CFI THE CAMPAIGN FINANCE INSTITUTE

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Joint Committee on Government Reform
Springfield, IL
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Mr. Speaker, Mr. President, Leaders and Members of the Committee:

It is an honor to have been asked to appear before you. For the record, I am the co-founder and Executive Director of the Campaign Finance Institute. CFI is a ten-year old nonpartisan research institute affiliated with The George Washington University. I am also a professor of political science at the State University of New York at Albany who has been writing about campaign finance and politics for nearly thirty-five years.

When I spoke to the Governor's Reform Commission two weeks ago, I was asked to give an overview of campaign finance in the fifty states. Since you have access to that testimony, I'll move directly to key policy issues.

- First, I'll talk in general terms about contribution limits.
- Second, I'll share some research we have done at CFI on Illinois.
- Finally, I'll talk about a subject central to my organization's mission: how you can raise money from small donors to make up for what you would lose through contribution limits.

What is the Problem with Relying Solely on Disclosure?

I shall begin with general issues. As you know, Illinois' has a pretty good disclosure system. The law could use improvement, but the implementation gets high grades nationally. I begin here because the main argument against contribution limits is that a really good disclosure system is all anyone should need. I disagree.

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The argument for disclosure-alone is based on the premise that disclosure will deter candidates by making them fear being punished by the voters. The argument falls of its own weight. For disclosure to act as a deterrent, a candidate has to believe that *all* of the following will occur. The chain has four steps.

(1) Voters will learn and process the needed information;

(2) Voters will see a meaningful distinction between the candidates';

(3) A significant number of voters will decide that campaign contributions are important enough to displace other issues; and finally,

(4) The <u>candidate</u> has to believe that enough people might change their votes to make a difference.

Just spelling out this list shows why disclosure alone is not much of a deterrent. If any <u>one</u> step in the sequence fails, then so does the whole chain. Only the most egregious behavior is likely to be noticed through the full chain. The weakness of disclosure as a deterrent for less egregious behavior leads directly to contribution limits.

Contribution Limits

A supporter of disclosure-alone might well come back at me now to say that I am begging the question. For example, this committee heard testimony yesterday from The Center for Competitive Politics. The Center recently released a study claiming to show there to be no correlation between contribution limits and corruption. The problem is that the study's definition of corruption is the Justice Department's record of convictions for federal corrupt practices. In my view, it is absurd to be looking for a correlation between this kind of criminal corruption and contribution limits. People who are willing to skirt the edges of criminal behavior are not likely to be deterred from taking bribes by a law that limits campaign contributions. But that is hardly the point. The vast majority of public officials are decent, hard working people who will be guided by the standards around them. The problem is not with what is *outside* the law but with what is permitted and encouraged *inside* it.

In a similar vein, the Center is fond of pointing to a *Governing* Magazine ranking of the country's best state governments, noting that two of the top three -- Utah and Virginia -- are states without contribution limits. This is another *non sequitor*. The magazine ranked the states based on their information systems, personnel systems, budgeting and infrastructure. The ranking does not have the slightest relevance to the issue at hand.

If not criminal corruption, what *is* the behavior contribution limits are supposed to deter? In some places it could involve the awarding of contracts, tax breaks or zoning exemptions, and some of these issues could indeed be handled through criminal prosecution. But the more normal problem is more subtle and more pervasive. I am thinking about public officials who say or imply to people that contributing will give them a stronger voice. Or even more subtly, saying that strong supporters are more likely to get invited to key agenda-setting meetings. Influencing the agenda is far too subtle to be made criminal. But the fact is that space on the public agenda is limited and this behavior – while not remotely a crime – is nevertheless a misuse of public office.

Do we have evidence of politicians or staffs making these kinds of implications to donors? More to the point, does an absence of contribution limits increase the odds of its happening? The answer is yes. As I have said, I believe most public officials are honest, hard working, public servants. This is not an indictment of politicians, but it is an indictment of what happens *in this situation*. I do not know the Illinois examples well, but I do know the federal examples and there was overwhelming evidence -- both during the Watergate period, and then again during the years of unlimited party soft money. Most of this behavior was not criminal but it was and is unethical.

The criminal law should only be used for what is rare. It rubs a civil society raw when the first and only sanctions it offers are ones that involve impeachment or jail time. It also damages every single public servant unfairly. For their sake as well as the public good, it is important to have a middle step between disclosure-only and jail.

