The Facts on Super PACS:
Examining the Impact of Citizens United v. FEC on the 2012 Election Cycle

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Benjamin Samuel Kahn
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Thesis Advisor: Dr. Joe Lowndes
Second Reader: Dr. Priscilla Southwell
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Introduction

The landscape of campaign finance underwent a monumental change in 2010 as a result of the U.S. Supreme Court case, *Citizens United v. Federal Election Commission*. Before this, corporations, unions, and individuals were limited in their abilities to influence federal elections, but the opinion of the Court--along with a subsequent U.S. Appeals Court decision and two FEC advisory opinions--opened the floodgates to limitless independent spending by any individual. While they cannot be coordinated directly with campaigns themselves, independent expenditures are believed to be a strategic tool for candidate advocacy. These expenditures are carried out by a variety of groups and organizations, but are most commonly channeled through groups that make independent expenditures their primary purpose--i.e., independent expenditure-only committees, commonly known as super PACs. Two election cycles have been completed since *Citizens United*, and the initial impact of the decision is clear--independent spending on express advocacy has risen exponentially. However, it is still uncertain if this has any direct effect on election results. This research project will examine and highlight changes to the implementation of campaign finance strategy since *Citizens United*, and attempt to make a direct correlation between independent expenditures and electoral outcomes using select congressional races from both the House of Representatives and Senate. I hypothesized that the most of the victorious candidates would have a clear monetary advantage over their opponent in both official and independent expenditures, which turned out to be accurate. However, it was difficult to establish a correlation between independent expenditures and success. A causal relationship is evident, but it is hard to distinguish whether expenditures lead to success or visa versa. This paper is organized into six sections. The first will describe the research design and methodology; the
second will examine previous campaign finance scholarship pertinent to this study; the third will
detail the history of campaign finance in the United States; the fourth will explain key terms
relating to campaign finance; the fifth will interpret and analyze the results of the study, and the
sixth will provide concluding thoughts.
Research Design

This research question is centered on discovering the effects of limitless independent expenditures in the 2012 election cycle. The analysis will be in two parts. First, the general properties of independent expenditures throughout the 2012 cycle will be examined, and second, specific congressional races that meet a four-part criteria will be chosen for analysis. The analysis will also take into account observations made from the 2010 election cycle, and cycles before *Citizens United*. Unlimited outside spending as a policy is still so new that its true implications are mostly unknown.

The general analysis of independent expenditures will be driven by both quantitative and qualitative research. Information will be gathered relating to independent expenditure committees (IECs)\(^1\), individual and corporate donors, the differences between conservative and liberal independent expenditures, and positive versus negative advertisements. Taking this information into account will help determine the effectiveness of outside spending, and how it differs from past periods of campaign finance operating under different sets of laws. Additionally, it can be determined if specific IECs were more effective than others, and what the motivations were for individual and corporate contributions. The data found will determine the normative method of candidate advocacy in 2012, and can be matched up against the campaign finance practices used in previous election cycles, ultimately helping to understand the changes *Citizens United* has brought. Attention will be paid to the presidential and congressional races, but since the second part of the analysis explores specific congressional races in much greater

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\(^1\) See Key Terms, pp. 34.
detail, the first part will focus mainly on the unifying or all-encompassing aspects and properties of outside spending.

The second part of the analysis will address specific congressional races. The explanation here goes into greater depth in order to make the process for selection clear. There are a number of factors that lead certain races to be good samples and factors that lead other races to be bad samples. First, races that are uncompetitive will be of little use. These races, usually in hyper-partisan districts and states, generally attract little outside spending due to the inability to meaningfully affect electoral discourse. Races that are of interest must be competitive, and must draw in a large amount of IEC spending as a result. Senate races which attracted the largest amount of outside spending were the Virginia, Ohio, Wisconsin, Indiana, Nevada, Florida, and Montana races.\(^2\) However, this does not necessarily make them good case studies.

States that have competitive senate races along with a competitive presidential contest will not make for good samples. The states that fit this category are Virginia, Ohio, and Florida; polling data consistently shows those states falling within the margin of error. As a result, Super PACs are already heavily invested in the presidential race, which could possibly skew the true effect of independent spending in those states’ senate races. Prospective voters that have been targeted by super PAC advertisements in swing states may be more motivated to make the trip to the polls on election day primarily to vote for the president, and as a consequence, vote along party lines. If this is the case, it will be hard to tell if outside spending on those senate races truly had an effect. To counteract this influence, senate races in states where the presidential contest

was not competitive can be used. Analyzing spending data in these races will provide a clearer understanding of its effects independent from the presidential election.

