Running for public office costs money—and often quite a lot of it. That fact creates some very real problems. It presents the possibility that candidates will try to buy their way into office. It also makes it possible for special interests to try to buy favors from those who hold office.

Clearly, government by the people must be protected from those dangers. But how? Parties and candidates must have money. Without it, they cannot campaign or do any of the many other things they must do to win elections.

In short, dollars are absolutely necessary campaign resources. Yet, the getting and spending of campaign funds can corrupt the entire political process.

**Campaign Spending**

No one really knows how much money is spent on political campaigns in the United States. Remember, there are more than 500,000 elective offices in this country—most of them at the State and particularly the local level. More or less reliable estimates of total spending in presidential election years—on all efforts to win nominations and to gain offices at all levels—can be seen in the table on the next page.

The presidential election consumes by far the largest share of campaign dollars. For 2008, total spending for all of the major and minor party presidential efforts—for primaries and caucuses, conventions, general election campaigns, for everything—reached a mind-boggling $2.5 billion.

The vast sums spent on congressional campaigns also continue to climb, election after election. That spending has doubled over the past decade. A candidate must now raise and spend at least $1 million in a typical race for a seat in the House. A Senate campaign can cost as much as twenty times that amount. All told, some $1.8 billion was spent on House and Senate contests in 2010.

Radio and television time, professional campaign managers and consultants, newspaper advertisements, pamphlets, buttons, posters and bumper stickers, office rent, polls, data processing, mass mailings, Web sites, travel—these and a host of other items make up the huge sums spent in campaigns. Television ads are far and away the largest item in most campaign budgets.
today, even at the local level. As humorist Will Rogers put it years ago, “You have to be loaded just to get beat.”

The total amount spent in particular races varies widely, of course. How much depends on several things: the office involved, the candidate and whether he or she is the incumbent or the challenger, the nature of the opposition, and much more—including, not least, the availability of campaign funds.

Sources of Funding
Parties and their candidates draw their money from two basic sources: private contributors and the public treasury.

Private and Public Sources Private givers have always been the major source of campaign funds in American politics. They come in various shapes and sizes:

1. Small contributors—those who give $5 or $10 or so, and only occasionally. Only about 10 percent of people of voting age ever make a campaign contribution, so parties and candidates must look to other places for much of their funding.

2. Wealthy individuals and families—the “fat cats,” who can make large donations and find it in their best interest to do so.

3. Candidates—both incumbents and challengers, their families, and, importantly, people who hold and want to keep appointive public offices. Ross Perot holds the all-time record in this category. He spent some $65 million of his own money on his independent bid for the presidency in 1992.

4. Various nonparty groups—especially political action committees (PACs). Political action committees are the political arms of special-interest groups and other organizations with a stake in electoral politics.

5. Temporary organizations—groups formed for the immediate purposes of a campaign, including fundraising. Hundreds of these short-lived units spring up every two years, and at every level in American politics.

Then, too, parties and their candidates often hold fundraisers of various sorts. The most common are $100-, $500-, and $1,000-a-plate luncheons, dinners, picnics, receptions, and similar gatherings. Some of these events now reach the $100,000-or-more level in presidential campaigns. Direct mail requests, telethons, and Internet solicitations are also among the oft-used tools of those who raise campaign money.

Over recent years, the Internet has become, by far, the most productive of those tools. Often, donations spiked immediately after an important speech or primary election victory or when the candidate challenged donors to give. Web sites including Daily Kos and Act Blue identified and profiled congressional candidates for their readers to support.

Public funds—subsidies from the federal and some State treasuries—are now another prime source of campaign money. A subsidy is a grant of money, usually from a government. Subsidies have so far been most important at the presidential level, as you will see shortly. Several States also provide some form of public funding of parties and/or candidacies.

Why People Give Campaign donations are a form of political participation. Those who
donate do so for a number of reasons. Many small donors give simply because they believe in a party or in a candidate. Many of those who give, however, want something in return. They want access to government, and hope to get it by helping their “friends” win elections. And, notice, some contributors give to both sides in a contest: Heads they win and tails they still win.

