UNIVERSITY OF PITTSBURGH LAW REVIEW
Vol. 86 ● Summer 2025

NEWER PROBLEMS IN AN OLD, BROKEN CAMPAIGN FINANCE REGIME—A POST-2024 REFLECTION

John J. Martin

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

NEWER PROBLEMS IN AN OLD, BROKEN CAMPAIGN FINANCE REGIME—A POST-2024 REFLECTION

John J. Martin*

ABSTRACT

Money in politics is ever-increasing in the United States, and the ways in which it manifests are ever-changing. The 2024 election cycle was no different in this regard, with numerous unique issues in campaign finance arising. The election now being over, a retrospection of these newer problems seems due. This Essay provides just that.

*Among the issues discussed are cash-for-donations schemes, cash-for-registration schemes, the use of social media moderation to block opponent fundraising (i.e., "contra-butions"), the leveraging of self-funding for vice-presidential nomination, the growth in candidate self-loaning post-*FEC v. Cruz*, and the uncertain future of laws targeting foreign-influenced corporations. With each issue, I offer potential legislative and doctrinal fixes (within the bounds of present campaign finance jurisprudence).*

* Assistant Professor of Law, Quinnipiac University School of Law.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

Table of Contents

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

INTRODUCTION

The United States spends more money on elections than any other country,[1] and the 2024 election cycle proved no different. Current estimates indicate that the 2024 federal elections cost nearly $15 billion, the second most expensive on record.[2] Almost $11 billion was spent on political ads for elections on the federal and state levels, a $2 billion increase from the 2020 election cycle.[3] Needless to say, campaign financing plays a huge role in our democratic system, with electoral candidates often feeling pressure to outspend their opponents to have a viable shot at victory.[4]

Much of this phenomenon can be blamed on our present campaign finance doctrine, which has systemically deregulated the field over the past five decades—especially under the Roberts Court—through the application of (1) a First Amendment theory that equates spending with speech, and (2) a democratic theory that says the only compelling interest the government has in regulating political spending is fighting quid pro quo corruption.[5] Under this doctrine, lawmakers have been barred from implementing strict dollar limits on donations to candidates, political parties, and political action committees ("PACs"),[6] and can impose no dollar limits on donations to entirely "independent" PACs—i.e., super PACs—or other

[1] *See When It Comes to Spending Big on Elections, Few Can Challenge America*, REUTERS (Dec. 5, 2022, 3:06 PM), https://www.reuters.com/world/us/when-it-comes-spending-big-elections-few-can-challenge-america-2022-12-05 [https://perma.cc/38V6-HVJC]; *see also* Anthony J. Gaughan, *Ramshackle Federalism: America's Archaic and Dysfunctional Presidential Election System*, 85 FORDHAM L. REV. 1021, 1036 (2016) (discussing how the United States has "the single most expensive media market in the world," which contributes to high campaign costs).

[2] *Cost of Election*, OPENSECRETS, https://www.opensecrets.org/elections-overview/cost-of-election (last visited Aug. 25, 2025). This includes spending not only by candidates and political parties, but outside groups as well like political action committees ("PACs"). *Id.*

[3] Ben Kamisar, *The Final Price Tag on 2024 Political Advertising: Almost $11 Billion*, NBC NEWS (Nov. 8, 2024, 4:47 PM), https://www.nbcnews.com/politics/2024-election/final-price-tag-2024-political-advertising-almost-11-billion-rcna179341 [https://perma.cc/HWF5-FDAD].

[4] Research has shown, in fact, a direct correlation between campaign spending and the receipt of votes. *See, e.g.*, Thomas Ferguson, Paul Jorgensen & Jie Chen, *How Money Drives US Congressional Elections: Linear Models of Money and Outcomes*, 61 STRUCTURAL CHANGE & ECON. DYNAMICS 527, 530 (2022).

[5] *See* Ciara Torres-Spelliscy, *Deregulating Corruption*, 13 HARV. L. & POL'Y REV. 471, 479–96 (2019); David Schultz, *The Case for a Democratic Theory of American Election Law*, 164 U. PA. L. REV. Online 259, 260 (2016).

[6] Emily Bernstein, Note, *Navigating Campaign Finance Reform Through Publicly Funded Elections on the Local Level*, 45 CARDOZO L. REV. 233, 259–63 (2023) ("[T]he Court went further . . . by declaring that the contribution limits in question were so severe they violated the First Amendment.").

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

nonregistered groups engaging in political spending.[7] Furthermore, lawmakers cannot enact *any* dollar limits on expenditures made to spread political communications, no matter who (or what) makes the expenditure.[8] We thus have a system where not only candidates and parties, but corporations, super PACs, and other outside groups are raising and spending billions of dollars per election cycle,[9] often in ways that evade disclosure requirements.[10]

This runaway spending has taken its toll on our democratic processes,[11] with moneyed interests left free to exercise disproportionate influence over electoral outcomes and lawmaking decisions.[12] And all while money in politics is ever-increasing, the ways in which it manifests are ever-changing, taking on new forms and practices that further corrode our democracy. The 2024 election cycle was no different in this regard, with numerous unique issues in campaign finance having arisen. With the election now over, a retrospection of these newer problems seems due. This Essay intends to provide just that.

Specifically, this Essay reflects upon a number of newfound ways through which money in politics complicated the 2024 elections. This Essay is *not* a broad indictment of our present campaign finance doctrine; plenty of literature already exists with that focus. Instead, the Essay provides a series of smaller pieces that each

---

[7] *See* SpeechNow.org v. FEC, 599 F.3d 686, 696 (D.C. Cir. 2010) (striking down limits on contributions to PACs that engage purely in independent spending).

[8] *See* Citizens United v. FEC, 558 U.S. 310, 365–66 (2010) (striking down limits on expenditures by corporations and unions); Buckley v. Valeo, 424 U.S. 1, 39–51 (1976) (striking down limits on expenditures by individuals).

[9] *See How Does the Citizens United Decision Still Affect Us in 2025?*, CAMPAIGN LEGAL CTR. (Jan. 21, 2025), https://campaignlegal.org/update/how-does-citizens-united-decision-still-affect-us-2025 [https://perma.cc/PM3H-ANTN] ("These groups have become a pathway for wealthy special interests looking to influence elections and garner political influence and access—like Elon Musk, who contributed a quarter of a billion dollars to super PACs running advertising, door knocking and phone banking for President Donald Trump's 2024 campaign.").

[10] *See* Sophia Gonsalves-Brown & Maha Quadri, *Dark Money Groups Are Pumping Millions into the 2024 Election*, CAMPAIGN LEGAL CTR. (Oct. 30, 2024), https://campaignlegal.org/update/dark-money-groups-are-pumping-millions-2024-election [https://perma.cc/L65B-QEZU].

[11] Some scholars have even argued that private campaign finance has no proper role in a functioning democracy. *See, e.g.*, Sarah Birch, *Private Electoral Finance and Democratic Theory*, 29 CONSTELLATIONS 492, 492–93 (2022).

[12] *See* Joshua L. Kalla & David E. Broockman, *Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment*, 60 AM. J. POL. SCI. 545, 546 (2016); PETER L. FRANCIA, JOHN C. GREEN, PAUL S. HERRNSON, LYNDA W. POWELL & CLYDE WILCOX, THE FINANCIERS OF CONGRESSIONAL ELECTIONS: INVESTORS, IDEOLOGUES, AND INTIMATES 16 (2003) (noting that U.S. donors are whiter and wealthier, on average, than the general U.S. population).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

describe a particular campaign-finance issue we saw in 2024, contextualize the issue within existing law, and offer thoughts on how we might address the issue going forward doctrinally and/or legislatively.

With all that said, this Essay is composed of five Parts. Part I looks at a phenomenon we saw in the 2024 presidential primaries that I call "cash for donations," where multiple candidates offered gift cards in exchange for $1 donations to help them gain a spot in the primary debates. Part II similarly analyzes Elon Musk's "cash for registration" scheme, in which he offered cash prizes to people in swing states who signed his super PAC's petition, with the catch that they must be registered to vote to win said prizes. Part III maintains a focus on Musk, discussing his use of X to ban accounts raising money for Kamala Harris's campaign. Part IV shifts focus to self-funded candidates, in two parts. The first considers Robert F. Kennedy Jr.'s decision to offer his presidential running mate position to Nicole Shanahan in exchange for her enormous self-funding capabilities, exploring the implications this apparent quid pro quo might have on how current campaign finance doctrine treats regulations on self-funded campaigns. The second section meanwhile examines the rise in self-loaning among federal candidates following the 2022 Supreme Court decision *FEC v. Cruz*, which struck down the federal limit on self-loan repayment. Lastly, Part V discusses the uncertain future of regulations that limit the ability of "foreign-influenced corporations" to engage in political spending.

I. CASH FOR DONATIONS

The majority of electoral campaigns are fueled, at least in part, by monetary contributions from individuals. In the 2024 presidential election, in fact, all major-party primary candidates received at least some donations[13] from private citizens.[14] Raising such funds is often an existential activity for campaigns, as more money means more resources to support advertising, staffing, day-to-day operations, travel, and future fundraising events.[15] Accordingly, candidate committees dedicate much time and go to great lengths to attract donors to their camp. Strategies will vary, typically involving a mixture of formal fundraising events and meetings, online and

[13] This Essay treats the terms "contribution" and "donation" interchangeably.

[14] *See Small Donor Donations as a Percentage of Total Fundraising, All Candidates*, OPENSECRETS, https://www.opensecrets.org/2024-presidential-race/small-donors [https://perma.cc/NWR8-3RW5] (last visited Aug. 23, 2025) [hereinafter *Small Donor*].

[15] Ximena Bustillo, *It Takes Lots of Money to Win Elections. Here's What You Need to Know*, NPR (Nov. 1, 2023, 5:01 AM), https://www.npr.org/2023/11/01/1205728664/campaign-finance-donations-election-fec-fundraising-ad-spending [https://perma.cc/ML33-NXPB].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

text campaigning, and grassroots movements. Two particular 2024 candidates, nevertheless, used a rather unique, if not eyebrow-raising, method at the beginning of the election cycle.

Indeed, in the summer of 2023, North Dakota Governor Doug Burgum and Miami Mayor Francis Suarez both implemented the novel practice of offering $20 gift cards to any person who donated $1 to their respective campaigns.[16] People thus stood to gain financially by throwing a small donation toward Governor Burgum or Mayor Suarez. If a husband and wife, for example, each gave $1 to both candidates, the couple could have profited $76 total—a non-insignificant amount for many Americans. Perhaps it is no surprise then that the strategy worked, with Burgum and Suarez both gaining tens of thousands of donations shortly following the respective announcements of their offers.[17] It may, on the other hand, surprise many to learn that this behavior was almost certainly legal.

Federal law in fact places no explicit restrictions on candidates offering cash gifts in exchange for donations.[18] Why is this the case? The answer is likely that the legislators who wrote our campaign finance laws could not have envisioned a scenario in which a candidate would benefit from giving more money to a donor than they receive from said donor. Certainly, one could imagine instances in which a candidate provides *political favors* in exchange for donations—this is an all-too-common phenomenon in our government.[19] But to provide literal money in exchange

[16] Ben Wieder, *In Bid to Make Debate, Suarez Paid $1 Donors $20 Each. Here's How Much Went Down the Drain*, MIA. HERALD (Oct. 13, 2023, 6:03 PM), https://www.miamiherald.com/news/politics-government/article280519419.html [https://perma.cc/GZ9L-9J5Q]; Laura Doan, *Doug Burgum Is Giving $20 Gift Cards in Exchange for Campaign Donations. Experts Split on Whether That's Legal*, CBS NEWS (July 19, 2023, 6:13 PM), https://www.cbsnews.com/news/doug-burgum-president-campaign-gift-cards-20-donations-legal-experts [https://perma.cc/H2VL-MK6K].