The three criterion established so far for choosing senatorial races for this research are as followed: there must be a large amount of outside spending taking place, the races must be competitive, and the states holding competitive congressional races must not be competitive in the presidential election. One more rule shall be followed to ensure accurate analysis: the exclusion of races with an incumbent. The incumbent effect in elections, in terms of both a financial and a voter base advantage, is well documented at all levels.\(^3\) The average incumbent can expect to receive a two or three point advantage over their challenger simply by virtue of currently holding the seat. If that effect is removed, and only races for open seats are included, we can more accurately stitch together a picture of outside spending’s influence. In 2012, there were ten senate races for open seats this year and only four of those were considered uncompetitive. According to the political news website, Real Clear Politics, competitive senate races were in action in Arizona, Connecticut, Indiana, North Dakota, Virginia, and Wisconsin.\(^4\) Of those, only Virginia and Wisconsin were considered swing-states in the presidential election, which prevents their inclusion in this analysis. However, the race in Massachusetts can be considered an open contest due to the fact that incumbent Senator Scott Brown (R) was elected in a January 2010 special election following the death of eight-term Senator Ted Kennedy, and had not served a full term. Overall, five Senate races fit the criteria for analysis: Arizona, Connecticut, Indiana, North Dakota, and the exception of Massachusetts. These contests were competitive, in states where the presidential race was decided, were supported in large part by


independent expenditures, and were contests for open seats. Despite all the similarities between them, each race possessed unique characteristics, mainly concerning the manner of outside spending, competitiveness, and rhetoric. While the unique features of races are important to understanding its outcome, it is intended that the unifying traits of these campaigns will reveal a deeper connection between spending and election success.

Of course, other factors influence elections besides money. The demographics of a district or state determines the selection of candidate, and the character of the candidate can influence voting behavior. When the criteria was developed and the races were chosen for analysis, it appeared that each contest would be competitive till the end, but it was impossible to account for gaffes or incidents that resulted in a dramatic shift in public perception of a candidate. One such example from this election cycle was Missouri Representative Todd Akin’s infamous “legitimate rape” comment during his bid for the senate seat held by his challenger, Democrat Claire McCaskill. After making the comment, he lost majority support to his opponent, and lost the election. Since this occurred before the development of my research--and also because the race included an incumbent, it will not be included in the analysis. A similar example comes from the Indiana senate race between Joe Donnelly (D), and Richard Mourdock (R). On October 23, Mourdock stated that pregnancy from rape is “something that God intended.”

Mourdock, who was leading the race at the time, eventually lost to Donnelly. Since this incident occurred after the creation of the research design and selection of races, it will still be used in the analysis, but will require some additional context and consideration. While it is impossible to

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control for this kind of phenomenon, the boundaries set up for this experiment are designed to isolate just the effects of independent expenditures as well as possible.

The same logic can be applied to choosing elections for seats in the House of Representatives, with one exception. Since the release of the 2010 census, many states have redrawn their district boundaries, and as a result, some voters found themselves in newly created or redrawn congressional districts. This has caused certain congressional seats to become competitive after being previously considered secure for the incumbent. Therefore, races that took place in newly redrawn districts can be included, so long as they meet the rest of the criteria. The house races that qualify include Arizona District 01, California Districts 07 and 26, Iowa District 03, and Illinois Districts 12 and 13. As with the selected senate races, these house races meet the criteria that best isolates the effects of outside spending in individual races.

Now that the parameters have been established, it is necessary to formulate an effective means for evaluation. The objective of carrying out this research is to find, if any, a correlation between independent expenditures and election success, but also to discover qualitative connections, such as a change in campaign rhetoric or issue advocacy after an influx of outside money. To do this, quantitative data on campaign spending must be collected on each candidate of every race that has been chosen for this research. There are five specific categories that will be addressed and researched: (1) The total amount of money raised by each campaign, (2) from who and where that money came from, (3) the amount of money invested by independent-expenditure groups and how it breaks down (money spent for express advocacy by IECs is categorized into either supporting or opposing a candidate only), (4) various polling data throughout the election, and (5) voting data. One candidate’s data profile can be directly compared to their opponent’s, as
well as to candidates in different races. These variables will reveal exactly how money is being spent, by who, and whether it influences voter behavior.

