ADVISORY OPINION REQUEST

Number: AO 21-09-CD
Requested By: Paula DeLaiarro
Prepared By: Thomas R. Lucas, Campaign Disclosure Coordinator
Date Issued: November 3, 2021
Subject: Contribution limits in light of Ninth Circuit Court of Appeals ruling[1]
Commission Decision:

I. BACKGROUND

In what is now known as *Thompson v. Hebdon*, the federal District Court of Alaska upheld four restrictions on contributions to candidates, groups and political parties as constitutional.[2] The case was appealed to the Ninth Circuit Court of Appeals where that court upheld the District Court's holding as to contributions made by individuals to candidates and groups and political parties' contributions to candidates but reversed the lower court's ruling on the aggregate contribution limits for nonresidents.[3]

After granting certiorari, the Supreme Court vacated and remanded the Court of Appeals' judgement "for that court to revisit whether Alaska's contribution limits are consistent with our First Amendment precedents."[4] In particular, the Court asked the Ninth Circuit to consider three "danger signs" from its holding in *Randall v. Sorrell* in which the Court invalidated a Vermont law limiting the amounts that may be contributed to candidates.[5] These signs included that the contribution limits are substantially lower than the Court had previously upheld; that the contribution limits are substantially lower than comparable limits in other states; and that the contribution limits were not indexed for inflation.[6]

On remand, the Court of Appeals found the limitations on contributions made by individuals to candidates and groups unconstitutional but also held that Alaska's contribution limits from political parties to candidates survive constitutional scrutiny.[7]

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1 Exhibit 1, Request for Advisory Opinion.
2 *Thompson v. Dauphinais*, 217 F. Supp.3d 1023 (D. Alaska, 2016).
3 *Thompson v. Hebdon*, 909 F.3d 1027 (9th Cir. 2018).
4 *Thompson v. Hebdon*, 140 S.Ct. 348 (2019).
5 *Randall v. Sorrell*, 126 S.Ct. 2479 (2006).
6 *Id.*
7 *Thompson v. Hebdon*, 7 F.4th.4th 811 (9th Cir. 2021) (In essence because the contribution limits are too low and not adjusted for inflation).

II. QUESTION PRESENTED

Ms. DeLaiarro seeks guidance with respect to the Ninth Circuit Court of Appeals ruling in *Thompson v. Hebdon*. Specifically, she would like to know if she may now make unlimited contributions to candidates and groups; and if not, what limits would apply?

III. SHORT ANSWER

The limits existing prior to the limits struck down by *Thompson* apply as adjusted for inflation: $1,500 per calendar year for individual-to-candidate and individual-to-group; and $3,000 per calendar year for non-political party group-to-candidate and non-political party group-to-non-political party group.

IV ANALYISIS

In 1995, a citizen initiative resulted in substantial changes to Alaska campaign disclosure law. Among those changes was the repeal and reenactment of AS 15.13.070. Under the reenactment, an individual could contribute no more than $500 per calendar year to a candidate or group, and a group could contribute no more than $1,000 to a candidate or another group.

In 2003, the legislature passed SB 119, which amended AS 15.13.070 to permit individuals to contribute $1,000 to a candidate and $2,000 to a group.[8]

The legislature's 2003 amendment to AS 15.13.070 brought an immediate response from the public and eventually an initiative proposing to lower the contribution limits to the amounts existing in law prior to SB 119[9] became law after approval by a majority of voters in the 2006 primary election.[10]

Under the initiative, an individual could contribute no more than $500 to a candidate or group and a group could contribute no more than $1,000 to a candidate or another group per calendar year.[11]

With the Court of Appeals' ruling, Alaska's campaign contribution limits set out in AS 15.13.070(b)(1) are unconstitutional and the issue before the Commission now is what, if any, contribution limits are in place for contributions made by individuals to candidates and groups and contributions by groups to candidates and other non-political party groups.[12]

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8 Exhibit 2, SB 119.

9 Exhibit 3, 2003 Initiative.

10 Exhibit 4, Initiative Petition Bill Language.

11 *Id.*

12 Interestingly, concluding no limits exist creates the apparent anomaly of having no contribution limits on contributions from individuals and groups to candidates, while existing contribution limits on political parties to candidates would remain restricted.

The Commission is charged with implementing and clarifying provisions of AS 15.13 and must consider a written advisory opinion request concerning the application of the chapter[13] and does so herein.

1. The Unconstitutional Limitations are Void *Ab Initio*

Although this issue has not been specifically addressed in Alaska, the general consensus is that the unconstitutional portion of a statute is void *ab initio* and deemed to have never been enacted.[14] Indeed, the US Supreme Court and at least forty states have landed on the common understanding that an unconstitutional act "is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office."[15]

2. The Doctrine of Revival

In the absence of a provision found to be unconstitutional, courts have applied the doctrine of revival, which provides that the statute as it existed before the unconstitutional enactment automatically revives in full force and effect.[16]

For example, in Wyoming, the court was called upon to determine the status of an amendment to its Workers Compensation law after an amendment to one of its sections was found to be unconstitutional.[17] In that case the court applied the doctrine of revival to assert that an unconstitutional amendment has no effect and the law as it existed before the amendment is controlling.[18]

In the state of Washington, the court was called upon to determine the status of a statute assessing interest to certain tax delinquencies after being found unconstitutional.[19] In that case, the court stated:

> It is the rule that an invalid statute is a nullity. It is inoperative as if it had never been passed. The natural effect of this rule is that the invalidity

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13 AS 15.13.030.

14 16A Am. Jur. 2d Constitutional Law § 194 ("since unconstitutionality dates from the time of its enactment and not merely from the decision so branding it, an unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed and never existed; that is, it is void ab initio. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted.").

15 1 Sutherland Statutory Construction § 2:7 (7th ed.).

16 See, 82 C.J.S. Statutes § 111 (the effect of an invalid statute is to leave the law as it existed prior to its adoption.) 1 Sutherland Statutory Construction § 2:7 (a decision holding a statutory provision invalid reactivates a prior statute which the invalid act had displaced).

17 Exhibit 2, *Copp v. Redmond*, 858 P.2d 1125 (Wyo. 1993).

18 Ex 2, p. 3.

19 Exhibit 3, *Boeing Co. v. State*, 442 P.2d 970 (Alaska 1968).

> of a statute leaves the law as it stood prior to the enactment of the invalid statute.[20]

State agencies that enforce contribution limits have also applied the doctrine of revival when their contribution limits have been found to be unconstitutional. For example, the Montana Commissioner of Political Practices, relying on a Montana Supreme Court case applying the doctrine of revival,[21] implemented a policy that until the legislature determined otherwise, the Montana contribution limits would revert to the levels existing prior to the levels found to be unconstitutional.[22] In Vermont, the state's Attorney General advised the state's Secretary of State (whose office enforced the state's contribution limits) that limits found to be unconstitutional would revert to the limits as they existed prior to the unconstitutional enactment.[23]

3. Adjustment for Inflation

Reviving the limits to the amounts that existed prior to the initiative's repeal and reenactment of AS 15.13.070(b)(1)—$1,000 from individuals to candidates and groups and $2,000 from groups to candidates and other groups—alone may not satisfy the Court of Appeals' concerns that Alaska's limits are substantially lower than those the Supreme Court has previously approved, compared to other states, and do not account for an inflation adjustment. For this reason, staff proposes adjusting the prior limits to account for inflation.

Utilizing the U.S. Bureau of Labor Statistic's inflation calculator,[24] it appears that a contribution limit of $1,000 in 2003 would be roughly $1,500 in today's dollars[25]; and a contribution limit of $2,000 would be roughly $3,000 in today's dollars.[26] Adjusting Alaska's contribution limits to these amounts would place Alaska's contribution limits in line with several of the states.

The most recent survey conducted by the National Conference of State Legislatures found a wide spectrum of contribution limits in states that had them.[27] On the higher end of the spectrum, California and New York have contribution limits of $31,000 and $47, 000 respectively for gubernatorial candidates.[28] On the lower end, Colorado and Montana's limits for candidates for governor are $625 and $680 respectively.[29] Twenty-nine states fall

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20 Ex. 3, p. 3 (citations omitted).
21 The Alaska courts have not addressed the doctrine of revival.
22 Exhibit 4, Commissioner of Political Practices Policy.
23 Exhibit 5, Press Release.
24 https://www.bls.gov/data/inflation_calculator.htm. The Alaska Department of Labor and Workforce Development has its own Inflation Calculator, but it is based on calendar year 2020 and has not yet been updated to calculate 2021 dollar values. *See, https://live.laborstats.alaska.gov/cpi/calc.html.*
25 Exhibit 6, $1,000 Inflation Calculation.
26 Exhibit 7, $2,000 Inflation Calculation.
27 Exhibit 8, National Conference Survey.
28 *Id.*
29 *Id.*

in the middle of the range with limits of $2,000 to $7,000.[30] Finally, of states with contribution limits six have limits that are less than $1,500 for candidates.

Although there is no clear consensus as to what constitutes a reasonable contribution limit, adjusting the 2003 limits for inflation would address the concerns identified by the Supreme Court and the Court of Appeals in *Thompson*. With that approach, the limits would be similar to those upheld by the Supreme Court in previous cases, in line with the limits in other states, and would be adjusted for inflation.[31]

V. CONCLUSION

Here, it is important to note that *Thompson v. Hebdon* left the political party-to-candidate contributions intact, affirming the District Court's decision upholding them. To interpret the Court of Appeals' decision in a manner that would allow for unlimited contributions from individuals to candidates and non-political party groups is inconsistent with historic practices that have recognized the roles that political parties play and that generally provide political parties greater latitude in terms of allowable activities and contribution limits.

Also, as shown by the history of AS 15.13.070, it is apparent that Alaskans are in favor of limitations on political contributions. It would be illogical to think that the voters who passed stricter limitations on contributions would now favor unlimited contributions.

Further, applying the doctrine of revival is consistent with how at least two other states and regulatory agencies have responded to a finding that a statute was unconstitutional.

Finally, adjusting the 2003 limits for inflation would address the "danger signs" identified by the Court of Appeals.

Accordingly, unless and until the legislature acts on Alaska's contribution limits, the Commission should apply the doctrine of revival, adjust the revived limits for inflation, and enforce a $1,500 individual-to-candidate and individual-to-non-political party group contribution limit and a $3,000 non-political party group-to-candidate and non-political party group-to-non-political party group contribution limit.

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30 *Id.*

31 Alaska's contribution limit is per calendar year (AS 15.13.070). An election cycle for a candidate is typically 18 months (AS 15.13.074). Thus, adjusting the 2003 contribution limit for candidates results in a contribution limit of $3,000 for candidates per election.