[17] Wieder, *supra* note 16 (detailing how the Suarez campaign spent over $400,000 on gift cards); Doan, *supra* note 16 ("[W]ithin just 48 hours of starting the promotion last week, the campaign had 20,000 new donors.").

[18] Some experts believed that the two GOP hopefuls may have violated a federal ban on "straw donations." *See* Fredreka Schouten, *$20 Gift Cards and $1 Books: GOP Primary Candidates Test Novel Ways to Raise Money as They Scramble for a Spot on Next Month's Debate Stage*, CNN (July 12, 2023, 1:07 PM), https://www.cnn.com/2023/07/11/politics/2024-fundraising-strategy-burgum/index.html [https://perma.cc/Z7B4-XMW7]. Yet, a "straw donation" is when one person makes a donation in the name of another person. 52 U.S.C. § 30122 (2024). It is accordingly unclear to me how Burgum's and Suarez's schemes would have violated this provision, given that the donors were still ultimately making their small donations in their own names.

[19] *See, e.g.*, Arturo Romero Yáñez & Neel U. Sukhatme, Judges for Sale: The Effect of Campaign Contributions on State Criminal Courts 36 (Jan. 15, 2023) (unpublished manuscript), https://ssrn.com/abstract=4602994; Daniel Bromberg, *Can Vendors Buy Influence? The Relationship Between Campaign*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

for less money would seem foolish and counterproductive. After all, why give $20 for a $1 donation when the candidate could have simply put that $20 toward her campaign in the first place? Why incur the $19 loss? Recent developments in our political landscape have, nevertheless, now rendered cash for donations a very logical move for some candidates.

For Burgum and Suarez, for instance, the big incentive behind their schemes was to make it onto the Republican primary debate stage. Up until 2020, the Democratic and Republican parties determined which candidates could participate in their presidential primary debates solely based on polling numbers.[20] This changed during the 2020 Democratic presidential primary when, inspired by a growing emphasis on grassroots fundraising, candidates were required to meet specific unique-donor thresholds to qualify for the debates.[21] The Republican Party adopted this change in its own 2024 presidential primary, implementing an initial requirement of 40,000 unique donors for candidates to make the debate stage.[22]

For candidates like Burgum and Suarez, both of whom had trouble attracting small-dollar donors,[23] this spelled trouble. Not only is getting on the debate stage almost always vital for electoral success,[24] it also provides a candidate national

Contributions and Government Contracts, 37 INT'L J. PUB. ADMIN. 556, 564 (2014); Christopher Witko, *Campaign Contributions, Access, and Government Contracting*, 21 J. PUB. ADMIN. RSCH. & THEORY 761, 761, 772–74 (2011).

[20] *See, e.g.*, *CBS News Announces Republican Debate Criteria*, CBS NEWS (Feb. 9, 2016, 12:22 PM), https://www.cbsnews.com/news/criteria-for-cbs-news-republican-debate [https://perma.cc/6QZZ-XF8S]; Mark Preston, *CNN Debate Criteria Would Allow Joe Biden to Participate*, CNN: POL. (Sept. 28, 2015, 11:03 AM), https://www.cnn.com/2015/09/28/politics/joe-biden-democratic-presidential-debate [https://perma.cc/QC4Z-QB7R].

[21] *See* Press Release, Democratic Nat'l Comm., DNC Announces Details for Third Presidential Primary Debate (May 29, 2019), https://democrats.org/news/third-debate [https://perma.cc/5F9Y-8GHW] (requiring "a minimum of (1) 130,000 unique donors; and (2) 400 unique donors per state in at least 20 U.S. states").

[22] Caroline Vakil & Brett Samuels, *RNC Debate Rules Leave Long Shot Candidates with Few Options*, THE HILL (July 4, 2023, 6:00 AM), https://thehill.com/homenews/campaign/4076122-rnc-debate-rules-leave-long-shot-candidates-with-few-options [https://perma.cc/DG35-32HG] (requiring also "at least 200 unique donors each from 20 or more states or territories").

[23] *See Small Donor*, *supra* note 14 (indicating that Burgum and Suarez were the two GOP candidates whose fundraising included the smallest percentage of small donations). Small donations are those that are $200 or less from a given individual. *See Large Versus Small Individual Donations*, OPENSECRETS, https://www.opensecrets.org/elections-overview/large-vs-small-donations [https://perma.cc/LBU3-UX8D] (last visited Aug. 23, 2025).

[24] While Donald Trump won the 2024 GOP primary without having participated in any primary debates, see Jill Colvin, *Trump Says He Won't Be Participating in Any GOP Presidential Primary Debates*, PBS

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

attention that can translate into further opportunities even if ultimately unelected. Would Vivek Ramaswamy have been initially slated to co-lead Trump's "Department of Government Efficiency" if not for his time in the national spotlight?[25] Would Burgum have been a serious contender for Trump's running mate?[26] Likely not.

On the presidential level, then, we should anticipate similar cash-for-donations schemes to pop up in future elections (at least so long as unique donations remain a prerequisite for debate access).[27] And we should in turn worry about the damaging

(Aug. 21, 2023, 2:53 PM), https://www.pbs.org/newshour/politics/trump-says-he-wont-be-participating-in-any-gop-presidential-primary-debate [https://perma.cc/GS4V-HGDF], this can almost certainly be considered an outlier situation due to Trump's prominence as the previous U.S. President and de facto leader of the GOP. Safia Samee Ali, *Do Presidential Debates Affect Election Outcomes?*, NEWSNATION (July 26, 2024, 12:12 PM), https://www.newsnationnow.com/politics/debates/do-presidential-debates-affect-outcomes [https://perma.cc/BD8T-Y9YN] (discussing how research suggests that presidential debates may have "negligible effect on outcomes" or don't "move the needle very much," though debates can still "have the ability to potentially shift enough undecided voters to have a big impact.").

[25] *See* Elon Musk & Vivek Ramaswamy, *Elon Musk and Vivek Ramaswamy: The DOGE Plan to Reform Government*, WALL ST. J. (Nov. 20, 2024, 12:33 PM), https://www.wsj.com/opinion/musk-and-ramaswamy-the-doge-plan-to-reform-government-supreme-court-guidance-end-executive-power-grab-fa51c020 [https://perma.cc/4BRH-A4P4]; Adam Wren, *DOGE Was Ramaswamy's First Big Government Gig. You Wouldn't Know It as He Kicks off His Ohio Bid.*, POLITICO (Feb. 24, 2025, 9:13 PM), https://www.politico.com/news/2025/02/24/ramaswamy-announces-ohio-governor-run-doge-00205877 [https://perma.cc/V4FW-3VK8]. Ramaswamy ultimately stepped down from this position within a day following Trump's inauguration. *See* Adam Gabbatt, *Vivek Ramaswamy Quits 'Doge' Cost-Cutting Program Leaving Musk in Charge*, THE GUARDIAN (Jan. 21, 2025), https://www.theguardian.com/us-news/2025/jan/21/vivek-ramaswamy-quits-doge-elon-musk [https://perma.cc/3GKB-GWXB].

[26] *See* Natalie Allison, *Doug Burgum Emerges as an Unlikely Candidate to Be Trump VP*, POLITICO (May 9, 2024, 5:00 AM), https://www.politico.com/news/2024/05/09/doug-burgum-trump-vice-president-00156922 [https://perma.cc/Q2DB-8YTY].

[27] What of state and local elections? While there does not appear to be any evidence of cash-for-donations schemes having occurred on the state or local level, one growing trend in the campaign finance world could change this: small donor multi-match funding ("SDMF") programs. Under these programs, candidates can receive X amount of dollars from the government per $1 received by a private donor (up to a certain amount). *See* Mariana Paez & Ian Vandewalker, *Small Donor Public Financing Explained*, BRENNAN CTR. FOR JUST. (June 29, 2023), https://www.brennancenter.org/our-work/research-reports/small-donor-public-financing-explained [https://perma.cc/X2DT-KWKE]. In New York, for instance, eligible candidates can receive anywhere between $6 and $12 per $1 received, depending on the office and the amount of the donation. *See Program Overview: How It Works*, N.Y. STATE PUB. CAMPAIGN FIN. BD., https://pcfb.ny.gov/program-overview [https://perma.cc/2PS5-EZ5V] (last visited Aug. 23, 2025). Imagine then a hypothetical scenario in which a candidate can receive $9 per every $1 received by a donor. A candidate could exploit this system by offering $5 gift cards to anyone who donates at least $1. In that situation, if a donor provides $1, they ultimately make a $4 profit off their donation, all while the candidate's committee makes a $5 net gain. As of today, dozens of states and localities have SDMF programs in place. *See Guide to Public Financing Programs Nationwide*, BRENNAN CTR. FOR

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

impact of such schemes on our democratic system. As Rick Hasen has noted, cash for donations can have a "distort[ing]" effect on our electoral process,[28] where big money is used in a way that ultimately skews electoral outcomes away from actual public preferences.[29] Thousands of Americans donated to Burgum and Suarez, not out of genuine support for the candidates, but rather in pursuit of short-term monetary gain. This launched the former onto the debate stage and nearly into the Office of the Vice President, a political rise fueled not by grassroots funding, but instead by something closer to legal bribery.

The antidemocratic threat of this phenomenon—especially if it catapults somebody into an elected position—is evident: In democratic societies, the decisions of officeholders should generally reflect the views of the public.[30] Robert Dahl indeed lists the people's "control of the agenda" as one of the five core criteria for democracy.[31] Yet, when an elected official attains her position through manufactured, rather than genuine, support, there is a risk that she will ultimately represent a people who never really wanted her in power.[32] This distorted electoral outcome may in turn lead to a lack of "alignment" between government decision-making and public preferences;[33] a breakdown of true control over the agenda.

JUST., https://www.brennancenter.org/our-work/research-reports/guide-public-financing-programs-nationwide [https://perma.cc/9JEQ-SUJH] (last visited Aug. 18, 2025). And while some have implemented restrictions on the use of funds for gifts, *see, e.g.*, N.Y. ELEC. LAW § 14-206(2)(h) (McKinney 2024), not all have done so.

[28] *See* Schouten, *supra* note 18.

[29] *See* Michael S. Kang, *Hyperpartisan Campaign Finance*, 70 EMORY L.J. 1171, 1204–05 (2021) (discussing the anti-distortion rationale and how the "wealthy and powerful" can "exert an undue influence" on election results by "drowning out other points of view").

[30] Thomas F. Burke, *The Concept of Corruption in Campaign Finance Law*, 14 CONST. COMMENT. 127, 131 (1997).

[31] ROBERT A. DAHL, DEMOCRACY AND ITS CRITICS 222 (1989). This argument itself reflects a core belief that democracy is not merely a procedural system, but one defined by substantive prerequisites and goals. *See id.* at 121. I fall squarely within this camp.

[32] Perhaps one could make a cynical case that donating to a politician in exchange for $20 *is* an instance of genuine support in that the politician is offering direct material benefits that the donor can perceive and appreciate. If we are to accept this logic, though, we may as well legalize vote buying. I ultimately maintain that exploiting people's financial desperation and/or political apathy is not an act of government responsiveness, but rather a tool to win the votes necessary to implement a broader agenda of which the bought-over donors/voters are likely unaware or unable to focus on due to the struggles of daily life.

