	Nancy Pelosi (D-Calif)	\$573,500	\$573,500	\$0
Pioneer PAC	Patrick J. Tiberi (R-Ohio)	\$569,618	\$0	\$569,618

<https://www.opensecrets.org/pacs/industry.php?txt=Q03&cycle=2014>

Super PAC spending

2014 Outside Spending, by Super PAC

2014 financial activity for super PACs

1,340 number of super PACs

\$696,011,919 total raised by super PACs

\$348,545,054 total spent by super PACs

select CYCLE:

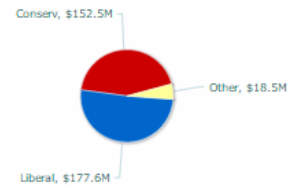
2014

select FILTER:

All types
Independent Expenditures
-- Super PACs
Electioneering Communication
Non-Party Committees
Non-Disclosing Groups
Single-Candidate Super PACs

Spending by viewpoint for SuperPACs

- by Group Viewpoint
- by Recipient Party
- by Disclosure of Group

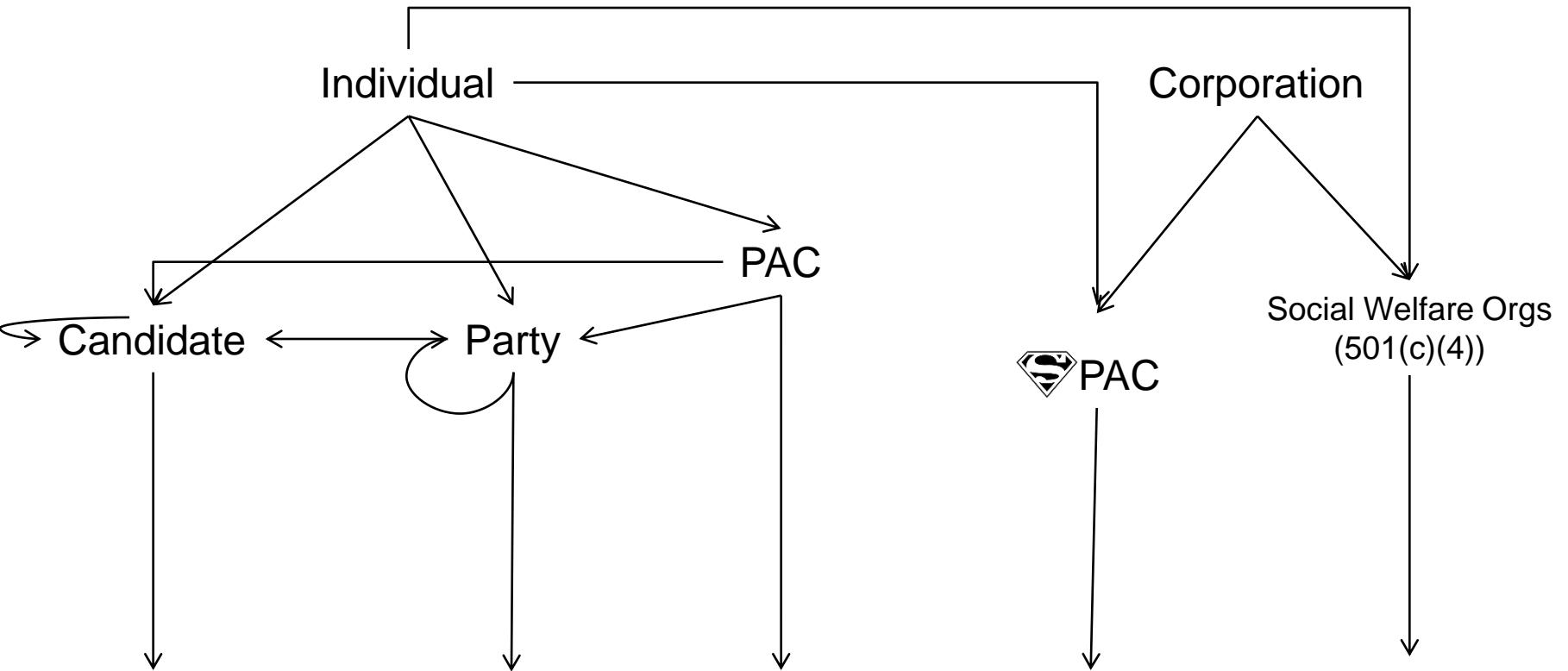


View: C = Conservative, L = Liberal, X = Bi-Partisan, U = Unknown

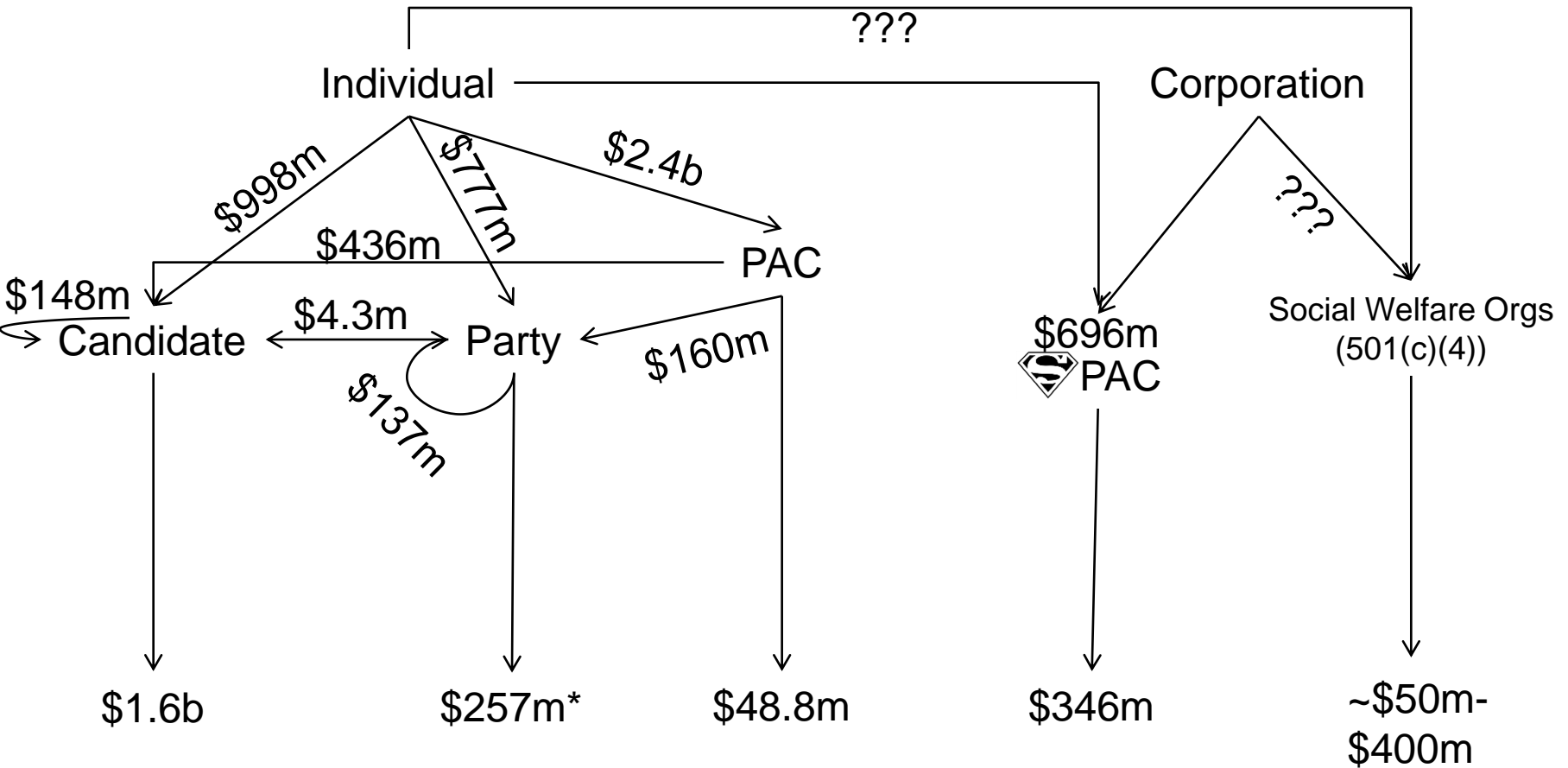
○ = No disclosure of donors ○ = Partial disclosure of donors ● = Full disclosure of donors 🟢 = Ad available

Group	Independent Expenditures	View*	Supports/Opposes*	Total Raised
Senate Majority PAC ●	\$46,651,418	L		\$66,914,460
House Majority PAC ●	\$29,501,763	L		\$38,081,217
Freedom Partners Action Fund ●	\$23,410,114	C		\$29,111,416
American Crossroads ●	\$22,704,603	C		\$31,764,829
Ending Spending Action Fund ●	\$22,585,431	C		\$24,451,992
NextGen Climate Action ●	\$19,505,503	L		\$77,836,875
National Assn of Realtors ○	\$11,291,835			\$10,082,110
Put Alaska First PAC ●	\$10,157,335	L	supports Begich	\$10,553,839
Congressional Leadership Fund ○	\$10,098,748	C		\$12,612,697
League of Conservation Voters ○	\$8,986,809	L		\$10,295,171
Americans for Responsible Solutions ●	\$8,220,162	L		\$21,343,357
Women Vote! ●	\$8,172,295	L		\$12,399,503
Club for Growth Action ●	\$7,841,435	C		\$9,319,680