VI. COMMISSION DECISION

Only the Commission has the authority to approve an advisory opinion.[32] The Commission will rule on staff's proposed advice at its next regular meeting on January 26, 2022. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advisory opinion apply only to the specific facts and activity for which advice was requested.

If you rely on staff's proposed advisory opinion in good faith and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on your activities up to that point if you acted under the specific facts described. If you have any additional questions or would like to discuss this proposed advice, please contact me at (907) 276-4176.

I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered to:	
Paula DeLaiarro 8401 Pioneer Drive Anchorage, AK 99504 Paula.delaiarro@gmail.com	☒ Certified Mail ☒ Email

Rachel Ferguson 11/03/2021

Law Office Assistant Date

9171-9690-0935-0265-9883-24

[32] AS 15.13.374.

APPLICABLE LAW

ALASKA STATUTES

Sec. 15.13.030. Duties of the commission.
The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45, and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist all persons in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) examine, investigate, and compare all reports, statements, and actions required by this chapter, AS 24.45, and AS 39.50;

(8) prepare and publish a biennial report concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change; the commission shall notify the legislature that the report is available;

(9) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50, and this chapter, subject to the provisions of AS 44.62 (Administrative Procedure Act); and

(10) consider a written request for an advisory opinion concerning the application of this chapter, AS 24.45, AS 24.60.200 — 24.60.260, or AS 39.50.

Sec. 15.13.070. Limitations on amount of political contributions.
(a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

(b) An individual may contribute not more than

(1) $500 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a

candidate, or to a group that is not a political party;

(2) $5,000 per year to a political party.

(c) A group that is not a political party may contribute not more than $1,000 per year
(1) to a candidate, or to an individual who conducts a write-in campaign as a candidate;

(2) to another group, to a nongroup entity, or to a political party.

(d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed
(1) $100,000 per year, if the election is for governor or lieutenant governor;

(2) $15,000 per year, if the election is for the state senate;

(3) $10,000 per year, if the election is for the state house of representatives; and

(4) $5,000 per year, if the election is for
(A) delegate to a constitutional convention;

(B) judge seeking retention; or

(C) municipal office.

(e) This section does not prohibit a candidate from using up to a total of $1,000 from campaign contributions in a year to pay the cost of
(1) attendance by a candidate or guests of the candidate at an event or other function sponsored by a political party or by a subordinate unit of a political party;

(2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; or

(3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party.

(f) A nongroup entity may contribute not more than $1,000 a year to another nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, to a group, or to a political party.

(g) Where contributions are made to a joint campaign for governor and lieutenant governor,
(1) an individual may contribute not more than $1,000 per year; and

(2) a group may contribute not more than $2,000 per year.

Sec. 15.13.074. Prohibited contributions.
(a) A person, group, or nongroup entity may not make a contribution if the making of the

contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another. Individuals, persons, nongroup entities, or groups subject to AS 15.13.040(r) may not contribute or accept $2,000 or more of dark money as that term is defined in AS 15.13.400(5), and may not make a contribution while acting as an intermediary without disclosing the true source of the contribution as defined in AS 15.13.400(19).

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(3) to any candidate later than the 45th day

(A) after the date of the primary or special primary election if the candidate was not chosen to appear on the general or special election ballot at the primary or special primary election; or

(B) after the date of the general or special election, or after the date of a municipal or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by AS 15.13.072(c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds $100.

(f) A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each

contribution made while required to register as a lobbyist under AS 24.45. Upon request of the commission, the information required under this subsection shall be submitted electronically. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor, may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under AS 15.13.116(a)(2)(A).

(i) A nongroup entity may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election unless the potential contributor is notified that the contribution may be used for that purpose.

AS 15.13.374. Advisory opinion.

(a) Any person may request an advisory opinion from the commission concerning this chapter, AS 24.45, AS 24.60.200 — 24.60.260, or AS 39.50.

(b) A request for an advisory opinion

(1) must be in writing or contained in a message submitted by electronic mail;

(2) must describe a specific transaction or activity that the requesting person is presently engaged in or intends to undertake in the future;

(3) must include a description of all relevant facts, including the identity of the person requesting the advisory opinion; and

(4) may not concern a hypothetical situation or the activity of a third party.

(c) Within seven days after receiving a request satisfying the requirements of (b) of this section, the executive director of the commission shall recommend a draft advisory opinion for the commission to consider at its next meeting.

(d) The approval of a draft advisory opinion requires the affirmative vote of four members of the commission. A draft advisory opinion failing to receive four affirmative votes of the members of the commission is disapproved.

(e) A complaint under AS 15.13.380 may not be considered about a person involved in a transaction or activity that

(1) was described in an advisory opinion approved under (d) of this section;

(2) is indistinguishable from the description of an activity that was approved in an advisory opinion approved under (d) of this section; or

(3) was undertaken after the executive director of the commission recommended a draft advisory opinion under (c) of this section and before the commission acted on the draft advisory opinion under (d) of this section, if

(A) the draft advisory opinion would have approved the transaction or activity described; and

(B) the commission disapproved the draft advisory opinion.

(f) Advisory opinion requests and advisory opinions are public records subject to inspection and copying under AS 40.25.100 — 40.25.295, except that, if a person requesting an advisory opinion requests that the person's name be kept confidential, the person's name shall be kept confidential and the commission shall redact the name of the requester from the request and from the advisory opinion before making the request and opinion public.

Heather Hebdon, Executive Director
Tom Lucas, Campaign Disclosure Coordinator
Alaska Public Offices Commission
2221 E. Northern Lights Blvd., Room 128
Anchorage, Alaska 99508

October 29, 2021

Ms. Hebdon and Mr. Lucas:

Pursuant to AS 15.13.374 and 2 AAC 50.840, I would like to request an Advisory Opinion regarding allowed contribution amounts to candidates and groups.

Given that I have made contributions to candidates and groups in the past and that I plan to make contributions to candidates and groups in the future, I am seeking guidance with respect to the recent Ninth Circuit Court of Appeals ruling in Thompson v. Hebdon. Specifically, I would like to determine if I may give an unlimited amount to candidates or groups in the future. If I may not contribute an unlimited amount, how much may I contribute to a candidate or group in the future?

Thank you.

Paula DeLaiarro
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Anchorage, AK 99504
(907) 441-1935

No. 93-8
Supreme Court of Wyoming

COPP v. REDMOND

858 P.2d 1125 (Wyo. 1993)
Decided Sep 3, 1993

No. 93-8.

September 3, 1993.

Appeal from The District Court, Sixth Judicial District, Campbell County.

Cameron Walker, Patrick T. Holscher and William S. Bon of Schwartz, Bon, McCrary Walker, Casper, for appellants.

Gary L. Shockey, Heather Noble and Robert R. Rose of Spence, Moriarity Schuster, Jackson, for appellees.

The Petroleum Ass'n of Wyoming, The Wyoming Mining Ass'n, The Wyoming Trucking Ass'n, the National Federation of Independent Businesses, The Wyoming Lodging and Restaurant Ass'n, The Wyoming Auto Dealers Ass'n, The Wyoming Ass'n of Commerce and Industry, Coastal Chem, Inc., Sinclair Oil Corp., Little America Refining Co., The FMC Wyoming Corp., and Rissler McMurry Corp.: Patrick R. Day, P.C., of Holland Hart, Cheyenne, amici curiae.

Richard E. Day and Patrick J. Murphy of Williams, Porter, Day Neville, P.C., Casper, amicus curiae of Pacificorp.

Before MACY, C.J., and THOMAS, CARDINE, GOLDEN and TAYLOR, JJ.

GOLDEN, Justice.

Answering a certified question of law, we hold that for claims accruing between July 1, 1987, and February 18, 1993, culpable negligence is the degree of negligence that an injured employee must prove against a co-employee in an action to recover damages for personal injury suffered in a work-related accident.

BACKGROUND

Brian Redmond, an employee of Jim's Water Service, was seriously injured on May 3, 1988, when he was struck, knocked to the ground and run over by a 75,000 pound 1981 Kenworth "slickback" truck operated by C.O. Bud Copp, a supervising co-employee. At the time of Redmond's injury, Redmond, Copp, and several other co-employees were involved in moving a rig from a storage yard to a drilling site southwest of Gillette, Wyoming. In a personal injury action to recover damages, Redmond and his wife sued Copp and several other co-employees alleging negligence, gross negligence, and culpable negligence.

The instant case was filed in 1988, but was held in abeyance pending this court's final decision upon the rehearing of *Mills v. Reynolds*, 837 P.2d 48 (Wyo. 1992). In *Mills* this court held that the Wyoming legislature transgressed constitutional
1126 limitations *1126 by its 1986 repeal of what has become known as the "culpably negligent" rule. That rehearing decision generated an inquiry whether the applicable standard for such cases after the effective date of the 1986 amendment[1] should be a revival of the "culpably negligent" standard, or a simple negligence standard.

[1] WYO. STAT. § 27-14-104(a) is located in Section 3 of the 1986 Session Laws. As provided in Section 6 of the 1986 Session

Laws, Section 3 became effective July 1, 1987.

CERTIFIED QUESTION

After the *Mills* decision was released, proceedings in this matter resumed, and the district court certified the following question for review pursuant to WYO. R.APP.P. 11:

> 1. When the Wyoming Supreme Court declared the joint employee immunity created by W.S. § 27-14-104(a) to be unconstitutional in *Mills v. Reynolds*, 837 P.2d 48 (Wyo. 1992), did that decision enable recovery in co-employee cases pursuant to common law and *Markle v. Williamson* [518 P.2d 621 (Wyo. 1974)], to-wit: for ordinary negligence, or did it revive repealed 1977 W.S. § 27-12-103(a), so as to permit tort recovery between co-employees covered by the Wyoming Worker's Compensation Act only when the defendant co-employee is chargeable with culpable negligence? If neither of these positions is correct, then:
>
> 2. What is the standard for recovery between such co-employees?

By order issued on January 13, 1993, the court agreed to review the certified questions.

ANALYSIS

Before its repeal in 1986, WYO. STAT. § 27-12-103(a) (1983) provided:

> (a) The rights and remedies provided in this act for an employee and his dependents for injuries incurred in extrahazardous employments are in lieu of all other rights and remedies against any employer making contributions required by this act, *or his employees acting within the scope of their employment unless the employees are culpably negligent*, but do not supersede any rights and remedies available to an employee and his dependents against any other person.

(Emphasis added).

