THE INFLUENCE OF CAMPAIGN CONTRIBUTIONS ON THE LEGISLATIVE PROCESS

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INTRODUCTION

Do campaign donors gain disproportionate influence in the legislative process? Perhaps surprisingly, political scientists have struggled to answer this question. Much of the research has not identified an effect of contributions on policy; some political scientists have concluded that money does not matter; and this bottom line has been picked up by reporters and public intellectuals.[1] It is essential to answer this question correctly because the result is of great normative importance in a democracy.

It is important to understand why so many studies find no causal link between contributions and policy outcomes. The vast majority of these studies have looked at the relationship between Political Action Committee (PAC) donations to legislators and the roll call votes these legislators cast. It is relatively easy to identify a set of votes that PAC donors care about and thus determine whether legislators' votes are aligned with the interests of their PAC donors. It is, however, much more difficult, as I will discuss, to determine the extent to which contributions *influence* member's voting decisions. More importantly, as many of us have observed,[2] the influence of contributions is most likely to occur earlier in the legislative process, where less visible actions are taken to kill bills quietly or to negotiate the details of

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1. *See, e.g.*, Eduardo Porter, *Unleashing the Campaign Contributions of Corporations*, N.Y. TIMES, Aug. 28, 2012, at B1; George Will, *This Week with George Stephanopoulos* (ABC television broadcast Nov. 27, 2005).

2. *See*, *e.g*., LYNDA W. POWELL, THE INFLUENCE OF CAMPAIGN CONTRIBUTIONS IN STATE LEGISLATURES (2012); LAWRENCE LESSIG, REPUBLIC, LOST (2011); Richard L. Hasen, *Lobbying, Rent-Seeking, and the Constitution*, 64 STAN. L. REV. 191 (2012); Richard L. Hall & Frank Wayman, *Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees*, 84 AM. POL. SCI. REV. 797 (1990).

legislation that can matter so greatly to donors.

Studying these subtler forms of influence is difficult. Although there are illuminating and valuable anecdotal descriptions, systematic research is much less common.[3] There are two basic approaches—observational case studies and large-scale survey-based research. Each methodology has its strengths and weaknesses. My work using survey-based measures is novel in this field, although it is widely used in others. This paper focuses on what can be learned by adding surveys to our usual repertoire of data sources.

Existing research on donors' legislative influence has concentrated on Congress and usually on just one chamber. At best, such studies could determine if influence exists, and if it varies by policy domain or by member characteristics, such as committee chairmanship or constituency competitiveness. It is only relatively recently that readily available sources of data, such as contributions to candidates for state offices,[4] have made it possible to do comparative analysis of American legislatures. Scholars are just beginning to take advantage of these opportunities.[5]

Studying the fifty state legislatures, for example, as I did, makes it possible to identify the institutional design features that incentivize legislative fundraising and determine donors' legislative influence.[6] State legislative chambers are similar enough in terms of their electoral and institutional structures, culture, politics, and campaign finance laws to make comparisons among them meaningful. Yet the differences in these chambers' legislative institutions and campaign finance laws create substantial variation in the time legislators spend fundraising and, consequently, in the influence of donors. That is, they provide a "Goldilocks" data set for comparative analysis.

3. See DAVID CAY JOHNSTON, FREE LUNCH (2007), and ELIZABETH DREW, THE CORRUPTION OF AMERICAN POLITICS (1999), for excellent anecdotal discussions of the influence of money by journalists.

4. The National Institute for the Study of Money in State Politics collects and releases these data for the fifty states.

5. *See, e.g.*, D. E. Apollonio & Raymond J. La Raja, *Term Limits*, *Campaign Contributions, and the Distribution of Power in State Legislatures*, 31 Legis. Stud. Q. 259 (2006); Elizabeth Rigby & Gerald C. Wright, *Political Parties and Representation of the Poor in the American States* 57 AM. J. POL. SCI. 552 (2013); Boris Shor & Nolan McCarty, *The Ideological Mapping of American Legislatures*, 105 AM. POL. SCI. REV. 530 (2011).

6. *See generally* POWELL, *supra* note 2.

I found that a small number of factors explain much of the variation among the chambers in *both* fundraising time and donor influence.[7] For example, states with professionalized legislatures generally have large constituency sizes, highly paid members, and professional leadership structures; these features along with chamber size increase fundraising time and donor influence, while term limits and an educated electorate decrease both.[8]

In addition to contributions, there are other ways to use money to influence legislative outcomes. Individuals who wish to influence public policy can, most notably, spend money on lobbying, as well as contribute. There is considerable debate among scholars about the relationship between lobbying and contributing, and the effects of lobbying in the policy process. My findings support the "access" view of lobbying in which the opportunity to lobby is largely contingent on campaign donations.[9] If this view is correct, it shows a causal pathway for donor influence. It also means scholars need to examine the resources spent on both lobbying and donations to fully understand the influence of money in the legislative process.

Finally, discussions of the legislative effects of money tend to focus on the narrow "particularistic" legislative goals of contributors, but some donors have broader ideological agendas. Studies have found a relationship between affluence and influence—public policies disproportionately favor the preferences of wealthier constituents over those of others.[10] Wealthy individuals have high rates of all types of political participation, but it is the large amounts of money wealthy individuals donate that most set them apart from other citizens.[11] Disparities in political contributions have been hypothesized to explain wealth-related representational distortion, but we are just beginning to find evidence suggestive of a causal role for campaign contributions in representational inequality.

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7. *Id.* at 207–09.
8. *Id.*
9. See John R. Wright, *PAC Contributions, Lobbying and Representation*, 51 J. POL. 713 (1989), for a discussion of the literature on the "access" view of lobbying.
10. *See infra* notes 80–81 and accompanying text.
11. SIDNEY VERBA, KAY LEHMAN SCHLOZMAN, & HENRY BRADY, VOICE AND EQUALITY: CIVIC VOLUNTARISM IN AMERICAN POLITICS 190 (1995).

I. STUDIES RELATING PAC CONTRIBUTIONS TO FLOOR VOTES IN CONGRESS

Though a variety of approaches have been used to identify the influence of contributions in the legislative process,[12] the numerous studies of the relationship between PAC contributions and roll call votes have had the most influence in shaping the debate among scholars, public intellectuals, and journalists.

The frequently cited study, *Why Is There So Little Money in Politics?*[13] is based on a meta-analysis of thirty-six studies of the relationship between PAC contributions and Congressional floor voting. The authors of the study, Stephen Ansolabehere, John M. de Figueiredo, and James M. Snyder state "that only one in four studies from the previous literature support the popular notion that contributions buy legislators' votes. . . . [W]hen one controls for unobserved constituent and legislator effects, there is little relationship between money and legislator votes."[14]

Thomas Stratmann's meta-analysis of the same thirty-six studies rejected the null-hypothesis that PAC contributions had no influence on the vote, but noted that, "[w]hether one believes that contributions matter depends on whether one also believes that all of the studies underlying the meta-analysis properly have controlled for the potential simultaneous determination of contributions and votes."[15] This is the key point at contention in determining whether or not PAC contributions influence floor votes. The relationship between money and votes is reciprocal. PACs are more likely to give to like-minded legislators (those who are already more likely to vote in agreement with their interests) *and* legislators' votes in turn may be partly determined by contributions. Statistically modeling the effect of money on votes while controlling for a member's initial voting propensity has proven difficult, and is likely intractable. A study that does not fully control for this endogeneity will overestimate the effect of money on votes or find an effect when none exists. The subset of studies that do identify an effect of money on votes are challenged for

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12. See Lynda W. Powell, *The Influence of Campaign Contributions on Legislative Policy*, 11 THE FORUM 339 (2013), for a survey and critique of the larger literature.