Regulating Finance

Congress first began to regulate the use of money in federal elections in 1907. In that year, it became unlawful for any corporation or national bank to make “a money contribution in any election” to candidates for federal office. Since then, Congress has passed several laws to regulate the use of money in presidential and congressional campaigns. Today, these regulations are found in four detailed laws: the Federal Election Campaign Act (FECA) of 1971, the FECA Amendments of 1974 and of 1976, and the Bipartisan Campaign Reform Act (BCRA) of 2002.

The earliest federal laws were loosely drawn, not often obeyed, and almost never enforced. The 1971 law replaced them. The 1974 law was the major legislative response to the Watergate scandal of the Nixon years. The 1976 law was passed in response to a landmark Supreme Court decision, *Buckley v. Valeo*, in 1976. The 2002 law attempted to close the “soft-money” loophole in the 1974 and 1976 statutes; it was upheld by the High Court in *McConnell v. FEC* in 2003.

In 2010, the Supreme Court issued a stunning and controversial ruling that struck down part of the BCRA and called into question portions of the 1907 and 1971 laws. In *Citizens United v. Federal Election Commission*, a divided Court ruled, 5–4, that the government ban on political spending by corporations or labor unions violated the 1st Amendment right to free speech. Some supported the ruling. Others feared that it would, in the words of President Obama, “open the floodgates for special interests.” As of 2010, Congress had yet to craft legislation in response to the ruling.
Congress cannot regulate the use of money in State and local elections. Every State now regulates at least some aspects of campaign finance, however—some of them do so more effectively than others.\footnote{State campaign finance laws are summarized in \textit{The Book of the States}, an annual publication of the Council of State Governments.}

**Federal Election Commission**

The Federal Election Commission (FEC) administers all federal law dealing with campaign finance. Set up by Congress in 1974, the FEC is an independent agency in the executive branch. Its six members are appointed by the President, with Senate confirmation.

Federal campaign finance laws are both strongly worded and closely detailed. But they are not very well enforced. In large part this is because the FEC has been both underfunded and understaffed. That is to say, members of Congress—who, remember, raise and spend campaign money—have made it practically impossible for the FEC to do an effective job. In short, the FEC finds itself in a situation much like that of the chickens who must guard the fox house.

The laws that the FEC is supposed to enforce cover four broad areas. They (1) require the timely disclosure of campaign finance data, (2) place limits on campaign contributions, (3) place limits on campaign expenditures, and (4) provide public funding for several parts of the presidential election process.

**Disclosure Requirements** Congress first required the reporting of certain campaign finance information in 1910. Today, the disclosure requirements are intended to spotlight the place of money in federal campaigns, and they were not affected by the Court’s ruling in \textit{Citizens United} in 2010. Those requirements are so detailed that most candidates for federal office must now include at least one certified public accountant in their campaign organization.

No individual or group can make a contribution in the name of another. Cash gifts of more than $100 are prohibited, as are contributions and spending from foreign sources.

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**Rising Campaign Costs**

Candidates are raising and spending more money than ever, and no campaign demands more than the presidential contest. John McCain and Barack Obama set new spending records in 2008, as data averaged from both campaigns for just one month indicate. How does campaign spending reflect the importance of television?

- **Travel** $4,100,000
- **Television and radio advertising time** $25,200,000
- **Campaign worker salaries** $2,000,000
- **Polling** $800,000

\textit{SOURCE: Federal Election Commission, September 2008}
All contributions to a candidate for federal office must be made through a single campaign committee. Only that committee can spend that candidate's campaign money. All contributions and spending must be closely accounted for by that one committee. Any contribution or loan of more than $200 must be identified by source and by date. Any spending over $200 must also be identified by the name of the person or firm to whom payment was made, by date, and by purpose.

Any contribution of more than $5,000 must be reported to the FEC no later than 48 hours after it is received. So, too, must any sum of $1,000 or more received in the last 20 days of a campaign.