In the *Mills* decision, the court recounted the divers changes this provision has undergone in the years both before and after 1986. Effective February 18, 1993, this provision now reads:

> § 27-14-104. **Exclusive remedy as to employer; nonliability of coemployees; no relief from liability; rights as to delinquent or noncontributing employer.**
>
> (a) The rights and remedies provided in this act for an employee including any joint employee, and his dependents for injuries incurred in extrahazardous employments are in lieu of all other rights and remedies against any employer and any joint employer making contributions required by this act, *or their employees acting within the scope of their employment unless the employees intentionally act to cause physical harm or injury to the injured employee*, but do not supersede any rights and remedies available to an employee and his dependents against any other person.

WYO. SESS. LAWS, ch. 47, § 1 (emphasis added).

The task of this court is to settle what standard applies to such cases between the July 1, 1987 effective date of the repeal of the "culpable

neglect" language and the most recent amendment which went into place on February 18, 1993. Our decision today does not construe the language which is now in place. The effect of our decision in *Mills* was simply this: For the purpose of suits, such as the instant case, the language, "or his employees acting within the scope of their employment unless the employees are culpably negligent," which appeared in § 27-12-103(a) is revived and governs all such cases for that time period. *See Morris v. Smith*, 837 P.2d 679, 682 1127(Wyo. 1992). *1127

In determining the status of the law when a statute is declared unconstitutional following amendment, we found other authorities in support of the result we reach in this case. A California case states it simply: "[T]he constitutional invalidity of amendatory legislation does not affect the validity of preceding enactments." *Valdes v. Cory*, 139 Cal.App.3d 773, 189 Cal. Rptr. 212, 227 (1983) (citation omitted). Generally, when an amendment to an original act is declared unconstitutional, the unconstitutional amendment has no effect, and the law as it existed before the amendment is controlling. *State v. Bloss*, 64 Haw. 148, 637 P.2d 1117, 1130-31 (1981), *cert. denied*, 459 U.S. 824, 103 S.Ct. 56, 74 L.Ed.2d 60 (1982); *Western Int'l v. Kirkpatrick*, 396 N.W.2d 359, 366 (Iowa 1986); *Bongard v. Bongard*, 342 N.W.2d 156, 159 (Minn.App. 1983). *See also*, 1 Norman J. Singer, STATUTES AND STATUTORY CONSTRUCTION § 2.07 at 42 n. 23 (1985) ("Former act remains in force when the unconstitutional amendment is declared void."); Annotation, *Previous statute as affected by attempted but unconstitutional amendment*, 66 A.L.R. 1483 (1930).

We are unwilling to attribute to the legislature an intent to repeal the "culpably negligent" standard even in the face of our finding of unconstitutionality. Ascribing such intent to the legislature would leave the law in this area in a state of chaos for a period which lasted almost seven years. It would be inconsistent, as well as irresponsible, with our precedents to assign the burden of such an absurd intent to the legislature. *Parker Land Cattle v. Wyoming Game Fish*, 845 P.2d 1040, 1042-1045 (Wyo. 1993); *Cook v. State*, 841 P.2d 1345, 1356 (Wyo. 1992) (Golden, J., concurring).

CONCLUSION

Under the circumstances presented here, we hold that our decision in *Mills* revived the "culpably negligent" standard. Applying the general rule, we further hold the unconstitutional amendment had no effect and left the statute as it was before the amendment — for the limited purpose of maintaining the "culpably negligent" standard in cases where that standard properly applies.

THOMAS, Justice, concurring.

I agree with the result reached by the opinion of the court in this case, and I have no quarrel with the rationale incorporated in the court's opinion. I perceive, however, in this instance, we find a nuance which does not seem to be a part of the *ratio decidendi* of the persuasive authority from our sister jurisdictions.

It is very clear that, in the case of amendatory legislation, if the new statute is declared unconstitutional, the effect of that declaration is to treat the new statute as though it had not been adopted. This approach reaches even to striking the enactment clause of the new statute, and the effect is to reinstate the prior statute. In addition to the cases and the annotations cited in the majority opinion, I would call attention to *Clark County, By and Through Bd. of City Comm'rs v. City of Las Vegas, By and Through Bd. of City Comm'rs*, 97 Nev. 260, 628 P.2d 1120 (1981); *Clark v. State*, 287 A.2d 660 (Del. 1972), *appeal dismissed, cert. denied*, 409 U.S. 812, 93 S.Ct. 139, 34 L.Ed.2d 67 (1972); *Henderson v. Antonacci*, 62 So.2d 5 (Fla. 1952); *State v. Greenburg*, 187 Neb. 149, 187 N.W.2d 751 (1971); *State v. Clark*, 367 N.W.2d 168 (N.D. 1985); *State ex rel. Thornton v. Wannamaker*, 248 S.C. 421, 150 S.E.2d 607

(1966); *State ex rel. Dieringer v. Bachman*, 131 W. Va. 562, 48 S.E.2d 420 (1948).[1] None of these cases, however, address the instance in which an entire codification, such as our workers' compensation act, is purportedly repealed and amended and re-enacted. This is the nuance I conclude should be addressed.

[1] For the proposition that, when an amended statute is declared unconstitutional the statute as worded prior to the amendment is re-enacted, see the authorities cited in Annotation, *Previous Statute as Affected by Attempted but Unconstitutional Amendment*, 66 A.L.R. 1483 (1930).

Succinctly, the question is: Conceding that, when an amendment to a statute is declared unconstitutional and that declaration of unconstitutionality serves to strike the enacting clause, should the same result *1128 ensue when the repealing clause is much broader and extends to a number of other statutory provisions? Obviously, the striking of the repealing clause in *toto* would lead to legal chaos but, perhaps, the situation could be saved by the concept of implied repeal. In my view, however, it makes far better sense to simply say the repealing clause will be held to have been stricken only as to the specific statutory section, the constitutionality of which is in issue and, as to the other statutes, the repealing clause would be valid so there would remain in the statutes only the new provisions. All of the justifications for the proposition that an earlier statute is reinstated when a succeeding amending statute is declared unconstitutional are pertinent and applicable to the situation presented by this case. There is no reason to attribute any different intent to a legislature under these circumstances than is to be attributed in the facts of the cases from our other states that hold the legislature would intend to maintain the prior version of the statute.

Consequently, I am entirely satisfied with the result reached in the majority opinion. The earlier version of the statute relating to actions against co-employees must be applied from the date of the purported repeal and its replacement by the unconstitutional enactment to the effective date of the newest version of the statute.

CARDINE, Justice, dissenting.

If this case were resolved by pure application of law only, there can be no question but that the decision would be for the workman by allowing recovery upon proof of negligence in coemployee suits. Unfortunately, courts have never felt constrained by the law if they dislike the result of its application. And so we have here a discussion of legislative intent and reliance upon cases from other jurisdictions, neither of which have any application to this case.

Let us review the historical background of this controversy. The prohibitions upon the limitation of damages and the right to recover damages were dealt with separately by the framers of our constitution. *Meyer v. Kendig*, 641 P.2d 1235, 1239 (Wyo. 1982). To begin with, Wyoming Constitution, art. 10, § 4 provides:

> No law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person. Any contract or agreement with any employee waiving any right to recover damages for causing the death or injury of any employee shall be void. As to all extrahazardous employments the legislature shall provide by law for the accumulation and maintenance of a fund or funds out of which shall be paid compensation as may be fixed by law according to proper classifications to each person injured in such employment or to the dependent families of such as die as the result of such injuries, except in case of injuries due solely to the culpable negligence of the injured employee. The fund or funds shall be accumulated, paid into the state treasury and maintained in such manner as may be provided by law. The right of each employee to compensation from the fund shall be in lieu of and shall take the place of any and all rights of action against any employer contributing as required by law to the fund in favor of any person or persons by reason of the injuries or death. Subject to conditions specified by law, the legislature may allow employments not designated extrahazardous to be covered by the state fund at the option of the employer. To the extent an employer elects to be covered by the state fund and contributes to the fund as required by law, the employer shall enjoy the same immunity as provided for extrahazardous employments.

The common law of England was adopted by Wyoming in 1876. Wyoming Statute 8-1-101 provides:

> The common law of England as modified by judicial decisions, so far as the same is of a general nature and not inapplicable, and all declaratory or remedial acts or statutes made in aid of, or to supply the defects of the common law prior to the fourth year of James the First (excepting
1129 the second section of the *1129 sixth chapter of forty-third Elizabeth, the eighth chapter of thirteenth Elizabeth and ninth chapter of thirty-seventh Henry Eighth) and which are of a general nature and not local to England, are the rule of decision in this state when not inconsistent with the laws thereof, and are considered as of full force until repealed by legislative authority.

In *Markle v. Williamson*, 518 P.2d 621 (Wyo. 1974), this court recognized the adoption of the common law and the existence of coemployee liability for ordinary negligence. We iterated the pervading rule that valuable common law rights shall not be deemed destroyed by a statute except by clear language. We require clear and precise language before compensation rights can be taken away, so also must there be clear and precise language before common law rights are abolished. *Id.*, at 624.

In 1975 the legislature provided coemployee immunity for "employees acting within the scope of their employment unless the employees are grossly negligent." 1975 Wyo. Sess. Laws ch. 149. The words "culpably negligent" were substituted for "grossly negligent" by the legislature in 1977. 1977 Wyo. Sess. Laws ch. 142.

In *Meyer v. Kendig*, 641 P.2d 1235, we held that the provision granting coemployees immunity except for culpable negligence was constitutional and not violative of art. 10 § 4 of our constitution because it did not limit the amount of damages to be recovered. Instead, the statute specifically limited the causes of action available for recovery.

In 1989, the legislature again amended W.S. 27-14-104(a) providing for total immunity of coemployees:

> The rights and remedies provided in this act for an employee including any joint employee, and his dependents for injuries incurred in extrahazardous employments are in lieu of all other rights and remedies against any employer and any joint employer making contributions required by this act, *or their employees* acting within the scope of their employment, but do not supersede any rights and remedies available to an employee and his dependents against any other person. [emphasis added]

Mills v. Reynolds, 837 P.2d 48 (Wyo. 1992), held W.S. 27-14-104(a) unconstitutional inasmuch as it violated the equal protection clause of the Wyoming Constitution, art. 3 § 27, by creating classifications which treated similarly situated people differently. The court further held that § 27-14-104(a) was violative of art. 1 § 8 of the Wyoming Constitution because it denied access to courts in granting complete immunity from suits, including immunity for intentional acts and for willful and wanton misconduct, by coemployees to employees who were acting within the scope of their employment.

In declaring W.S. 27-14-104(a) unconstitutional, no provision was made for revival of the predecessor statute. Wyoming Statute 8-1-106 provides:

> If any law is repealed which repealed a former law, the former law is not thereby revived unless it is expressly provided.

