What is role does money play in US politics and elections?

Is the public too cynical about the role of money in politics?

I. Campaign Finance: Rules and Reforms

• Are unregulated political contributions a problem?

• What contributions / spending is regulated?
  • What contributions / spending is prohibited?

• What does (might) McCain/Feingold (BCRA) ban?

• Can anything stem flow of cash to elected officials?
2. Types of interest groups (PACs)

a. Economic, or private groups

- organized around selective, material benefits
- seek things from government that are narrowly distributed to target group

  - divisible
    - targeted to specific recipients

  - visible
    - to recipients! not to general public

  - excludible
    - benefit to group, not to everyone

Examples (what they "lobby" for):

- tax exemption for specific investments
- tax credit for oil producers
- price support for specific agricultural commodity
- exempt specific place/firm from a regulation
- govt. subsidies to specific industry, or firm
- subsidies to developers (in local politics)
- government contract award to specific firm
Examples of these groups:

Ranked by Fortune Mag. survey of *lobbying "clout"*

**Professional Associations:**

Natl Fed of Ind Business, 4  
American Trial Lawyers Assoc, 5  
AMA, 8  
Natl Assoc of Realtors, 11  
American Bankers Assoc, 12  
Natl Assoc of Manufactures, 13  
US Chamber of Commerce, 15  
Vets of For. Wars, 16  
American Farm Bureau Fed. 17  
Motion Picture Assoc of Amer. 18  
Natl Home Builders Assoc, 19  
Natl Assoc of Broadcasters, 20  
American Hospital Assoc. 21  
American Legion, 23  
Natl Restaurant Assoc. 24

**Labor Unions:**

ALF-CIO 3  
NEA, 9  
AFSCME, 14  
Teamsters 25

**b. non-economic, “public” groups**
organized around “purposive” benefits, 
**collective goods**
often seek benefits that are "public"

benefits are broadly distributed

- non-divisible
- non-excludible
- often low visibility (to recipients)

Examples of what they seek:

- clean water, clean air
- civil rights and liberties,
- consumer protections (product safety)
- neighborhood preservation
- national security (?)
- campaign finance reforms
- balanced budgets

Examples of such groups:

<table>
<thead>
<tr>
<th>Group</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAPR</td>
<td>1</td>
</tr>
<tr>
<td>NRA</td>
<td>6</td>
</tr>
<tr>
<td>Christian Coalition,</td>
<td>7</td>
</tr>
<tr>
<td>Natl Right to Life Com.,</td>
<td>10</td>
</tr>
</tbody>
</table>

others "public" groups, not rated:

- PIRGs
- ACLU
NOW
Sierra Club
consumer organization

c. key differences btwn. economic and non-economic groups

- size (# of potential members)
- resources
- ability to mobilize resources
- seeking public vs. private goods from Govt.

- ability to maintain group
- ability to get contributions from potential members

Economic groups:

- advantages in getting contributions
  *incentive*: contribute or lose govt benefits

Non-economic groups have trouble:

- hard for potential members to see advantages
  *incentive*: free-ride on others

  public groups can offer “*selective benefits*” to members that non-members will not receive

  coercion

problem of large (public) constituencies…collective action problem
weaker incentives for individuals to contribute
weaker incentives for one person to shoulder burden

**Free-Rider Problem**

can’t exclude anyone from consuming a collective
good
incentives to “free-ride” while others pay to get good
no/weak rational incentives to join group

ex: dairy consumers
    Public Broadcasting
    UNIONS
    the Washington Student Lobby

d. Which groups give BIG $$ to elected officials

Public interest, seeking public goods?

Private interest, seeking economic goods?

2004 election cost estimated at $4 Billion.....

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual contributions to candidates and parties</td>
<td>$2.5 Billion</td>
</tr>
<tr>
<td>Candidate self-funding</td>
<td>$144 million</td>
</tr>
<tr>
<td>Public funds to presidential candidates</td>
<td>$207 million</td>
</tr>
<tr>
<td>Other</td>
<td>$102 million</td>
</tr>
<tr>
<td>PAC contributions to candidates and parties</td>
<td>$384 million</td>
</tr>
<tr>
<td>527 spending (related to a federal election)</td>
<td>$386 million</td>
</tr>
<tr>
<td>Convention host committee spending</td>
<td>$139 million</td>
</tr>
</tbody>
</table>
$3.9 billion