**Limits on Contributions** Congress first began to regulate campaign contributions in 1907, when it outlawed donations by corporations and national banks. A similar ban was first applied to labor unions in 1943. Individual contributions have been regulated since 1939.

Today, no person can give more than $2,300 to any federal candidate in a primary election, and no more than $2,400 to any federal candidate's general election campaign. Also, no person can give more than $5,000 in any year to a political action committee (PAC), or $28,500 to a national party committee. The total of any person's contributions to federal candidates and committees now must be limited to no more than $108,200 in an election cycle (the two years from one general election to the next one). The FEC adjusts those figures, to account for inflation, every two years.

Those limits may seem generous; in fact, they are very tight. Before limits were imposed in 1974, many wealthy individuals gave far larger amounts. In 1972, for example, W. Clement Stone, a Chicago insurance executive, contributed more than $2 million (equal to more than $20 million in today's money) to President Richard Nixon's reelection campaign.

**PAC Contributions** Neither corporations nor labor unions can contribute directly to any candidate for federal office. Their political action committees, however, can and do.

Political action committees (PACs) seek to affect the making of public policy, and so they are very interested in the outcome of elections in the United States. Some 4,400 PACs are active today, and those organizations are of two distinct types:

1. Most PACs are the political arms of special interest groups—and especially of business associations, labor unions, and professional organizations. These groups are known in the law as "segregated fund committees." They can raise funds only from their members—from the executives, the employees, and the stockholders of a corporation, from the members of a labor union, and so on. They cannot seek contributions from the general public. Each of these PACs is a part of its parent organization.

   BIPAC (the Business-Industry Political Action Committee) and COPE (the AFL-CIO's Committee on Political Education) are among the most active of these groups.

2. A few hundred PACs are "unconnected committees." Each of them was established as an independent entity, not as a unit in some larger organization. Many are ideologically based. These PACs can raise money from the public at large. One major example is EMILY's List, which actively recruits and funds pro-choice women as Democratic candidates. (The group takes its name from this political maxim: Early Money Is Like Yeast, it makes the dough rise.)

   PACs fill their war chests with contributions from the members of the PAC's parent organization or with the dollars they raise from the public. They "bundle" the money they gather—that is, each PAC pools its many contributions into a single large fund. Then they distribute that money to those candidates who (1) are sympathetic to the PAC's policy goals, and (2) have a reasonable chance of winning their races.

   No PAC can give more than $5,000 to any one federal candidate in an election, or $10,000 per election cycle (primary and general election). However, there is no overall limit on PAC giving to candidates. Each PAC can give up to $5,000 per election to each of as many candidates as it chooses. A PAC may also contribute up to $15,000 a year to a political party.

   Barack Obama refused PAC contributions in 2008. Even so, those groups poured $416 million into the presidential and congressional...
campaigns that year. And they funneled untold other millions into State and local contests around the country, as well.

**Limits on Expenditures** Congress first began to limit federal campaign spending in 1925. Most of the limits now on the books apply only to presidential (not congressional) elections. This fact is due mostly to the Supreme Court’s decision in *Buckley v. Valeo*, 1976.

In *Buckley*, the High Court struck down all but one of the spending limits set by the FECA Amendments of 1974. It held each of the other restrictions to be contrary to the 1st Amendment’s guarantees of free expression. In effect, said the Court, in politics “money is speech.”

The one limit the Court did uphold is a cap on spending by those presidential contenders who accept FEC subsidies for their preconvention and/or their general election campaigns. As you will see in a moment, those who seek the presidency can either accept or reject that public money for their campaigns. In *Buckley*, the Court said that those who take the subsidies must take a spending limit along with them, as part of their deal with the FEC.  

**Public Funding for Presidential Campaigns** Congress first began to provide for the public funding of presidential campaigns in the Revenue Act of 1971. It broadened sections of that law in 1974 and again in 1976.