Thus, the question we are presented is: In the absence of an express provision for revival as required by § 8-1-106, is the predecessor statute, W.S. 27-12-103(a) limiting recovery for injury by the coemployee to culpable negligence, nevertheless revived? That question has been answered in this way:

> a) If holding a statute unconstitutional leaves no void in the law, the prior statute is not revived.
>
> b) If, on the other hand, a void in the law will occur upon declaration of unconstitutionality, the prior statute is revived.

In Wyoming, there is no void in the law upon declaration of unconstitutionality because the common law provides for recovery by the worker upon proof of negligence. The common law right to sue a fellow employee remained unchanged throughout the amendments to art. 10 § 4 of the Wyoming Constitution, and that right continues to date. *Markle v. Williamson*, 518 P.2d at 625. Revival of the predecessor statute, § 27-12-103(a), does not occur because revival was not provided
1130*1130 for as required by § 8-1-106. Without revival, the worker's right of recovery against a coemployee is governed by common law. I find support for this conclusion in the cases cited by appellants. Each case provides for revival of a prior statute because the invalidated statute left a void due to the lack of a common law counterpart. Here there is a common law rule and hence no void. The cases cited are as follows: *State v. Rondeau*, 89 N.M. 408, 553 P.2d 688 (1976); *State v. Kolocotronis*, 73 Wn.2d 92, 436 P.2d 774 (1968); *Selective Life Ins. Co. v. Equitable Life Assurance Soc'y*, 101 Ariz. 594, 422 P.2d 710 (1967); *Bongard v. Bongard*, 342 N.W.2d 156 (Minn.App. 1983); *Boeing Co. v. State*, 74 Wn.2d 82, 442 P.2d 970 (1968); *State ex rel. Musa v. Minear*, 240 Or. 315, 401 P.2d 36 (1965); *Topeka Cemetery Ass'n v. Schnellbacher*, 218 Kan. 39, 542 P.2d 278 (1975); *Frost v. Corp. Comm'n*, 278 U.S. 515, 49 S.Ct. 235, 73 L.Ed. 483 (1929); *Weissinger v. Boswell*, 330 F. Supp. 615 (Ala. 1971); *Stewart v. Waller*, 404 F. Supp. 206 (Miss. 1975); *State v. Bloss*, 64 Haw. 148, 637 P.2d 1117

(1981); *Clark County v. City of Las Vegas*, 97 Nev. 260, 628 P.2d 1120 (1981); *Clark v. State*, 287 A.2d 660 (Del. 1972); *State v. Greenburg*, 187 Neb. 149, 187 N.W.2d 751 (1971); *State ex rel. Thornton v. Wannamaker*, 248 S.C. 421, 150 S.E.2d 607 (1966); *State v. Reed*, 75 S.D. 300, 63 N.W.2d 803 (1954); *Henderson v. Antonacci*, 62 So.2d 5 (Fla. 1952); *State ex rel. Dieringer v. Bachman*, 131 W. Va. 562, 48 S.E.2d 420 (1948); *People ex rel. Farrington v. Mensching*, 187 N.Y. 8, 79 N.E. 884 (1907); *State ex rel. Malott v. Bd. of County Comm'rs*, 89 Mont. 37, 296 P. 1 (1931).

It is curious also that the worker's compensation fund, always facing bankruptcy, gains funds by reimbursement from third party recoveries, yet takes no position in this dispute. And the complaint of the eleven amici curiae companies and corporations is that they pay accident insurance premiums to workers compensation for their industrial accident insurance and also to private carriers for separate insurance to cover their employees. Three thoughts immediately come to mind. First, the eleven amici do not have to provide insurance coverage for their employees. Second, if they choose to do so by buying insurance, what is wrong with that? And, third, they could pay the premiums now paid to private insurance carriers to worker's compensation for coemployee coverage.

And so, my final thought. There has always been a quid pro quo for the workman giving up his right to sue for injury. "In adopting the new system, both employees and employers gave up something that they each might gain something else, and it was in the nature of a compromise." *Zancanelli v. Central Coal Coke Co.*, 25 Wyo. 511, 173 P. 981, 989 (1918). The act "protects both employer and employee; the former from wasteful suits and extravagant verdicts; the latter from the expense, uncertainties and delays of litigation in all cases and from the certainty of defeat if unable to establish a case of actionable negligence." *Id., quoting Jensen v. Southern Pac. Co.*, 215 N.Y. 514, 109 N.E. 600 (1915). If now the worker is to give up the right to sue coemployees, then perhaps additional premiums should be paid to worker's compensation to provide industrial accident insurance for coemployees. These additional premiums would provide a corresponding increase in benefits to injured employees awarded benefits under worker's compensation. *See Mills v. Reynolds*, 837 P.2d at 58 (Cardine, Justice, specially concurring).

I am still of the opinion, as previously stated in *Mills v. Reynolds*, 837 P.2d at 58-59, that as a constitutional amendment was necessary to abrogate a worker's right to recover from his employer for his injuries during employment, so too a constitutional amendment is necessary to abrogate his right to sue someone other than his employer for such injuries.

For the reasons stated, I would hold the prior statute not revived.

312 *312

74 Wn.2d 82 (1968)
442 P.2d 970

THE BOEING COMPANY et al., Appellants,

v.

THE STATE OF WASHINGTON, Respondent and Cross-appellant.[*]

No. 38785.

The Supreme Court of Washington, En Banc.

July 3, 1968.

ROSELLINI, J.

84 This appeal concerns the use tax, imposed *84 under RCW 82.12.020, as amended by Laws of 1959, Ex. Ses., ch. 3, § 10, as applied to bailments.

The Boeing Company and the United States appealed to the superior court from an order of the tax commission assessing additional taxes and penalties. The trial court held that the tax was valid and proper and did not offend the Constitution of the United States or of this state. Boeing has appealed, contending that the trial court erred in failing to sustain its contention that the statute did not apply to its use of the property in question and its further contention that the statute, as applied by the tax commission, denied to Boeing the equal protection of the laws.

The act provides, in pertinent part:

> There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, or bailment, or extracted or produced or manufactured by the person so using the same.

Boeing concedes that, during the period of time involved, it used certain tools and other property belonging to the United States government, for which it was not charged. The reason it was not charged for the use of this property was that it performed contracts for the government on a cost-plus basis, and had the government charged it for the use of government property in the manufacturing process, that charge would have been added to the cost and reimbursed by the government.

The property in question was placed in the possession of Boeing and used for periods of time varying from a few days to many years.

[1] It is Boeing's first contention that it did not use this property under bailment, as that term was defined by the tax commission's rule 211, because it did not have "exclusive possession" of the property. Its theory is that, because the
85 government had the right to control the use of the property, its possession was not "exclusive." The statute *85 makes no mention of the right of exclusive possession; but, assuming that the tax commission correctly construed it in promulgating its rule 211, the fact that Boeing did not have exclusive control of its own use of the property does not mean that it did not have exclusive possession. Although the bailment of this property was terminable at the will of the government, and although it had the right to direct Boeing in its use, the property was within the exclusive possession of Boeing during the time that it held it. It shared that possession with no one nor did it share its use. Neither the statute nor the rules of the commission, insofar as they have been brought to our attention, required that, before the tax could be imposed upon a bailee, it must have been shown that he had exclusive control of his own use of the article in question. The trial court correctly ruled that the property used by Boeing was held under bailment.

The remaining contention of Boeing is that the distinction made by the tax commission between bailees and lessees, in determining the basis upon which the tax should be computed, renders the act arbitrary and denies to Boeing the equal protection of the laws.

During the period of time involved in this action, the tax commission based the tax on leased property on the rentals charged. On bailed property, it based the tax on the value of the article itself.[1] Boeing does not challenge the authority of the tax commission to make its rules whereby a different basis was used for taxation of bailments and leases, but contends that its exercise of authority in this respect resulted in a discriminatory tax.

[2] Boeing concedes the following quoted from *Texas Co. v. Cohn,* 8 Wn.2d 360, 386, 112 P.2d 522 (1941) to be the applicable law:

86 *86 A state legislature has very broad discretion in making classifications in the exercise of its taxing powers. A classification of commodities, businesses, or occupations, for excise tax purposes, under which the classes are taxed at unequal rates, or one class is taxed and another is exempted, will be upheld as constitutional if it is not arbitrary nor capricious and rests upon some reasonable basis of difference or policy. The difference between the classes need not be great. It may consist of physical and chemical dissimilarity of commodities or difference in the character or manner of their uses. Classification may also be permissible if it is reasonably related to some lawful taxing policy of the state, such as greater ease or economy in the administration or collection of a tax, the selection of a fruitful source of revenue with the exemption of sources less promising, or the equalization of the burdens of taxation. If any such reasonable basis for the classification exists, or conceivably may exist, then the circumstance that there is competition between a commodity or business which is taxed and some commodity or business which is not taxed, does not materially affect the validity of the classification.

As Boeing also concedes, our later cases have emphasized that the legislature has a broad discretion in making classifications, holding that a classification will not be struck down if any state of facts reasonably can be conceived that would sustain it. An enactment is presumptively valid, and the burden is upon the challenger to prove that the questioned classification does not rest upon a reasonable basis. *Hemphill v. Tax Comm'n,* 65 Wn.2d 889, 400 P.2d 297 (1965), *appeal dismissed,* 383 U.S. 103, 15 L.Ed.2d 615, 86 Sup. Ct. 716 (1966).

In *Black v. State,* 67 Wn.2d 97, 101, 406 P.2d 761 (1965), we said:

> In *Hemphill, supra,* we upheld the exemption of bowling from a sales tax applied to the amusement industry. In *Armstrong, supra* [61 Wn.2d 116, 377 P.2d 409 (1962)], we upheld the application of a Business and Occupation Tax to general insurance agents, despite the fact that their counterparts working in insurance company branch offices were not so taxed. In *Texas Co., supra,* we upheld a tax on distributors of other
87 types of fuel. Here, the *87 legislature has imposed an excise tax on leases of tangible personal property, while leases of similar property, land based, carry no such tax. Nevertheless, the difference in type of property — *i.e.,* tangible personal property versus real property — would be in itself enough of a difference to uphold the classification. Thus, there is no denial of equal protection.

Boeing says that the sole basis for distinguishing between one using property under bailment and one using it under a lease is that the lessee pays rent while the bailee does not. In so saying, it concedes a difference in fact; and it is this difference upon which the variation in the tax is based.

[3] The complaint of Boeing that a bailee must necessarily pay a higher tax than the lessee, even if it be well founded (which we concede only for the purposes of argument), does not invalidate the tax. If the classification is reasonable, the legislature may tax one class and impose no tax at all upon the other. *Hemphill v. Tax Comm'n, supra.*

In *Black v. State, supra,* we held that a difference in type of property (a land-based hotel — real property, a floating hotel — personal property), even though there was little difference in the physical nature of the properties, was a sufficient basis for classification. By the same reasoning, a difference in the manner of holding property is a reasonable basis for distinction.

