



## **Effort to reform campaign finance should be applauded**

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There are certain things most people think they know about politics. One of those is that campaign finance regulation is necessary to prevent “big money” from dominating our elections.

In fact, campaign finance laws more often burden true, grassroots political activity, actually giving the “fat cats” another advantage in the system. This was brought home again this year when Colorado’s refreshing new Secretary of State, Scott Gessler, had his office study the breakdown of fines and penalties under Colorado’s campaign finance laws, which are among the strictest in the country.

Gessler found that the state’s largest political committees raised 26 percent of reported political contributions, but paid less than \$15,000 in fines, or just one percent of the total fines levied by the state. But small donor committees raised just one percent of the funds, and paid 12 percent of the fines. In fact, these small committees ended up paying almost a third of their total receipts in fines to the state.

Those who work extensively in the field of campaign finance have long suspected this was true. The powerful play, while the grassroots are squeezed out.

“The bottom line is this,” said Gessler, “Volunteers and grass-roots groups are far more likely to run afoul of the law because the law is so complex.”

Indeed last year a unanimous panel of the 10th Circuit ruled that Colorado’s laws violated the constitutional rights of at least one small group of citizens, noting: “The average citizen cannot be expected to master on his or her own the many campaign financial-disclosure requirements set forth in Colorado’s constitution, the Campaign Act, and the [former] Secretary of State’s Rules Concerning Campaign and Political Finance.”

Gessler has attempted to address this problem by proposing new rules that would alleviate the regulatory burdens on small political committees and small donors by easing reporting requirements, and reducing fines on small donors and committees. For example, one such rule requires any group of Colorado citizens who propose to spend as little as

\$200 to speak out on a local ballot measure to register with the state before they can speak. Think about that: to print up a few yard signs on local politics, you must first register with the state government.

For this effort to protect the political and speech rights of ordinary Coloradans, however, Gessler is being savaged by lawmakers and editorial boards. But as Allen Dickerson, Legal Director of the Center for Competitive Politics, a national organization that works to protect political speech rights and competition, noted after testifying at a hearing this month on the Secretary's proposed rules, "Gessler and his staff should be applauded for bringing Colorado's regulatory system into line with federal court rulings." For example, Dickerson noted that federal courts have made clear that independent expenditure committees are not subject to contribution limits, something the proposed rules would address. According to Dickerson, "this is settled constitutional law. *SpeechNow.org v. FEC* made this clear at the federal level. And while a D.C. Circuit opinion, it has been widely followed, and a challenge to limits in the 10th Circuit would almost certainly be successful. This office should be applauded for not drawing senseless and expensive litigation that would put Colorado on the wrong side of citizens' rights of speech and association."

Prior to the 1970s, America had very few campaign finance restrictions. Yet American government seemed to work and to even be capable of big things — the Voting Rights Act, medicare, the Civil Rights Act, even balanced budgets and a growing economy. What evidence is there that campaign finance has had any more beneficial effect than other 1970s relics, such as Disco Duck and leisure suits?

Speech — and campaign spending to get that speech out to voters — is essential to promoting healthy debate and political change in a democracy. Already, the deregulatory reforms recently mandated by the courts under First Amendment have yielded results — the 2010 elections were the most competitive and issue-oriented in a lifetime, with more true grassroots, non-career politician candidates winning office. This scares powerful interests who seek to maintain the status quo.

But it shouldn't scare we, the people. The government has no business regulating our political activity, and its efforts to do so have hindered, rather than enhanced, our democracy.

Secretary Gessler's efforts to conform Colorado law to the Constitution, and to protect small donors and political committees from excessive regulation, should be applauded, not condemned.

*Bradley A. Smith served as the Chairman of the Center for Competitive Politics. From 2000 to 2005, he served as Commissioner of the Federal Election Commission.*