13. Stephen Ansolabehere, John M. de Figueiredo, & James M. Snyder, *Why Is There So Little Money in Politics?* 17 J. ECON. PERSP. 105 (2003).

14. *Id.* at 106.

15. Thomas Stratmann, *Some Talk: Money in Politics. A (Partial) Review of the Literature,* 124 PUB. CHOICE 135, 146 (2005).

not fully controlling for the endogeneity between contributions and legislative activity.

It is this literature, presumably, that journalist and political commentator George Will drew on when he concluded, "[a]bundant political science demonstrates that money flows to views—views do not move toward money."[16] Journalist Eduardo Porter cited the Ansolabehere, de Figueiredo, and Snyder study along with one other[17] in his *New York Times* article which stated, "[b]ut, overall, there is little evidence that money is effective at swaying legislation or improving the corporate bottom line."[18]

There are, as I have argued elsewhere,[19] more fundamental problems with this approach to studying the influence of contributions. Floor votes are largely shaped by party, constituency, and ideology.[20] Thus, the set of votes that are most susceptible to influence are those that are relatively unimportant to a legislator's constituency or party. Stacy Gordon argues that it is in a subset of these votes—those in which an abstention or a switch of one vote would flip the outcome—that legislators are most likely to repay their obligations to donors.[21] Thus, since contributions are likely to matter on only a small fraction of floor votes, the effects of money will be modest in magnitude and difficult to identify.

My interviews with legislators and journalists also suggest that, even in the instances when votes are influenced by money, the causal link between the two may be indirect and effectively unobservable. I interviewed one legislative leader who explained that leaders ask caucus members to vote in support of good friends of the party—these good friends include large party donors. If a caucus member flips their vote due to an appeal from their party leader, and is thus indirectly influenced by party donors, no financial link will be apparent between the member's vote and the donor.

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16. Will, *supra* note 1.

17. Stephen Ansolabehere, James M. Snyder, Jr., and Michiko Ueda, *Did Firms Profit from Soft Mone*y?, 3 ELEC. L. J. 193 (2004). See POWELL, *supra* note 2, at 342–45, 350–51, for a more extensive discussion of the mixed findings from this literature.

18. Porter, *supra* note 1.

19. POWELL, *supra* note 2, at 16–19, 341–42.

20. The seminal works on this topic would include: JOHN E. JACKSON, CONSTITUENCIES AND LEADERS IN CONGRESS (1974); JOHN W. KINGDON, CONGRESSMEN'S VOTING DECISIONS, (1989); and John E. Jackson & John W. Kingdon, *Ideology, Interest Group Scores, and Legislative Votes,* 36 AM. J. POL. SCI. 805 (1992).

21. STACY B GORDON, CAMPAIGN CONTRIBUTIONS AND LEGISLATIVE VOTING: A NEW APPROACH 13 (2005).

Donors, and the lobbyists who represent them, can frustrate our ability to make causal connections as well. One journalist told me about his attempt to identify the links between donors and votes.[22] A top lobbyist in the state capital told the journalist that he knew what the journalist was trying to do and he would not succeed. The lobbyist stated that if one client wanted to affect the likelihood a bill would pass, he had a different client, who was uninterested in the bill, make targeted donations to attain the first client's goal. Thus, the donor on record was not the interested party, simply a disinterested intermediary. While this particular subterfuge may be rare, there are many ways to donate that make it more difficult or impossible to identify a relationship between donors and roll call votes.

However, the fundamental problem remains that donations are much more likely to be influential earlier in the legislative process. As Woodrow Wilson wrote over a century ago, Congress "legislates in its committee-rooms."[23] He also, according to one intellectual history, related this decentralized decision-making to Congress's being dominated "by the hidden influence of special interests."[24] Although state legislatures often differ from Congress in the powers of their standing committees, the observation that the details of legislation are generally determined in committees holds in these state chambers as well.[25] Further, standing committees typically serve as gatekeepers by determining which legislation reaches the floor for a vote.[26] As Tom Loftus, former Speaker of the Wisconsin Assembly stated, "[t]he truest thing I can say about special interest money is that it is mainly given to buy the status quo."[27] Thus, donors who wish to block or shape legislation focus their donations on members of the committees

22. *See* POWELL, *supra* note 2, at 16–17.

23. WOODROW WILSON, CONGRESSIONAL GOVERNMENT, A STUDY IN AMERICAN POLITICS 69 (Joshua Wilner ed., Johns Hopkins Univ. Press 24th ed. 1981) (1885).

24. RONALD J. PESTRITTO, WOODROW WILSON AND THE ROOTS OF MODERN LIBERALISM 16 (2005).

25. Not all chambers give committees the power to "kill a bill quietly." In North Dakota, every bill introduced is referred to a committee, but all bills receive a floor vote. The committee may recommend the bill favorably or unfavorably, and with or without amendments. *See* WILLIAM J. KEEFE & MORRIS S. OGUL, THE AMERICAN LEGISLATIVE PROCESS: CONGRESS AND THE STATES 191 (10th ed. 2001).

26. For discussions of the gate keeping or negative agenda powers of congressional committees, see, for example, CHRISTOPHER J. DEERING, & STEVEN S. SMITH, COMMITTEES IN CONGRESS 6–9 (1997); Kenneth Schepsle & Barry R. Weingast, *The Institutional Foundations of Committee Power*, 81 AM. POL. SCI. REV. 85 (1987). For a similar discussion about state legislatures see Keith E. Hamm, *U. S. State Legislative Committee Decisions: Similar Results in Different Settings*, 5 LEGIS. STUD. Q. 31 (1980).

27. TOM LOFTUS, THE ART OF LEGISLATIVE POLITICS 46 (1994).

that oversee their legislative interests.[28]

Richard L. Hall and Frank Wayman authored the classic article supporting the argument that we should look at the relationship between PAC contributions and members' committee activities to observe the influence of money in the legislative process.[29] Hall and Wayman "found solid support for the importance of moneyed interests in the legislative process," which, at the time, was "[i]n contrast to the substantial literature on contributions and roll calls."[30] Their innovative work studied committee participation on one bill in each of three Congressional House committees. They hypothesized that PAC contributions are "allocated in order to mobilize legislative support and demobilize opposition."[31] They found that these contributions "did buy the marginal time, energy, and legislative resources that committee participation requires."[32]

Hall and Wayman also illustrated the difficulty of determining causality. Their case-study approach measured how much each committee member participated in committee decisions, finding that donations increased participation.[33] But they did not determine whether that participation favored the donor; nor did they ascertain how influential contributions were in committee decisions. Their work provided an important piece of evidence about the policy process, but did not link contributions to the bottom line—the actual policy outcomes. And, as in the roll call studies, questions remain about the adequacy of controls for endogeneity.