Illinois' Data Analyzed

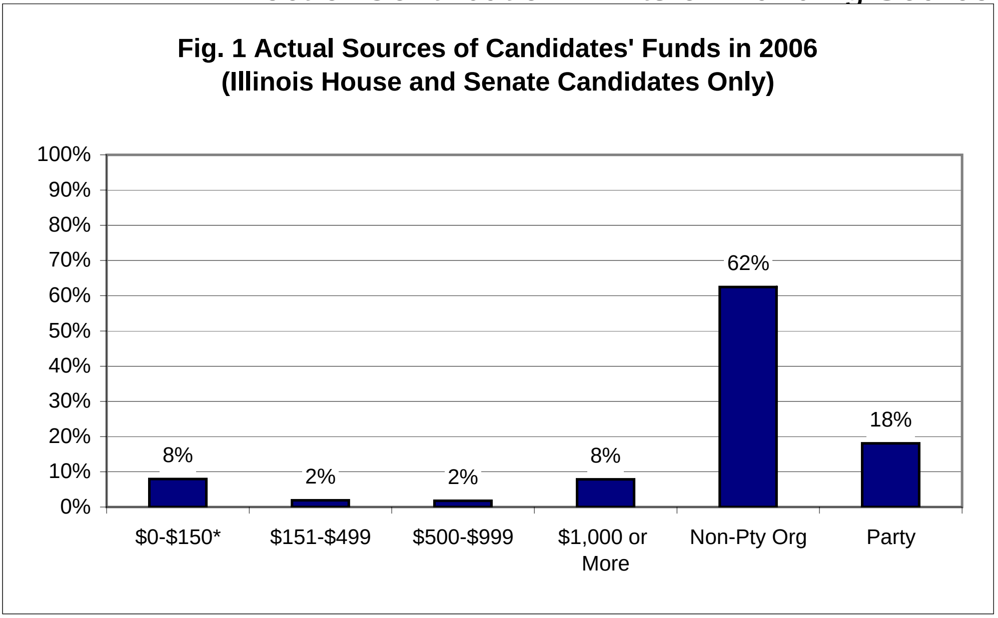
I shall turn now from general arguments to data analysis. CFI has been analyzing detailed donor records from 2006 for the states. We shall analyze 2008 records as they become available. For this hearing, we compared where the money came from in 2006 with what it would look like if exactly the same set of donors gave to the same candidates under contribution limits. We made some assumptions when we did this.

The first was that the candidates and parties would only have raised money from the same donors. In economics, you would call this a static model. We understand that this is *not* what is likely to happen. When the McCain-Feingold law banned unlimited soft money to the national parties, everyone predicted the parties would end up with less money. But then the parties turned their attention to small donors and replaced all of the money they had lost. I expect something like this would happen in Illinois. New laws would cause the candidates and party leaders to redouble their efforts to find new donors. But you have to start somewhere and a static model does have some lessons to teach.

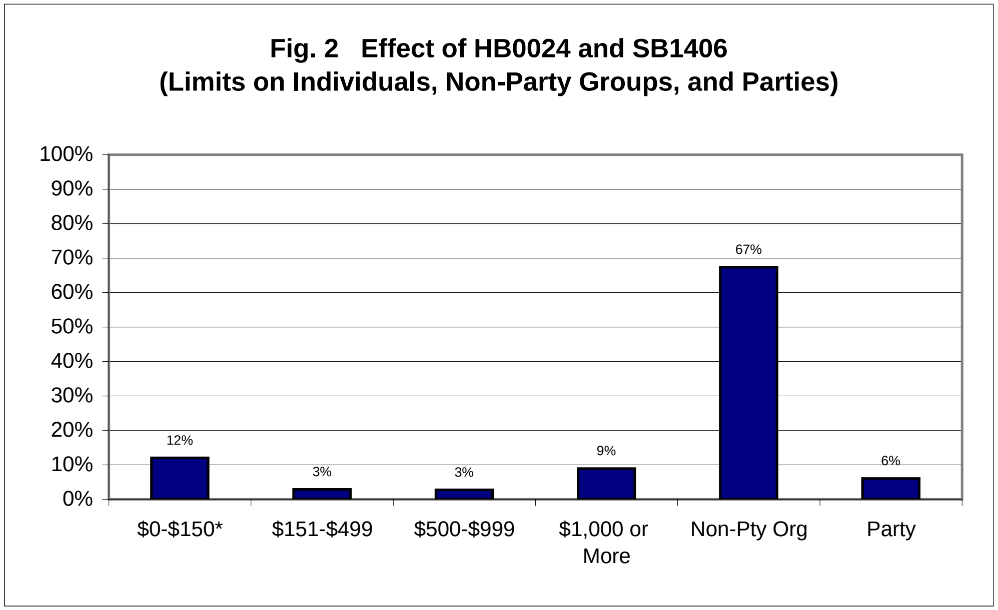
Second, we did not know what contribution limits to assume, so we used the numbers in a bill recently introduced in both chambers. Obviously, we could rerun the analysis with a different set of numbers. Again, we just needed some place to start.

To begin, please look at the two sheets with three charts on them. The first set looks at donors to House and Senate candidates. The second is for Governor and Lt. Governor. In both charts, the $0 to $150 bar represents unitemized contributions. The next three bars represent money coming from donors whose aggregate contributions to all candidates combined added up to $151-499, $500-999 or $1,000+.