This thesis will not be a failure if there is no identifiable correlation; it is likely that there will be qualitative evidence of IEC influence. A candidate’s campaign finance profile can reveal a lot about the issues for which they advocate or where their primary interests lie. That is why it will be necessary to collect qualitative data on the candidates as well, looking at sources like speech, debate, and interview transcripts. These sources refine our understanding of personal or political distinctions between candidates and allow us to identify the issues and influences that act on them. Media advertisements, both by IECs and the campaigns themselves, open our eyes to the issues they believe voters care most about, and are by far the largest expenditure by IECs. Political ads--those supporting or opposing a candidate--analyzed in the context of the quantitative data that shall be collected, will further our understanding of IEC’s outreach methods and issues they prioritize, as well as help determine their effectiveness. These methods for gathering qualitative data will supplement the collected quantitative data and help create an overarching perspective of independent expenditures in the 2012 election.
Literature Review

Academic literature focusing on the effects of campaign spending is well established and addresses the changing nature of campaign finance law. Campaign finance scholars generally focus their research on how current and past regulations (or lack thereof) have affected or will affect elections. This means that as new policies are implemented, the focus of scholarly work changes. In 2010, *Citizens United v. FEC, SpeechNow.org v. FEC*, and two FEC advisory opinions drastically changed the landscape of campaign finance, allowing unlimited independent expenditures. While previous literature has focused on how campaign spending influences election results, their implications and arguments have changed with the rise of IECs. Even research just a decade ago into the effects of independent expenditures is outdated. Luckily, scholars are quick to research new issues as they arise, and already a vast amount of literature has been published that discusses *Citizens United*. Some simply explain the ruling, while others analyze or project its effect on fundraising and campaigning. Still, the literature on *Citizens United* falls short of truly determining it’s effects on election results. With two election cycles now completed since the decision, it will undoubtedly be easier to examine the consequence of *Citizens United* and independent expenditures.

The contemporary debate on campaign finance stems from the *Citizens United* decision, but ultimately, it has been shaped by our history of election law since the Federal Elections

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7 Green and Krasno, 1988.
10 Garrett, 2011.
11 Strasser, 2011.
12 Werner, 2011.
Campaign Act in 1972 and the landmark Supreme Court case, *Buckley v. Valeo*, in 1976. In *Buckley*, the Supreme Court upheld certain limits to campaign speech that were added in 1974 to the FECA, while striking down other limits. Specifically, the court upheld federal limits on campaign contributions and disclosure provisions, while striking down campaign spending limits, arguing they violated First Amendment free speech rights.\(^{13}\) After the judgment, the role of soft money in campaigns--money used for voter registration or party building, and not for candidate or issue advocacy--expanded greatly. In 2002, limits were finally imposed on soft money under the McCain-Feingold Bipartisan Campaign Reform Act (BCRA), as well as limits on “electioneering communications” by independent groups.\(^{14}\) BCRA survived two Presidential elections (2004 and 2008) before the *Citizens United* ruling effectively killed it in January 2010.

The first major study to investigate the relationship of money and elections was carried out by Dr. Gary Jacobson in 1978, and then updated in 1985 and 1990 as campaign finance law changed. His study was the first to critically examine the effects of the 1971 Federal Election Campaign Act, which he did using campaign spending data from the 1972 and 1974 House and Senate elections. Using his own regression analysis, he concluded that spending by challengers is far more effective than spending by incumbents. His basis for this claim is that challenger spending aides their popularity and helps increase recognition by voters, which is not as strong of a concern for the incumbent as their time in office has presumably already elevated their public profile. Additionally, increased spending by the incumbent is associated with worse election success. This is not necessarily a causal factor in their lack of success, but an indicator that the race was highly competitive and that a substantial amount of money was raised by both

\(^{13}\) *Buckley v. Valeo*, 424 U.S.1 (1976).

candidates. Jacobson’s takeaway is that any future expenditure limits would benefit incumbents, while repealing limits would make congressional races more competitive. My research involves open races, meaning that the incumbent factor is not relevant, but his conclusions show that money is most certainly a variable in election success.