We need not examine the question whether there are other differences between a lease and a bailment, since the presence of a monetary consideration in one case and the absence of it in the other is a sufficient distinction to sustain the validity of the statute.

We find no error in the trial court's rulings on these points.

The state has filed a cross-appeal, based upon its contention that the trial court erred in holding that there is no valid and subsisting statute providing for the assessment of interest on delinquent excise taxes.

The conclusion of the trial court was that the decision of this court in *United States Steel Corp. v. State*, 65 Wn.2d 385, 386, 397 P.2d 440 (1964), striking down the interest *88 provisions of RCW 82.32.050, did not have the effect of reinstating the previous law governing this subject.

The portion of RCW 82.32.050 which was held unconstitutional in the cited case as an unlawful delegation of legislative power, is as follows:

> "If, upon examination of any returns or from other information obtained by the tax commission it appears that a tax or penalty has been paid less than that properly due, the commission shall assess against the taxpayer such additional amount found to be due and *may add thereto interest at the rate of not more than six percent per annum* from the respective due dates of such additional amount until date of such assessment, ..."

This court did not discuss the question whether the provision in question was severable from the remainder of the section. RCW 82.32.050 contains two paragraphs, the first dealing with the assessment of additional taxes and interest and the second with the statute of limitations applicable to such assessments thereon. Those portions of the statute, pertaining to the assessment of additional taxes found to be due and to the statute of limitations applicable to such assessments, are fully capable of accomplishing the legislative purpose that tax deficiencies be assessed within a certain period of limitations. The fact that interest may not be charged under this provision does not interfere in any way with the accomplishment of that purpose.

[4] An act should not be declared unconstitutional in its entirety because one or more of its provisions is unconstitutional, unless the invalid provisions are unseverable and it cannot reasonably be believed that the legislature would have passed the one without the other, or unless the elimination of the invalid part would render the remainder of the act incapable of accomplishing the legislative purposes. *Hogue v. Port of Seattle*, 54 Wn.2d 799, 341 P.2d 171 (1959).

The interest provision passes the test of severability.

[5] It is the rule that an invalid statute is a nullity. It is as inoperative as if it had never been passed. *State ex rel.* *89 *Evans v. Bhd. of Friends*, 41 Wn.2d 133, 247 P.2d 787 (1952).

The natural effect of this rule is that the invalidity of a statute leaves the law as it stood prior to the enactment of the invalid statute. 82 C.J.S. *Statutes* § 75 at 132 (1953); 16 Am.Jur.2d *Constitutional Law* § 177 at 405 (1964).

This court applied these rules in a case where a portion of a law was struck down, not by the courts in a declaration of unconstitutionality, but by the governor's veto. In *State ex rel. Ruoff v. Rosellini*, 55 Wn.2d 554, 557, 348 P.2d 971 (1960), we said:

> Where an act or part of an act repeals or amends an existing act, the veto of the act or part thereof prevents the intended repeal or amendment from taking effect. The original act or part of an act, which was the subject of the repeal or amendment, remains valid and in force for want of an effective repeal or amendment thereof. Such a veto does not leave the kind of a void in the subject of the act for which the appellants contend. Such a result could occur only where the act vetoed was an original act unrelated to any existing legislation. *Spokane Grain & Fuel Co. v. Lyttaker*, 59 Wash. 76, 109 Pac. 316.
>
> We therefore hold that the item in Laws of 1949, chapter 48, § 1, p. 106 [*cf.* RCW 43.03.010], which fixed the governor's salary at fifteen thousand dollars a year is still in effect.

[6] The governor's veto prevents an amendatory law from taking effect just as does a declaration of unconstitutionality. Consequently, if a severable portion of a statute is declared invalid, the corresponding severable portion of the previously existing valid statute continues as the law.

Our attention is drawn to the fact that Laws of 1945, ch. 249, § 9, amending Laws of 1939, ch. 225, § 27, gave the tax commission discretion in determining the amount of interest to be charged.

[7] Under our reasoning in *United States Steel Corp. v. State, supra*, this interest provision delegates legislative power to the tax commission and is likewise invalid. The law in effect when the act was passed was Laws of 1939, ch. *90 225, § 27,

which imposed mandatory interest. It reads as follows:

> If, upon examination of any returns or from other information obtained by the Tax Commission it appears that a tax or penalty has been paid less than that properly due, the Tax Commission shall assess against the taxpayer such additional amount found to be due and shall add thereto an amount equal to 5% of the amount of such additional tax as penalty and interest for the first calendar year or portion thereof in which the deficiency was incurred, and shall add further thereto interest computed at the rate of six per cent per annum upon the amount of such additional tax from the last day of the year in which the deficiency was incurred to the date on which the assessment is made.

This provision being free of the objectionable permissive language which invalidated the 1945 amendment and subsequent amendments, and there being no contention that it is otherwise invalid, it remains the law governing the question of interest.

By Laws of 1961, ch. 15, § 82.32.050, the 1949 provision, held invalid in *United States Steel Corp. v. State, supra,* was reenacted. This reenactment, which, to the extent it was effective, merely continued the existing law (*see* *Kuehl v. Edmonds*, 91 Wash. 195, 157 Pac. 850 (1916)), was likewise invalid insofar as the interest provision was concerned, and did not change the last existing valid statute, that is, Laws of 1939, ch. 225, § 27.

Some contention is made that the tax commission has discriminated against Boeing in its enforcement of the interest provisions. We are not convinced that the incidents listed in the brief of Boeing justify its assertion that the tax commission engaged in unjust discrimination against it.

The judgment is affirmed insofar as it sustains the validity of the use tax imposed upon Boeing; insofar as it denied the state's claim for interest, it is reversed and the cause is remanded with directions to determine the amount of interest due, according to the provisions of Laws of 1939, ch. 225, § 27.

ALL CONCUR.

[*] Reported in 442 P.2d 970.

[1] RCW 82.12.060 was amended by the 1961 legislature to add a provision stating:

In the case of property acquired by bailment, the commission, by regulation, may provide for payment of the tax due in installments based on the reasonable rental for the property as determined under RCW 82.12.010(1). Laws of 1961, ch. 293, § 16.

Amended Office Management Policy 2.4

Reinstating Pre-Lair 2016 Campaign Contribution limits

Adopted: May 17, 2016; First amended on May 18, 2016; Second amended on May 26, 2016

Introduction

The Federal District Court, in the Matter of *Lair v. COPP* No. 6:12-cv-00012-CCL, issued its Order on May 17, 2016 declaring that the limits imposed by Montana law on contributions to candidates for Montana public office are unconstitutional. The Federal Court's Order has voided the limits on contributions.

The contribution limits voided by the Federal Court were set by a November 1994 vote of Montana voters approving Initiative 118. The new limits set by I-118 amended limits were then set out at §13-37-216 MCA.

In response to the Federal Court's Order the Commissioner adopts the following amended policy.

Policy

The Commissioner hereby recognizes that Montana law reinstates the larger contribution limits in place under §13-37-216 MCA before those limits were amended by the now voided portion of I-118. The Commissioner notes that the Policy is adopted under the reasoning, authority and direction set by the Montana Supreme Court in *State ex. rel. Woodahl v. District Court*, 162 Mont. 283, 290, 511 P.2d 318, 322 (1972): '[a]n unconstitutional amendment to a law leaves the section intact as it had been before the attempted amendment." This issue is further addressed by AG Opinion Vol. 51, No. 2.

I. Individual Contribution Limits

The Court's Order struck 13-37-216(1) MCA (2011) applying limits to individuals. The amounts for individual contributions set by §13-37-216 MCA before the now voided amendment by I-118 are as follows:

$1,500 limit for Gubernatorial candidates
$750 limit for Other Statewide Office candidates
$400 limit for candidates for PSC, District Court Judge, and State Senator

$250 limit for any candidates for any other Montana public office (including State Representative)

Subsection (4) of §13-37-216 MCA (2011) sets an inflation factor based on the consumer price index in place in the year of 2002. The inflation factor was set by the Montana legislature independent of changes made by I-118. The Commissioner applies the inflation factor for the reason that it was not challenged by the *Lair* litigation and appears to be unaffected by the Court's Order. Applying a 1.326 Inflation Factor to the reinstated pre-I-118 limits sets the following limits on individual contributions to a candidate for election in 2016:

$1,990 limit for Gubernatorial candidates
$990 limit for Other Statewide Office candidates
$530 limit for candidates for PSC, District Court Judge, and State Senator
$330 limit for any candidates for any other Montana public office (including State Representative)

It is noted that the limits set by §13-37-216 MCA prior to amendment by I-118 were single limits covering both the primary and general election. Accordingly, the Commissioner adopts the above as a single limit for contributions to a 2016 Montana candidate for public office.

II. Political Committee Contribution Limits, Other than Political Parties.

The Court's Order struck 13-37-216(1) MCA (2011), the subsection of law applying limits to political committees other than political party committees. The amounts for political committee contributions set by §13-37-216 MCA before the now voided amendment by I-118 are as follows:

$8,000 limit for Gubernatorial candidates
$2,000 limit for Other Statewide Office candidates
$1,000 limit for candidates for PSC
$600 limit for a candidate for the state senate
$300 limit for any candidates for any other Montana public office (including State Representative and District Court Judge)

Applying the inflation factor discussed above, the reinstated limits for political committees other than political party committees are:

$10,610 limit for Gubernatorial candidates
$2,650 limit for Other Statewide Office candidates
$1,330 limit for candidates for PSC
$800 limit for a candidate for the state senate

$400 limit for any candidates for any other Montana public office (including State Representative and District Court Judge)

It is noted that the limits set by §13-37-216 MCA prior to amendment by I-118 were single limits covering both the primary and general election. Accordingly, the Commissioner adopts the above as a single limit for contributions to a 2016 Montana candidate for public office.

III. Political Party Contribution Limits

The Court's Order of May 17, 2016 struck 13-37-216(3) MCA (2011), the subsection of law applying limits to political party committees. On May 25, 2016 the Court issued its further Order staying the effect of this part of the Order as to Montana's 2016 elections. Accordingly, political party contribution limits for 2016 elections were and are those set by 44.11.227 ARM:

Office	Contribution Limit – Per Election
Governor/Lieutenant Governor	$23,850
Other Statewide offices	$8,600
PSC	$3,450
State Senate	$1,400
All other Elected Offices	$850

This Policy, with any amendments, is in effect barring further legislative or judicial action that might affect the contribution limits, including the completion of litigation in the matter of *Lair v. COPP* No. 6:12-CV-00012-CCL. Failure to adhere to these contribution limits will be treated as a violation of Montana's campaign practice laws.