II. CONCEPTIONS OF INFLUENCE

Hall, in a more recent work with Alan Deardorff, discussed a range of options delineating how contributions translate into influence.[34] They contrasted the "buying time" version of exchange theory articulated by Hall and Wayman with an indirect model in

28. *See*, *e.g.*, Kevin B. Grier & Michael C. Munger, *Committee Assignments, Constituent Preferences, and Campaign Contributions*, 29 ECON. INQUIRY 24, 38 (1991) (finding that "legislators on a committee with legislative and regulatory jurisdiction over an interest group possess an institutional asset, the return to which is disproportionate contributions from that interest group").

29. Hall & Wayman, *supra* note 2, at 797.

30. *Id.*

31. *Id.* at 800.

32. *Id.*

33. *Id.* at 809–10.

34. Richard L. Hall & Alan V. Deardorff, *Lobbying as Legislative Subsidy*, 100 AM. POL. SCI. REV. 69 (2006).

which PAC contributions either signal that the legislator has similar aims as the PAC or, more strongly, the contributions buy "access."[35] However, "the access" is not viewed as an "opportunity to request favors," but as an "offer to help on a matter that the legislators care about."[36] This latter view is consistent with the argument that it is the process that is corrupt, not the politician. Groups with greater resources affect the prioritization of issues, thereby producing unequal representation, while representatives simply accept funding to subsidize work on issues they believe in.

Senator John McCain made a somewhat different argument about process when he argued that Congress is corrupt.[37] Senator Mitch McConnell challenged McCain to identify the corrupt members, arguing that if there was corruption, it must be traceable to individually corrupt members. McCain instead answered that the corruption was systemic:

> I have personally experienced the pull from campaign staff alerting me to a call from a large donor. I do not believe that any of us privileged enough to serve in this body would ever automatically do the bidding of those who give. I do not believe that contributions are corrupting in that manner. But I do believe they buy access. I do believe they distort the system. And I do believe, as I noted, that all of us, including myself, have been affected by this system.[38]

McCain's view suggests that money does not just subsidize a member's legislative priorities, but has a psychological "pull" as well.

Lawrence Lessig likens the exchanges between donors and elected officials to a gift economy.[39] Contributions create bonds that involve obligations. Lessig cites Senator Paul Douglas's description of public corruption in which the public official is put:

> [U]nder such a feeling of personal obligation that the latter gradually loses his sense of mission to the public and comes to feel that his first loyalties are to his private benefactors and patrons. . . . [T]hroughout this whole process, the official will claim—and may indeed believe—that there is no causal connection between the

35. *Id.* at 72.
36. *Id.* at 80.
37. *See* 145 CONG. REC. 25,410 (1999) (statement of Sen. McCain). Sen. McCain opened debate on the Bipartisan Campaign Reform Act of 1999 which he co-sponsored with Sen. Russ Feingold by revealing his view that Congress was systematically corrupt.
38. *Id.* at 25,411.
39. LESSIG, *supra* note 2, at 107–14.

favors he has received and the decisions which he makes.[40]

Professor Glenn Parker similarly describes the symbiotic relationship between lobbyists and legislators.[41] Although interest groups' contributions do, according to Parker, serve legislators' electoral goals, they also affect legislators' priorities, encouraging them to specialize in the areas of interest to donors.[42] Through the interactions established by these connections, legislators gradually begin to adopt the policy perspectives of their donors.

Although quid pro quo corruption anchors one end of the continuum defining the influence of money in the legislative process, it is, as many of us argue, likely to be relatively rare.[43] Instead, there are a range of behaviors in which the legislator, consciously or unconsciously, prioritizes the interests of donors over those of constituents. Influence occurs when a legislator acts to favor donors in a way he or she would not have absent contributions. Because there is seldom an observable one-to-one relationship between a donation and legislative activity that repays this obligation, it has proven extremely difficult, but as my work shows, not impossible, to identify the influence of contributions in the legislative process.

III. MEASURING INFLUENCE

Survey-based measures are often used when objective measures are unobtainable. They are used, for example, to measure the left-right placement of political parties in comparative politics,[44] to estimate candidates' liberalism-conservatism,[45] and to create indices

40. *Id*. at 110 (quoting Thomas M. Susman, *Private Ethics, Public Conduct: An Essay on Ethical Lobbying, Campaign Contributions, Reciprocity and the Public Good*, 19 STAN. L. & POL'Y REV. 10, 15 (2008)).

41. GLENN R. PARKER, CAPITOL INVESTMENTS: THE MARKETABILITY OF POLITICAL SKILLS 10 (2008).

42. *Id.* at 11.

43. *See, e.g.*, 145 CONG. REC. 25,410 (1999) (statement of Sen. McCain); PAUL H. DOUGLAS, ETHICS IN GOVERNMENT 44 (1952); LESSIG, *supra* note 2, at 110; POWELL, *supra* note 2, at 3.

44. *See, e.g.*, KENNETH BENOIT & MICHAEL LAVER, PARTY POLITICS IN MODERN DEMOCRACIES (2006); Francis G. Castles & Peter Mair, *Left-Right Political Scales: Some 'Expert' Judgments*, 12 EUR. J. RES. 73 (1984); Matthew J. Gabel & John D. Huber, *Putting Parties in Their Place: Inferring Party Left-Right Ideological Positions from Party Manifestos Data*, 44 AM. J. POL. SCI. 94 (2000); John Huber & Ronald Inglehart, *Expert Interpretations of Party Space and Party Locations in 42 Societies*, 1 PARTY POL. 73 (1995); Paul V. Warwick, *Do Policy Horizons Structure the Formation of Parliamentary Governments? The Evidence from an Expert Survey* 99 AM. J. POL. SCI. 373 (2005).

45. *See generally* Larry M Bartels & John Zaller, *Presidential Vote Models: A Recount* 34 POL. SCI. & POL. 9 (2001) (measuring liberalism-conservatism in U. S. presidential candidates).

of country-level corruption. Transparency International uses surveys to measure corruption in 177 countries; the extensive use of their measurements by scholars has made it possible to test and improve our theoretical understanding of corruption.[46]

I used a similar technique to measure the influence of contributions in state legislatures. I asked legislators *what we wish to determine*—"To what extent is the content and passage of bills in your chamber influenced by the financial contributions of individuals and groups to candidates and parties?" This question was included in a national survey of 2,982 state legislators in all ninety-nine state legislative chambers.[47] Respondents were provided a seven-point scale with one end labeled "Not at all influenced" and the other "Completely determined."[48]

It is reasonable to ask how such inevitably subjective answers to survey questions can measure influence. It is important to note that legislators are not asked about their own actions, but about the extent of influence in their *chamber*—a less threatening query. Even so, respondents might, for example, consistently underestimate or overestimate the influence of contributions. Insofar as my goal is to make relative comparisons between chambers, my analysis will be unaffected by any consistent bias. Of course, measurement error is always present in survey responses. However, if measurement errors are random, that is, unrelated to characteristics of respondents or their chambers, the chamber comparisons and the ultimate analytical results will be unbiased. Only measurement error that is not randomly distributed across chambers is problematic, and even non-random

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Survey methods are also used to measure the liberalism-conservatism of Congressional candidates. *See* Lynda W. Powell, *Issue Representation in Congress* 44 J. POL. 658 (1982); Lynda W. Powell, *Analyzing Misinformation: Perceptions of Congressional Candidates' Ideologies* 34 AM. J. POL. SCI. 272 (1989).