The 1985 update to his study examines how changes to the FECA altered the landscape of campaign finance. He arrives back at his initial conclusion—that spending benefits challengers—but he also addresses how new institutions (primarily political action committees) affect election discourse. Jacobson foreshadows the implications of independent expenditures, saying it is “one avenue of campaign spending that remains open to unrestricted growth.” Still, he cautions that independent expenditures have an unclear effect on election outcomes, and that coherent, organized political parties are more effective at changing public opinion. His overarching point here is that it matters more how money is spent versus how much money is spent. Even still, his recognition of the potential power of independent expenditures was prophetic, as independent expenditures dominate election spending post-

Citizens United.

Jacobson is not without his critics, though. Donald Phillip Green and Jonathan S. Krasno published a critique of Jacobson’s model and hypothesis in 1988. They concluded that he overvalued challenger spending and undervalued incumbent spending. Additionally, they criticized Jacobson for failing to account for the popularity, character, and individuality of challengers, believing these factors to be important to overall election success. This information is important to my study because in the absence of an incumbent, voters will likely rely more on personal qualities than background or experience. While Jacobson authored groundbreaking

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academic studies, his failure to account more for candidate’s personal qualities is an oversight. In addition to a thorough quantitative analysis of each congressional race, a qualitative report on each race will be useful in developing my overall analysis.

A noticeably large percentage of super PAC advertisements in 2012 were negative in content. Since FEC provisions force IECs to disclose whether their advertisements work to support or oppose of a candidate, the ratio of positive versus negative advertisements can be easily discovered. Consistent with noticeable trends, more than 85% of all independent ads in 2012 were of the negative variety, which indicates that strategists believe attack ads are more effective than positive ones. It is important to know if this argument is valid in order to assess the effectiveness of outside spending. In Richard Lau and Gerald Pomper’s 2004 book, _Negative Campaigning: An Analysis of U.S. Senate Elections_, they discover that the way in which a candidate campaigns is important, and that negative ads by challengers are generally more effective, while positive ads benefit incumbents. Still though, the results were too unclear to make any precise statement about the correlation between negative ads and election success. They stress the importance of a candidate’s character in the effectiveness of negative ads, which falls in line with Green and Krasno’s critique of Jacobson and indicates that negative advertisements might not always produce the systematic advantage that campaign strategists assume.

It is also necessary to address literature focusing on the content of political advertising. Many scholars divide political ads into issue or image ads. According to Johnson and Kaid, who researched presidential campaign ads from 1952 to 2000, the candidate usually appears and speaks for himself in issue ads, while an anonymous speaker making supposed factual statements
is used primarily for image ads. Each type of ad affects the viewer differently. Issue ads more effectively inform individuals of a candidate’s positions, and increase the ability to connect the ad with other information about a candidate. They are more likely to be positive in content as well, because the candidate appearing in one seeks to reach out to a wider range of voters, and thus needs to be positive to do so. People viewing image ads are more likely to base their opinions of a candidate on the ad itself, and will not connect it with other information they might know about him or her. Image ads are more likely to be negative, as they tend to focus on a candidate’s character and are an easier way to expose an opponent’s character flaws. Because of the coordination restrictions imposed on producers of independent expenditures, candidates are not allowed to appear in independently financed advertisements, making issue ads impossible for IECs to utilize. This may help explain the greater rate of negative independent ads seen in 2012.

While there is a wealth of academic literature examining independent spending and *Citizens United*, it does not attempt to establish a correlation between independent expenditures and election success. Briffault’s investigation details how super PACs operate, how they are different from other PACs, and how they have changed the campaign finance landscape in their brief existence. Garrett’s study, written for the Congressional Research Service, does an excellent job of explaining how super PACs entered electoral discourse, and details the nature of their involvement in the 2010 and 2012 election cycles. He also outlines issues and challenges for super PACs, including how the FEC might further regulate coordination and transparency between super PACs and campaigns, but he does not have a specific research design. Both articles certainly help readers grasp the implications of super PACs and accurately detail the

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16 Garramone, 1983.
differences between independent expenditures and other types of campaign spending, but they fall short of truly determining their effect on elections.