The 1971 law created the Presidential Election Campaign Fund. Every person who files a federal income tax return can “check off” (assign) three dollars of his or her tax bill (six dollars on a joint return) to the fund. The money in the fund is used every four years to subsidize preconvention campaigns (including the primary campaigns), national conventions, and presidential election campaigns. The FEC administers the various subsidies involved.

*Preconvention Campaigns.* Presidential primary and caucus campaigns are supported by private contributions and, if the candidate applies for them, the public money he or she receives from the FEC. To be eligible for the public funds, a contender must raise at least $100,000 in contributions from individuals (not organizations). That amount must be gathered in $5,000 lots in each of at least 20 States, with each lot built from individual donations of no more than $250. That convoluted requirement is meant to discourage frivolous candidacies.

For each presidential hopeful who passes that test and applies for the subsidy, the FEC will match the first $250 of each individual contribution to the candidate, up to a total of half of the overall limit on preconvention spending. So, in 2008, the FEC could give a contender about $21 million, because the preconvention ceiling was slightly more than $42 million. The FEC does not match contributions from PACs or from any other political organizations.

In 2008, Senator John McCain spent about $100 million to win the GOP nomination—some $7 million of it from the FEC. Senator Barack Obama, on the other hand, refused the public money. He raised and

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16 Until 2008, only a handful of major party aspirants refused the public money. George W. Bush, in 2000 and again in 2004, and his Democratic opponent in 2004, John Kerry, won nomination without the public money. However, both Bush and Kerry did take the FEC funds for their general election campaigns.
spent more than $230 million in private contributions in his campaign for the Democratic Party's nomination.17

National Conventions. If a major party applies for the money, it automatically receives a grant to help pay for its national convention. The FEC gave the Republicans and the Democrats $16.4 million each for that purpose in 2008.

Presidential Election Campaigns. Each major party nominee automatically qualifies for a public subsidy to pay for the general election campaign. For 2008, that subsidy was $84.1 million. A candidate can refuse that funding, of course, and, in that event, be free to raise however much he or she can from private sources.

Until 2008, the nominees of both major parties took the public money each time. Because they did, each (1) could spend no more than the amount of the subsidy in the general election campaign and (2) could not accept campaign funds from any other source.

For 2008, only Republican John McCain ran with the FEC money and so could spend only that $84.1 million in the fall campaign. The Republican National Committee, other party organizations, and several independent groups also backed the McCain effort, however—to the tune of some $210 million.

Barack Obama, on the other hand, became the first presidential nominee in the 32-year history of the program to reject the public money. He raised and spent more than $500 million on his successful ten-week post-convention campaign.

The fact that several contenders, in both parties, rejected the FEC money for their pre-convention campaigns and Senator Obama's abstention for the general election have led many to predict the collapse of the public funding arrangements in federal law. That development is a direct result of two major factors: (1) a continuing decline in the number of taxpayers willing to contribute to the Presidential Election Campaign Fund and, especially, (2) the continuing and accelerating rise in the costs of campaigning.

The massive effect of that second factor, soaring costs, on the whole matter of campaign

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17 His chief opponent for the Democratic nomination, Senator Hillary Clinton, also refused FEC funds. She raised and spent nearly $200 million in her unsuccessful bid.

Hard Money, Soft Money

More than 40 years ago, President Lyndon Johnson described the then-current body of finance and its regulation can be seen in this stunning fact: For 2008, just one item, television advertising, accounted for at least $300 million in presidential campaign spending.

A minor party's candidate can also qualify for the FEC funding, but none does so automatically. For a minor party nominee to be eligible, his or her party must either (1) have won at least five percent of the popular vote in the last presidential election, or (2) win at least that much of the total vote in the current election. Since 1972, only Ross Perot in 1992 and 1996 has come even close to qualifying.

In the latter case, the public money is received after the election and so could not possibly help the candidate win votes in that election. (Remember, many provisions in both federal and State election law are purposely drawn to discourage the efforts of minor party and independent candidacies.)

