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Increased Campaign Contribution Limits in the FY2015 Omnibus Appropriations Law: Frequently Asked Questions

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Summary

This report provides brief answers to frequently asked questions about increased campaign contribution limits in the Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83; P.L. 113-235), enacted and signed into law in December 2014. The relevant language increases certain contribution limits to national political party committees. This language changes the amounts the two major parties may solicit and collect.

Most notably, three units within each of the national Democratic and Republican parties could be affected. These include a headquarters committee (e.g., the Democratic National Committee), a House campaign committee (e.g., the National Republican Congressional Committee), and a Senate campaign committee (e.g., the National Republican Senatorial Committee). The language permits all six of these national party committees to establish additional accounts, with higher contribution limits than previously permitted. In practice, it appears that maximum individual contributions to a national party have increased from at least \$97,200 (or \$129,600 if following a recent Federal Election Commission (FEC) advisory opinion) annually to at least \$777,600. Inflation adjustments announced in February 2015 bring the individual total to at least \$801,600 for 2015. Other national parties, such as third parties, would also be eligible for larger contributions. Although this report emphasizes individual contribution limits, political action committees (PACs) may also increase their party contributions under the bill, to a total of \$360,000 for multicandidate PACs—the most common form of PAC.

This updated report is based on information available as of this writing. The FEC has not yet issued regulations or definitive guidance about how the limits will be interpreted. Similarly, political parties have yet to adopt widespread fundraising practices under the new limits. This report will be updated as additional information becomes available.

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Introduction

This report provides brief answers to frequently asked questions about selected campaign finance¹ provisions in the Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83; P.L. 113-235).² The House passed the measure (219 - 206) on December 11, 2014.³ The Senate did so (56-40) on December 13, 2014. The President signed the bill into law on December 16.⁴ Although other provisions address topics such as contractor disclosure,⁵ increased limits for contributions to national party committees have been the subject of most debate. Those increases, particularly for individual contributions, are the subject of this brief overview.

The relevant language in P.L. 113-235 increased contribution limits to national political party committees. Most prominently, these party committees include the Democratic National Committee (DNC), Democratic Congressional Campaign Committee (DCCC), Democratic Senatorial Campaign Committee (DSCC), Republican National Committee (RNC), National Republican Congressional Committee (NRCC), and the National Republican Senatorial Committee (NRSC). These committees may also establish new accounts, each with separate contribution limits, to support party conventions,⁶ facilities, and recounts or other legal matters. In practice, it appears that an individual's contributions to a national party could increase from at least \$97,200 annually to at least \$777,600. For a two-year election cycle, an individual could give twice that amount, or more than \$1.5 million.⁷ Under inflation adjustments announced in February 2015, it appears that an individual may contribute at least \$801,600 to a national party committee in 2015.⁸

Although this report emphasizes increases in individual contribution limits, political action committees (PACs) may also make larger contributions to parties. For multicandidate PACs—the most common type of PAC—contributions to a national party appear to have increased from \$45,000 to at least \$360,000 annually. Unlike limits for individual contributions, those for PACs are not adjusted for inflation.

Ultimately, the impact of the proposed language will depend on a combination of agency implementation and political practice. The Federal Election Commission (FEC) is responsible for administering the increased limits. The agency's rulemaking, advisory opinions, or enforcement activities could further clarify how the provisions will affect donors and elections. On December

¹ For background discussion of topics relevant for this report, see, for example, CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by (name redacted).

² As of this writing, a public law number is unavailable. This report is based on the text of the enrolled bill passed by the House and Senate.

³ Roll call vote 563.

⁴ Record vote 354.

⁵ See Section 735, which would prohibit required disclosure of certain campaign-related spending as a condition of the contracting process.

⁶ As noted elsewhere in this report, only the “headquarters” committees (e.g., the DNC or RNC) could collect additional funds for conventions.

⁷ The exact amount is \$1,555,200. Most amounts in this report appear to be eligible for future inflation adjustments.