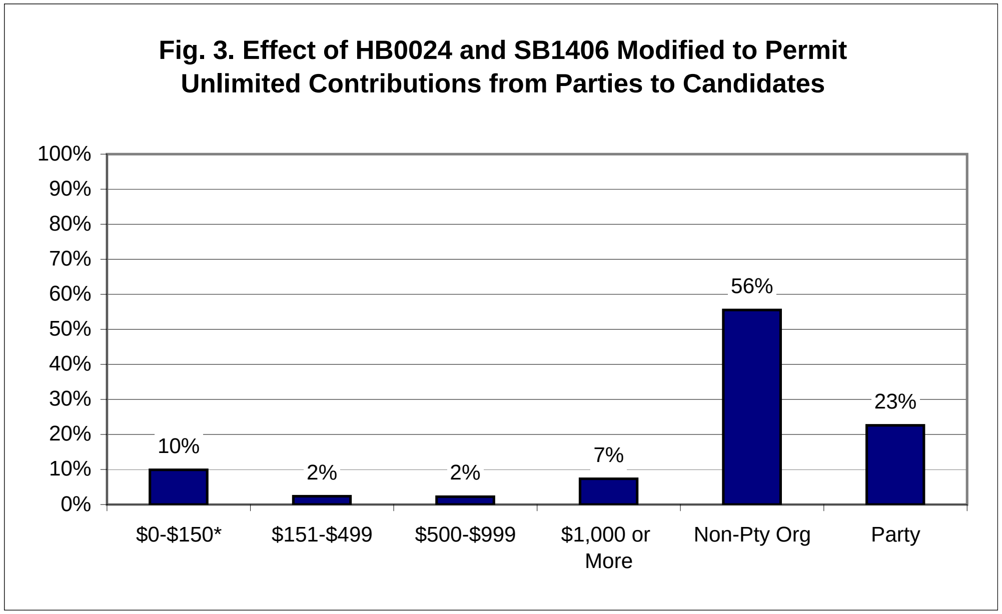
Effect of Contribution Limits on Funding Sources: 2006 Senate and House Candidates



Total Money: $68,777,977



Total Money $45,321,774



Total Money $55,022,500

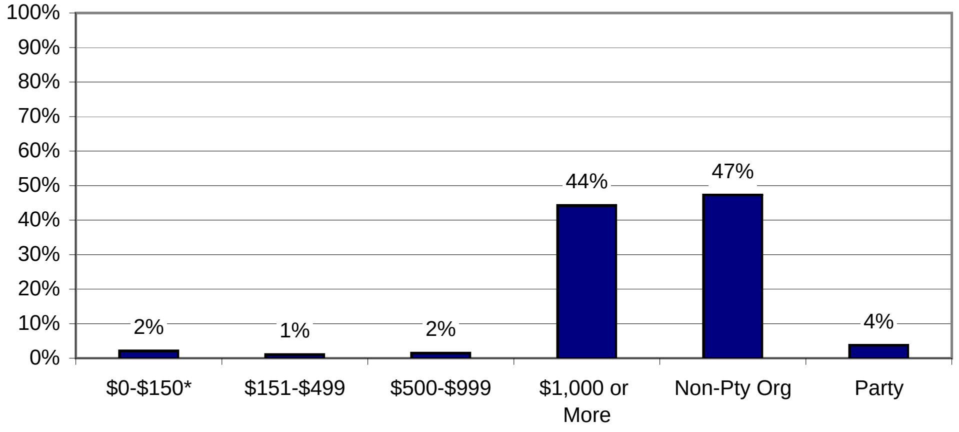
*This category includes all unitemized contributions. This does not include candidate self-financing.

**HB 0024 and SB1768 proposed a $2,300 individual limit per candidate per election, and a $10,000 non-party organization limit per candidate per election and a $30,000 limit from Parties. It also calls for an $80,000 aggregate limit to candidates on contributions.

Source: Campaign Finance Institute, based on data from the National Institute for Money in State Politics.

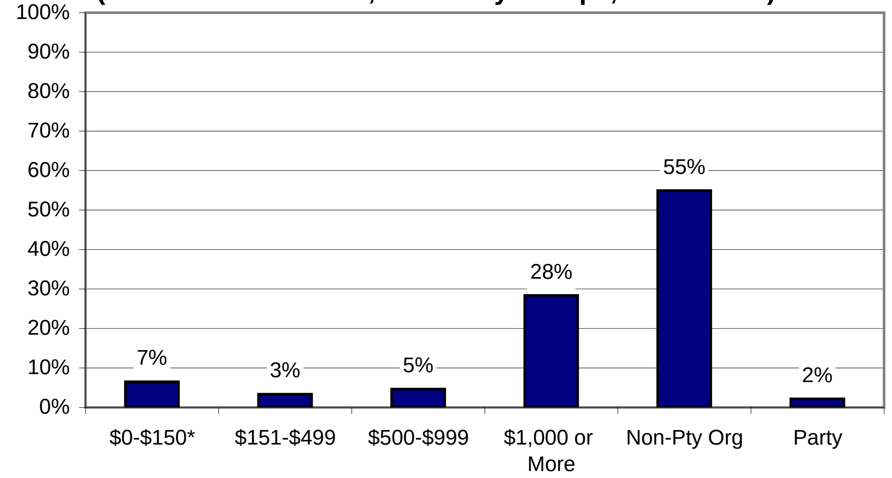
Effect of Contribution Limits on Funding Sources: 2006 Governor and Lt. Governor