46. *See, e.g.*, Mitchell A. Seligson, *The Impact of Corruption on Regime Legitimacy: A Comparative Study of Four Latin American Countries*, 64 J. POL. 408, 415 (2002) ("Most economists rely upon it when they examine the impact of corruption on growth and investment, and it is no doubt the best overall indicator of national levels of corruption worldwide."). A large body of literature using the measure is widely cited. Studies based on the measure have been published in top journals including *American Journal of Political Science*, *Journal of Politics*, *American Economic Review*, *Econometrica*, *British Journal of Political Science*, and *Review of Economics and Statistics*.

47. The survey was part of the Joint Project on Term Limits, a cooperative effort by state legislative scholars and the National Conference of State Legislatures, the Council of State Governments, and the State Legislative Leaders Foundation. Support for the survey was provided in part from NSF Grant No. SES-02131. POWELL, *supra* note 2, app. A at 215.

48. *Id.* app. A, at 218.

errors are, if identified, correctable. Drawing on existing literature, I controlled for five types of bias and used a Bayesian hierarchical model to estimate the influence of contributions in each of the ninety-nine chambers.[49] I found that chambers vary greatly in donor influence. My book focuses on modeling and explaining these chamber differences in influence.

A. An Investment Model of Contributions

In order to understand why chambers differ in the degree to which money influences policy, we need to understand the choices individual legislators make to raise money and accommodate donor interests. It is these individual decisions that ultimately determine how much influence campaign donations have in legislatures.

Social scientists often use formal models to test assumptions about the motives that underlie these decisions. My model makes the usual assumptions of an investment model of campaigns, namely, that candidates raise money to advertise in order to increase their chances of election, while donors give to gain policy favors from successful candidates.[50] The more money a candidate raises, the more she accommodates the policy interests of her donors in her legislative decisions.

There are three important changes I make to the usual investment model. First, because influence depends on the actions of individual legislators, I begin with a model in which legislators choose how much *time* to allocate to fundraising. Second, I add the possibility that legislators may also fundraise, not for themselves, but for their caucus in order to advance their career in the chamber. Increasingly in Congress,[51] and in some state legislatures, leadership positions and committee chairmanships require substantial amounts of caucus fundraising. Finally, I include parameters in the model to capture differences in political and institutional fundraising incentives so that the model yields predictions about how features of legislatures, such as legislative compensation and term limits, affect the *time* members

49. *Id.* at 22–24.

50. See, for example, Arthur T. Denzau & Michael C. Munger, *Legislators and Interest Groups: How Unorganized Interests Get Represented*, 80 AM. POL. SCI. REV. 89, 90–91 (1986), in which the authors focus "on the implicit market for policy, in which interest groups offer contributions to legislators in exchange for legislators' efforts on each interest group's behalf." They assume candidates are vote maximizers while interest groups are policy maximizers. *Id.*

51. Eleanor Neff Powell, Where Money Matters in Congress, (2014) (unpublished manuscript) (on file with author).

spend fundraising (for themselves and for their caucus) and determine chamber level *influence*.

B. Empirical Analysis

My empirical analysis serves two purposes. First, if the many quite varied predictions from the model are supported by empirical analysis, the model's assumptions that relate fundraising to donor influence gain credibility, as does the validity of the survey-based measure of influence. The findings *do* fit the expectations from the model remarkably well. Thus, there is credible evidence that money has legislative influence and we can measure it. Second, the predictions, if accurate, can provide novel insights into how features of institutional design affect legislators' fundraising decisions and determine the extent of donors' legislative influence. These results can suggest ways to more thoughtfully design our laws and institutions to reduce the influence of money.

First, the correspondence between the model predictions and the results is excellent. For individual legislators, the model yields twenty-one different predictions relating personal, political, and institutional factors to the time the legislators running for reelection report devoting to fundraising for their own campaigns and for their caucus. Nineteen of the coefficients are in the correct direction with fifteen statistically significant (the two in the wrong direction are statistically insignificant).

A legislator running for reelection is assumed to fundraise until the marginal benefits of fundraising equal the marginal costs. The legislator will divide her time between fundraising for her own campaign and the caucus so that the marginal gains of fundraising for self and caucus are equal. Thus, increasing the relative rate of return on one type of fundraising increases the time spent on that type of fundraising, reduces to a lesser extent the time spent on the other type of fundraising, and increases the total time spent on fundraising.

Differences in legislative compensation provide an example to illustrate these effects. A half-century ago reformers advocated for higher salaries to make legislative service more desirable in order to attract better candidates to run for office and to increase legislative tenure and professionalism.[52] In states where these reforms were

52. ALAN ROSENTHAL, THE DECLINE OF REPRESENTATIVE DEMOCRACY: PROCESS, PARTICIPATION, AND POWER IN STATE LEGISLATURES 54 (1998).

adopted, higher salaries increased members' reelection oriented activities,[53] which included increased fundraising.[54] I expected, and found, that more highly compensated legislators spend more time fundraising for their own campaigns, slightly less time fundraising for their caucuses, and, in net, slightly more time fundraising.

Most of the hypotheses I tested explain variation within chambers between fundraising time for self and for caucus. For example, compared to members in safe seats, members in marginal constituencies will spend much more time fundraising for their own campaigns, somewhat less time fundraising for their caucuses and, in net, slightly more total time fundraising.[55] These factors explain why some legislators in a chamber may be more reliant on (and accommodating to) donors than others. Since the ninety-nine state legislative chambers differ relatively little in the competitiveness of their legislative districts, this and similar individual-level factors that determine fundraising time explain little of the variation among the chambers in time and donor influence.

The remaining hypotheses involve chamber-level factors, such as legislative compensation, that explain much of the chamber-level variation in fundraising time. The model posits that the more time a member devotes to fundraising, the more the member's legislative activity is influenced by donors. Thus I expected, and found, that chamber-level donor influence is determined by the average time members in a chamber spend fundraising for themselves, the average time members in a chamber fundraise for their caucus, and by chamber size, which determines the number of members eligible to fundraise; these three factors explain about half the variance in donor influence in the ninety-nine chambers. This is an impressive amount of explanatory power for an analysis based on individual survey responses. Interestingly, the results show, as expected, that it does not matter whether a member devotes time to fundraising for the caucus or for his own campaign; the effect on influence is the same.[56]

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53. Gerald Gamm & Thad Kousser, *Broad Bills or Particularistic Policy? Historical Patterns in American State Legislatures*, 104 AM. POL. SCI. REV. 151, 156 (2010).

54. Robert E. Hogan & Keith E. Hamm, *Variation in District-Level Campaign Spending in State Legislatures*, *in* CAMPAIGN FINANCE IN STATE LEGISLATIVE ELECTIONS 59–80 (Joel A. Thompson & Gary F. Moncrief, eds., 1998), at 72–73.

55. POWELL, *supra* note 2, at 90.

56. *Id.* at 134–36.

Since fundraising is assumed to foster donor influence, the factors hypothesized to explain chamber differences in fundraising time should also explain chamber differences in influence. Again, the correspondence between the model predictions and the results is excellent. Seven factors are hypothesized to explain donor influence. Six of the seven coefficients are in the right direction (the seventh is zero).[57] Five of these coefficients are statistically significant.[58] The consistency of results for factors that explain both fundraising time and influence, as well as the observed relationship between fundraising time and influence, supports the validity of the influence measure as well as the basic premise of the model that relates fundraising to donor influence.