[33] NICHOLAS O. STEPHANOPOULOS, ALIGNING ELECTION LAW 29 (2024) (defining the concept of alignment). To be sure, no democratic theorist will argue that for a democracy to function well, officeholders must be perfectly responsive to every public desire on every individual issue. *See id.*;

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

Insofar then as we view campaign finance law as a tool for pro-democratic aims,[34] the allowance of these cash-for-donations schemes represents a troublesome gap in the law. Is it fillable, though? In our era of judicial deregulation of campaign finance,[35] this is always a question worth asking. And the answer really turns on two further questions: First, would restricting cash-for-donations schemes burden any First Amendment rights; and, if so, does the government have a compelling interest that justifies such a burden?[36]

To begin with the latter, if a prohibition on cash-for-donations schemes implicates core First Amendment rights, there is likely no compelling interest that could save it. The Supreme Court has made abundantly clear over the past two decades that—barring few exceptions—the only compelling interest the government has in regulating campaign finance is that of curbing the actuality or appearance of quid pro quo corruption;[37] targeting electoral distortion is not enough.[38] Thus, for a campaign finance restriction to be constitutionally valid, it must be directed at the illicit exchange of donations for political favors.[39] Yet, in instances of cash-for-donations schemes, electoral candidates are not offering political favors to donors, but rather small monetary rewards. The Court would not consider such exchanges

---

Andrew Sabl, *The Two Cultures of Democratic Theory: Responsiveness, Democratic Quality, and the Empirical-Normative Divide*, 13 PERSP. ON POL. 345, 346 (2015). Still, *some* responsiveness is required for alignment to occur.

[34] While the Supreme Court does not view such aims as a compelling government interest in this space, they are still aims that can motivate the passage of new legislation, even if a pairing with a compelling interest, such as curbing quid pro quo corruption, is necessary. *See infra* note 37 and accompanying text.

[35] *See* Note, *Drowning Out Democracy*, 137 HARV. L. REV. 2386, 2388 (2024) (discussing this trend of deregulation).

[36] This is the traditional inquiry in modern campaign finance cases. *See, e.g.*, FEC v. Cruz, 596 U.S. 289, 305–07 (2022).

[37] *Id.* at 305; McCutcheon v. FEC, 572 U.S. 185, 192 (2014) (plurality opinion). In instances of foreign-funded campaign finance, courts have also identified a compelling interest "in limiting the participation of foreign citizens in activities of American democratic self-government." Bluman v. FEC, 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012). This interest is irrelevant to the present topic, however. It is also worth noting that scholars have questioned the Court's conclusion that campaign finance law's primary purpose is to prevent corruption. *See, e.g.*, ROBERT E. MUTCH, BUYING THE VOTE: A HISTORY OF CAMPAIGN FINANCE REFORM 143 (2014).

[38] *See* Citizens United v. FEC, 558 U.S. 310, 351 (2010) ("Austin's antidistortion rationale would produce the dangerous, and unacceptable, consequence that Congress could ban political speech of media corporations.").

[39] *See Cruz*, 596 U.S. at 312 (discussing how the government's anticorruption rationale is weak when the recipient of campaign funding is in no position to grant official favors).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

examples of the type of quid pro quo the government has a compelling interest in regulating—the type that abuses public funds and power. At best, any effect of cash-for-donations schemes on candidate behavior would likely be considered "mere influence."[40]

Is this fatal to potential restrictions on cash-for-donations schemes? Returning to the first question, it is necessary to discern whether a restriction on the practice would burden First Amendment rights in the first place. The answer may actually be 'no.' To start, there are two persons' rights potentially at issue: the donor's and the candidate's. Beginning with the donor, for almost fifty years now, the Court has recognized political contributions as a form of political association protected by the First Amendment.[41] Yet, underlying this conclusion is the assumption that donors are providing money as a "symbolic expression of support."[42] When it comes to cash-for-donations, however, the provision of a small donation for a larger monetary reward seems less like an act of support and more like a financial transaction. Moreover, any prohibition that prevents candidates from providing small rewards to donors would do nothing to restrict people's ability to donate to them. Someone who donates $1 to Burgum for a $20 gift card could still donate that $1 to him even if Burgum were barred from offering the gift card; the donor could still signal political support if they truly liked Burgum as a candidate and were not donating the $1 purely to enrich themselves.

Meanwhile, from the candidate's perspective, the Court has held that restrictions on contributions burden candidates' core speech rights whenever they prevent candidates from amassing funds necessary to engage in effective campaign advocacy.[43] A prohibition on cash-for-donations would not appear to raise such concerns. If anything, candidates engaging in the practice are actually deliberately losing money they could have otherwise used to spread campaign advocacy, with goals in mind that do not touch upon core speech rights (e.g., gaining debate access).[44] It therefore seems unlikely that a candidate could raise a sound First Amendment claim against a restriction on cash-for-donations schemes.

---

[40] *See id.* at 308 (quoting *McCutcheon*, 572 U.S. at 208).

[41] *See McCutcheon*, 572 U.S. at 197 (citing Buckley v. Valeo, 424 U.S. 1, 21 (1976)).

[42] *Id.*

[43] *See* Randall v. Sorrell, 548 U.S. 230, 247 (2006) (plurality opinion).

[44] *See supra* notes 20–26 and accompanying text.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

These are, of course, all untested ideas. Nevertheless, Burgum's and Suarez's actions this past cycle give us reason to consider implementing new spending restrictions that bar federal candidates from offering monetary gifts in exchange for donations (as well as state and local candidates if the need arises[45]). Restrictions on spending are certainly not unprecedented. Federal law, for example, explicitly prohibits the use of campaign funds for a variety of "personal use[s]."[46] It may thus be time to amend the law to also prohibit cash-for-donations schemes.

II. CASH FOR REGISTRATION

Candidates were not the only ones handing out prizes during the 2024 election cycle. Indeed, one of the most infamous stories to come out of the election involved a $1 million giveaway led by Elon Musk's America PAC. Beginning in early October 2024, the PAC posted an online petition that, on its face, presented as a pledge to support the First and Second Amendments.[47] Nevertheless, the petition came with an incentive for signers, stating that "you will receive $47 for each *registered* voter you refer that signs this petition."[48] People could not simply refer any registered voter, though. Rather, the registered voter had to reside in "Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin[, or] North Carolina."[49] In other words, they had to reside in one of the seven battleground states of the presidential election.[50] A few weeks later, Musk made further headlines by announcing that his PAC would give $1 million away every day up until the election to registered Pennsylvania voters

[45] *See supra* note 27.

[46] 52 U.S.C. § 30114(b) (2024). It should be noted that these limitations have been scrutinized under rational basis review. *See* FEC v. O'Donnell, 209 F. Supp. 3d 727, 740 (D. Del. 2016).

[47] *See Petition in Favor of Free Speech and the Right to Bear Arms*, AM. PAC, http://web.archive.org/web/20241010072327/https://petition.theamericapac.org (archived on Oct. 10, 2024) [hereinafter *Petition*].

[48] *Id.* (emphasis added).

[49] *Id.*

[50] *See Presidential Battleground States, 2024*, BALLOTPEDIA, https://ballotpedia.org/Presidential_battleground_states,_2024 [https://perma.cc/3F7D-AVZK] (last visited Aug. 23, 2025).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

who signed the petition,[51] eventually expanding this offer to registered voters in the other swing states as well.[52]

Although the petition did not include language that explicitly referenced the election, its purpose was evident: to boost Republican voter registration in swing states. For one, the petition was right-wing coded, with multiple appeals to the right to bear arms and an overall hyper-patriotic aesthetic (e.g., red- and blue-colored text and the word "America" appearing at the top surrounded by two American flags).[53] Musk himself was openly one of Trump's biggest supporters and financial backers in the election.[54] More importantly, the petition signers had to be registered voters, meaning if someone wanted to be "eligible" for the $1 million giveaway and was presently not registered,[55] they had to fill out a registration form in time for the election. And if signers wanted to earn $47 by referring a friend, and that friend was unregistered, the signer had to convince their friend to register to vote.[56] Accordingly, despite his denial,[57] many experts believed that Musk was essentially paying people to register to vote.[58]

---

[51] @America, X (Oct. 19, 2024, 8:17 PM), https://x.com/america/status/1847794197832556895 [https://perma.cc/G9YB-BH4G].

[52] Maryclaire Dale, *Musk's PAC Claims $1 Million 'Winners' Not Chosen by Chance*, PBS NEWS (Nov. 4, 2024, 2:59 PM), https://www.pbs.org/newshour/politics/musks-pac-claims-1-million-winners-not-chosen-by-chance [https://perma.cc/9YRA-H569].

[53] *See Petition*, *supra* note 47.

[54] *See* Julia Ingram & Steve Reilly, *Elon Musk Spends $277 Million to Back Trump and Republican Candidates*, CBS NEWS (Dec. 6, 2024, 7:16 PM), https://www.cbsnews.com/news/elon-musk-277-million-trump-republican-candidates-donations [https://perma.cc/K3KH-JZUQ]. Musk then became one of the most influential people in the early days of Trump's second administration. *See* Jonathan Swan, Theodore Schleifer, Maggie Haberman, Mac Ryan, Kate Conger, Nicholas Nehamas & Madeleine Ngo, *How Elon Musk Executed His Takeover of the Federal Bureaucracy*, N.Y. TIMES (Feb. 28, 2025), https://www.nytimes.com/2025/02/28/us/politics/musk-federal-bureaucracy-takeover.html [https://perma.cc/9GPE-BUGP].

[55] As it turns out, the giveaway did not operate as a lottery but rather involved preselected winners. *See* Dale, *supra* note 52.

[56] *See Petition*, *supra* note 47.

[57] *See* Elon Musk (@elonmusk), X (Oct. 20, 2024, 7:39 PM), https://x.com/elonmusk/status/1848147035607998575 [https://perma.cc/B4Z6-CF77] ("You can be from any or no political party and you don't even have to vote.").

[58] *See* Evan Perez, Hannah Rabinowitz & Marshall Cohen, *Justice Department Warns Elon Musk that His $1 Million Giveaway to Registered Voters May Be Illegal*, CNN: POL (Oct. 23, 2024, 3:31 PM), https://www.cnn.com/2024/10/23/politics/elon-musk-justice-department-letter/index.html [https://perma.cc/W2KS-5YML]; Erin Jones, *Is Elon Musk's $1 Million PAC Petition Giveaway Illegal? Depends on*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

Much like cash-for-donations schemes, Musk's cash-for-registration petition presents distortion concerns for the democratic process. Namely, when one PAC fueled by a mega-billionaire uses its financial muscle to encourage people of certain political ideologies to vote, that gives one person an extraordinary amount of sway over an electoral outcome. Imagine, for instance, that Musk's petition convinced at least 120,000 people to register as Republicans in Pennsylvania, 80,000 people to register as Republicans in Michigan, and 30,000 people to register as Republicans in Wisconsin.[59] In this scenario, Musk's petition could have quite literally swung the election for Trump.[60] In a time when recent presidential elections have been won by even thinner margins,[61] and when numerous other federal, state, and local elections are won by a handful of votes,[62] this level of influence is beyond troubling.

Unlike cash-for-donations schemes, though, the law overtly restricts the act of paying someone to register to vote. Specifically, it is a federal crime to "knowingly or willfully . . . pay[] or offer[] to pay or accept[] payment . . . for registration to vote," punishable by a fine of up to $10,000 and imprisonment up to five years.[63]

Who You Ask, VERIFY (Oct. 25, 2024, 11:31 AM), https://www.verifythis.com/article/news/verify/elections-verify/is-elon-musk-1-million-pac-petition-giveaway-legal-fact-check/536-02c6a005-da97-4149-98a3-a9678bdf7dd5 [https://perma.cc/MPS5-GEG4].

[59] As of now, there does not appear to be a publicly available list of who signed the petition. If it is ever released, it would be interesting to analyze it alongside voter registration data and see how many signers were unregistered prior to signing the petition.

[60] *See US Presidential Election Results 2024*, BBC, https://www.bbc.com/news/election/2024/us/results [https://perma.cc/N3R5-W27F] (last visited Aug. 23, 2025) (showing that Trump won by these margins in Pennsylvania, Michigan, and Wisconsin).