Fig. 1 Actual Sources of Candidates' Funds in 2006 (Governor and Lt Governor Only)



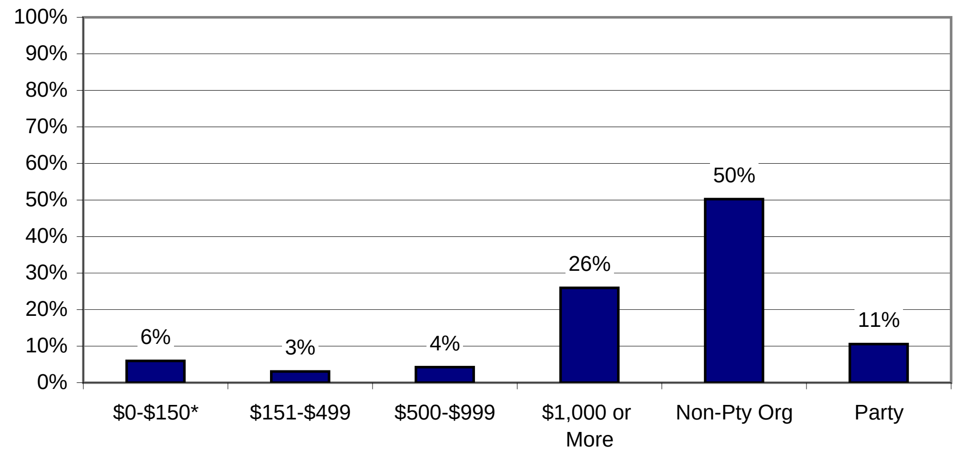
Total Money: $48,669,930

Fig. 2. Effect of HB0024 and SB1406 (Limits on Individuals, Non-Party Groups, and Parties)



Total Money $15,785,989

Fig. 3. Effect of HB0024 and SB1406 Modified to Permit Unlimited Contributions from Parties to Candidates



Total Money: $17,266,376

*This category includes all unitemized contributions.

This does not include candidate self-financing.

**HB 0024 and SB1768 proposed a $2,300 individual limit per candidate per election, and a $10,000 non-party organization limit per candidate per election and a $30,000 limit from Parties. It also calls for an $80,000 aggregate limit to candidates on contributions.

Source: Campaign Finance Institute, based on data from the National Institute for Money in State Politics.

On both sheets, the chart on the upper left represents what actually happened in 2006. Candidates for the legislature received 62% of their funds from non-party organizations, including corporations and labor unions. They also received 18% of their funds from party committees and caucuses. The candidates for governor and lieutenant governor received less from the parties and more from individuals who gave $1,000 or more.

In the chart on the upper right, we present what would have happened if two pending bills had been in effect in 2006, assuming no change in the donors. The limits in the bill are given in a footnote at the bottom of the tables.[1] These assumptions are built into the bar charts at the upper right.

You can see from the running totals underneath the charts that legislative candidates would have lost about one-third of their total money under these limits. The limits would have had an even bigger impact on the gubernatorial race, costing the candidates nearly two-thirds of their money. In distributive terms, the proportional role of non-party organizations would actually go up under these bills. The proportional role of small donors would also go up, but still be fairly small. The role of the party would go down in both.

In the third chart, centered on the bottom of the page, we made one change to the bill. According to US Supreme Court, political parties have a constitutional right to make unlimited independent expenditures to support their candidates. Many interest groups do *not* shift from contributions to independent expenditures when limits are imposed. Some do but not all. In contrast, parties are in the business of winning elections. They will spend whatever they can to help candidates in close races, especially if majority control is at stake. As a result, I have long argued in favor of unlimited coordinated party spending as long as contributions going *into* the parties are limited. Whether you agree with me or not, the fact is that you cannot constitutionally limit party spending. As a result, we decided to present you with a chart that incorporated most of the bills' limits on contributions from individuals and non-party organizations to the candidates and parties, but let the parties continue to contribute unlimited amounts to the candidates. Under this scenario, about half of the money cut out of the legislative system would be restored and the legislative parties would be even more important than they are now. (You would not see as much of an effect in gubernatorial races.) Of course, the parties could take advantage of this opportunity only if they expand their donor fundraising base to replace what they lose from the limits on the contributions going *in*.

I understand there is an interest among committee members in how candidates can defend themselves against independent expenditures or against rich candidates if there are contribution limits. In federal elections, the parties have played a crucial role. In the thirty or so most competitive congressional races in 2006 and 2008, party spending during the final weeks of the campaign has outweighed spending by all other sources – including the candidates as well as non-party groups.