⁸ CRS calculated the aggregate amounts in this section, as illustrated in **Table 1**, **Table 2**, and **Table 3** below. The inflation adjustments appear in Federal Election Commission, “Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold,” 80 *Federal Register* 5750, February 3, 2015.

17, 2014, the FEC briefly stated that it was “assessing” the language and would issue guidance “as soon as practicable.”⁹ Similarly, donor and party decisions will determine how or whether fundraising practices change. In particular, it is unclear how many donors have the ability or desire to make the larger contributions now permitted. As of this writing, how the FEC intends to interpret the contribution limits and how the parties intend to alter fundraising practices, if at all, remains to be seen.

The report has been prepared in response to evolving questions concerning ongoing legislative debate. Some implications remain unclear at this time, and the analysis below could change with additional information. This report will be updated as additional information becomes available.

How much could an individual contribute to party committees before the recent change?

Before P.L. 113-235 was enacted, the Federal Election Campaign Act (FECA)¹⁰ permitted an individual to contribute \$32,400 annually to national party committees (reflecting 2014 limits, subsequently increased for inflation, as discussed below).¹¹ P.L. 113-235 increased the limits as discussed below. These limits apply separately to the six political committees around which the two major parties are organized. For both parties, these include a headquarters committee (e.g., the Democratic National Committee), a House campaign committee (e.g., the National Republican Congressional Committee), and a Senate campaign committee (e.g., the National Republican Senatorial Committee). Previously, an individual could contribute no more than \$97,200 annually to a typically organized national party.¹²

In addition, an October 2014 FEC advisory opinion¹³ (AO) determined that, following the recent repeal of public funding for presidential nominating conventions, separate contribution limits apply to convention funds.¹⁴ Therefore, it appears that a “maxed out” donor could have contributed \$129,600 to a national party when counting all three traditional committees plus a convention committee.¹⁵

⁹ Federal Election Commission, “FEC Statement on Campaign Finance Provisions of the Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83),” press release, December 17, 2014, at http://fec.gov/press/press2014/news_releases/H.R.83Statement.shtml.

¹⁰ 52 U.S.C. §30101 *et seq.*; previously codified at 2 U.S.C. §431 *et seq.*

¹¹ 52 U.S.C. §30116(a); previously codified at 2 U.S.C. §441a(a).

¹² This figure is derived from a \$32,400 contribution for each of the three committees (a headquarters committee, a House committee, and a Senate committee).

¹³ AOs do not have the force of law or regulation, but FECA permits those encountering “indistinguishable” situations as those presented in the AO to follow guidance presented in the AO. See 52 U.S.C. §30108(c)(1)(B); previously codified at 2 U.S.C. §437f(c)(1)(B).

¹⁴ See Federal Election Commission, AO 2014-12. The document can be obtained at <http://saos.fec.gov/saos/searchao>. For background on the repeal of convention funding, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by (name redacted).

¹⁵ This amount (\$97,200 + \$32,400) assumes 2014 election cycle limits. In practice, the amount will be adjusted for inflation during the 2016 cycle when a contribution is actually made to a convention committee.

How much may an individual contribute to party committees under the new limits?

Division N, Section 101 of P.L. 113-235 increased limits for individuals making contributions to national party committees. These provisions, which are effective “on or after” the enactment date, permitted parties to establish new, segregated accounts and accept additional funds to support party conventions, facilities, and recounts or other legal matters. Specifically, the language permitted the national parties to establish up to three additional accounts for each purpose. Overall, it appears that maximum individual contributions increased from \$97,200 (or \$129,600 if following the FEC AO noted above) for a typical party with three major committees to \$777,600. During a two-year election cycle, it appears that an individual could, therefore, contribute up to \$1,555,200 to a national party’s typical committees.¹⁶

These limits were annual amounts for 2014—when the law was enacted. The original versions of this report showed those amounts in **Table 1** below. The current version of the table reflects inflation adjustments announced in February 2015. As the table shows, the 2015 base limit for individual contributions increased to \$33,400 (from \$32,400 in 2014).