[61] *See* Benjamin Swasey & Connie Hanzhang Jin, *Narrow Wins in These Key States Powered Biden to the Presidency*, NPR (Dec. 2, 2020, 5:00 AM), https://www.npr.org/2020/12/02/940689086/narrow-wins-in-these-key-states-powered-biden-to-the-presidency [https://perma.cc/EZ4M-JHE7] (explaining that "just 44,000 votes in Georgia, Arizona and Wisconsin separated Biden and Trump from a tie"); Philip Bump, *Donald Trump Will Be President Thanks to 80,000 People in Three States*, WASH. POST (Dec. 1, 2016), https://www.washingtonpost.com/news/the-fix/wp/2016/12/01/donald-trump-will-be-president-thanks-to-80000-people-in-three-states [https://perma.cc/RJ7B-YLC4].

[62] For example, in Arizona's 2024 elections, five races for state and local offices were separated by a margin of 0.2% or less. *See* Jerod MacDonald-Evoy, *A Handful of 2024 Races Are Headed to a Recount, Including One Legislative Seat*, ARIZ. MIRROR (Nov. 19, 2024, 7:33 PM), https://azmirror.com/briefs/a-handful-of-2024-races-area-headed-to-a-recount-including-one-legislative-seat [https://perma.cc/V2SC-2V67]. And three U.S. House races nationwide were decided by less than 1,000 votes. *See* 538 Staff, *We Tracked the Undecided Races of the 2024 Election*, ABC NEWS (Nov. 27, 2024, 2:30 PM), https://abcnews.go.com/538/live-updates/election-2024-undecided-races/?id=115565805 [https://perma.cc/6FNV-Q6BL].

[63] 52 U.S.C. § 10307(c) (2024).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

The U.S. Department of Justice, in fact, warned Musk a couple weeks prior to the election that his petition may violate federal law,[64] though no charges were ever brought against him.[65]

Why was Musk able to evade legal repercussions? While it is impossible to read the government's mind, there are a couple possibilities. The first may be that the facts were too ambiguous to bring a clear case against Musk. Indeed, when the United States prosecutes people for buying votes or voter registrations, the quid pro quo is typically straightforward (e.g., paying someone $20 to register to vote).[66] In Musk's case, there was plausible deniability in that the petition did not expressly state that signers must register to vote to receive money; it instead stated that only registered voters were eligible to receive it.[67] A distinction without a difference, perhaps, but this is uncharted territory.

The second issue with bringing a case against Musk, though, is the "knowingly or willfully" mens rea standard included in the above-cited criminal statute.[68] Namely, it is difficult to prove whether a person knowingly or purposefully did something, as prosecutors are not mind readers.[69] Musk, in fact, went out of his way

---

[64] *See* Perez et al., *supra* note 58.

[65] Philadelphia's District Attorney Office did bring a case against America PAC for this stunt, claiming it violated Pennsylvania's lottery and consumer welfare laws. The judge hearing the case ultimately decided against moving it forward, though. *See* Gary Grumbach, Jane C. Timm, George Solis & Lisa Rubin, *Musk's America PAC Can Keep Writing Checks to Voters, Judge Says*, NBC NEWS (Nov. 4, 2024, 4:59 PM), https://www.nbcnews.com/politics/2024-election/musks-america-pac-can-keep-writing-checks-voters-judge-says-rcna178713 [https://perma.cc/6GZ2-UP57].

[66] *See, e.g.*, United States v. Smilowitz, 974 F.3d 155, 157 (2d Cir. 2020) ("Smilowitz . . . offered them cash payments and rent subsidies in return for their agreement to move to and register to vote in Bloomingburg."); United States v. Risner, 737 F. App'x 751, 754 (6th Cir. 2018) ("Hardin gave McCarty ten one-hundred-dollar bills and directed McCarty to mark the ballots (voting for Hardin) and cast them, which McCarty did. McCarty then paid each voter fifty dollars."); United States v. Robinson, 813 F.3d 251, 254 (6th Cir. 2016) ("Thomasine Robinson gave Ruby Wallen $20 to vote for her in the election."). The United States is generally unlikely to bring charges against someone unless the case is open and shut, as evidenced by the abysmally low acquittal rate of federal defendants. *See* John Gramlich, *Fewer than 1% of Federal Criminal Defendants Were Acquitted in 2022*, PEW RSCH. CTR. (June 14, 2023), https://www.pewresearch.org/short-reads/2023/06/14/fewer-than-1-of-defendants-in-federal-criminal-cases-were-acquitted-in-2022 [https://perma.cc/UQ4H-5UVA].

[67] *See Petition*, *supra* note 47.

[68] *See* 52 U.S.C. § 10307(c).

[69] *See* Sophia House, *Tailoring Regimes for a Designer Drug: Developing Civil Liability for Retailers of Synthetic Marijuana*, 127 YALE L.J. 764, 771 (2018) (discussing the difficulty of demonstrating that a defendant knowingly did something).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

to signal that this petition was *not* politically motivated, stating that "[y]ou can be from any or no political party and you don't even have to vote" to be eligible for the prize money.[70]

The problem with nonenforcement against Musk, though, is that it will encourage wealthy individuals in future elections to pull similar stunts, potentially having a major impact on who gets to hold office in this country. If the government is not willing to treat these stunts as the illegal purchase of voter registrations under existing law, perhaps then the law should be amended to more clearly bring these scenarios within its purview. For example, Congress could amend 52 U.S.C. § 10307(c) to read as follows (with the amended text in bold font):

> Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting, **or makes payment to someone contingent on their voter registration status** shall be fined not more than $10,000 or imprisoned not more than five years, or both.[71]

This additional text would prevent Musk's cash-for-registration scheme from happening again and help better fulfill the function that this law is designed to serve for our democratic process: preventing big money from having such a direct and naked impact on how people vote.

Another alternative legal solution could be to restrict registered PACs from engaging in any behavior that resembles implementing a cash lottery. As noted earlier, we have laws in place limiting what candidates can spend campaign funds on.[72] Placing such a limitation on PACs could act as a useful ex-ante solution to cash-for-registration schemes, rather than having to rely solely on ex-post criminal sanctions after such schemes have already influenced an election. Opponents of this suggestion may note that courts have historically struck down expenditure limits under the First Amendment.[73] Under the Roberts Court's campaign finance

[70] *See supra* note 57.

[71] *See* 52 U.S.C. § 10307(c).

[72] *See supra* note 46 and accompanying text.

[73] *See, e.g.*, Citizens United v. FEC, 558 U.S. 310, 365–66 (2010).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

jurisprudence, PACs have a presumed right to spend their money however they please.[74] Yet, giving a monetary prize to someone is not the same as spending money on advocacy. When a PAC spends money on an advertisement, to be sure, there is something speech-y about that. But giving $1 million to random people who signed a petition? Where is the speech? To the contrary, much like how courts would not view regulations on the act of gambling as violating a casino's First Amendment rights,[75] it is tough to imagine that a court would find America PAC to have protected speech interests in giving out prizes to registered voters. (Though perhaps that is too optimistic a take in today's campaign finance climate.)

III. "CONTRA-BUTIONS"

Elon Musk's money-in-politics controversies did not end with his America PAC petition. To the contrary, as the owner of one of the most widely used social media platforms—X (formerly known as Twitter)—Musk leveraged his position in numerous ways to influence the 2024 election.[76] Not only did Musk use X to promote his own PAC; he also used his moderation privileges to quash the fundraising capabilities of political groups that supported Kamala Harris.

Most notoriously, Musk targeted the X account "White Dudes for Harris." The story begins with a highly successful online fundraising event, where White Dudes for Harris—itself a project of a PAC called Beige Rainbow PAC[77]—raised over $4 million to support the PAC's pro-Harris advocacy.[78] Following this event, X suspended the White Dudes for Harris account, effectively eliminating its ability to engage in future fundraising on the platform.[79] The move sparked immediate outrage,

---

[74] *Id.* at 365 (explaining that the government "may not suppress political speech on the basis of the speaker's corporate identity" and that "[n]o sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations").

[75] *See, e.g.*, Telesweeps of Butler Valley, Inc. v. Kelly, No. 12-CV-1374, 2012 WL 4839010, at *5–6 (M.D. Pa. Oct. 10, 2012).

[76] Nick Robins-Early & Rachel Leingang, *Elon Musk Is Trump's Biggest Cheerleader. How Could He Affect Election Results?*, THE GUARDIAN (Oct. 18, 2024, 7:00 AM), https://www.theguardian.com/us-news/ng-interactive/2024/oct/18/elon-musk-trump-election-influence [https://perma.cc/VD6F-NTJV].

[77] *See* WHITE DUDES FOR HARRIS, https://whitedudesforharris.com [https://perma.cc/4WNC-RYQE] (last visited Aug. 23, 2025) (stating "[p]aid for by Beige Rainbow PAC" at the bottom of the page).

[78] Ross Morales Rocketto (@RossMoRock), X (July 30, 2024, 7:49 AM), https://x.com/RossMoRock/status/1818252456192594154 [https://perma.cc/6DRQ-VS5B].

[79] Trisha Thadani, Will Oremus & Eva Dou, *X Suspends 'White Dudes for Harris' Account After Massive Fundraiser*, WASH. POST (July 31, 2024), https://www.washingtonpost.com/technology/2024/07/30/white-dudes-harris-suspended-x-twitter [https://perma.cc/3BVF-LR8K].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

some pointing out the danger imposed by one person holding so much power over people's ability to engage in political campaigning.[80] X soon thereafter reinstated the White Dudes for Harris account, with Musk offering no formal justification for why it had been suspended in the first place.[81]

While this particular controversy was short-lived, it raises interesting questions for campaign finance going forward. Because when Musk—or any other head of a large online platform, for that matter—impedes people from raising money to support a given candidate, that constitutes an implicit monetary gain for the candidate's opponent and those advocating for the opponent. As an abstract example, suppose Candidate A is running against Candidate B, and tries to host a fundraising event on X. This fundraising event is likely to bring in $1 million to Candidate A's campaign. Nevertheless, Musk dislikes Candidate A and prevents this event from happening on his platform, ultimately stopping Candidate A from receiving the $1 million she otherwise would have raised. This is not only a loss for Candidate A, but also a boon for Candidate B, who is now in a more financially well-off position relative to Candidate A than he would have been if Candidate A had raised that $1 million.[82] Likewise, Candidate B will feel less pressure to raise even more money to outpace Candidate A's fundraising and sponsor ads that would counter whatever ads Candidate A would have put out using the $1 million. Ultimately, Musk's move not only financially burdens Candidate A's campaign, but also financially benefits Candidate B's.

In campaign finance, contributions to candidates, political parties, and candidate-affiliated PACs are subject to dollar limits on the federal level and typically subject to limits on the state and local levels.[83] Yet, no current law would

[80] *See id.*

[81] Kelly Rissman, *X Reinstates 'White Dudes for Harris' Account After Backlash for Suspension Following $4m Fundraiser*, THE INDEP. (July 31, 2024, 9:51 AM), https://www.the-independent.com/news/world/americas/us-politics/white-dudes-harris-musk-x-suspension-b2588924.html [https://perma.cc/4RBN-MD3B].

[82] For instance, suppose Candidate A presently had $9 million in campaign funds and Candidate B had $10 million. The fundraising event would have brought Candidate A's funds up to match the level of Candidate B's. But because the event is blocked, Candidate B remains financially ahead of Candidate A.