In sum, it is particularly in the professionalized legislatures (often found in large states) where features of institutional design incentivize fundraising and create donor influence. These legislatures tend to have large constituencies, well-compensated members, and professionalized leaders. Term-limits, which were adopted in a large minority of states, reduce the value of holding legislative office and thus are expected to, and do, reduce fundraising time and donor influence. Much of their effect is, however, blunted by the ambition for other office that term limits induce.[59] Members in term-limited legislatures are just as interested in political careers as members in other legislatures. Since their time in the chamber is limited, they can only continue in elective office by running for another position. Ambition for other office increases the value of, and hence the time devoted to, both fundraising for self and caucus; each type of

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57. The seventh coefficient measures leader compensation. This variable is highly correlated with two of the other independent variables. This correlation combined, with its crude measurement, makes it difficult to discern leader compensation's effect and, thus, will bias the coefficient towards zero.

58. POWELL, *supra* note 2, at 152–57.

59. As one term-limited California legislator explained:

> I don't think term limits [decrease the importance of money to legislators] at all. And if you feel like you're moving on, it's just the opposite. And I think I'm a good example of that. Given the district that I represent—a low-turnout, minority district—I don't have to raise very much money to get reelected. I might get away with raising $50,000-100,000, just to be safe, but I don't need more than that, and even that may be overkill. Then, of course, the leadership wants me to raise a little bit more to give to the caucus and to give to other members, and you start doing that. But now, I think 'I may have to move on from here. I may have to run statewide or for a regional office, or whatever.' Now, I don't need to raise $100,000—I need to raise several million. . . . I need to start developing my Rolodex now.

JOHN M. CAREY, RICHARD G. NIEMI, & LYNDA W. POWELL, TERM LIMITS IN THE STATE LEGISLATURES 38 (2000).

fundraising increases donor influence. Levels of ambition for other offices vary greatly among the legislative chambers[60] and the effects of ambition on fundraising extend well beyond merely reducing the influence of term limits. Chamber size also determines the degree to which legislatures accommodate the interests of donors—the more members, the more fundraising, and the greater the donor influence. Finally, studies have consistently found that levels of public corruption are lower in states with more highly educated citizens.[61] Donors too are less influential in these states, perhaps because more highly educated voters may be more aware of legislator fundraising and likelier to conclude that such legislators will be less likely to represent their interests.

In net, these results show that donor influence is measurable and varies substantially among the ninety-nine state legislative chambers. The difference in the influence measure comparing the chamber with the most influence to the least is 1.6 points on a seven-point scale. How substantial is a difference of this magnitude? For comparison, the chamber-level range of legislator self-placement on the standard survey response seven-point liberalism-conservatism scale is 2.3 points. This range represents an enormous ideological gulf—the most liberal chambers are over 75 percent Democratic while the most conservative non-southern state is 88 percent Republican. The range for donor influence is fully 70 percent of that for ideology.[62] This comparison suggests that the variation in influence is substantial and substantively meaningful.

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60. To reinforce just how striking this range is among various chambers:

> In the upper chambers of North and South Dakota, Montana, Tennessee and in the unicameral legislature of Nebraska, only 15-20% of members think they are likely to run for other office. In other chambers, including both chambers in Louisiana, the lower chambers in California and Arkansas, and the upper chambers in Florida and Michigan, the percentages are as high as 70-90%.

POWELL, *supra* note 2, at 48.

61. *See, e.g*, James E. Alt & David Dreyer Lassen, *The Political Economy of Institutions and Corruption in American States*, 15 J. THEORETICAL POL. 341, 358 tbl. 3 (2003); Edward L. Glaeser & Raven E. Saks, *Corruption in America*, 90 J. PUB. ECON. 1053, 1055 (2006); Amanda E. Maxwell & Richard F. Winters, A Quarter-Century of (Data on) Corruption in the American States, (Apr. 15-18, 2004) (unpublished paper presented at the Annual Meetings of the Midwest Political Science Association) (manuscript at 18) , *available at* http://www.dartmouth.edu/~rwinters/AM&RW2004.pdf.

62. POWELL, *supra* note 2, at 29.

IV. IMPLICATIONS FOR CAMPAIGN FINANCE RESEARCH

Campaign finance scholars will find some of these findings about the effects of institutions unsurprising, providing reassurance that the general model and its assumptions are reasonable. Other findings are novel and yield new insights into the incentives that underlie fundraising and their consequences. Four general conclusions can be drawn from the fine-grained findings.

First, especially given recent Supreme Court decisions,[63] campaign finance laws are, at least in the short term, unlikely by themselves to effectively restrain the flow of influence-seeking donations into politics. Certainly campaign finance laws are important and many think them essential.[64] Yet, frustratingly, laws often seem to only *redirect* the flow of money into politics without greatly *lessening* it. Further, it is difficult to determine which regulations will most effectively mitigate the influence of campaign donors. For example, clean election laws required candidates who accepted public funds to largely forego private fundraising for their election campaigns.[65] These laws were adopted to reduce the influence of big donors both in campaigns and in the legislative process.[66] Such laws were in effect in two states at the time of my survey.[67] Of course, these clean election laws virtually eliminated the time participating legislators spent fundraising for their own campaigns, but, as expected from the model, these participating legislators spent part of the time saved on additional fundraising for their caucus. Those legislators' total fundraising time was somewhat reduced, but not by as much as reformers anticipated.

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63. See three recent decisions, McCutcheon v. FEC, 134 S. Ct. 1434 (2014); Citizens United v. FEC, 558 U.S. 310 (2010); and FEC v. Wis. Right to Life, Inc., 551 U.S. 449 (2007), each of which weakened existing campaign finance regulations.

64. *See, e.g.*, Montana's Opposition to the Application of a Stay of the Montana's Supreme Court's Decision Pending Certiorari, Am. Tradition P'ship, Inc. v. Bullock, 132 S. Ct. 2490 (2012) (per curiam) (No. 11-A762), *available at* http://sblog.s3.amazonaws.com/wp-content/uploads/2012/02/11A762-AG-response-2-15-12.pdf. Attorney General Bullock argued that the Supreme Court was being asked to "invalidate Montana's Corrupt Practices Act—an Act that has safeguarded the republican form of government in Montana for a century from the scourge of political corruption." *Id.* at 1.

65. *E.g.,* Neil Maholtra, *The Impact of Public Financing on Electoral Competition: Evidence from Arizona and Maine*, 8 ST. POL. & POL'Y Q. 263, 263 (2008) (citing clean election laws that allow "candidates to use taxpayer dollars to fund their campaigns in exchange for accepting spending limits and forgoing private contributions").

66. *Id*.

67. The two states were Maine and Arizona. *Id.* at 266–67.

Second, the effectiveness of campaign finance laws can be conditional on features of institutional design and politics. Trying to determine the extent to which a campaign financial regulation "bites"—that is, the extent to which it reduces donations—is thus complex and can vary from state to state, from lower to upper chamber, and over time. Continuing the clean election laws example, the extent to which clean election laws reduce total fundraising should be, based on the model, dependent upon the value of caucus fundraising.

Chambers with professionalized leadership structures were particularly effective in incentivizing members to fundraise for their caucus. And caucus fundraising was more rewarding when the majority party had a thin margin of control—that is, when the next election could potentially flip chamber control. Thus, clean election laws should be most effective in reducing total fundraising time when caucus fundraising is least rewarding, namely in chambers with lop-sided margins of party control accompanied by weak leadership structures.