Using the academic literature explained in this section, I will attempt to discover how unlimited independent expenditures shaped electoral discourse and results in the 2012 cycle. The answer will not be evident immediately, if at all, but it is necessary to discover the impact of *Citizens United* and independent expenditures before attempting to reform our campaign finance laws once again.
History of Campaign Finance Reform

The current state of campaign finance is the result of one and a half centuries of reform to the system. As long as democratic elections have been held, individuals who have disproportionate access to resources (either political or capital) have sought to influence them. In the early years of the United States, rules and regulations by which individuals may use their resources for campaigning were nonexistent. Of course, one needs to remember that the technological and mass media institutions that make our campaigns run today were nonexistent as well. As a result, the way in which candidates campaign in the first century of the United States’ existence was entirely different from how it is now, albeit with some striking similarities. Even within that century, major changes took place. This section will detail the evolution of campaign finance reform in the United States and place it into context of the system today.

Campaign Finance before FECA

There were no laws governing campaign finance in the eighteenth and much of the nineteenth centuries. Theoretically, wealthy individuals and corporate magnates could levy their influence in elections much like they can today, but in reality, the earliest campaigns were characterized by personal responsibility for funding. It was nearly impossible for anyone lacking sizable capital to run for office, as they were expected to foot the entire campaign bill. However, money wasn’t the primary factor for determining electoral success. Candidates were expected to “attract support by virtue of their reputations, not by actually mingling with voters.”17 As a result, much less money was spent on campaigns. Whatever expenses were made usually went towards

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17 Mutch, Campaigns, Congress and Courts, pp. xv (1988)
the printing and distribution of pamphlets and other campaign literature, along with comforts for voters on election day, like food and drink. One example is of George Washington, who during his 1757 campaign for the Virginia House of Burgesses, supplied over one hundred gallons of alcohol for the 391 voters in his district, amounting to more than a quart and a half per voter.  

Still, the early era of campaign spending was marked by corruption, bribery, and later on, a system of patronage and assessments. As the electorate expanded, so did the need to spend and raise money. Campaigns were becoming too expensive to pay for out of pocket, and the field of candidates was now more open to those with fewer economic advantages. When campaign promises weren’t enough to win votes, candidates were pushed to offer more generous incentives, including bribing citizens for votes. This was in practice throughout the country, and was considered the most effective means of campaigning at the time. The “system of spoils,” or patronage, started to solidify as well, which led to a “system of assessment.” Simply put, party supporters were given preference for government positions, and government workers were compelled to give to parties in power in order to keep their job. The earliest legislative attempt to eliminate spoils and assessment was introduced by Whig Party Representative John Bell of Tennessee in 1837. While unable to reach the House floor, it was the first act that raised awareness to the matter of campaign finance, and solidified it as a political issue.

The first official act to regulate campaign funds was buried in a naval appropriations bill for the 1868 fiscal year. In the final section, a passage was included that prohibited solicitation of

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18 Thayer, pp. 25
19 Thayer, pp. 29
21 Mutch, “First Federal Campaign Finance Bills” pp. 35.
political contributions from government employees. However, the passage of this bill had little
effect on party funding and fundraising. Ultimately, people became increasingly frustrated with
the system of spoils and assessment. The last straw would be President Garfield’s assassination.
A disgruntled man carried out the assassination after finding out he was not to receive a
government job that had been previously promised to him. The Pendleton Civil Service Reform
Act in 1883, which eliminated the system of spoils and assessments for government workers,
was passed as a result of the assassination. It reformed how civil service employees were
selected, since patronage was no longer a viable option. Instead, employees were chosen by
virtue of examinations and qualifications for the position. The law was quite effective in spite of
no enforcement mechanism. As we will see throughout the next century of campaign finance,
this is atypical. Until the passage of the FECA amendments in 1974, which established the
Federal Election Commission, it was difficult, if not impossible, to uphold campaign finance
laws. However, the Pendleton Act was effective at preventing corruption from civil service
employees. The direct result of the Act meant that politicians would have to rely less on
government workers and seek out alternative sources of income. Due to the lack of restrictions
on them, business leaders and corporations filled the void, and became the primary means of
campaign funding, not unlike today. The difference, however, is that corporations could
contribute directly to campaigns, instead of establishing IECs like they must do today.