[83] *See Contribution Limits*, FEC, https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits [https://perma.cc/YRD9-BDEH] (last visited Aug. 23, 2025); NAT'L CONF. OF STATE LEGISLATURES, STATE LIMITS ON CONTRIBUTIONS TO CANDIDATES: 2025–2026 ELECTION CYCLE (2025), https://documents.ncsl.org/wwwncsl/Elections/State-Limits-on-Contributions-to-Candidates-2025-2026.pdf [https://perma.cc/PG87-MPQ5].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

seem to govern the above scenario—let us call it a "*contra*-bution"—where a person is not directly contributing to a candidate or political group, but is instead deterring contributions to their opponents. To be sure, some types of non-monetary contributions, called "in-kind contributions," are subject to dollar limits under campaign finance law.[84] These typically involve activities to which a dollar amount can be ascribed, such as providing goods or services to a candidate or making an expenditure at a candidate's request.[85] Would contra-butions fall within this category and qualify as an in-kind contribution to whichever candidate or political group they benefit? For example, should Musk's hypothetical actions in the above scenario be treated as an in-kind contribution to Candidate B?

In principle, there is some appeal to this argument. Because in effect, there is seemingly little difference between the act of blocking Candidate A from raising $1 million and the act of giving Candidate B $1 million (the latter of which would be impermissible under federal contribution limits[86]). Yet, in practice, treating contra-butions as in-kind contributions is likely a legal impracticality. For one, unlike current forms of in-kind contributions, it is difficult to place a hard value on contra-butions. We cannot, after all, ever know for sure what *would* have happened if a fundraising event had been allowed to take place. Suppose, for instance, that X had kept White Dudes for Harris suspended. How could anyone ever know for certain how much money the group would have raised if the account had been kept open? Certainly, people could make estimates, but estimates do not provide solid ground on which to declare something an in-kind contribution.

Furthermore, it would be impossible to conclude exactly who the contra-bution benefited. Take White Dudes for Harris. Having been operated by a super PAC, who did the suspension of the account help? Who was the "recipient" of the contra-bution? Was it pro-Trump super PACs? If so, which ones? (Regardless, super PACs themselves are not subject to traditional contribution limits thanks to *Citizens United*).[87] Or was the recipient Trump himself, or the Republican Party? Surely, candidates benefit when super PACs supporting their opponents are unable to fundraise. At the same time, it would be odd to say that a contra-bution targeting a super PAC not formally affiliated with Harris would formally benefit Trump.

[84] *See In-kind Contributions*, FEC, https://www.fec.gov/help-candidates-and-committees/filing-reports/in-kind-contributions [https://perma.cc/RWE6-KW6B] (last visited Aug. 23, 2025).

[85] *See id.*

[86] *See Contribution Limits*, *supra* note 83.

[87] *See* SpeechNow.org v. FEC, 599 F.3d 686, 696 (D.C. Cir. 2010).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

Perhaps the scenario offered above provides an easier comparison—impeding one candidate's fundraising could be described as a more direct benefit to the opposing candidate. Still, where to draw the line is tough to discern, because there are always going to be additional political groups who also benefit to varying degrees (e.g., the opposing candidate's party).

One final reason why campaign finance restrictions are likely an untenable solution to contra-butions is that they would almost assuredly implicate core First Amendment rights. Quite simply, private platforms have a right to decide who may or may not post on them.[88] Musk gets to choose who may post on X, and no candidate is entitled to access it (as we saw four years ago when Twitter banned Trump's account while he was still in office[89]). Subjecting such actions to contribution limits, effectively limiting platforms' ability to determine whether they want certain candidates or political groups to publish on them, would seemingly undermine this protected right.

Where does this leave us then? Well, while campaign finance law might not be a suitable space to address contra-butions, perhaps the White Dudes for Harris fiasco only further underscores the idea that centralized social media platforms should be treated as public utilities rather than dominated by a few private actors.[90] Until that day comes though (and it likely never will), we can expect the people running these platforms to continue exercising an uncomfortable level of influence over political campaigning activities in future elections, free of any legal constraints.

IV. THE CONTINUED DILEMMA OF SELF-FUNDING

As should be evident by now, big money plays a rather precarious role in democracy. Perhaps this is no clearer than in instances of self-funded campaigns, where wealthy candidates are free to spend unlimited sums of money to advance

[88] This goes all the way back to *Miami Herald v. Tornillo*, when the Supreme Court struck down a Florida state law requiring newspapers to provide equal access to candidates. 418 U.S. 241, 258 (1974) ("The choice of material to go into a newspaper . . . constitute[s] the exercise of editorial control and judgment.").

[89] *See* Brian Fung, *Twitter Bans President Trump Permanently*, CNN (Jan. 9, 2021, 9:19 AM), https://www.cnn.com/2021/01/08/tech/trump-twitter-ban/index.html [https://perma.cc/H945-N4BM].

[90] *See* Vasant Dhar, *'Nationalize' Facebook and Twitter as Public Goods*, THE HILL (Jan. 15, 2021, 5:30 PM), https://thehill.com/opinion/technology/534458-nationalize-facebook-and-twitter-as-public-goods [https://perma.cc/UV5Q-7ZUP].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

their candidacy.[91] Multimillionaires and billionaires who would otherwise have little shot at winning an election are thus able to buy themselves into contention, sometimes resulting in victory,[92] other times resulting in at least strong party influence.[93] Congress and state legislatures have attempted over the years to tackle this issue through a range of innovative legislative solutions, only to have these solutions systematically invalidated by the Supreme Court.[94] Self-funded candidates accordingly remained a notable fixture in the 2024 election cycle.[95]

This Part focuses on two issues relating to self-funding that were particularly novel to 2024. First, it discusses independent presidential candidate Robert F. Kennedy Jr.'s selection of multimillionaire Nicole Shanahan as his VP pick and the implications it has on current judicial assumptions about self-funding and corruption. Second, it studies the apparent rise in federal candidates loaning personal funds to their campaigns following the Court's 2022 invalidation of a federal law that limited the use of contributions to reimburse such self-loans.

---

[91] The Supreme Court has held that the government has no compelling interest in placing limits on self-funding. *See* Buckley v. Valeo, 424 U.S. 1, 52–54 (1976).

[92] Senator Rick Scott, for instance, spent a record-breaking $63 million during his successful bid for the U.S. Senate. *See* Mitch Perry, *It's Official: Gov. Rick Scott Spent More than $63-Million in U.S. Senate Race*, FLA. PHOENIX (Dec. 7, 2018, 8:30 AM), https://floridaphoenix.com/briefs/its-official-gov-rick-scott-spent-more-than-63-million-in-u-s-senate-race [https://perma.cc/5V7E-FL7U].

[93] Notable examples include Vivek Ramaswamy, who self-funded over $30 million in his presidential bid and is now a major Republican Party player, and Michael Bloomberg, who channeled $18 million from his self-funded campaign to the Democratic Party. *See Top Self-Funding Candidates*, OPENSECRETS, https://www.opensecrets.org/elections-overview/top-self-funders [https://perma.cc/DF95-SUZ2] (last visited Aug. 23, 2025); Asma Khalid, *Bloomberg Decides Against Super PAC, Transfers $18 Million to Democratic Party*, NPR (Mar. 20, 2020, 1:11 PM), https://www.npr.org/2020/03/20/818929534/bloomberg-decides-against-superpac-transfers-18-million-to-democratic-party [https://perma.cc/4LFH-JMBY].

[94] *See, e.g.*, FEC v. Cruz, 596 U.S. 289, 313 (2022) (striking down federal limit on use of post-election contributions by congressional candidates to repay self-loans); Ariz. Free Enter. Club's Freedom Club PAC v. Bennett, 564 U.S. 721, 755 (2011) (striking down Arizona law that gave additional funding to publicly funded candidates if privately funded opponents spent over a certain amount); Davis v. FEC, 554 U.S. 724, 744–45 (2008) (striking down "Millionaire's Amendment," which relaxed campaign finance limits for candidates who faced a self-funded opponent); *Buckley*, 424 U.S. at 52–54 (striking down dollar limit on self-funding).

[95] Albert Serna Jr., *Self-funded Candidates Put More than $166 Million into Their Own Campaigns*, OPENSECRETS (May 16, 2024, 5:16 PM), https://www.opensecrets.org/news/2024/05/self-funded-candidates-put-166-million-in-campaigns/ [https://perma.cc/TPM8-6CGK].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

A. The RFK Jr./Shanahan Quid Pro Quo: Selling the Vice Presidency

U.S. campaign finance jurisprudence prohibits the imposition of any limits on candidates self-funding their own campaigns.[96] The logic underlying this principle stems from the Court's assertion that the government's only compelling interest in restricting campaign spending is an anticorruption interest—that is, for the government to justify a limit on campaign spending, it must show that the limit helps reduce the actuality or appearance of quid pro quo corruption.[97] Building off this logic, the Court has concluded and continues to maintain that limits on self-funding cannot serve an anticorruption interest because, in the Court's words, "the use of personal funds reduces the candidate's dependence on outside contributions and thereby counteracts . . . coercive pressures and attendant risks of abuse."[98] Indeed, we see this claim touted often by self-funded candidates themselves, professing themselves unbuyable because of their lack of reliance on third-party contributions.[99]

This reasoning has always been, of course, highly questionable. Namely, it rests on a shaky assumption that candidates can only engage in corrupt dealings with campaign donors. Reality is different, though. As one expert puts it, the idea that self-funded candidates cannot be corrupted by other third parties "misses the reality that wealthy candidates typically already represent a special interest: the business and industry that got them (or their parents) rich."[100] Imagine, for instance, that a millionaire business founder decides to run for Congress. Is it really outside the realm of possibility that they enter into agreements with their business's top investors to support laws that enrich said investors? Self-funded candidates, after all, get their

[96] *See Buckley*, 424 U.S. at 52–54.

[97] While the Court's insistence that this is the *only* compelling government interest that can justify such restrictions is a relatively recent development, see *supra* note 37 and accompanying text, it itself originates from the *Buckley* Court's treatment of anticorruption as the government's primary interest in regulating campaign finance. *See Buckley*, 424 U.S. at 25–26 (treating other asserted interests as "ancillary" interests).

[98] *Buckley*, 424 U.S. at 53.

[99] *See, e.g.*, Donald J. Trump, FACEBOOK (Sept. 5, 2015), https://www.facebook.com/DonaldTrump/posts/by-self-funding-my-campaign-i-am-not-controlled-by-my-donors-special-interests-o/10156071933390725 [https://perma.cc/BHJ3-LFZU] ("By self-funding my campaign, I am not controlled by my donors, special interests or lobbyists. I am only working for the people of the U.S.!").

[100] Ian Vandewalker, *RFK Jr.'s VP Pick and the Dangers of Self-Funded Campaigns*, BRENNAN CTR. FOR JUST. (Mar. 27, 2024), https://www.brennancenter.org/our-work/analysis-opinion/rfk-jrs-vp-pick-and-dangers-self-funded-campaigns [https://perma.cc/8K2N-JWY5].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

money from *somewhere*; just because it is not from formal campaign contributions does not mean it simply materialized out of thin air. And depending on where that money came from, self-funded candidates may feel compelled to govern in ways that provide political favors to those who gave them their fortunes. Nevertheless, the Court continues to protect self-funded candidates from campaign finance limits.[101]

Something happened in 2024, however, that potentially undermines the Court's logic, at least in the context of presidential elections. And it is something that involved neither a Democratic nor Republican candidate. Currently serving as Trump's Secretary of Health and Human Services,[102] Robert F. Kennedy ("RFK") Jr. at one point operated one of the most successful independent presidential campaigns in modern American history.[103] Heading into 2024, though, RFK Jr. faced numerous challenges, such as the immense cost of obtaining ballot access in all fifty states.[104] Much attention was given to his choice of running mate. Would he pick a politician? A celebrity? Ultimately, he went with a relatively unknown figure: attorney and entrepreneur Nicole Shanahan.[105]

Why Shanahan? The answer boiled down to one word: money. While RFK Jr. himself comes from a prominent family, Shanahan is presumed to have a net worth in the hundreds of millions,[106] enough to uplift an independent campaign into serious contention. Indeed, Shanahan had already flexed major financial support for RFK Jr. prior to being his VP pick, having spent $4 million to pay for a pro-Kennedy ad

---

[101] *See* FEC v. Cruz, 596 U.S. 289, 294 (2022) (reaffirming *Buckley*'s holding).