Third, both of the two prior points provide an example that illustrates why it is difficult and problematic to score states on the stringency of their campaign finance laws. More generally, we do not know the relative impact of the specifics of campaign finance regulations (those related to limits, disclosure and public funding) on reducing fundraising time. Further, the effectiveness of any one provision, for example, limits on fundraisers held during the legislative session, may also be dependent on the specifics of other provisions of the law. Similarly, effectiveness may also depend on aspects of chamber politics and features of institutional design, such as those described in the preceding paragraph.

Fourth, some observers may be tempted to infer state differences in donor influence by comparing the average amount of *money* an incumbent raises in one state to the average raised in another. These comparisons can be misleading. Differences in average fundraising *time* do correspond to differences in chamber levels of donor *influence*. The amount of money a legislator raises is equal to the product of the *time* she spends fundraising and her *rate of return* on her time (the amount she raises per unit of fundraising time). Within a chamber, differences in rates of return *are* related to differences in the influence individual members (and potentially their donors) have over the policy agenda. It makes sense for a donor to spend more money to attend the fundraiser of a committee chair than that of a freshman legislator.

However, differences *among* chambers in *average* rates of return are, in my analysis, *unrelated* to differences in donor influence. Why is there no relationship at this *macro* (chamber) level while there is at the *micro* (member) level? Chamber rates of return are largely dependent on the size of a state's economy (measured by its gross state product and the number of registered lobbyists) and also on the absence of contribution limits and chamber size.[68] These variables, along with a control for tied chambers, explain 86 percent of the variance in chamber-level rates of return. One way to think about these factors is that they determine the *size* of a donation needed to create a relationship or a sense of obligation between a donor and a legislator. The amount that "significant" donors give in one state may be much larger than the amount "significant" donors contribute in another state. Thus chamber fundraising averages, which depend not just on fundraising time, but also on these rates of return, may not correspond that closely to levels of donor influence.

Currently, reformers focus on campaign finance laws as the way to reduce the influence of money in politics. While these laws may help limit the influence of contributions, they do not address the root of the problem—the institutional features of legislatures that incentivize fundraising. Many legislators themselves complain about the time and obligations linked to financing expensive campaigns. If we wish to reduce the pressures that members in some chambers face to raise money, we need to consider institutional reforms to change fundraising incentives. Because much of the literature on campaign finance has focused only on Congress, little attention has been devoted to understanding how features of institutional design and politics structure fundraising incentives and determine levels of influence in legislatures. These factors explain much of the difference in fundraising effort and in donor influence, and these features of institutional design may be legally more modifiable and effective in reducing the influence of money than reforms implemented through campaign finance regulations.

68. Rates of return are greater in states with larger economies and no limits on donation size, and they are lesser in larger chambers. POWELL, *supra* note 2, at 134–35.

V. THE RELATIONSHIP BETWEEN CAMPAIGN CONTRIBUTIONS AND LOBBYING

In addition to campaign contributions, lobbying is another way to use financial resources to influence legislative outcomes. If giving and lobbying are relatively unrelated activities, the effects of each on policy could be studied separately. But if they are linked, neither can be studied in isolation from the other. There are two different theories of lobbying. Some argue that lobbying access is largely contingent on campaign donations and furthers donors' goals.[69] Others contend that legislators can be informed about policy issues by lobbyists without being significantly influenced.[70] In this latter view, the legislators most dependent on lobbyists are those who gain the most value from the information lobbyists provide.

The survey of legislators I analyzed provided an opportunity for a critical test of these two opposing theories of lobbying. Each makes different predictions about *which* legislators should rely more on lobbyists. The "access" model predicts that the more time a member devotes to fundraising, and the greater his *relative* rate of return on his fundraising time,[71] the more he will rely on lobbyists for information. The informational model predicts that members at an informational disadvantage, such as new members, members in larger chambers, members in chambers with greater turnover in office, and members interested in greater numbers of issue, will be more reliant on lobbyists. In the survey, each legislator was asked how important lobbyists were to him as a source of information, and this allowed me to test the two views of lobbying against each other.[72] My results

69. *See, e.g.*, Clyde Wilcox, *The Dynamics of Lobbying the Hill*, *in* THE INTEREST GROUP CONNECTION: ELECTIONEERING, LOBBYING, AND POLICYMAKING IN WASHINGTON 90 (Paul S. Herrnson, Ronald G. Shaiko, Clyde Wilcox, eds., 1998) ("There are a variety of strategies to gain [lobbying] access. One of the most common is to contribute to the campaign of a member . . . . There is considerable evidence that campaign contributions do help groups gain access to the member.").

70. For formal models of this argument see David Austen-Smith, *Information and Influence: Lobbying for Agendas and Votes*, 37 AM. J. POL. SCI. 799 (1993), and Randall L. Calvert, *The Value of Biased Information: A Rational Choice Model of Political Advice*, 47 J. POL. 530 (1985). Hall & Deardorff, *supra* note 34, come close to this argument as well.

71. A member's rate of return is the amount contributed by others to his campaign divided by the amount of time he reports fundraising. His relative rate of return is his rate of return divided by the average rate of return in his chamber.

72. Legislators were asked, "As you consider the various sources of information available to you as a legislator how important are each of the following?" Lobbyists were one of the sources asked about in a list of nine sources. Respondents were provided with a five-point scale. One endpoint was labeled "Not Important At All" and the other "Very Important." *See* POWELL, *supra* note 2, at 185–86.

cleanly and strongly support the "access" view of lobbying. None of the coefficients that test the informational view are statistically significant and several are in the wrong direction. The three coefficients for the variables that test the "access" view of lobbying are each statistically and substantively significant and, as expected, time spent fundraising for self and for caucus have equal effect on the degree to which members rely on lobbyists.

These findings suggest a mechanism of effect for contributions through lobbying, although they do not preclude other pathways of donor influence. Further, the linkage between lobbying and contributing means that those of us who study campaign finance must also take account of lobbying activity to more fully understand the complex relationships that constitute influence.

VI. CAMPAIGN CONTRIBUTIONS AND POLICY REPRESENTATION

Scholars have also considered whether our evolving campaign finance system has exacerbated the relationship between "affluence" and "influence" in our political system.[73] Larry Bartels, for example, observed that "the political process has evolved in ways that seem likely to reinforce the advantages of wealth. Political campaigns have become dramatically more expensive since the 1950s, increasing the reliance of elected officials on people who can afford to help finance their bids for reelection."[74]

Thus far, I have only considered the effects of contributions in the legislative process—that is, on members in office. However, contributions may also influence who *attains* office by affecting who runs for office and which candidates win primaries and general elections. Elections determine the party, ideologies, and issue orientations of legislative officeholders, and, in a democratic system, are expected to create representative institutions. In evaluating how well we achieve the normative ideal of representation, it is important to consider the effects of money in *both* the electoral and legislative processes.

Contributions have legislative influence because they are valuable electoral resources. Candidates raise funds to spend on their own

73. *E.g.,* MARTIN GILENS, AFFLUENCE & INFLUENCE: ECONOMIC INEQUALITY AND POLITICAL POWER IN AMERICA (2012).