Table 1. Previous and New Annual Individual Contribution Limits to National Political Parties

Amounts reflect 2015 inflation adjustments

	Previous Limits	New Additional Segregated Accounts and Associated Limits			Total Possible Contributions
		Traditional Individual Contributions	Convention Committees	Building Committees	
National Party Committees (e.g., DNC, RNC)	\$33,400	\$100,200 ^a	\$100,200	\$100,200	\$334,000
House Campaign Committees (e.g., DCCC, NRCC)	\$33,400	N/A	\$100,200	\$100,200	\$233,800
Senate Campaign Committees (e.g., DSCC, NRSC)	\$33,400	N/A	\$100,200	\$100,200	\$233,800
Totals	\$100,200	\$100,200	\$300,600	\$300,600	\$801,600

Source: CRS analysis of bill text and cited 2015 inflation adjustments.

- a. The bill text requires that the proposed convention accounts spend no more than \$20 million per convention for the increased contribution limits to apply. Limits in the table would be subject to future inflation adjustments.

¹⁶ It appears that “maxed out” contributions could be made to multiple national parties. However, it is unclear how much practical effect this would have because typical donors give primarily or solely to one party. Giving to multiple parties might be more relevant for political action committee (PAC) contributions.

How will PAC contributions to parties be affected?

Although this report emphasizes proposed changes to the individual contribution limits, the language also increases limits for political action committees (PACs) as shown in **Table 2** and **Table 3** below.

Table 2. Previous and New Annual Non-Multicandidate PAC Contribution Limits to National Political Parties

	Previous Limits		New Additional Segregated Accounts and Associated Limits		
	Traditional Contributions	Convention Committees	Building Committees	Recount/Legal Committees	Total Possible Contributions
National Party Committees (e.g., DNC, RNC)	\$33,400	\$100,200 ^a	\$100,200	\$100,200	\$334,000
House Campaign Committees (e.g., DCCC, NRCC)	\$33,400	N/A	\$100,200	\$100,200	\$233,800
Senate Campaign Committees (e.g., DSCC, NRSC)	\$33,400	N/A	\$100,200	\$100,200	\$233,800
Totals	\$100,200	\$100,200	\$300,600	\$300,600	\$801,600

Source: CRS analysis of bill text.

- a. The bill text requires that the proposed convention accounts spend no more than \$20 million per convention for the increased contribution limits to apply. Limits in the table would be subject to future inflation adjustments.

Table 3. Previous and New Annual Multicandidate PAC Contribution Limits to National Political Parties

	Previous Limits		New Additional Segregated Accounts and Associated Limits		
	Traditional Contributions	Convention Committees	Building Committees	Recount/Legal Committees	Total Possible Contributions
National Party Committees (e.g., DNC, RNC)	\$15,000	\$45,000 ^a	\$45,000	\$45,000	\$150,000
House Campaign Committees (e.g., DCCC, NRCC)	\$15,000	N/A	\$45,000	\$45,000	\$105,000
Senate Campaign Committees (e.g., DSCC, NRSC)	\$15,000	N/A	\$45,000	\$45,000	\$105,000
Totals	\$45,000	\$45,000	\$135,000	\$135,000	\$360,000

Source: CRS analysis of bill text.

- a. The law text requires that the proposed convention accounts spend no more than \$20 million per convention for the increased contribution limits to apply.

Although there are differences between the increased limits for multicandidate PACs and non-multicandidate PACs, it is unclear how consequential they might be in practice. Given the higher limits for non-multicandidate PACs, it appears that there could be an advantage to a PAC *not* achieving multicandidate status, although such PACs are rare and it is perhaps unlikely that a committee could practically prevent itself from achieving multicandidate status.¹⁷ In practice, therefore, it appears that the increased limits in **Table 3** will be more consequential than those in **Table 2**.¹⁸ FECA does not permit inflation adjustments for multicandidate PAC contributions (**Table 3**).