[102] Selena Simmons-Duffin, *RFK Jr. Confirmed as Trump's Health Secretary, over Democrats' Loud Objections*, NPR (Feb. 13, 2025, 11:33 AM), https://www.npr.org/sections/shots-health-news/2025/02/13/nx-s1-5294591/rfk-jr-trump-health-human-services-hhs-vaccines [https://perma.cc/7D3M-MKKL].

[103] *See* Domenico Montanaro, *RFK Jr.'s Poll Numbers Remain High. What Explains This—and Can It Last?*, NPR (Nov. 18, 2023, 12:59 PM), https://www.npr.org/2023/11/18/1212875445/rfk-jr-s-poll-numbers-remain-high-what-explains-this-and-can-it-last [https://perma.cc/H3XU-ZN77].

[104] Cristina Corujo, *RFK Jr. Faces Steep Hurdles and High Costs to Get on Ballot in All 50 States*, CBS NEWS (Dec. 15, 2023, 12:02 PM), https://www.cbsnews.com/news/rfk-jr-ballot-access [https://perma.cc/L4YB-KZDM].

[105] Vaughn Hillyard, Katherine Koretski, Alex Seitz-Wald & Allan Smith, *RFK Jr. Names Attorney Nicole Shanahan as His VP Pick*, NBC NEWS (Mar. 26, 2024, 5:01 PM), https://www.nbcnews.com/politics/2024-election/rfk-jr-intends-name-attorney-nicole-shanahan-vp-pick-rcna144983 [https://perma.cc/AK9S-4NSN].

[106] *See* Zeeshan Aleem, *Opinion, RFK Jr.'s Surprising VP Strategy: Keep the Money Flowing*, MSNBC (Mar. 27, 2024, 5:47 PM), https://www.msnbc.com/opinion/msnbc-opinion/rfk-jr-vice-president-nicole-shanahan-rcna145262 [https://perma.cc/QPD2-9WBE].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

during the 2024 Super Bowl.[107] With Shanahan as his official running mate, RFK Jr. had essentially solved any funding issues he may have otherwise faced.[108] In fact, in the month following RFK Jr.'s VP announcement, Shanahan had already donated $8 million to their campaign,[109] an amount that would not have been permitted absent Shanahan joining the campaign as a co-candidate.[110] As RFK Jr.'s running mate, though, Shanahan could now spend unlimited sums of money to directly support "Team Kennedy,"[111] RFK Jr's campaign committee.[112]

What, then, is the doctrinal implication of the Kennedy/Shanahan campaign? Quite simply, it provides a clear, real-world example of how self-funders can engage in quid pro quo corruption: Shanahan leveraged her massive personal wealth and in turn ability to self-fund a campaign to extract a political favor from RFK Jr.—the position of running mate. To be sure, the scenario differs somewhat from the typical quid pro quo that campaign finance restrictions are designed to prevent, where a candidate receives a donation and in turn provides a favor.[113] Instead, we have one candidate providing a favor not for a traditional donation, but rather for access to self-funding capabilities. This distinction, nevertheless, does not negate the

[107] *Id.*

[108] Some may ask why RFK Jr. could not simply have continued relying on Shanahan's financial support as an outside party. There are a couple reasons why the VP route may have been preferred. For one, if Shanahan remained off the ticket, RFK Jr. technically could not coordinate with her about any spending; otherwise, Shanahan would lose her status as an "independent" spender and become subject to federal campaign finance limits. Secondly (and relatedly), money will always be of most value to candidates when they have direct control over how it is spent. *See* Raymond J. La Raja, *Why Super PACs: How the American Party System Outgrew the Campaign Finance System*, 10 FORUM 91, 101 (2012) (noting that "independent campaigns are a second-best strategy for candidates").

[109] Jessica Piper, *RFK Jr. Uses Major Cash Infusion from His Running Mate to Fund Ballot Access Efforts*, POLITICO (May 17, 2024, 7:49 PM), https://www.politico.com/news/2024/05/17/rfk-ballot-access-fec-00158764 [https://perma.cc/4JYY-CSJY].

[110] Shanahan would have otherwise only been able to donate a maximum of $3,300, the individual-to-candidate contribution limit during the 2023–2024 cycle. *See* FEC, CONTRIBUTION LIMITS FOR 2023–2024, at 1 (2023), https://www.fec.gov/resources/cms-content/documents/contribution_limits_chart_2023-2024.pdf [https://perma.cc/M8C9-SHVP].

[111] *See supra* notes 91–93 and accompanying text. Under federal law, any contribution made to benefit a vice-presidential candidate is considered a contribution to the corresponding presidential candidate. *See* 52 U.S.C. § 30116(a)(7)(D) (2024).

[112] *Robert F. Kennedy Jr. (I)*, OPENSECRETS, https://www.opensecrets.org/2024-presidential-race/robert-f-kennedy-jr/candidate?id=N00052560 [https://perma.cc/3LVV-AWE4] (last visited Aug. 23, 2025).

[113] *See, e.g.*, Buckley v. Valeo, 424 U.S. 1, 26–27 (1976) (mentioning that "large contributions are given to secure a political quid pro quo from current and potential office holders").

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

problematic nature of the exchange. Imagine, for instance, if a major-party nominee for President did this in a future election, offering up the VP nomination to a multibillionaire for financial benefits.[114] And imagine then that this nominee wins the presidency. The Vice President—a person who is one tragedy away from leading the United States—would be someone who earned their position not through political experience, but by buying it with their wealth. A literal purchase of one of the most consequential offices in the world.

This is, of course, a specific problem for a specific situation. For one, it does not provide support to the notion that self-funded candidates may themselves do political favors for financial backers, and therefore does not fully undermine the Court's position that self-funders should generally be exempt from spending limits.[115] Moreover, it reflects a situation that will typically only occur in the context of a presidential or gubernatorial election, given that most other elections do not involve running mates; if someone runs for Congress, they cannot add a second person to the ticket and take advantage of their self-funding capabilities.

Still, specific problems merit specific solutions. Accordingly, lawmakers should consider implementing campaign finance restrictions that ensure vice presidential and lieutenant governors' offices are not up for sale. For instance, a legislature could enact a statutory provision placing dollar limits on the amount that running mates can contribute to their own campaigns. On the federal level, such a provision could read something like, "No candidate for the Office of Vice President shall make contributions to the authorized candidate committee of a candidate for the Office of President running under the same ticket which, in the aggregate, exceed $XX,XXX."[116] While the exact dollar amount can be debated, the overarching purpose of this provision would be to disincentivize presidential candidates from selecting running mates solely for financial benefits.

Any such restriction would naturally be met with First Amendment challenges in court. Yet, if one thing has remained steadfast throughout fifty years of campaign finance jurisprudence, it is that First Amendment burdens may be justified via the government's anticorruption interest.[117] Accordingly, any law narrowly tailored enough to specifically prevent instances of quid pro quo like that we saw between

[114] I say "major-party nominee" because RFK Jr.'s status as a longshot independent candidate may itself undersell the seriousness of this issue.

[115] *See supra* note 98 and accompanying text.

[116] This provision could fit somewhere within 52 U.S.C. § 30116, which governs federal limits on contributions and expenditures.

[117] *See supra* note 97 and accompanying text.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

RFK Jr. and Shanahan could potentially withstand judicial scrutiny. In other words, self-funded campaigns may not be wholly unregulatable.

B. More Self-Loans, More Problems

When it comes to self-funded candidates, the 2024 election cycle also saw a marked increase in self-loans on the federal level—that is, federal candidates loaning personal money to their own campaigns. What does this mean, and why is this the case? To start, it is important to distinguish between the two ways that candidates can give money to their campaigns. The first route is the self-contribution, when a candidate donates money to their campaign just as any third-party donor would, with no expectation of it being paid back.[118] The second route is the self-loan, when a candidate loans personal money to their campaign, often with an assigned interest rate, and then uses money raised via third parties to pay themselves back the personal money they loaned.[119] This latter option raises more concerns than the former, in that it allows candidates to channel donations from others directly into their personal bank accounts, offsetting the financial burden of self-funding and even creating the potential for profit via interest.[120]

The corruption risk associated with self-loans is indeed evident enough that lawmakers in multiple jurisdictions have enacted laws designed to limit the use of third-party contributions to repay them. On the state level, legislatures have put in place a range of such laws, some of which go as far as prohibiting the use of any contributions received post-election to repay self-loans.[121] On the federal level, Congress tackled the issue through a relatively moderate provision within Section 304 of the Bipartisan Campaign Reform Act ("BCRA") that prevented candidates from using more than $250,000 of post-election contributions for self-loan

[118] John J. Martin, *The Unique Appearance of Corruption in Personal Loan Repayments*, 108 CORNELL L. REV. 1443, 1476–77 (2023).

[119] *Id.* at 1510.

[120] *See id.* at 1510–11 (describing how one congressional candidate profited $221,780 on her self-loans off interest alone).

[121] *See, e.g.*, FLA. STAT. § 106.08(3)(b) (2024) (prohibiting the use of post-election contributions for any purpose); *see also* Martin, *supra* note 118, at 1481–82 (overviewing state laws in detail).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

repayment.[122] This provision held strong for two decades, until the Supreme Court invalidated it in the 2022 case of *FEC v. Cruz*.[123]

Without getting too into the weeds, the case involved a challenge by Senator Ted Cruz against Section 304's self-loan repayment limit, claiming it violated his First Amendment rights.[124] At the outset, the Court agreed that the limit implicated First Amendment rights, namely candidates' right to amass the funds necessary to properly advocate for themselves.[125] The idea was that if candidates cannot use unlimited resources to reimburse their self-loans, they may loan their campaigns less money than they otherwise would and, in turn, have less funds to engage in campaign advocacy.[126] The Court bolstered this argument through data, noting that many federal candidates loaned themselves exactly $250,000, a sign that Section 304 was holding them back from self-loaning more.[127] Following this, the Court found that the government could not justify this burden through an anticorruption interest.[128] Specifically, the Court asserted that because post-election contributions are already subject to contribution limits—at the time, $2,900—Section 304's limit only acted as "prophylaxis-upon-prophylaxis."[129] In other words, the Court said that Section 304's limit was redundant in achieving anticorruption goals.[130]

At the time of this decision, I made a prediction that self-funded candidates would rely more heavily on self-loans rather than self-contributions, given the heightened incentive to do so post-*Cruz*.[131] With another election cycle behind us, it

[122] *See* Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107–555, sec. 304(a)(2), § 315(j), 116 Stat. 81, 98–99.

[123] 596 U.S. 289, 313 (2022).

[124] *See id.* at 295.

[125] *See id.* at 302–05.

[126] *See id.*

[127] *See id.* at 303. To read a counterargument to this, see Martin, *supra* note 118, at 1468–70. In short, the Court disregarded the fact that many federal candidates also loaned themselves other clean, rounded amounts of money (e.g., $50,000 and $100,000), suggesting that candidates may have loaned themselves $250,000 simply because it is another milestone number (a quarter of a million). *Id.*

[128] *See Cruz*, 596 U.S. at 306–07.

[129] *Id.* at 306.

[130] *See id.* I have also offered counterarguments against this claim. *See* Martin, *supra* note 118, at 1501 (noting a unique appearance of corruption in the use of contributions to repay personal loans).

[131] *See* Martin, *supra* note 118, at 1476–77.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

is now possible to engage in a preliminary data analysis to test this claim.[132] And indeed, this cycle's numbers paint a concerning picture.