$1.2 Billion for President ($350m from 527s)

Who pays for Congress: (opensecrets.org)

TOP PACS 2003 – 2004:

<table>
<thead>
<tr>
<th>Organization</th>
<th>Amount</th>
<th>D</th>
<th>R</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Assn of Realtors</td>
<td>$2,982,583</td>
<td>48%</td>
<td>52%</td>
</tr>
<tr>
<td>National Beer Wholesalers Assn</td>
<td>$2,075,500</td>
<td>22%</td>
<td>78%</td>
</tr>
<tr>
<td>Intl Brotherhood of Electrical Workers</td>
<td>$1,955,230</td>
<td>95%</td>
<td>5%</td>
</tr>
<tr>
<td>National Auto Dealers Assn</td>
<td>$1,926,650</td>
<td>27%</td>
<td>73%</td>
</tr>
<tr>
<td>National Assn of Home Builders</td>
<td>$1,836,200</td>
<td>35%</td>
<td>65%</td>
</tr>
<tr>
<td>Assn of Trial Lawyers of America</td>
<td>$1,786,499</td>
<td>92%</td>
<td>7%</td>
</tr>
<tr>
<td>Laborers Union</td>
<td>$1,773,250</td>
<td>86%</td>
<td>13%</td>
</tr>
<tr>
<td>United Parcel Service</td>
<td>$1,730,909</td>
<td>25%</td>
<td>75%</td>
</tr>
<tr>
<td>Credit Union National Assn</td>
<td>$1,687,423</td>
<td>41%</td>
<td>59%</td>
</tr>
<tr>
<td>SBC Communications</td>
<td>$1,642,866</td>
<td>32%</td>
<td>68%</td>
</tr>
<tr>
<td>Carpenters &amp; Joiners Union</td>
<td>$1,639,000</td>
<td>73%</td>
<td>27%</td>
</tr>
<tr>
<td>Service Employees International Union</td>
<td>$1,590,500</td>
<td>89%</td>
<td>11%</td>
</tr>
<tr>
<td>Machinists/Aerospace Workers Union</td>
<td>$1,578,500</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>Wal–Mart Stores</td>
<td>$1,522,500</td>
<td>21%</td>
<td>79%</td>
</tr>
<tr>
<td>Teamsters Union</td>
<td>$1,413,116</td>
<td>89%</td>
<td>11%</td>
</tr>
<tr>
<td>American Bankers Assn</td>
<td>$1,395,363</td>
<td>36%</td>
<td>64%</td>
</tr>
<tr>
<td>American Hospital Assn</td>
<td>$1,366,551</td>
<td>43%</td>
<td>57%</td>
</tr>
<tr>
<td>American Fedn of St/Cnty/Munic Emp</td>
<td>$1,338,498</td>
<td>97%</td>
<td>2%</td>
</tr>
<tr>
<td>United Auto Workers</td>
<td>$1,338,100</td>
<td>98%</td>
<td>2%</td>
</tr>
<tr>
<td>American Medical Assn</td>
<td>$1,305,251</td>
<td>19%</td>
<td>81%</td>
</tr>
</tbody>
</table>

Top givers in American politics 1994 - 2003

$10,000,000 to $35,000,000 each

<table>
<thead>
<tr>
<th>Organization</th>
<th>Amount</th>
<th>D</th>
<th>R</th>
</tr>
</thead>
<tbody>
<tr>
<td>AFSCME</td>
<td>1 (wages,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Organization</td>
<td>Page</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------------------------</td>
<td>------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Realtors</td>
<td>2 (monopolies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NEA</td>
<td>3 (credentials)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Trial Lawyers</strong></td>
<td>4 (caps on suits)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEIU</td>
<td>6 (bargaining)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Altira</td>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fed Ex</td>
<td>13 (mergers, regulations, etc)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Goldman Sachs</strong></td>
<td>16 (regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AT&amp;T</td>
<td>17 (mergers, regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Citigroup</strong></td>
<td>20 (mergers, regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UPS</td>
<td>21 (regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Auto Dealers</td>
<td>22 (monopolies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SBC</td>
<td>29 (mergers, regulations, monopolies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Microsoft</td>
<td>30 (monopoly issue)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beer Wholesale</td>
<td>31 (monopolies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Time Warner</strong></td>
<td>28 (mergers, regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>JP Morgan</strong></td>
<td>33 (regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bell South</td>
<td>34 (mergers, regs)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Lockheed Martin</strong></td>
<td>38 (mergers, contracts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Blue Shield</strong></td>
<td>43 (health care)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GE</td>
<td>44 (media, regs, contracts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bank of America</strong></td>
<td>45 (mergers, regulations)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boeing</td>
<td>61 (mergers, contracts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enron</td>
<td>95 (mergers, regs, privatization)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Anderson</td>
<td>99 (regulations)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Public Opinion on the issue: A sense that something is wrong:

- Do you think many public officials make or change policy decisions as a direct result of money they receive from major campaign contributors?
  - Yes  73%
  - No  13%
  - Don’t know  15%


- Do you think politicians do special favors for people and groups who give them campaign contributions?
  - Yes, happens a lot  80%
  - yes, happens sometimes  13%
  - No:  6%


- How would you describe the current way in which candidates for federal office raise money for their campaigns?
  - Corrupt  31%
  - Unethical, but not corrupt  46%
Nothing seriously wrong 15%


Campaign Finance History:

• William McKinley’s 1896 “tax” on corporations
• Richard Nixon’s slush funds
• 2000 election: 800 people gave $500 million in ‘soft money’
• 2004, $4 billion spent on elections
• 2008 Obama breaks all records

A) Legal context/history: weak rules, loopholes

1) Early laws

Tillman Act, 1907

• Illegal for banks (national) and corporations to contribute in federal elections

Publicity Act, 1910 & 1911

• Require disclosure of contributions and expenditures in congressional races
First spending limits

2) 1925 Federal Corrupt Practice Act

- require disclosure of sources

- prohibit direct corporate contributions to candidates
  - committees limited to one state exempt
  - no rules about disclosure standards
  - no enforcement

3) 1940 Hatch Act

- ltd. individual $ to committee to $5K
- annual ltds on contributions to candidates & party committees
- ltd. total amount raised by committee to $3m
- tax any contributions over $3m as "gift"
  - weak provisions
  - no enforcement

4) Taft-Hartley Act 1947
• Ban contributions of labor unions in federal elections

5a) Revenue Act, 1971

• Tax check-off to generate public funds for presidential campaigns (GENERAL)

  only 10% of people say yes

5b) 1971 Federal Election Campaign Act

- established PAC system for groups, corporations and unions to contribute to candidates

- disclosure of contributions to candidates and PACs
  • Applied to federal elections ONLY
  • Opened new door for corporate $$ to candidates
  • key parts ruled unconstitutional
  • weakened by Congress in 1979
1972 election & CREEP

6) 1974 Federal Election Campaign Act (FECA)

- create the Federal Election Commission (FEC)
- ceiling on total candidate spending
- ceiling on PAC spending
- ltd. what individual can give to candidate ($1000 per election…max = $3000)
- ltd. spending by “independent” agents (independent expenditures)
- ltd. candidate’s spending their personal funds

Partial public financing (for presidential candidates):

- federal matching funds to Presidential candidates (NOMINATION)
- match first $250 contributed by individuals
- Candidate must prove credibility
- raise $100,000 in lt $5,000 contribs in 20 states
- candidate gets first check Jan 1st
- if accept public $$, the agree to spending ltds.
- must get 10% in 2 primaries to keep money flowing
- Each major candidate gets $50 million + for general election if agree to limit spending
  - candidates now refuse matching funds (Edwards....)

**B) Goals of Campaign Finance Regulations**

- allow limited contributions to candidates
- regulate power of corporations, unions
- provide **full disclosure** of where $$ come from
- build public confidence in elections
- Limit spending?
• Insure that "independent" expenditures not co-ordinated with candidate's campaign

• **level the playing field**
  o avoid huge influence of few donors

C) Reality of Campaign Finance: Failure to meet goals

1) 1976 Supreme Court trashed FECA: 
   (*Buckley v. Valeo*)

   • Congress can regulate
   • 'perception of corruption' = compelling interest

   **BUT:**
   • court trashed limits on total spending
   • trashed limits on self-financed campaigns
   • trashed limits on independent expenditures
   • **took FEC appointments away from Congress**

   • upheld contribution limits, not spending ltds

   Why??

2) 1979, Congress “modifies” 1974 FECA law

   • OK to give **unlimited** contributions to parties
   • for “**party building**” activity
• This becomes known as "soft money"

Why??