PRESS RELEASE

Contact: Kate Sease
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For Immediate Release
June 30, 2006

Secretary of State and Attorney General Issue Guidance on Contribution Limits

Montpelier. Today Secretary of State Deb Markowitz announced that her office will be advising candidates, PACs and political campaigns that the contribution limits to candidates in place prior to the 1997 enactment of Act 64, Vermont's campaign finance reform law, would be in effect for this campaign cycle. These limits are $1,000 per election (primary and general) from individuals and entities that are not PACs or political parties, $3000 per election from political action committees (PACs) and unlimited contributions from political parties. The current limit on contributions to PACs and political parties of $2000 per election cycle was found to be constitutional by the Second Circuit Court of Appeals and was not considered by the Supreme Court, and will therefore remain in effect.

On Monday, the United States Supreme Court issued its opinion in *Randall v. Sorrell,* a case that challenged the constitutionality of some of the provisions of Vermont's campaign finance law. The court held that Vermont's limits on candidate spending in political races were unconstitutional restrictions on the candidates' first amendment rights to free speech. Note that because the spending limit provisions of Act 64 were never implemented in Vermont this will not require a change for candidates or campaigns.

The court also struck as unconstitutional Vermont's limits on contributions to political campaigns. Although the court acknowledged that some limitations on contributions were

acceptable under the constitution, it determined that Vermont's limits on contributions to candidates were so restrictive that they were unconstitutional.

Markowitz said "we are pleased that, after a thorough analysis of the United States Supreme Court Decisions in *Randall v. Sorrell*, and consideration of related case law, the Attorney General's Office has advised us that the contribution limits that existed prior to the enactment of Act 64 in 1997 will be in effect." "All provisions of Vermont's campaign finance law that were not declared unconstitutional by the court will also continue to be in effect," Markowitz said, "This includes, but is not limited to, all filing deadlines, disclosure requirements, definitions, and identification requirements."

The new contribution limits will be reflected on the Secretary of State's website and in the campaign finance guide published by the Secretary of State's Office.

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Overview of Contribution Limits Post-*Randall v. Sorrell*

Contributions to Candidates and Candidate Political Committees

- $1,000 per election from individuals and entities that are not parties or political committees

  (Source: 17 V.S.A. §2805(a) prior to amendment by Act 64)

- $3,000 per election from political committees

  (Source: 17 V.S.A. §2805(b) prior to amendment by Act 64)

- Unlimited contributions from political parties

  (Source: 17 V.S.A. §2805 prior to amendment by Act 64)

Contributions to Political Parties

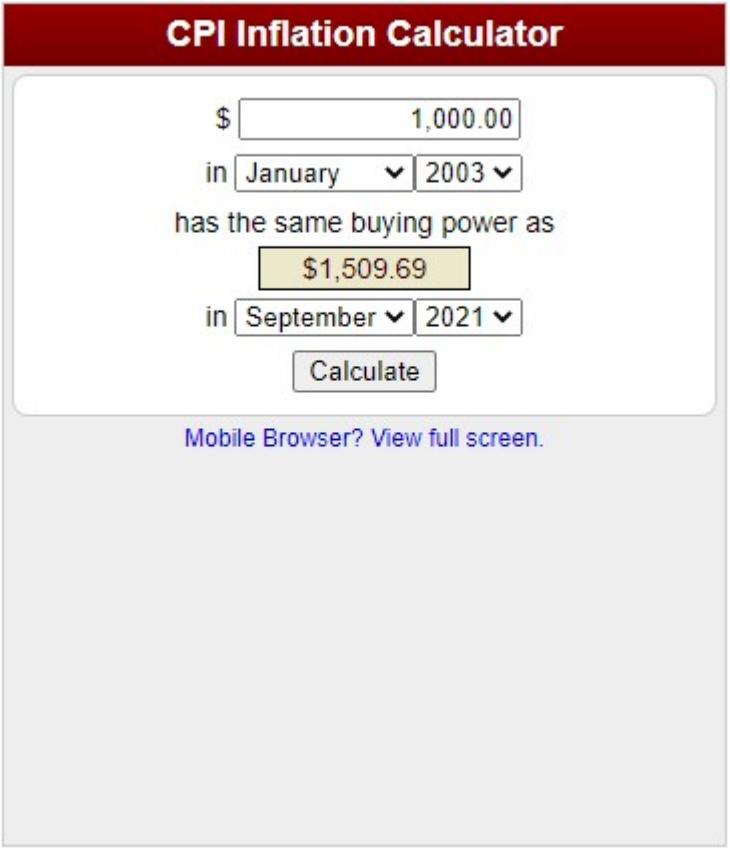
- $2,000 per cycle from any individual or entity

  (Source: 17 V.S.A. §2805(a) as added by Act 64 and found constitutional by the federal court of appeals).

Contributions to Political Committees (Other Than Candidate Political Committees)

- $2,000 per cycle from any individual or entity

  (Source: 17 V.S.A. §2805(a) as added by Act 64 and found constitutional by the federal court of appeals)


CPI Inflation Calculator
$ 1,000.00
in January 2003
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in September 2021
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Mobile Browser? View full screen.

CPI Inflation Calculator

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State Limits on Contributions to Candidates
2019-2020 Election Cycle
Updated June 2019

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Alabama Ala. Code § 17-5-1 et seq.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Alaska Alaska Stat. §§ 15.13.070, 15.13.072(e), and 15.13.074(f)	$500/candidate/year Aggregate amounts candidates may accept from non-residents: $20,000/year/gub candidate $5,000/year/senate candidate $3,000/year/house candidate	$100,000/year/gub candidate $15,000/year/senate candidate $10,000/year/house candidate $5,000 municipal $5,000 to judge seeking retention	$1,000/office/year Contributions from out-of-state PACs prohibited	Prohibited[d]	Prohibited[d]
Arizona[b, e] Ariz. Rev. Stat. §§ 16-912, 16-914, 16-915 and 16-916	$5,200/statewide or leg. candidate/year[1] §6,450/local candidate/year	$10,200/election/nominee for city, town, county, district office $8,200/election/nominee for legislative office $80,200/election/nominee for statewide office	"Mega" PACs[2]: 10,400//candidate/year Regular PACs: Same as individual limits *Amounts are per election*[a]	Prohibited[d]	Prohibited[d]
Arkansas[3] Ark. Code Ann. §§ 7-6-201, 7-6-203	$2700/candidate/election[a]	$2,700/election[a]	Same as individual limits	Prohibited[d]	Prohibited[d]

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[1] Under Arizona's "Clean Elections Act," contribution limits to campaigns for elected offices eligible for Arizona's public financing program are subject to a 20% reduction from the limits under § 16-912. After that time, the amounts are subject to adjustment upward by $100 in every odd year, which leads to the $5,100 limit for the statewide or legislative candidates per year.

[2] In Arizona, a PAC that has received contributions from 500 or more individuals in amounts of $10 or more in a four-year period may qualify as a "Mega PAC." Qualification is valid for four years. (Ariz. Rev. Stat. §16-908(C)).

[3] It is illegal for a candidate for office to accept contributions from any entity or person more than two years prior to the primary or general election in which the candidate is running. (A.C.A. § 7-6-203(e)).

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
California[e] Cal. Gov't. Code § 85300 et seq.	$31,000/gubernatorial cand. $7,800/other statewide cand. $4,700/legislative candidate *Amounts are per election*[a]	Unlimited	"Small Contributor" Committees[4]: $31,000/gubernatorial cand. $15,500/statewide candidate $9,300/legislative candidate Regular PACs: Same as individual limits *Amounts are per election*[a]	Same as individual limits	Same as individual limits
Colorado[e] Colo. Const. Art. XXVIII; 8 Colo. Code Regs. § 1505-6	$625/statewide candidate $200/legislative candidate Limits double for a candidate who accepts voluntary spending limits if his/her opponent has not accepted the limits *and* has raised more than 10% of the limit. *Amounts per election*[a]	$679,025/gub. candidate $135,775/other statewide cand $24,425/senate candidate $17,625/house candidate Note: Contributions by a candidate to his/her own campaign, and unexpended contributions carried forward to a subsequent election cycle, are treated as contributions from a political party and are subject to the political party limits. Party limits cannot be doubled for candidates who accept voluntary limits. *Amounts are per applicable election cycle.*	"Small Donor" Committees:[5] $6,750/gub & statewide cand $2,675/legis. cand. Regular PACs and Federal PACs: Same as individual limits	Prohibited[6]	Prohibited[6]

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[4] In California, a "small contributor committee" is a committee which has been in existence for at least six months, receives contributions from 100 or more persons in amounts of not more than $200 per person, and makes contributions to five or more candidates. (Cal. Govt. Code §85203).

[5] In Colorado, a "small donor committee" means any political committee that has accepted contributions only from humans (i.e. not corporations, unions, or other artificial entities) who each contributed no more than $50 in the aggregate per year. (Colo. Const. art. XVIII, § 2, Cl. 14(a)).

[6] Corporations/Unions are prohibited from donating money from their treasury, but are permitted to establish independent expenditure committees or political committees with the same contribution limits as PACs. [*Note: In Ritter v. FEC, 227 P.3d 892 (Colo. 2010), the Colorado Supreme Court declared various provisions within §3, subsection 4 of Art. XXVII unconstitutional in light of Citizens United v. FEC, 558 U.S. 310 (2010).*]

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Connecticut[b7] Conn. Gen. Stat. §§ 9-601(9), 9-611, 9-613, 9-615, and 9-617	$3,500/gub candidate $2,000/other statewide cand. $1,000/senate candidate, probate judge, or CEO of any town, city, or borough $250/house candidate *All amounts are per election*[a]	$50,000/gub candidate $35,000/other statewide cand $10,000/senate candidate, probate judge, or CEO of any town, city, or borough $5,000/house candidate *All amounts are per election*[a]	$5,000/gubernatorial cand. $3,000/other statewide cand. $1,500/senate candidate, probate judge, or CEO of any town, city, or borough $750/house candidate Aggregate limits on contributions to candidates by type of PAC: Union: $50,000/all candidates Corporation: $100,000/all candidates *All amounts are per election*[a]	Prohibited[d]	Prohibited[d]
Delaware Del. Code Ann. tit. 15, §§ 8001, 8010 and 8012	$1,200/statewide candidate $600/other candidate *All amounts per election cycle*	$75,000/gubernatorial cand. $25,000/other statewide cand $5,000/senate candidate $3,000/house candidate *All amounts per election cycle*	Same as individual limits	Same as individual limits	Same as individual limits
Florida Fla. Stat. §§ 106.011 and 106.08	$3,000/statewide or S. Ct. candidate $1,000/legislative or other judicial candidate *Amounts are per election*[a]	A candidate for statewide office may not accept contributions from parties which in the aggregate exceed $250,000. A legislative candidate can accept up to $50,000 each from the national or state executive committee of a party, or up to $50,000 from the county executive committee of a party.	Same as individual limits	Same as individual limits	Same as individual limits

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[7] Legal minors (under 18) cannot contribute more than $30 to any candidate, party, or committee during an election cycle. (Conn. .Gen.Stat. § 9-611(e)).