Hard Money and Soft Money

Historically, hard money was tightly regulated and more difficult to raise, while soft money could be procured easily from fewer people in larger sums. How has regulation of hard and soft money changed since the 1990s?
federal campaign finance law as "more loophole than law." Over recent years, we have come dangerously close to the point where LBJ's description can be applied to the federal election money statutes of today—particularly because of soft money.

Since the 1970s, federal law has placed limits on hard money—that is, those contributions that are given directly to candidates for their campaigns for Congress or the White House, are limited in amount, and must be reported. That kind of campaign money is usually more difficult to raise than soft money—funds given to parties or to other political organizations, in unlimited amounts, to be used for such "party-building activities" as voter registration or get-out-the-vote drives or for campaigns for or against particular public policies, for example, gun control or minimum wage hikes.

Both major parties began to raise soft money (began to exploit the soft-money loophole) in the 1980s and they intensified their efforts in the 1990s. The Republican and Democratic National Committees and their House and Senate campaign committees gathered millions of unregulated dollars from wealthy individuals, labor unions, corporations, and other interest groups. Officially, those funds were to be used for party-building purposes; but both parties found it easy to filter them into their presidential and congressional campaigns.

The torrent of money rushing through the soft-money loophole rose from about $19 million in 1980 to some $500 million in 2000. Those huge numbers finally prompted Congress to enact the Bipartisan Campaign Reform Act (the BCRA) of 2002, after years of debate and delay. The measure is also known as the McCain-Feingold Law, after its chief Senate sponsors.

The BCRA was aimed principally at the soft-money problem. It bans soft-money contributions to political parties. But the law does not say that other political organizations cannot raise and spend those dollars.

Almost immediately, a number of independent groups—organizations with no formal ties to any party—sprang up to do just that. In short, creative minds in both parties quickly found ways to skirt the ban on soft money. Many of these independent organizations are known as "527s," after the section in the Internal Revenue code under which they operate as tax-free entities. It remains to be seen what effect, if any, the Court's 2010 ruling in Citizens United will have on these groups and their spending.

Some $200 million poured through that loophole in 2004 and even more for the congressional elections of 2006 and the presidential campaigns in 2008. In 2008, Senator Obama initially discouraged the help of 527 organizations, while his opponent, Republican Senator John McCain, encouraged that help.
Campaign Finance

Track the Issue
When regulating campaign finance, the Federal Government has tried to balance free speech rights against the potential for corruption.

Congress bans corporate contributions to federal candidates.

The Taft-Hartley Act blocks labor unions from donating to candidates. In response, unions donate through political action committees (PACs).

Congress creates the Federal Election Commission to enforce strict new laws on campaign fundraising.

The Bipartisan Campaign Reform Act is passed and signed, placing strict limits on the use of so-called soft money.

The Supreme Court holds that a provision in the Bipartisan Campaign Reform Act violates the 1st Amendment.

Perspectives
An historic and controversial decision by the Supreme Court in early 2010 virtually negated years of bipartisan efforts to control campaign spending. In Citizens United v. Federal Election Commission, Citizens United claimed its rights were violated when the BCRA was applied to its film on presidential candidate Hillary Clinton. The Court, by a vote of 5–4, sided with Citizens United. Reactions to the decision were both swift and heated.

"With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are 'in the pocket' of so-called moneyed interests."

—Justice Anthony M. Kennedy, majority opinion, 2010

"[T]he Court's opinion is... a rejection of the free-speech protection... and they have fought against the distinctive corrupting potential of corporate campaign contributions... It is a strange and novel and unfamiliar theory to say that the right to free speech is a right to be allowed to say whatever one pleases..."

—Justice John Paul Stevens, dissenting opinion, 2010

Connect to Your World
1. Understand (a) What is the basis of Justice Kennedy's argument? (b) How does Justice Stevens dispute this claim? (c) Whose view do you agree with? Why?
2. Synthesize Information Why is allowing a voice in government to corporations so controversial?

GOVERNMENT ONLINE
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