[1] In HB0024 and SB1406 individuals would be allowed to give candidates $2,300 per election, non-party organizations would be allowed to give $10,000 per election and parties could give $30,000. The bill also says that no individual or non-party committee may give more than $80,000 in the aggregate to all candidates combined over the course of a two year cycle.

Let us turn to the second set of pages with bar charts. These have four bar charts per page. Once again there are two pages, one for the legislature and the other for Governor/Lt. Governor. On each sheet, the chart of the upper left is exactly the same as the one we just discussed. This is a repeat of the chart showing limits on the money that individuals and non-party organizations can give to candidates and parties but no limit on money from the parties to candidates. All of the other charts build up from this one as a base.

From Preventing Bad Things to Encouraging Good Ones

These charts turn an important conceptual page. So far we have been talking about what campaign finance laws try to deter. We have been talking about stopping bad things. But this is only half the picture. People need to think not only about what they want to *prevent* but what they want to *accomplish*. The Supreme Court has said that limits may be imposed only to prevent corruption. But the Court has never stopped people for looking at other tools to achieve other goals, positive goals. One goal that I care about is getting more people involved in the system.

Contribution limits take money out of the system. I am not one of those who think there is too much money spent on politics. When I see money taken out, therefore, I want to know whether you can get it back. I also want to know whether you can do so in a way that involves more people participating in the process.

The answer is that you can. In these charts, we picked just two different kinds of policy ideas and superimposed them on top of the contribution limits we already discussed.

- First we asked what would happen if you could get more people to give a small amount of money – say $50? In 2006, significantly less than one quarter of one percent of Illinois' voting age population gave to the candidates for Governor. The number doubles to a still meager one half of one percent if you add in the candidates for Lt. Governor. More people, about 1.25%, gave to legislative candidates.

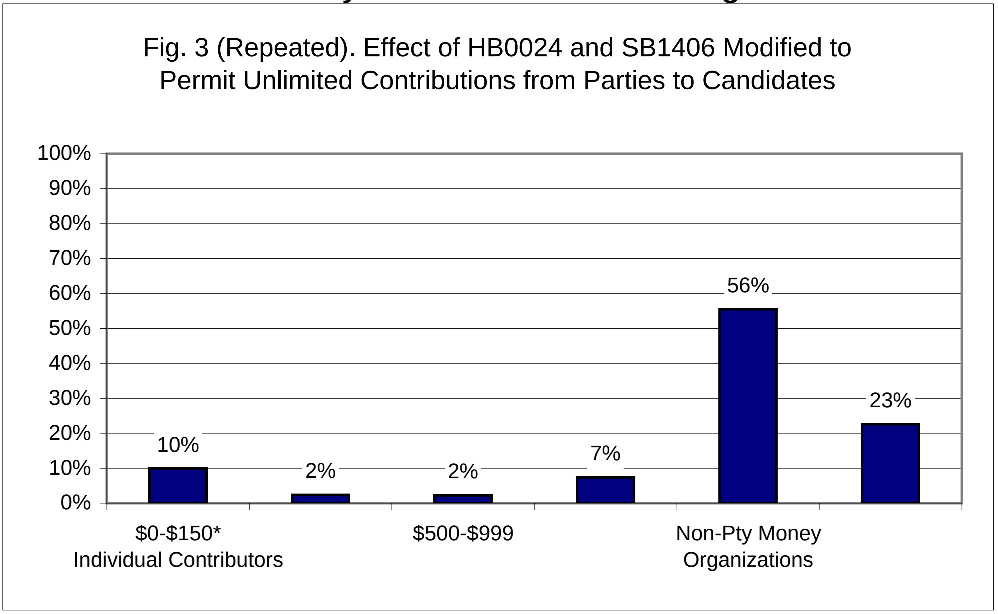
  Suppose you could get those numbers up to only 1% for the Governor and Lt. Governor and 2% for the legislature. That should not be hard. Other states, such as Minnesota, Oregon and Ohio, use tax credits and rebates to increase small donors. You might consider tax credits, but you also ought to be able to get those numbers up without credits through effective use of the Internet.[2]

- Second, we asked what would happen if you adopted a system of public matching funds. I am talking about multiple matching funds like New York City's, not the clean election style of full public funding. New York has a six-for-one match for the first $175. The charts assume a four-for-one match for the first $50.

