

Campaign Expenditure Limits: Myths and Realities

MYTH: Spending limits violate candidates' freedom of speech.

REALITY: Some argue that “money is speech” and that expenditure restrictions are therefore unacceptable burdens on the freedom of speech. This argument is grounded in the unacceptable notion that in a democracy those who have more money are entitled to more speech, and therefore greater influence over elections and public affairs. This is diametrically opposed to the basic “one-person, one-vote” principle of democratic equality. Further, allowing unfettered campaign spending enables well-financed candidates to drown out the voices of their opponents, reducing the overall quality and diversity of public debate. The purpose of the First Amendment is not just to protect the speaker, but also the public’s right to be exposed to varying viewpoints, under the theory that the truth will win out in a fair marketplace of ideas.

MYTH: Nonetheless, *Buckley v. Valeo* held that spending limits are never constitutional.

REALITY: The *Buckley* court never held that spending limits are unconstitutional *per se*. The decision simply held that spending limits should be subjected to closer judicial scrutiny than contribution limits, and found that the facts in the record did not support the limits as necessary. The recent McConnell ruling supports this view, stating that “In *Buckley* and subsequent cases, we have subjected restrictions on campaign expenditures to *closer scrutiny* than limits on campaign contributions.”ⁱ

MYTH: Spending limits are an untested and potentially dangerous idea.

REALITY: The first spending limits law for congressional candidates was enacted in 1911 and updated in the Hatch Act of 1939. Unfortunately, these laws featured no enforcement mechanism, so spending limits were often ignored. However, Albuquerque, New Mexico has enforced spending limits nearly continuously since 1974. The city points to many advantages of the policy including higher than average voter turnout; greater public confidence in local than in federal elections; and increased competition. This has led to overwhelming local public support for spending limits.

MYTH: Spending limits help incumbents and handicap challengers.

REALITY: At first, it might seem that since incumbents tend to enjoy greater name recognition and challengers often have to spend large sums to catch up and win races, spending limits would amount to “incumbency protection.” The facts do not bear this assumption out. Incumbents raise so much more money than challengers that a spending limit will actually tend to level the playing field and help challengers remain competitive. U.S. House incumbents, for example, out-raised challengers nearly 7 to 1 in the 2002 election cycle.ⁱⁱ Not surprisingly, these incumbents won 90% of the time.ⁱⁱⁱ In the City of Albuquerque, on the other hand, spending limits have dramatically decreased mayoral re-election rates.

MYTH: Spending limits prevent candidates from running effective campaigns, limit voter information and therefore dampen participation.

REALITY: The notion that candidates need to raise huge amounts of money and saturate the airwaves with 30 second ads in order to run “effective” campaigns is relatively new. In fact, few would argue that attack ads or flag-waving spots are the best way to inform voters about important campaign issues. Reasonable spending limits will allow candidates to get their messages out with more substance and less flash. Freed from dialing for dollars constantly, campaigners can pursue opportunities to reach voters through avenues that cost more time than money (such as public forums, door-to-door campaigning, etc.). Residents of Albuquerque, New Mexico—which has had spending limits for 30 years—participate at higher levels than in other cities, report higher levels of confidence in local than national elections, and overwhelmingly support their local spending limits law.

MYTH: Spending limits will lead to a rash of famous candidates.

REALITY: Famous candidates already enjoy an advantage in any public election, and yet are relatively rare. Limiting spending may increase this advantage slightly, but there is no reason to suspect that this will have a dramatic impact on who decides to run. After all, famous candidates presumably have an easier time raising money than their less well known counterparts. More importantly, wealthy candidates and those backed by big money donors have come to dominate elections in recent years; famous candidates—notable exceptions aside—certainly have not. It is unwise to allow a non-issue to distract us from solving a significant problem with our campaign finance system.

ⁱ *McConnell v. FEC*, 124 S.Ct. 619, 655 (2003) (emphasis added).

ⁱⁱ U.S. PIRG Education Fund, “The Role of Money in the 2002 Congressional Elections,” 32 (2003).

ⁱⁱⁱ *Id.* at 31.