For one, the average self-loaning candidate gave themselves nearly 40% more money in the post-*Cruz* 2024 election cycle than they did in the pre-*Cruz* 2020 cycle. Specifically, during the 2020 cycle, the average self-loaning candidate gave their campaign $291,811.40,[133] equivalent to $353,782.45 in 2024 dollars.[134] By the 2024 cycle, this number rose to $494,731.50, representing an approximate $140,000 increase when accounting for inflation.[135] The median self-loans show a similar upward trajectory, climbing from $18,380 ($22,283 in 2024 dollars) in the 2020 cycle to $25,110 in the 2024 cycle.[136]

This trend is also reflected in the percent breakdown of self-loaning pre- and post-*Cruz*. For instance, as Table 1 shows, during the 2020 cycle, 12.56% of self-loaning candidates loaned their campaigns above the $250,000 limit.[137] During the 2024 cycle, though, 18.63% of self-loaning candidates loaned their campaigns above that threshold.[138] In other words, the post-*Cruz* election cycle saw a six-point increase in the percent of candidates loaning above the invalidated $250,000 limit when compared to the previous presidential election cycle. Interestingly enough, though, the percentage of self-loaning candidates who self-loaned exactly $250,000 remained about the same, hovering slightly below the 1% mark.[139]

---

[132] There is, of course, only so much you should read into one election cycle's worth of data.

[133] I gathered this data using datasets available on the FEC's website. *See Browse Data*, FEC, https://www.fec.gov/data/browse-data/?tab=bulk-data [https://perma.cc/UN9D-5CGT] (last visited Aug. 23, 2025). My personal tables analyzing this data for 2019–2020 and 2023–2024 are available at https://t.ly/3uDpu [hereinafter *Martin's Tables*]. Duplicates in the data—which is common in FEC data—were scrubbed.

[134] To calculate inflation, I used the U.S. Bureau of Labor Statistics' Consumer Price Index ("CPI") Inflation Calculator. *See CPI Inflation Calculator*, U.S. BUREAU OF LAB. STAT., https://www.bls.gov/data/inflation_calculator.htm [https://perma.cc/S9PW-H74M] (last visited Aug. 23, 2025). Specifically, I compared November 2020 to November 2024.

[135] *See Martin's Tables*, *supra* note 133.

[136] *Id.*

[137] *Id.* This number reflects broader trends in self-loaning pre-*Cruz*. For instance, between 2003 and 2020, 11.71% of self-loaning congressional candidates loaned themselves above $250,000, with 1.07% self-loaning exactly $250,000. Martin, *supra* note 118, at 1471.

[138] *Martin's Tables*, *supra* note 133.

[139] *Id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

Table 1—Comparative Breakdown of Federal Candidate Personal Loan Use Pre- and Post-*Cruz*[140]

	Less Than $250K	**Exactly $250K**	**Above $250K**	**Total**
% of Self-Loaning Candidates (2019–2020)	86.56%	0.88%	12.56%	100.00%
% of Self-Loaning Candidates (2023–2024)	80.44%	0.93%	18.63%	100.00%

Without reading too much into one cycle's worth of data, one can draw a mix of takeaways from these numbers. To start, they potentially validate the *Cruz* Court's assertion that Section 304's limit was dissuading some federal candidates from self-loaning themselves above $250,000.[141] As we see, a significantly higher percentage of self-loaning candidates loaned themselves above $250,000 post-*Cruz*. At the same time, it is possible that self-funding candidates instead simply shifted strategies, opting to rely on self-loans rather than self-contributions given the newfound ability to recoup more self-funded money through self-loaning.[142] Further analysis must be done to provide a fuller understanding of the cause behind these shifts.

On the other hand, the percent of self-loaning candidates loaning at the $250,000 mark did not change much in the 2024 election cycle, potentially undermining the Court's claim that candidates were clustering at this mark due to Section 304's limit.[143] At the very least, though, it is safe to conclude that self-loaning candidates, on average, loaned themselves more money in the presidential cycle that followed *Cruz* than they did in the presidential cycle that preceded the case.[144]

[140] Data comes from the FEC's website. *See Browse Data*, *supra* note 133.

[141] *See Cruz*, 596 U.S. at 303.

[142] *See* Martin, *supra* note 118, at 1476–77.

[143] *See supra* note 127 and accompanying text.

[144] *See supra* notes 133–35 and accompanying text.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

This shift, if sustained in future elections, can create challenges for our federal democratic process. Primarily, as noted earlier, the increased ability for federal candidates to funnel third-party contributions into their personal bank accounts via self-loan repayments presents major opportunities for quid pro quo between donors and candidates. Imagine, for instance, a candidate loans her campaign $500,000, wins a seat in Congress, and subsequently puts out emails and text messages asking people to contribute money to her campaign committee that she can then use to pay herself back the half-million-dollar loan. And imagine someone were to donate the $3,500 maximum individual-to-candidate contribution permitted under federal law,[145] a non-insignificant sum of money. Is it really outside the realm of possibility that the candidate grants, say, a meeting to this donor in return?

Now, the Supreme Court may classify this particular exchange as "influence" rather than "corruption."[146] Still, the average person understands that buying access to elected officials is not a desirable trait for democracy.[147] This rings especially true for self-loaning candidates when they are able to attach interest rates to their self-loans and in turn make a profit off repayment. For example, in one notable case, a congresswoman loaned her campaign $150,000 with an 18% interest rate and subsequently raised $221,780 for herself off that interest alone.[148] In other words, she turned $150,000 into $371,780—a massive gain—purely through the act of self-loaning. It is one thing for a donor to provide money to a candidate to cover normal campaign expenses. It is another thing for a donor to provide money to a candidate that increases that candidate's personal net worth. If the former creates a corruption risk, the latter creates a corruption guarantee.

So what can be done, given the Court's *Cruz* decision? The good news is that Section 304's self-loan repayment limit was not actually a well-written law. For one, its focus on limiting the use of aggregated post-election contributions by candidates rather than placing contribution limits on the individual donors themselves was

---

[145] *See Contribution Limits*, *supra* note 83.

[146] *See, e.g.*, FEC v. Cruz, 596 U.S. 289, 307–08 (2022).

[147] Indeed, most Americans view contributions above a few hundred dollars as high enough to raise corruption concerns, let alone multi-thousand-dollar contributions. *See* Matthew DeBell & Shanto Iyengar, *Campaign Contributions, Independent Expenditures, and the Appearance of Corruption: Public Opinion vs. the Supreme Court's Assumptions*, 20 ELECTION L.J. 286, 295 (2021) (finding in 2021 the threshold amount to be $274).

[148] Andrew Zajac, *Interest on Campaign Loan Pays*, L.A. TIMES (Feb. 14, 2009, 3:00 AM), https://www.latimes.com/archives/la-xpm-2009-feb-14-me-napolitano14-story.html [https://perma.cc/5C6X-RV8G].

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

misguided.[149] The Supreme Court's perception of corruption is individualized; it focuses narrowly on quid pro quo between two persons. Limiting the aggregate, then, fails to actually properly address quid pro quo corruption head-on because it leaves open the door for *some* donors to still provide multi-thousand-dollar post-election contributions that financially benefit the receiving candidate on a personal level.[150] Additionally, the law's $250,000 limit was not pegged to inflation, which is itself a big no-no in campaign finance law.[151] Finally, Section 304's limit did not address the issue of interest rates raised above.

A future federal provision that tackles self-loan repayments in a more narrowly tailored way, designed to specifically address quid pro quo corruption, may thus withstand judicial scrutiny. Congress could enact, for example, a law that requires self-loaning candidates to maintain a separate campaign account for contributions received to repay self-loans. Contributions to such accounts could then be subject to lower limits than present ones on contributions to candidates' main account for campaign expenses.[152] These limits would track inflation just like current contribution limits do.[153] The law could also implement either a ban or strict limits on interest rates for self-loans.[154] Three states have already implemented such a ban: California, Texas, and Nebraska.[155] Doing so on the federal level would help ensure

[149] This may partly be a product of competing legislative aims for the restriction. While some members of Congress viewed the $250,000 limit as an anticorruption measure, others viewed it as a mechanism to protect candidates from being outspent by wealthy self-funded opponents. *Compare* 147 CONG. REC. 3970 (2001) (statement of Sen. Hutchison) (stating that candidates "do not have a constitutional right to resell [their office]"), *with id.* at 3884–85 (statement of Sen. Sessions) ("[I]t really creates an unlevel playing field. . . . What if my opponent . . . spent $5 million, $7 million, or $40 million . . . ?").

[150] *Cf.* McCutcheon v. FEC, 572 U.S. 185, 208 (2014) (plurality opinion) (finding that aggregate limits on contributions to candidates do not fulfill anticorruption interest because "[s]pending large sums of money in connection with elections, but not in connection with an effort to control the exercise of an officeholder's official duties, does not give rise to such *quid pro quo* corruption").

[151] *See* Thompson v. Hebdon, 589 U.S. 1, 6 (2019) ("'[F]ailure to index limits means that limits which are already suspiciously low' will 'almost inevitably become too low over time.'") (quoting Randall v. Sorrell, 548 U.S. 230, 261 (2006) (plurality opinion)).

[152] For further details on this recommendation, see Martin, *supra* note 118, at 1512–13.

[153] *See* 52 U.S.C. § 30116(c) (2024) (instituting periodic increases in contribution limits based on increases in price index).

[154] For further details on this recommendation, see Martin, *supra* note 118, at 1510–12.

[155] *See* CAL. GOV'T CODE § 85307(b) (West 2024); NEB. REV. STAT. § 49-1446.04(3) (2024); TEX. ELEC. CODE ANN. § 253.0351(c) (West 2023) (prohibiting the reimbursement of self-loans beyond "the amount reported as a loan").

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

that federal candidates cannot personally profit from the act of self-loaning to their campaigns.

V. THE SHAKY FUTURE OF FOREIGN-INFLUENCED CORPORATE LIMITS

Not all election spending comes from domestic sources, of course. As we have seen over the past decade, foreign actors of all kinds have spent big money to influence elections in the United States.[156] Laws designed to impede these efforts have generally been upheld by courts.[157] Nevertheless, one such type of law—namely those targeting "foreign-influenced corporations"—endured multiple judicial setbacks during and immediately following the 2024 election cycle, leaving their future uncertain.

For background, federal law currently prohibits foreign nationals from contributing or expending money in connection with any federal, state, or local election in the United States.[158] This law was upheld in a 2011 decision penned by then-Judge Brett Kavanaugh, who cited a compelling governmental interest in "limiting the participation of foreign citizens in activities of American democratic self-government."[159] As all-encompassing as the law may seem, though, there remain some loopholes allowing foreign nationals to still exercise influence over our elections. One such loophole permits domestic corporations with foreign owners—dubbed foreign-influenced corporations by critics—to engage in election spending

[156] For many people, Russian interference in our presidential elections comes to mind. *See, e.g.*, 1 ROBERT S. MUELLER, III, U.S. DEP'T OF JUST., REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION 35 (2019) ("[T]he investigation established that Russia interfered in the 2016 presidential election through the 'active measures' social media campaign carried out by the [Russian Internet Research Agency] . . . ."). Nevertheless, many private foreign actors have also dumped millions of dollars into advocacy efforts designed to impact our political processes. *See, e.g.*, Press Release, Sec'y of State Frank LaRose, LaRose to Ohio House: Ban Foreign Influence over Ohio's Elections (May 9, 2024), https://www.ohiosos.gov/media-center/press-releases/2024/2024--5-09 [https://perma.cc/483R-RBNT] (discussing how one Swiss billionaire has spent $200 million on pro-Democratic Party advocacy).