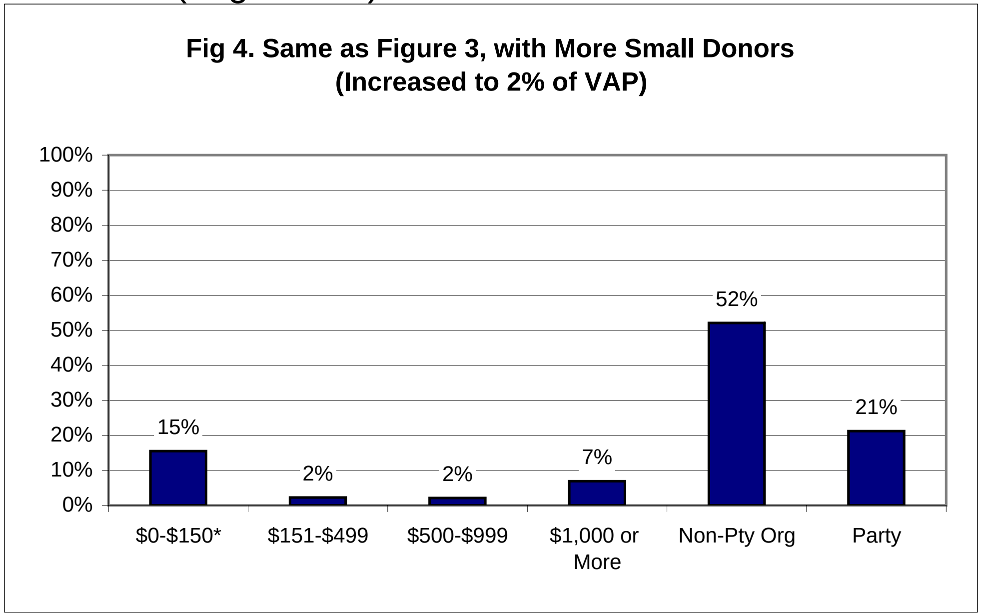
The charts look at the impact of each idea separately, then together.

[2] As an aside: you could also consider tax credits for small contributions to the parties, which exist in some states. We did not model that here.

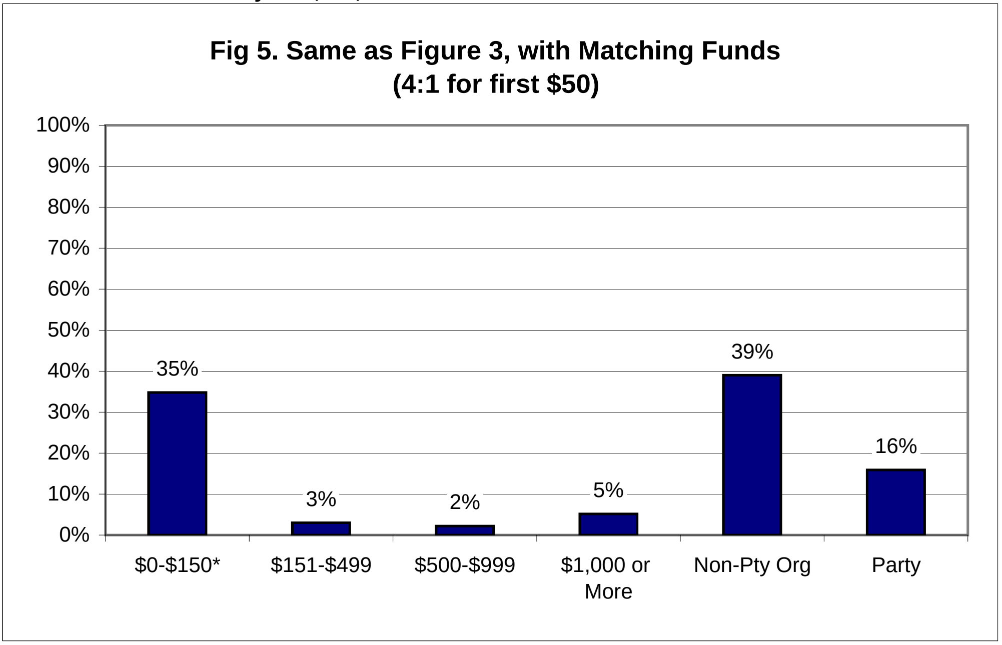
What if you Added Other Changes To Contribution Limits? (Legislature)