74. LARRY M. BARTELS, UNEQUAL DEMOCRACY: THE POLITICAL ECONOMY OF THE NEW GILDED AGE 2 (2008).

campaigns, and many legislators also raise money that they re-gift to other candidates in order to advance their own legislative careers. Many of the individual and PAC donors who contribute to legislative incumbents give to members who sit on committees that oversee their legislative interests.[75] They give to obtain or maintain policies that favor their concerns. In contrast to these "materially" motivated donors, others give to advance a broad issue or ideological agenda. These "purposive" donors are more likely to give to challengers, open seat candidates, and to the small fraction of incumbents up for reelection in competitive races.[76] They focus on these particular types of candidates and elections in order to maintain or alter the partisan and ideological composition of our legislatures. Finally, some "solidary" donors have neither politically purposive nor material motivations. Often these solidary donors are mobilized by their politically motivated family, friends, or business associates who can gain "credit" with candidates for the funds they raise from others. Thus, a portion of the funds given by these solidary donors will serve to advance the material or purposive goals of fundraising intermediaries.

Donors make choices about how to allocate their funds to best achieve their goals. Some candidates are more attractive to ideological or partisan purposive donors while others are more appealing to materially minded contributors.[77] Campaign finance laws, by determining who may give and how much they may give, can potentially advantage candidates who appeal to one type of donor rather than another. For example, laws that impose limits on donations from corporations or unions may reduce the inflow of campaign dollars from one type of donor, material in this example, thus incidentally advantaging candidates who raise money primarily from purposive donors. This might result in more extreme ideological candidates, who hold greater appeal to purposive donors, gaining at the expense of rent-seeking incumbents, who receive more funds from materially oriented contributors.

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75. GRIER & MUNGER, *supra* note 28, at 38.

76. For more detailed discussions of donor motives, see CLIFFORD W. BROWN JR., LYNDA W. POWELL, & CLYDE WILCOX, SERIOUS MONEY: FUNDRAISING AND CONTRIBUTING IN PRESIDENTIAL NOMINATION CAMPAIGNS (1995), and PETER L. FRANCIA, JOHN C. GREEN, PAUL S. HERRNSON, LYNDA W. POWELL, & CLYDE WILCOX, THE FINANCIERS OF CONGRESSIONAL ELECTIONS (2003).

77. Of course, realistically, contributors have a mix of purposive, material, and solidary motives and their contribution decisions will reflect their varied goals.

By altering the extent to which different types of donors put money into politics, campaign finance rules can affect who chooses to run for office, their electoral prospects, and thus the ideologies and legislative priorities of candidates before they even win election. And the sheer volume of money itself, which also is dependent on regulatory decisions and constitutional constraints, gives greater "voice" and influence to donors, potentially resulting in greater representation for donors at the expense of other citizens.

Studies find, not surprisingly, that wealthy individuals participate more in politics than those with less wealth,[78] and this inequality of participation is greatest for the financial contributions that candidates depend upon to attain office.[79] This participation leads to greater representation for the wealthy. Martin Gilens[80] and Larry Bartles[81] showed that elected officials respond more to the preferences of wealthy Americans than to those of other citizens. By examining the electoral policy positions of each major party's candidates, Elizabeth Rigby and Gerald Wright, found that unequal responsiveness begins early in the policy process.[82]

Gilens determined that the degree of representational distortion in policy outcomes related to wealth varies by issue area.[83] On most issues, the wealthy are advantaged, but for four specific social welfare policies "there is no evidence that the middle class or the poor lose out when their views diverge from those of the well-off."[84] Stuart Soroka and Christopher Wlezien further caution that inequality of representation will be limited if policy preferences vary little by income group.[85] They find that spending preferences on eight policy

78. *E.g.,* KAY LEHMAN SCHLOZMAN, SIDNEY VERBA, & HENRY E. BRADY, THE UNHEAVENLY CHORUS: UNEQUAL POLITICAL VOICE AND THE BROKEN PROMISE OF AMERICAN DEMOCRACY 122–23 (2012) ("[W]ith the single exception of attending a protest, political activity rises with socio-economic status."); *see also* VERBA ET AL., *supra* note 11, at 189.

79. SCHLOZMAN ET AL., *supra* note 78, at 124–25 fig. 5.2.

80. GILENS, *supra* note 73, at 76 ("Turning next to the differences in policy responsiveness for respondents at different income levels, we find, as expected, that higher-income respondents' views are more strongly related to government policy.").

81. BARTELS, *supra* note 74, at 257–74.

82. Elizabeth Rigby & Gerald C. Wright, *Political Parties and Representation of the Poor in the American States*, 57 AM. J. POL. SCI. 552, 552–53 (2013).

83. GILENS, *supra* note 73, at 122.

84. *Id.*

85. Stuart N. Soroka & Christopher Wlezien, *On the Limits to Inequality in Representation*, 41 PS: POL. SCI. & POL. 319, 324 (2008).

domains generally differ modestly by income tertiles.[86]

In each of these studies the top wealth group is defined as the top third to top tenth of the general population. Economists have recently drawn attention to a much smaller segment of Americans, the top one percent.[87] This group has shown the greatest gains in wealth in recent years. These individuals are too rare to study using general population surveys. Benjamin Page, Larry Bartels, and Jason Seawright are involved in a collaborative effort to survey this top one percent of the wealthiest Americans.[88] They report on a preliminary study conducted in Chicago. In contrast to the top percentile of wealth in the Soroka and Wlezian study, the top one percent in the Page et al. study differed markedly from the average public on a number of spending priorities. The top one percent are especially conservative and results suggest the top one-tenth of one percent are yet more conservative, differing substantially from the general public.[89]

Scholars have identified the extensive political participation of the wealthy, in particular their campaign contributions, as a possible causal mechanism to explain the representational distortions that favor them.[90] The top one percent are especially notable in terms of their contribution activity. Page, Bartels, and Seawright found that the top one percent participate extensively in politics—68 percent of their respondents made a contribution (averaging $4,633) and 21 percent had solicited or bundled contributions.[91] Forty percent had contacted at least one of their United States Senators and 37 percent had contacted their House member. Almost half of these contacts focused on a "narrow issue of economic self-interest."[92]

There is also data indicating that although the wealthy are a small fraction of all donors, their donations constitute a large fraction of political contributions. Pew Research Center found that 16 percent of Americans reported making a political contribution in the year preceding their 2012 survey, a finding similar to the eighteen percent

86. *Id.* at 322–23 figs. 2 & 3.

87. *See, e.g.*, JOSEPH E. STIGLITZ, THE PRICE OF INEQUALITY: HOW TODAY'S DIVIDED SOCIETY ENDANGERS OUR FUTURE (2013).

88. Benjamin I. Page, Larry M. Bartels, & Jason Seawright, *Democracy and the Policy Preferences of Wealthy Americans,* 11 PERSP. ON POL. 51 (2013).

89. *Id.* at 64–65.

90. *See, e.g.*, BARTELS, *supra* note 74, at 275–80; GILENS, *supra* note 73, at 239.