Where (I think) the money came from/went to in 2014



Where (I think) the money came from/went to in 2014



*Mostly independent
~10% coord.

Where does it go?

What good does it do?

- Where does it go?
 - Safe incumbents: consumption
 - Unsafe incumbents: campaign (media, etc.)
 - Everyone else: Campaign activities
- To what effect?
 - The paradox of the spendthrift incumbent
 - The paradox of the spendthrift Super PAC?

Does Private Money “Buy” Access?

- Why do people contribute to campaigns?
 - Participation (Ansolabehere and Snyder)
 - Investors vs. consumers
 - Access and compositional effects
 - Lobbying expenses >> PAC contributions
- What do contributors get?
 - Talk to contributors: it's protection money
 - Empirical studies of legislating: mixed results

Thinking about Reform

- Never underestimate the power of unintended consequences
 - Shift to PACs
 - Shift to millionaires
 - Shift to 527s

Problems with Particular Reforms

- Spending limits:
 - Generally favors incumbents
 - Generally unconstitutional
- Limit activities of non-candidates
 - Encourages shifting to other behaviors
 - Generally unconstitutional
- Subsidies (free TV, etc.)
 - Is this enough?
 - Do we want more TV?
- Public Financing
 - Citizens don't like paying for politics
 - People can still opt out
- Disclosure
 - Intimidation?

Also from the Election Law Blog, 4/8/2015

Posted in [campaign finance](#)

“Oversimplifying Corruption and the Power of Disgust”

Posted on [April 8, 2015 7:44 am](#) by [Rick Hasen](#)

Bob Bauer with [some important points](#) on the connection between campaign finance reform and corruption, including some reflections on my draft paper, [Why Isn't Congress More Corrupt? A Preliminary Inquiry](#).