3) 1985 Court OKs unlimited PAC spending for candidate’s

• OK if "independent" from campaign:
  ▪ if no "magic words"
  ▪ if not co-ordinated with candidate’s campaign
  ▪ if not co-ordinated with party campaign

Why??

4) 1996 Clinton Campaign

• First to exploit 'soft money' loophole from 1979

• Began and continued soft-money chase while in office

• Auctioning off White House sleepovers, trips of Air Force 1, etc.

5) 1980 – 2000; FEC rule changes
• parties granted far more freedom to spend soft $$ on TV ads

• allowed shadow groups (now known as "527s") to air TV ads w/o disclosing who gave $$

• de facto deregulation by 2000

D) Recent History, Campaign Finance Issues

  o Clinton White House (see above)
  o Gore campaign
  o Bush II White House

  at issue: Politicians raising huge amounts of cash
           'Outside' groups running 3rd campaign
           
           candidate
           party
           independent groups

Case Study:

  • WA 2000 2nd Congressional District
$6 million spent on campaign
- candidates barely spent $1 million each
- PACs, groups, & parties dominated

E) McCain/Feingold (BCRA, 2002) provisions:

Main goals:

- ban parties & congressional campaign committees from raising and spending "soft money"
- get 'negativity' out of ads (HOW?)
- prevent unknown groups from running attack ads just prior to election ("issue ads")
- increase limits on individual contributions (WHY?)

Key provisions of BCRA:

- ban on soft $$ group ads 60 days before election
- corporation and union can run ads only through PACs
- individuals and groups can run ads, but must disclose donors
• ban on unlimited “soft” contributions to national party orgs.

• prohibits members of Congress & Pres. from raising soft $$

• limits how much party can spend per candidate

• raise indiv. contribution ltd to candidates

• prohibit kids under 17 giving $$

Rules that emerged from BCRA & FECA:

"Hard Money" =

contributions subject to regulations / limitations

• to candidates
• to parties
• to groups (PACs)

• **Individuals** can give up to $108,000  (old law $25K max)
  
  o  $2.3K per election cycle to cand.
  o  $28K per national party committee
  o  $10K to each state/local committee
  o  $5K to each PAC

• **PACs** can give  (with no total limit)
  
  o  $5K per election cycle to cand.
  o  $15K per national party committee
$5K to other committees (PACs)

“Soft Money” =

unregulated contributions

- New ltds on $$ to parties (before, no ltds.)
- now, heaps of cash go to “527s”

MoveOn, SwiftBoat Vets...

F) Court’s Logic in evaluating finance regs:

1st Amendment protects spending as a form of speech:

- OK to ltd. how much candidate can take per person
  - since 'perception of corruption' exists
- harder to ltd. how much anyone can spend
- harder to ltd. how much a citizen can spend independent of candidate's contest

_McConnell vs FEC, 2003_

- upheld much of BCRA...

    including soft money ban
    including (sort of) ban on issue ads
• “gave “proper deference” to Congress on BCRA...

• very fragmented decision

• Money is property, not speech.

• Not all political speech is protected by the First Amendment from government infringement.

Impact of BCRA?

FEC must implement

Who are the FEC?

'non-party, nonpolitical groups' spending on elections

Courts must approve

FEC vs. Wisconsin Right to Life Committee, 2006

• Challenge to "electioneering" ban in BCRA
• WRTL ran ads in 2004 asking people to write their senators re: judicial nominations

• Mentioned a Senator running for re-election

• FEC said ad was electioneering, violated BCRA

• Court:

organizations engaged in genuine discussion of issues were entitled to a broad, "as applied" exemption from the electioneering communications provisions of BCRA

Related cases:

*First National Bank vs Bellotti*, 1977

Can state regulate contributions in initiative campaigns?

*Meyer vs. Grant* 1988

Can state ban payment for signature collection?

Randall vs. Sorrell, 2006

Can state set strict (low) contribution limits?

  o FECA 1976 = $1000 in Federal races (*Buckley*, 1976)
  o MO = $275 in state leg races (*Shrink MO* 2002)
  o VT = $200 in state leg races
(Further?) Reforms to Campaign Finance System?

Issue ads? Amend the First Amendment

Negativity / Lies - make it illegal?

Expand Public Finance

  Restore public funds in nominations

  How encourage candidates to accept?

  • eliminate spending limits
  • increase size of matched amount
  • escape clauses

"Clean money"