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Georgia[e] Ga. Code Ann. § 21-5-41	Statewide Candidate: $7,000/primary or general election $4,100/primary or general runoff Legislative Candidate: $2,800/primary or general election $1,500/primary or general runoff *Amounts are per election*[a]	Same as individual limits	Same as individual limits	Same as individual limits	Same as individual limits
Hawaii[8] Haw. Rev. Stat. §§ 11-357; 11-359; 11-361 and 11-371	$6,000/statewide candidate $4,000/senate candidate $2,000/house candidate Contributions from a candidate's immediate family are limited to $50,000 in an election cycle, including loans. *All amounts are per election cycle*	Same as individual limits	Same as individual limits	Same as individual limits	Same as individual limits
Idaho Idaho Code § 67-6610A	$5,000/statewide candidate $1,000/leg candidate *Amounts are per election*[a]	$10,000/statewide candidate $2,000/legislative candidate *Amounts are per election*[a]	Same as individual limits	Same as individual limits	Same as individual limits

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[8] Contributions from non-Hawaiian residents may not make up more than 30% of the total contributions of a candidate for office. (H.R.S. § 11-362).

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Illinois[e] 10 Ill. Comp. Stat. 5/9-8.5	$5,800/candidate/election cycle When one candidate receives benefit or detriment from independent expenditures in excess of the amounts below, all candidates for that office are exempted from all contribution limits: $250,000/statewide candidate $100,000/cand. for any other office Any candidate whose opponent is self-funded is exempted from contribution limits. A self-funded candidate is an individual who contributes $250,000 to his/her own statewide campaign in an election cycle, or $100,000 for all other elective offices. Contributions made to a candidate by immediate family members are also considered "self-funding."	Unlimited if candidate is not seeking nomination in a primary election. For candidates running in a primary: $231,600/statewide candidate $144,800/senate candidate $86,900/house candidate $57,800/all other candidates *Amounts are per election cycle.*	$57,800 per election cycle Same limit applies to a contribution from one candidate committee to another	$11,600 per election cycle	$11,600 per election cycle
Indiana Ind. Code §§ 3-9-2-3, 3-9-2-4, and 3-9-2-6	Unlimited	Unlimited	Unlimited for most contributions. For contributions by a corporation or union to a PAC specifically designated for a particular candidate, same as corporate limits.	$5,000 in the aggregate to statewide candidates $2,000 in the aggregate to senate/house candidates $2,000 in the aggregate to all other candidates *All amounts are per year*	Same as corporate limits

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Source: National Conference of State Legislatures
Last updated in full June 2019
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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Iowa Iowa Code § 68A.503	Unlimited	Unlimited	Unlimited	Prohibited[d]	Unlimited
Kansas Kan. Stat. Ann. §§ 25-4143and 25-4153	$2,000/statewide candidate $1,000/senate candidate $500/house candidate *Amounts are per election*[a]	For a contested primary election, same as individual limits. Unlimited in uncontested primaries and general elections	Same as individual limits	Same as individual limits	Same as individual limits
Kentucky Ky. Const. § 150; Ky. Rev. Stat. Ann. §§ 121.025, 121.035, and 121.150(6)	$2,000/candidate *Amounts are per election*[a]	Unlimited	Same as individual limits	Prohibited[d]	Prohibited[d]
Louisiana La. Stat. Ann. § 18:1505.2	$5,000/candidate for major office[9] $2,500/candidate for district office[10] *Amounts are per election*[a]	Unlimited	Regular PACs: Same as individual limits "Big" PACs[11]: Double the amount of individual limits Candidates subject to following aggregate limits on all PAC contributions accepted for the primary and general elections combined: $80,000/major office candidate $60,000/district office candidate	Same as individual limits	Same as individual limits

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[9] In Louisiana, "major office" includes, among others, statewide offices, S. Ct. and CoA judgeships, and any office with an election district containing a population of more than 250,000.

[10] In Louisiana, "district office" includes, among others, members of the state legislature, offices elected parishwide or in a district with a population of more than 35,000 and less than 250,000, and district judgeships.

[11] In Louisiana, a "Big PAC" is a PAC with over 250 members who contributed over $50 to the PAC during the preceding calendar year and has been certified as meeting that membership requirement.

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Maine[b,e] Me. Stat. tit. 21-A, § 1015	$1,675/gubernatorial candidate $400/legislative candidate[12] Individuals limited to $25,000 aggregate contributions to all campaign finance entities per calendar year.** *Amounts are per election*[a]	Same as individual limits	Same as individual limits	Same as individual limits	Same as individual limits
Maryland Md. Code Ann., Elec. Law §§ 13-226 and 13-227	$6,000/candidate $24,000 aggregate to all candidates** *Amounts are per 4-year election cycle*	Transfer limits: Same as individual limits In-Kind Contributions: Limited to an amount equal to $1 for every two registered voters in the state, regardless of political affiliation, to a single candidate. Limit is per 4-year election cycle.	Same as individual limits	Same as individual limits	Same as individual limits
Massachusetts Mass. Gen. Laws. ch. 55, §§ 6, 6A, 7A and 8	$1000/candidate $12,500/individual aggregate limit on contributions to all candidates** Registered lobbyists may only contribute up to $200/candidate *Amounts are per calendar year.*	$3,000/candidate/year No limit on in-kind contributions	Regular PAC or People's Committee:[13] $500/cand. Candidates cannot accept aggregate contributions from regular PACs that exceed the following amounts (People's Committees are exempt from the aggregate limits): $150,000/gub candidate $18,750/senate candidate $7,500/house candidate *Amounts per calendar year.*	Prohibited[d]	Prohibited[d]

[12] In Maine, candidates who are enrolled in a political party may accept contributions of up to $400 from an individual per election.

** In wake of *McCutcheon v. FEC*, the aggregate individual contribution limits in Maine, Maryland and Massachusetts are no longer enforced. 134 S. Ct. 1434 (2014).

[13] In Massachusetts, a "People's Committee" is a PAC that has been in existence for six months, has received contributions from individuals of $156 (adjusted biennially; this amount is for 2013-2014) or less per year, and has contributed to five candidates.

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Michigan [e] Mich. Comp. Laws §§ 169.246, 169.252 and 169.254	$7,150/statewide candidate $2,100/senate candidate $1,050/house candidate *All amounts are per election cycle*	$750,000/gub.-lt.gub. slate with public funding $143,000/gub.-lt.gub. without public funding & all other statewide cands. $21,000/senate candidate $10,500/house candidate *All amounts are per election cycle*	Political Committees: Same as individual limits. Independent PACs[14]: $71,500/statewide candidate $21,000/senate candidate $10,500/house candidate *All amounts are per election cycle*	Prohibited[d]	Prohibited[d]
Minnesota Minn. Stat. §§ 10A.27 and 211B.15	Election segment limits:[15] $4,000/gub.-lt. gub. slate $2,500/AG candidate $2,000/SOS or auditor cand. $1,000/legislative candidate Non-election segment limits [in effect for 2019-2020 cycle]: $2,000/gub.-lt.gub. slate $1,500/AG candidate $1,000/SOS or auditor cand. $1,000/senate candidate n/a for house candidates Candidates who have signed a public subsidy agreement are also subject to a limit (equal to five times the election segment limits above) on the amount of personal funds they can contribute to their own campaign. *Amounts are per 2-year election segment.*	Party committees may contribute up to 10 times the limits imposed on individuals Candidates are subject to the following aggregate limits on contributions received in the 2019-2020 election cycle from party committees and terminating principal campaign committees: $20,000/gub-lt. gub. slate $15,000/AG candidate $10,000/SOS or auditor cand. $10,000/legislative candidate	Same as individual limits Aggregate contributions from political committees, political funds, lobbyists, and associations not registered with the State Board cannot exceed the following amounts: $327,200/gub.-lt.gub. slate $43,700/AG candidate $21,800/SOS or auditor cand. $19,700/senate candidate $13,100/house candidate	Prohibited[d]	Same as individual limits

[14] In Michigan, an "independent committee" must have filed a statement of organization at least 6 months before the election in which the committee wishes to make contributions; must have supported or opposed 3 or more candidates for nomination or election; and must have received contributions from at least 25 persons.

[15] Minnesota's SF 991 (2013) divided election cycles into two-year periods and made limits applicable to a two-year period rather than a single year. The limit is higher for the two-year period during which an election is held for the office, and lower during a non-election two-year period for candidates that serve a four- or six-year term.

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Mississippi Miss. Code Ann. §§ 23-15-1021 and 97-13-15	Unlimited for statewide and legislative candidates $5,000/S. Ct. or Ct. of App. Judge Candidates $2,500/all other judicial candidates	Unlimited	Unlimited for statewide and legislative candidates $5,000/S. Ct. or Ct. of App. Judge Candidates $2,500/all other judicial candidates	$1,000/candidate/year	Unlimited
Missouri[16] Mo. Const. art. VIII § 23; Mo. Rev. Stat. § 130.029 and 130.031	$2,650/statewide candidate $2,500/senate candidate $2,000/legislative candidate *Amounts are per election*[a]	$2,650/statewide candidate $2,500/senate candidate $2,000/legislative candidate *Amounts are per election*[a]	$2,650/statewide candidate $2,500/senate candidate $2,000/legislative candidate *Amounts are per election*[a]	Prohibited[d]	Prohibited[d]
Montana[e] Mont. Code Ann. §§ 13-35-227 and 13-37-216[17] - 13-13-219	$680/gubernatorial slate $340/other statewide cand. $180/senate or house candidate *Amounts are per election*[a]	$24,500/gubernatorial slate $8,850/other statewide cand. $1,450/senate candidate $900/house candidate *Amounts are per election*[a]	$680/gubernatorial cand. $340/other statewide office $180/senate or house candidate Aggregate PAC Limits for Legislative Candidates in 2018: $2,850/senate $1,750/house Amounts are per election[a]	Prohibited[d]	Prohibited[d]
Nebraska Neb. Rev. Stat. Chapter 32, Art. 16 [repealed]	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Nevada Nev. Const. art. 2 § 10; Nev. Rev. Stat. § 294A.100	$5,000/candidate/election[a]	Same as individual limits	Same as individual limits	Same as individual limits	Same as individual limits

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[16] Missouri's Constitutional limitations are currently being challenged in court and may change. *See Free & Fair Election Fund v. Missouri Ethics Comm'n*, Case No. 16–04332–CV–C–ODS.