91. Page, Bartles, & Seawright, *supra* note 88, at 53–54.

92. *Id.* at 54.

reporting giving in 2008.[93] Thus, the 68 percent of the top one percent constitute a small fraction of donors. However, the likelihood of making a large enough contribution to require public disclosure, the number of contributions, and the size of a contribution are all increasing functions of income.[94] Therefore, a relatively small number of quite wealthy individuals give a large fraction of the total dollars donated in politics. Indeed, estimates of the fraction the top one percent of the one percent of donors (31,385 individuals) contributed in the 2012 election range from 28 percent to over 40 percent of all disclosed contributions.[95]

Thus it is not surprising that campaign contributions are a causal mechanism scholars frequently point to in order to explain the policy influence of wealthy Americans. Bartels, for example, rejects socio-economically related differences in voting turnout, political knowledge, and contacting elected officials as explanations for the representational disparities he finds.[96] Instead he states, "[a] tempting alternative hypothesis is that the disproportional influence of affluent constituents reflects their disproportional propensity to contribute money to political campaigns."[97] His data do not provide the needed information to test this explanation, but he cites the similarity between the giving and wealth numbers provided by Sidney Verba, Kay Lehman Schlozman, and Henry Brady's study of participatory inequality,[98] and his own aggregate results as consistent with a contribution explanation. Gilens similarly states, "[p]olitical donations, then, but not voting or volunteering, resembles the pattern of representational inequality we saw in earlier chapters."[99]

93. AARON SMITH & PEW RESEARCH CENTER, CIVIC ENGAGEMENT IN THE DIGITAL AGE: PART I: ONLINE AND OFFLINE CIVIC ENGAGEMENT IN AMERICA 8 (2013), *available at* http://www.pewinternet.org/files/oldmedia//Files/Reports/2013/PIP_CivicEngagementintheDigitalAge.pdf.

94. FRANCIA ET AL., *supra* note 76, at 110–11.

95. Adam Bonica, Nolan McCarty, Keith T. Poole, & Howard Rosenthal, *Why Hasn't Democracy Slowed Rising Inequality?* 27 J. Econ. Persp. 103, 112 fig. 5 (2013) (estimating the one percent's share of the total disclosed campaign contributions in 2012 was over 40 percent); Lee Drutman, *The Political 1% of the 1% in 2012*, SUNLIGHT FOUNDATION BLOG (June 24, 2013, 9:00 AM) (estimating that the top one percent donated 28 percent of the total disclosed contributions in 2012), http://sunlightfoundation.com/blog/2013/06/24/1pct_of_the_1pct/.

96. BARTELS, *supra* note 74, at 275–80.

97. *Id.* at 280.

98. VERBA ET AL., *supra* note 11.

99. GILENS, *supra* note 73, at 239.

Although these studies make a strong argument for the relationship between political contributions and economic inequality of representation, we lack studies that make the exact causal linkages needed for affirmation. If political contributions are part of the causal explanation for the outsized influence of the wealthy, how might campaign finance regulations mitigate this representational distortion?

Some argue that broader adoption of matching programs for small donors would reduce politicians' dependence on large donors and result in better representation for citizens.[100] In these programs public funds match the contributions of small donors to increase the importance of small contributors in the donor pool. Multiple matching programs are particularly effective at leveraging the power of small donors. The New York City program matches the first $175 of each eligible contribution at a six-to-one ratio, providing a six-times multiplier for small donations.[101] The argument for matching contribution programs for small donors rests on the reasonable supposition that reducing the fraction of money from big givers will diminish their influence, but as yet, we have no empirical evidence on the representational effects of these laws.

Instead of enhancing the contributions of small donors, others favor constraining donations from wealthy actors, such as corporations and unions. These choices can advantage or disadvantage different types of donors. For example, laws that constrain rent-seeking material donors should theoretically advantage purposive ideological donors and the more extreme candidates they

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100. *Campaign Finance for the Empire State Testimonials*, NY LEAD, http://nylead.org/about-us/testimonials/, (last visited July 21, 2014) (recounting testimonials of: (1) Dennis Mehiel, Chairman and CEO of U.S. Corrugated and Battery Park City, noting "[a] system of small donor matching funds is a good answer. It will encourage business growth, help constituents hold candidates and officials accountable and ensure fair legislation in Albany;" (2) Sherwood Boehlert, former Congressman from New York's 23rd District, opining that "[l]awmakers would be allowed to focus on what they came to Albany to do—serve the broad public interest and make decisions that are in the best interests of the people;" (3) Jane Sherburne, General Counsel, BNY Mellon, commenting that, "[t]his effort is about achieving reforms that ensure that the interests of our elected leaders are aligned with the people they represent;" and (4) Dick Dadey, Executive Director of Citizens Union, saying, "[w]ith a public matching system that puts the public interest's voice on a more level-playing field, state government will become more responsive and accountable").

101. For a description of the New York City matching funds program, see NEW YORK CITY CAMPAIGN FIN. BD., *Overview of Matching Funds Program*, http://www.nyccfb.info/candidates/candidates/publicmatchingfunds.aspx, (last visited July 21, 2014).

support. Michael Barber found evidence consistent with this effect.[102] Lower limits on contributions from PACs resulted in more ideologically extreme state legislators, as did higher rather than lower limits on individual donors. Altering the balance between purposive and material donors could affect the nature of any representational distortion as well—social issues, for example, should be more salient to purposive donors than to material givers.

CONCLUSIONS

Measuring the influence of contributions on roll call votes has proven difficult, if not impossible. More importantly, donor influence is likely to occur earlier in the legislative process, especially in committees, where bills are written, marked up, and often simply killed quietly. Ideally, we want a measure that captures the full influence of donors in the legislative process, including the actions that do not leave a data trail. Elite surveys are often used to construct such comprehensive measures. I develop a theory that links legislators' campaign fundraising to the policy choices they make in office. This theory allows me to derive a lengthy list of predictions about how politics and institutions affect the time each member spends on fundraising for herself and on fundraising for her caucus and on donor influence in the member's chamber. The consistency and accuracy of the predictions for fundraising times and influence supports the validity of the survey measure of influence.

The bottom line is that institutions matter greatly in determining levels of donor influence in chambers. Along with politics, institutions establish the incentives that fuel fundraising. They produce wide variation in donor influence—donors have considerable influence in some chambers and little in others. Institutional effects are also nuanced and complex. Term limits, for example, by reducing the value of holding office, diminish fundraising and influence. But in term-limited legislatures members can only continue their elective careers by running for other offices. Ambition for other office increases fundraising and hence donor influence. These two effects of term limits largely cancel each other out, perhaps slightly decreasing fundraising and influence.

102. Michael Barber, Ideological Donors, Contribution Limits, and the Polarization of State Legislatures 4 (Sept. 4, 2013), *available at* http://static.squarespace.com/static/51841c73e4b04fc5ce6e8f15/t/52275a92e4b03f583b4b4047/1378310802196/Limits.pdf (unpublished manuscript).

Campaign finance laws are advocated to reduce donor influence. Their effects, however, will be contingent on the institutional systems in which they are situated. Institutions and laws cannot be studied in isolation. They are complex, interrelated, and evolving systems that shape both donor and legislator behaviors. We constantly face new challenges to understand these phenomena. Increases in independent expenditures, for example, raise vital new questions. Do donors who make independent expenditures gain the same influence in the legislative process as those who contribute to political campaigns? Or, as the Supreme Court has determined,[103] does their separation from a candidate's campaign eliminate any "corrupting" influence? Further, are those who raise more from independent expenditures, often argued to be ideologically motivated, less willing to engage in legislative bipartisanship, and thus more firmly polarized in their positions?

103. *See* Citizens United v. FEC., 588 U.S. 310, 360 (2010) ("The absence of prearrangement and coordination of an [independent] expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate." (citing Buckley v. Valeo, 424 U.S. 1, 47 (1976))).