[157] *See, e.g.*, Bluman v. FEC, 800 F. Supp. 2d 281, 292 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012) (upholding federal ban on foreign nationals spending money in connection with federal, state, and local elections). Nevertheless, a district court recently struck down an Ohio law targeting foreign election spending because it extended to permanent noncitizen residents, who generally enjoy the same First Amendment rights as U.S. citizens. *See* OPAWL—Bldg. AAPI Feminist Leadership v. Yost, 748 F. Supp. 3d 554, 566 (S.D. Ohio 2024).

[158] 52 U.S.C. § 30121(a).

[159] *Bluman*, 800 F. Supp. 2d at 288.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

so long as no foreign national personally directs said spending.[160] In response, some states have enacted laws intended to curb spending by foreign-influenced corporations.

These laws typically fall into one of two categories: ones that adopt a '5-20' standard and ones that adopt the '1-5' standard. In Alaska, for example, state law prohibits corporations from making contributions or expenditures in connection with state elections if foreign nationals in the aggregate own 20% or more of the corporation's shares or if one foreign national owns 5% or more of its shares (i.e., the 5-20 standard).[161] Maine similarly bars corporations from spending money in connection with its elections if a foreign government or foreign government-owned entity controls 5% or more of its shares (though does not have a 20% aggregate limit).[162] Meanwhile, Minnesota has employed the more stringent 1-5 standard, where corporations may not engage in election spending if foreign nationals together own 5% or more shares or one foreign national owns 1% or more shares.[163]

Unlike other laws that more directly target foreign election spending, the constitutionality of these anti-foreign-corporate-influence ("AFCI") laws under modern campaign finance doctrine has never been clear. While advocates paint such laws as advancing a compelling interest in protecting American democratic self-government from foreign interference,[164] the laws still ultimately restrict the political

---

[160] *See Foreign Nationals*, FEC, https://www.fec.gov/help-candidates-and-committees/foreign-nationals [https://perma.cc/S3WL-6H2N] (last visited Aug. 23, 2025). There are two other major loopholes. First, foreign nationals may still engage in "issue advocacy" in the United States, which allows them to directly and indirectly fund ads that touch upon our politics so long as they do not explicitly support or oppose a candidate. *See Bluman*, 800 F. Supp. 2d at 284 (refusing to interpret the law prohibiting foreign election spending as covering issue advocacy). Second, in many states and localities, foreign nationals can still spend money to influence ballot measures. *See* Yes for Responsible Mining, MUR 7523, at MUR752300062–63 (FEC Nov. 12, 2020), https://eqs.fec.gov/eqsdocsMUR/7523_17.pdf [https://perma.cc/6KTM-YMJE].

[161] ALASKA STAT. § 15.13.068(a), (e)(5) (2023). It is unclear how much bite this provision really has though, since another part of the statute says that the law goes no further than federal law, which itself does not prohibit foreign-influenced corporations from engaging in election spending. *See id.* § 15.13.068(b)(1).

[162] ME. STAT. tit. 21-a, § 1064(1)(E)(2)(a) (2024).

[163] MINN. STAT. § 211B.15(1)(d), (4a) (2024).

[164] *See, e.g.*, Michael Sozan, *Nationwide Momentum Grows to Stop Political Spending by Foreign-Influenced U.S. Corporations*, CTR. FOR AM. PROGRESS (June 27, 2023), https://www.americanprogress.org/article/nationwide-momentum-grows-to-stop-political-spending-by-foreign-influenced-u-s-corporations [https://perma.cc/2BYS-6Y6H] (describing it as "an issue of self-government"); *Combatting Foreign Interference*, CAMPAIGN LEGAL CTR., https://campaignlegal.org/democracyu/transparency/combatting-foreign-interference [https://perma.cc/N4CT-5YJG] (last visited Aug. 22, 2025) (invoking

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

spending of *domestic* corporations. Given that only fifteen years ago, the *Citizens United* Court vehemently defended and upheld domestic corporations' right to spend unlimited money on political advocacy,[165] this aspect of AFCI laws may prove fatal to them. Indeed, in many respects, such laws act as an indirect work-around to *Citizens United*, with some experts estimating that nearly three-quarters of publicly traded companies would be prohibited from engaging in election spending under the 1-5 standard.[166]

It is perhaps no surprise then that multiple AFCI laws faced legal challenges shortly after their adoption. Specifically, in 2023, litigants in both Maine and Minnesota initiated lawsuits seeking to invalidate the AFCI laws of their respective states, claiming said laws violated their First Amendment rights.[167] Thus far, neither case bodes well for the future of AFCI laws, with the Minnesota suit having recently ended in final judgment invalidating the state's AFCI law and the Maine suit presently having a preliminary injunction in place.

Beginning with the former, in February 2025, the U.S. District Court for the District of Minnesota issued a decision that ultimately invalidated Minnesota's 1-5 law.[168] In its opinion, the court first emphasized that, under present doctrine, domestic corporations receive the same political speech and associational rights as natural persons.[169] Thus, any limit on domestic corporations' ability to make contributions or expenditures burdens their rights under the First Amendment. The court in turn assessed the government's compelling interest in prohibiting election

"the right of American citizens to democratic self-governance"). I personally hold more sanguine views on foreign election spending than most election law experts. *See generally* John J. Martin, *The Democratic Value of Transnational Campaign Finance*, 15 U.C. IRVINE L. REV. (forthcoming Oct. 2025) (on file with author) (discussing the ways in which foreign election spending can both further and undermine democratic ends).

[165] *See* Citizens United v. FEC, 558 U.S. 310, 365–66 (2010).

[166] *See* Jack V. Hoover, Note, *Foreign-Influence Laws: The Constitutionality of Restrictions on Independent Expenditures by Corporations with Foreign Shareholders*, 107 VA. L. REV. 1305, 1333–34 (2021).

[167] *See* Complaint for Declaratory & Injunctive Relief at 45, Minn. Chamber of Com. v. Choi, 765 F. Supp. 3d 821 (D. Minn. 2025); Verified Complaint at 20, Cent. Me. Power Co. v. Me. Comm'n on Governmental Ethics & Election Pracs., 721 F. Supp. 3d 31 (D. Me. Dec. 12, 2023) (No. 23-cv-450).

[168] The court had previously issued a preliminary injunction in December 2023. *See* Minn. Chamber of Com. v. Choi, 707 F. Supp. 3d 846, 854 (D. Minn. 2023).

[169] Minn. Chamber of Com. v. Choi, 765 F. Supp. 3d 821, 847–48 (D. Minn. 2025).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

spending for corporations that fell within the 1-5 standard.[170] The government had specifically invoked the self-government interest used to uphold other laws targeting foreign election spending.[171]

The court ultimately found that Minnesota's 1-5 law was overinclusive, in that it did not solely target corporations that are "funded predominately by foreign shareholders,"[172] as well as underinclusive, in that it did not regulate unions, partnerships, nonprofits, cooperatives, or other business organizations that may have foreign ownership.[173] Moreover, the court found that the law was not the least restrictive means of accomplishing its goal, pointing to the current FEC regulation that prohibits foreign nationals from directing corporate political spending as an example of a law that accomplished the same goal while being less restrictive.[174] Thus, finding the plaintiff's argument persuasive, the court granted summary judgment against the government.[175]

Meanwhile, in February 2024, the U.S. District Court for the District of Maine rendered a similar opinion in a case challenging Maine's law targeting corporations with 5% foreign-government ownership.[176] The court began its First Amendment discussion by also recognizing a compelling governmental interest in mitigating foreign influence in American democratic self-government.[177] Nevertheless, much like the Minnesota decision, the district court held that Maine's 5% threshold was

---

[170] *See id.* at 849–51.

[171] *See id.* Somewhat uniquely, the government also argued it had a compelling interest in avoiding the *appearance* of foreign influence. *See id.* at 850.

[172] *Id.* at 853 (quoting Citizens United v. FEC, 558 U.S. 310, 362 (2010)).

[173] *Id.* at 854–55.

[174] *Id.* at 856.

[175] *See id.* at 858. It should be noted that in additional to doing a strict scrutiny analysis of the law's prohibition on foreign-influenced corporations making political expenditures, the court also did an exacting scrutiny analysis of the law's prohibition on such corporations making political contributions. *See id.* at 857–58. The analysis was near identical. *See id.* ("[T]he challenged statute's contribution regulations fall under exacting scrutiny for the same reasons they fell under strict scrutiny.").

[176] *See supra* note 162 and accompanying text.

[177] *See* Cent. Me. Power Co. v. Me. Comm'n on Governmental Ethics & Election Pracs., 721 F. Supp. 3d 31, 50–51 (D. Me. 2024). The court also found that the Federal Election Campaign Act preempted the Maine law as it relates to federal elections. *See id.* at 42–49. That discussion is irrelevant for this Essay's purposes.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

likely not narrowly tailored enough to survive strict scrutiny.[178] Indeed, the court found the threshold "arbitrarily chosen" when compared to a hypothetical law targeting corporations with predominate foreign ownership.[179] The court therefore issued a preliminary injunction enjoining enforcement of the law,[180] a decision the U.S. Court of Appeals ultimately upheld in July 2025.[181]

Regardless of the soundness of these decisions, it seems safe to say that, unless reversed, they present major setbacks for both the anti-foreign interference community and campaign finance advocates hoping to use such laws as a legislative fix to *Citizens United*. Future legislatures hoping to implement AFCI laws may thus need to consider tailoring statutory language in ways that address judicial concerns. For instance, instead of adopting the stringent 5-20 or 1-5 standards, perhaps only corporations with a majority foreign ownership should be barred from election spending, a threshold currently adopted by Colorado.[182] This would demonstrate a clear focus only on corporations with predominate foreign ownership.[183] Moreover, if the declared compelling interest motivating these laws is reducing foreign influence in elections, a law that targets all non-natural entities with majority foreign ownership/membership, rather than simply corporations, would potentially fare better against First Amendment challenges.[184]

Of course, even if these suggestions were implemented, it may not be enough to save AFCI laws from judicial invalidation. Only time will tell their fate as these cases work their way up through the federal judicial system. In the meantime, lawmakers seeking to curb foreign election spending should turn their attention to legislative solutions whose constitutionality is less in question, such as limiting foreign nationals' ability to spend money in connection with state or local ballot

---

[178] *Id.* at 53.

[179] *Id.*

[180] *Id.* at 56.

[181] Cent. Me. Power Co. v. Me. Comm'n on Governmental Ethics & Election Pracs., 144 F.4th 9, 31 (1st Cir. 2025).

[182] *See* COLO. REV. STAT. § 1-45-103(10.5)(b) (2023) (defining "foreign corporation" as, among other things, "[a] parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a combined ownership interest that exceeds fifty percent").

[183] *See supra* notes 172, 179 and accompanying text.

[184] Not only would it address the issue of underinclusivity, *see supra* note 173 and accompanying text, but it would also help to avoid accusations of identity-based speech discrimination that were a central issue in *Citizens United*. *See* Citizens United v. FEC, 558 U.S. 310, 350 (2010).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu

measures,[185] or enacting disclosure requirements that make it easier to detect foreign donations to dark money organizations.[186] In a time when most new campaign finance regulations face the judicial chopping block, these are areas where lasting change is actually possible.

CONCLUSION

Money in politics and democracy are always at odds, with the former too often weakening the latter. With present campaign finance doctrine continually dissuading lawmakers from implementing measures that rein in the political influence of big-moneyed interests, it is no surprise we see new problems in campaign finance arise every election cycle. This Essay has hopefully provided you some sense of the ones we witnessed in 2024. As I have argued, though, these are not all unsolvable issues. Far from it, through a bit of political will and carefully crafted legislation, we are still able to engage in harm reduction that targets particularly egregious forms of political spending, even if more systematic reform will not be possible under the present Supreme Court.

[185] *See* Martin, *supra* note 164, at 38.

[186] *See id.* at 51–53.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2025.1098
http://lawreview.law.pitt.edu