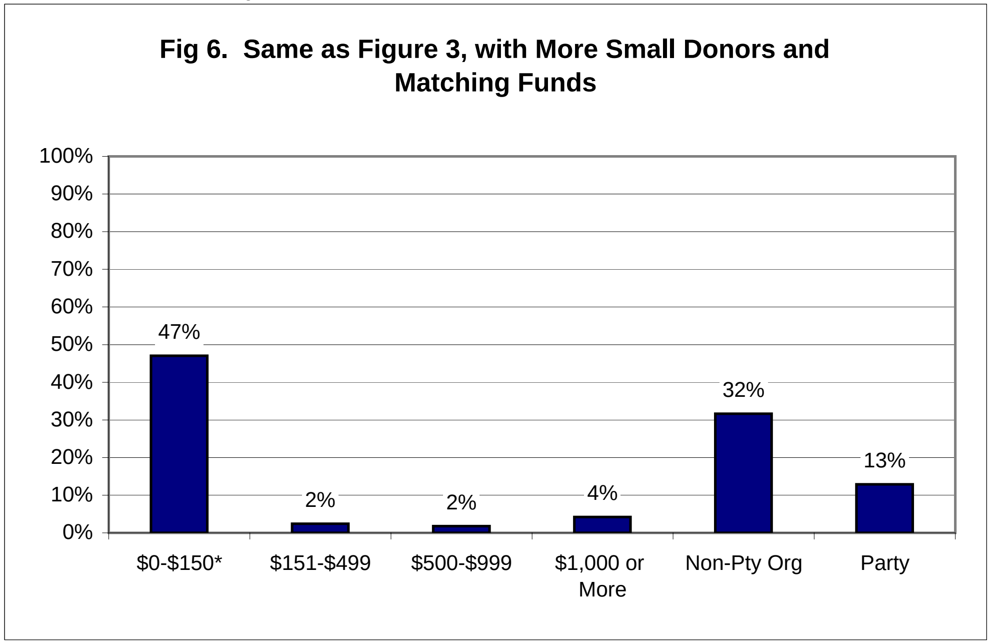
Total Money: $55,022,500



Total Money: $58,659,180



Total Money $75,993,708 With $20,971,208 in public money



Total Money $96,510,912 with $37,851,732 in public money.

*This category includes all unitemized contributions.

This does not include candidate self-financing.

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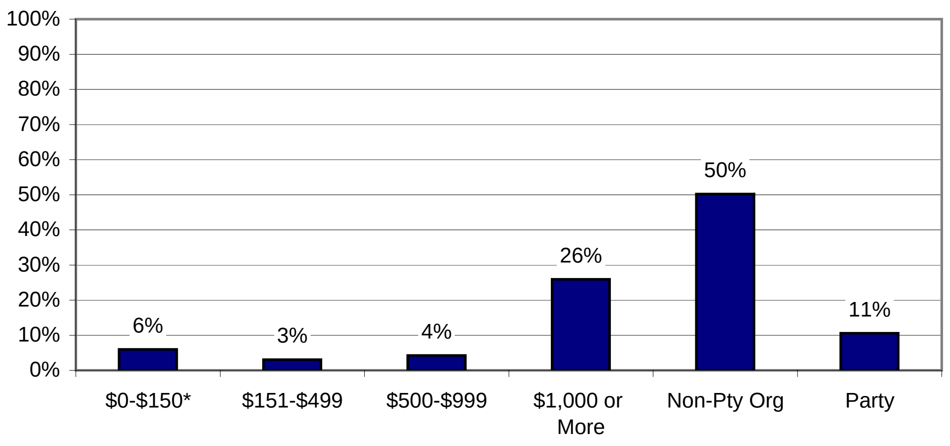
***We assume a 4:1 Match of the first $50 donated for all donors. Value of Matching added to the category of the original donor.

*****We assume that 2% of the VAP will donate. Currently 1.25% donate.

Source: Campaign Finance Institute, based on data from the National Institute for Money in State Politics.

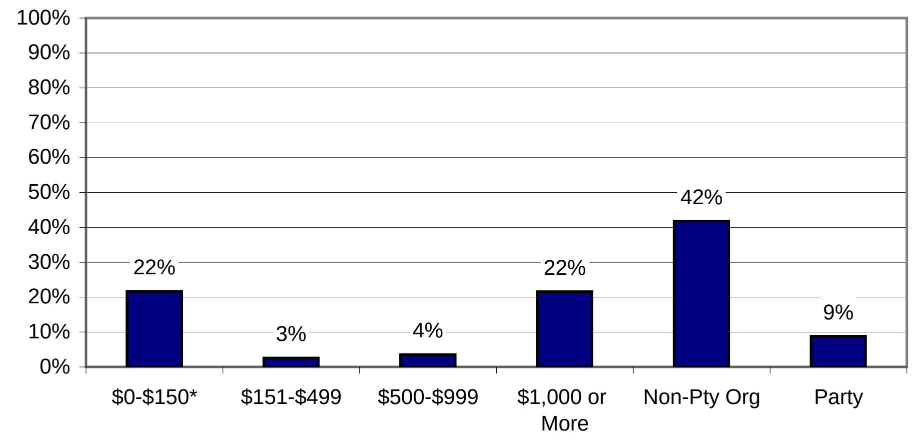
What if you Added Other Changes To Contribution Limits? (Governor, Lt. Gov.)

Fig. 3 (Repeated). Effect of HB0024 and SB1406 Modified to Permit Unlimited Contributions from Parties to Candidates



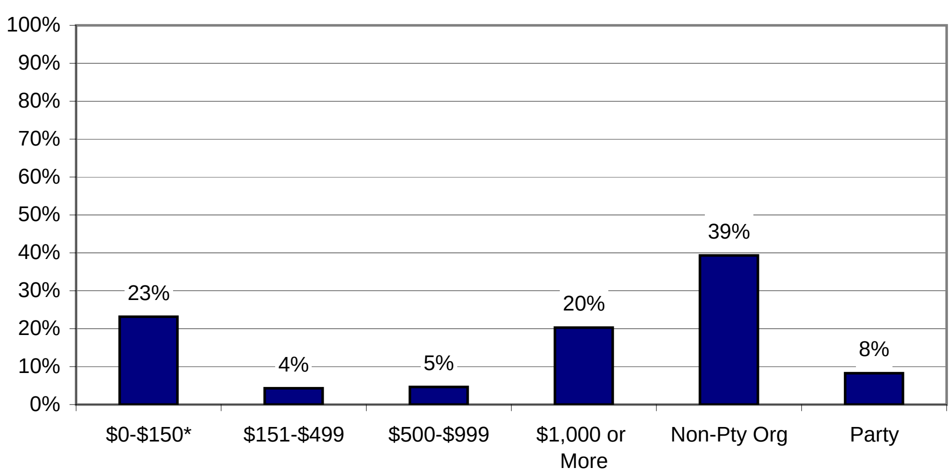
Total Money: $17,266,376

Fig 4. Same as Figure 3, with More Small Donors (Increased to 1% of VAP)