Which party committees would be affected?

Six committees appear to be most relevant. The two major parties each have three main national political committees that perform similar functions and are organized similarly. On the Democratic side, these include the DNC, DCCC, and DSCC. Republican counterpart committees include the RNC, NRCC, and NRSC.¹⁹ The new law appears to be relevant for all national party committees, including third parties.

Would the proposed provisions affect other contributions or spending surrounding elections?

The provisions do not appear to affect other fundraising or spending provisions in elections per se.²⁰ It is possible that with additional freedom to make comparatively large contributions to political parties, some donors who would have previously given money to super PACs or other “outside” groups would instead redirect those funds to parties. It is also possible that increased party-funding limits will provide another outlet for donors but not necessarily redirect existing funds. As of this writing, the FEC has not yet announced regulations or formal guidance surrounding how it plans to interpret the new limits—including how the “base” contribution amounts might interact with the limits for the three new accounts, if at all. Similarly, the parties have yet to make widespread use of the new limits.

¹⁷ “Multicandidate committees” are those that have been registered with the FEC (or, for Senate committees, the Secretary of the Senate) for at least six months; have received federal contributions from more than 50 people; and (except for state parties) have made contributions to at least five federal candidates. See 11 C.F.R. §100.5(e)(3). Consequently, most PACs attain multicandidate status automatically over time.

¹⁸ There are also some differences regarding PAC inflation adjustments. Contributions to multicandidate committees are not subject to inflation adjustments, but non-multicandidate committees would be adjusted each election cycle for inflation.

¹⁹ It is possible that each major party’s state-legislative campaign committee (the Democratic Legislative Campaign Committee (DLCC) and the Republican Legislative Campaign Committee (RLCC)) could also be implicated, but it is unclear as of this writing.

²⁰ There are, however, increased abilities for parties to make coordinated expenditures from the new accounts. On coordinated party expenditures, see CRS Report RS22644, *Coordinated Party Expenditures in Federal Elections: An Overview*, by (name redacted) and (name redacted).

Those supporting the increased limits have reportedly suggested that the proposed contributions would be more transparent than those given to groups such as politically active tax-exempt organizations (e.g., 501(c)(4) social welfare groups), and would provide parties with more funds to compete in an environment increasingly dominated by nonparty groups. Opponents counter that the proposed changes have not been subject to substantial consideration and would represent a return to the “soft money” era that existed before Congress enacted the Bipartisan Campaign Reform Act (BCRA), when parties could accept unlimited contributions for generic “party-building” activities.²¹ The precise implications of the proposed new limits remain to be seen.

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²¹ For an overview of competing arguments, see, for example, Kenneth P. Doyle, “Last-Minute Rider Lifting Limits On Party Money Should Come Out of Bill,” *Daily Report for Executives*, December 11, 2014, pp. AA-4; and Fredreka Schouten, “Spending bill would open campaign money spigot,” *USA Today*, December 10, 2014, at <http://www.usatoday.com/story/news/politics/2014/12/10/spending-bill-in-congress-opens-campaign-money-spigot/20198811/>. Two blog postings by prominent campaign finance authors are representative of commentaries on both sides of the debate. See Ray La Raja, “CRomnibus Pays Off for Parties,” December 17, 2015, at <http://blogs.wgbh.org/masspoliticsprofs/2014/12/17/cromnibus-pays-parties/>; and Fred Wertheimer, “Who Shot John: The Story of How \$777,600 Contribution ‘Limits’ Ended up in The Omnibus Bill,” December 15, 2014, at <http://www.democracy21.org/legislative-action/press-releases-legislative-action/fred-wertheimer-who-shot-john-the-story-of-how-777600-contribution-limits-ended-up-in-the-omnibus-bill/>.

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