[17] Montana's § 13-37-216 was found to be unconstitutional by a federal District Court in 2016. The case, *Lair v. Motl*, 189 F.Supp. 3d 1024, is currently on appeal to the federal 9th Circuit Court of Appeals (as of 6/5/2017). That case has resulted in the numbers for Montana differing from the ones listed in the cited statutes.

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
New Hampshire N.H. Rev. Stat. Ann. § 664:4	To candidates not agreeing to abide by spending limits: $1,000/election[a] To candidates agreeing to abide by spending limits: $5,000/election[a]	To candidates not agreeing to abide by spending limits: $1,000/election[a] To candidates agreeing to abide by spending limits: $5,000/election[a]	Same as party limits	Same as individual limits[18]	Prohibited[d]
New Jersey[e] N.J. Stat. Ann. § 19:44A-11.3	$2,600/candidate *Amounts are per election cycle*[a]	Nat'l Party: $8,200/election[a] Unlimited contributions by state, county, municipal and legislative leadership party committees	$8,200/candidate/election[a]	Same as individual limits	Same as individual limits
New Mexico[e] N.M. Stat. Ann. § 1-19-34.7	$10,000/gubernatorial candidate $5,000/all other candidates *Amounts are per election*[a]	Same as individual limits	Same as individual limits	Same as individual limits	Same as individual limits

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[18] Corporations are no longer prohibited from making political contributions under New Hampshire law despite the language of NH RSA 664:4. That ban was declared unconstitutional by a federal district court in 1999. A June 6, 2000 letter from Deputy Attorney General Steven M. Houran indicates that the limits on individual contributions now apply to corporate contributions as well.

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
New York[e] N.Y. Elec. Law §§ 14-114 and 14-116[19]	Regular Limits, Primary: $7,500-$22,600/statewide[20] $7,500/senate candidate $4,700/assembly candidate Family Limits, Primary[21]: $0-$146,626/statewide $20,000-$45,776.25/senate $12,500- $19,541.25/assembly Regular Limits, General: $47,100/statewide cand. $11,800/senate candidate $4,700/assembly candidate Family Limits, General: $291,907/statewide cand. $33,375.25- $60,211.00/senate cand $11,524- $24,842.75/assembly *Amounts are per election cycle.*	Prohibited in primary election Unlimited in general election	Same as individual limits	Same as individual limits, with exceptions (see below) Corporations are limited to $5,000 per year in aggregate contributions to NY state candidates and committees. Candidates may accept corporate contributions of up to $5,000 annually during each year of an election cycle, so long as the total contributions from the corporation do not exceed the election cycle's regular limits on individual contributions, and the corporation does not exceed its aggregate limit of $5,000/ year to all candidates and committees.	Same as individual limits
North Carolina[e] N.C. Gen. Stat. §§ 163-278.13, 163-278.15 and 163-278.19	$5,400/candidate/election[a]	Unlimited	Same as individual limits	Prohibited[d]	Prohibited[d]
North Dakota N.D. Cent. Code §§ 16.1-08.1-01; 16.1-08.1-03.3; 16.1-08.1-.03.5(1)	Unlimited Foreign contributions banned.	Unlimited	Unlimited	Prohibited[d]	Prohibited[d]

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[19] Totals are based on 2016 Election cycle numbers and are likely to be adjusted upward for 2017-2018 once numbers are released by the state's Board of Elections.

[20] Limit is based on a formula: product of number of enrolled voters in candidate's party in state (excluding voters on inactive status) x $.005.

[21] Separate limits apply for contributions from all family members in the aggregate. Limit is based on a formula: total # of enrolled voters on active status in candidate's party in the state/district x $0.025. "Family" is defined as a child, parent, grandparent, brother, sister, and the spouses of those persons. Contributions from the candidate and the candidate's spouse are not limited.

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Ohio[e] Ohio Rev. Code Ann. §§ 3517.102, 3517.104 and 3599.03	$13,292.35/cand./election[a]	$749,688.58/statewide cand. $149,538.95/senate cand. $74.437.17/house candidate In-kind contributions unlimited *All amounts are per election*[a]	Same as individual limits	Prohibited[d]	Prohibited[d]
Oklahoma Okla. Stat. tit. 21, §§ 187.1 et seq.; Ethics Commission Rules § 257:1-1-1 et seq. and § 257:10-1-2 et seq.	$2,700/candidate/campaign	$25,000/gubernatorial cand. $10,000/other state office candidate *All amounts per calendar year*	Limited Committee:[22] $5,000/candidate/campaign 1/25 Limited Committee:[23] $2,500/candidate/campaign	Prohibited[d]	Prohibited[d]
Oregon Or. Rev. Stat. §§ 260.160 - 260.174	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Pennsylvania 25 Pa. Cons. Stat. § 3253	Unlimited	Unlimited	Unlimited	Prohibited[d]	Prohibited[d]
Rhode Island R.I. Gen. Laws § 17-25-10.1 and 17-25-12	$1,000/candidate/ year	$25,000/candidate/year In-kind contributions unlimited	$1,000/candidate/ year Annual aggregate limit of $25,000 to all recipients	Prohibited	Prohibited

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[22] In Oklahoma, a limited committee is a political action committee organized to make contributions to candidates.

[23] In Oklahoma, a 1/25 limited committee is a political action committee organized to make contributions to candidates that has been registered for less than 1 year before a primary OR has fewer than 25 contributors

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Last updated in full June 2019

	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
South Carolina S.C. Code Ann. §§ 8-13-1300(10), 8-13-1314 and 8-13-1316	$3,500/statewide candidate $1,000/legislative candidate Amounts are per electiona in each primary, runoff, or special election in which a candidate has opposition and for each general election; if a candidate remains unopposed during an election cycle, one contribution limit shall apply.	$50,000/statewide candidate $5,000/other candidate *Amounts are per election[a] subject to the same exceptions described at left.*	Same as individual limits	Same as individual limits	Same as individual limits
South Dakota S.D. Codified Laws §§ 12-27-7 and 12-27-8	$4,000/statewide candidate $1,000/legislative candidate *Amounts are per calendar year*	Unlimited	Unlimited	Same as individual limits	Same as individual limits
Tennessee[e] Tenn. Code Ann. §§ 2-10-102, 2-10-302, 2-10-306	$4,200/statewide candidate $1,600/legislative candidate *Both amounts are per election[a]*	Candidates limited to aggregate amount from all political party committees: $409,700/statewide candidate $65,500/senate candidate $32,900/house candidate *All amounts are per election[a]*	$12,300/statewide candidate $12,300/senate candidate $8,100/other candidates No more than 50% of a statewide candidate's or $122,900 of a legislative candidate's total contributions may come from PACs *All amounts are per election[a]*	Same as PAC limits If a corporation gives more than $250 in the aggregate to candidates, it must register as a PAC and make all further contributions through the PAC. It may transfer unlimited amounts from its corporate treasury to the PAC.	Same as PAC limits A union must register as a PAC before making contributions to candidates.
Texas Tex. Elec. Code Ann. § 253.094	Unlimited	Unlimited	Unlimited	Prohibited[d]	Prohibited[d]
Utah Utah Code Ann. § 20A-11-101	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Vermont[b, e] Vt. Stat. Ann. tit. 17, §§ 2901(7), 2905, 2941, 2943	$4,160/statewide candidate $1,560/State Senate $1,040/State House *Amounts are per two-year election cycle.*	Unlimited	Same as individual limits	Same as individual limits	Same as individual limits
Virginia Va. Code Ann. § 24.2-945	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Washington[e] Wash. Rev. Code §§ 42.17A.250 and 42.17A.440 et seq.; Wash. Admin. Code § 390-05-400	$2,000/state exec. candidate $1,000/legislative candidate *Amounts are per election*[a] During the 21 days before the general election, no contributor may donate more than $50,000 in the aggregate to a statewide candidate or $5,000 in the aggregate to any other candidate or a political committee, including political party committees. This includes a candidate's personal contributions to his/her campaign. The state committees of political parties are exempted from this limit.	Aggregate contributions from a state party central committee to a statewide or legislative candidate may not exceed $1.00 x number of registered voters in legislative district (if legislative candidate) or statewide (if state executive candidate). This limit applies to the entire election cycle. (Jan 1 of year following election-Dec. 31 of year of next election).	Same as individual limits A PAC that has not received contributions of $10 or more from 10 or more WA registered voters during the past 180 days is prohibited from making contributions.	Prohibited for corporations not doing business in Washington state. Same as individual limits for Washington corporations.	Prohibited for unions that have fewer than 10 members who reside in Washington. Same as individual limits for Washington unions.
West Virginia W. Va. Code §§ 3-8-5c, 3-8-8 – 3-8-12	$2,800/candidate/election[a]	Same as individual limits	Same as individual limits	Prohibited[d]	Same as individual limits

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	Individual → Candidate Contributions	State Party → Candidate Contributions	PAC → Candidate Contributions	Corporate → Candidate Contributions	Union → Candidate Contributions
Wisconsin Wis. Stat. §§ 11.1101 et seq.	$20,000/statewide candidate $2,000/senate candidate $1,000/assembly candidate *Amounts apply for term of office for an incumbent; for non-incumbents, the amounts apply beginning on the date on which the person becomes a candidate and ends on the day before the term of office begins.*	Unlimited	$86,000/gubernatorial cand. $26,000/lt. gov. candidate $44,000/atty. Gen. candidate $18,000/other statewide cand. $2,000/senate candidate $1,000/assembly candidate	Prohibited[d]	Prohibited[d]
Wyoming Wyo. Stat. Ann. § 22-25-102	$2,500/statewide candidate $1,500/other candidate *Amounts are per election[a]*	Unlimited	Unlimited for statewide office $5,000/non-statewide office *Amounts are per election[a]*	Prohibited[d]	Prohibited[d]

(a) Primary and general are considered separate elections; stated amount may be contributed in each election.
(b) Candidates participating in the public financing may not accept contributions after qualifying for public funds. Limits listed are for candidates not participating in public financing program.
(d) Direct corporate and/or union contributions are prohibited and/or use of treasury funds and/or dues is prohibited. In these states, the law specifically says that nothing prevents the employees or officers of a corporation from making political contributions through a PAC, using funds from an account that is separate and segregated from corporate accounts. Such contributions are subject to the same limitations placed on other PACs.
(e) Contribution limits are adjusted for inflation at the beginning of each campaign cycle.

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