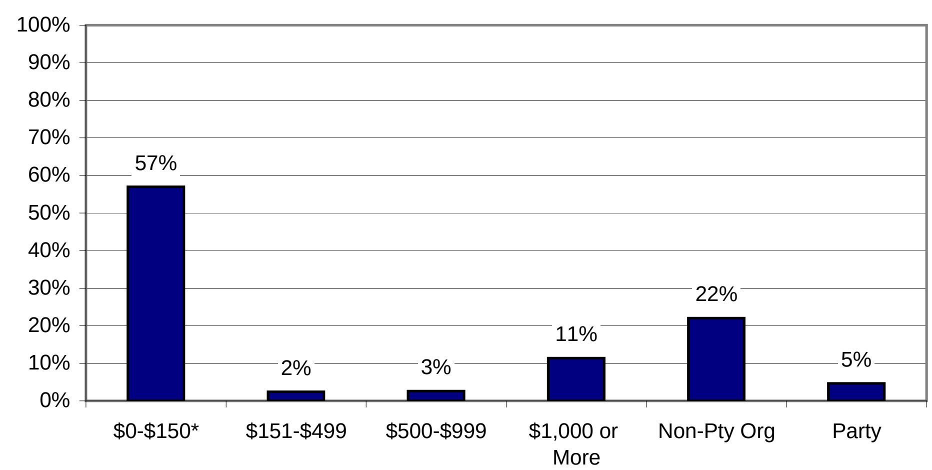
Total Money: $20,737,241

Fig 5. Same as Figure 3, with Matching Funds (4:1 for first $50)



Total Money $18,591,589 With $1,325,213 in public money

Fig 6. Same as Figure 3, with More Small Donors and Matching Funds



Total Money $39,405,207 with $18,667,966 in public money.

This does not include candidate self-financing.

*This category includes all unitemized contributions.

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***We assume a 4:1 Match of the first $50 donated for all donors. Value of Matching added to the category of the original donor.

*****We assume that 1% of the VAP will donate. Currently 0.27% donate.

Source: Campaign Finance Institute, based on data from the National Institute for Money in State Politics.

Let us turn to the charts now, looking first at the upper right. As you can see, increasing the number of small donors to legislative candidates to just 2% of the VAP makes the small donors significantly more important than they would be with contribution limits alone. For the Governor and Lt. Governor, getting the small donors up to only 1% would nearly quadruple their importance.

Matching funds has an equivalent impact, as you can see on the lower left. And if you put the two together, as you can see on the lower right, a real multiplier effect starts to kick in. Small donors (including the matching funds they generate) would then be responsible for nearly half of the money raised by the candidates for legislature and more than half for Governor/Lt. Governor. In both kinds of races, the *combined* importance of large individual donors and non-party organizations would be *less* than that of the small donors. And these kinds of small donor participation numbers would surely be within reach. If you give candidates and party leaders a matching fund as an incentive, they'll find the people.

This would be a huge reversal. Under the current system, large donors and non-party organizations were responsible for 70% of the money that went to all state legislative candidates in 2006 and 91% for the Governor and Lt. Governor. Under a regime that only included contribution limits, the total amount of money would go down. So would with the importance of the few biggest donors. This last fact is important. The role of the few biggest donors does create conflict of interest issues, as I discussed earlier, and putting a cap on contributions does address the issue directly. But even with a contribution limit, unless you get more small players into the picture, the $1,000 donors and non-party organizations would still be the top players proportionally.

I hope I am not misinterpreted. I do not believe this an argument against contribution limits. Contribution limits are essential because disclosure alone is not enough. You need to step back from the easy money that comes without limits. Then you need to work on replacement funds.

All of the key numbers are turned around if you modestly increase the number of small donors and add in some small donor matching funds. Either has an effect by itself. Put them together and the candidates would have had more money than they had in 2006 instead of less, with small donors responsible for the bulk of it.

These numbers cry out for the importance of increased participation. Money is not inherently evil. I would argue that money from small donors is a positive good. We know from research that getting more small donors involved also means more volunteers. We have reason to believe there is two-way feedback between giving and doing.

I have presented you with a few ideas for increasing the role of small donors, but these are not the only ideas worth looking at. There is more than one way to get from here to there. The key point is to understand the importance of increased participation and to commit to achieving it.

I would be happy now to respond to your questions.