The resulting influx of corporate money into elections created a new problem. The public
began to worry whether corporations were receiving gifts and special privileges in quid pro quo

23 22 Stat. 403 (1883).
24 Corrado, pp. 10
arrangements, and sought to legislate against them. Interestingly, many critics of *Citizens United* use similar arguments for why it is detrimental for democracy. The difference is that there is no solid evidence of quid pro quo arrangements following *Citizens United*, but there is evidence of it following the Pendleton Act. Near the turn of the century, four states passed laws banning corporate contributions, but it would take secret donations to Theodore Roosevelt’s 1904 campaign to solidify support for reform once again. Roosevelt himself became an advocate for reform after this, possibly to avoid persecution. In his State of the Union Addresses in 1905, 1906, and 1907, he made a point to address the problems of campaign finance, and called for disclosure requirements and strict corporate limits. Heeding this call, Congress passed the Tillman Act in 1907, making it “unlawful for any national bank, or any corporation organized by authority of any laws of Congress, to make a money contribution in connection with any election to any political office,” as well as unlawful for any corporation whatsoever to contribute to federal candidates. From the Tillman Act until *Citizens United*, corporations were not legally allowed to spend unlimited amounts expressly advocating for candidates.

Despite its intentions, the Tillman Act did not produce the desired effect, as it still did not require campaigns to disclose their finances until after elections. The Federal Corrupt Practices Act of 1910 (also known as the Publicity Act) was passed, which established disclosure requirements. However, the limitations were not strict enough to stop people from utilizing loopholes. In 1911, amendments were made to the Publicity Act, including stricter disclosure requirements.

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27 34 Stat. 864 (January 26, 1907)

requirements, and, for the first time, spending limits on federal campaigns. Specifically, it obligated campaigns to report their finances—both receipts and expenditures—before both primary and general elections. These disclosure requirements were instrumental in making elections more transparent, and serve as the best defense against private interests in elections by making their political activity open to the public. Disclosure rules are even stricter today; they apply to official campaign expenditures as well as all independent expenditures except for 501(c)(4) groups. Without such requirements, this research project would be impossible.

The 1920s saw moderate reform. In 1921, the Supreme Court struck down spending limits in primaries imposed by the Publicity Act in *Newberry v. United States*. The Teapot Dome scandal was another catalyst for reform. President Harding’s Interior Secretary was charged and convicted with accepting bribes from oil developers in exchange for favorable contracts. Congress acted on this by passing the Federal Corrupt Practices Act of 1925, which compelled disclosure of all contributions of at least $100, required candidates and party committees to file quarterly reports—even in non-election years—and updated spending ceilings. Nonetheless, the FCPA failed to implement adequate enforcement mechanisms. The quarterly reports were technically mandatory, but there was no plan to regulate them, and they were largely ignored. Spending limits were even less enforceable. Committees, candidates, and wealthy donors used a series of loopholes to either bypass limits or ignore them altogether. In spite of these known problems, Congress had no intention of overhauling campaign finance.

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29 37 Stat. 25 (1911).
From 1925 to the passage of FECA, the growth of campaigns and the electorate was another cause for worry, as more money was being spent in federal elections. The federal workforce had expanded greatly, and not all were covered under the Pendleton Act. The Hatch Act was passed in 1939 to update the Pendleton Act to include the rest of the federal workforce. At the same time, union labor was emerging as one of the most influential political tools. They were instrumental for Franklin D. Roosevelt’s campaigns, providing nearly $770,000 in just 1936. Republicans and Southern Democrats were uneasy about this relationship, as unions were generally supportive of reform-minded and liberal candidates. To counteract this, the Smith-Connally Act was passed in 1943. This act sought to prohibit unions from using treasury funds for campaign contributions, thus limiting their ability to overtly contribute to campaigns. The act expired after the war, so these regulations were made permanent in 1947 under provisions of the Taft-Hartley Act. After Taft-Hartley, organized labor responded by creating the first political action committees (PACs) to circumvent political giving prohibitions. Union members could voluntarily contribute to PACs, where their money was passed on to campaigns, advocacy groups, and used for their own political (independent) expenditures. Only a certain class of individuals, such as union members, could contribute to a PAC. After its creation, the FEC made it one of their responsibilities to regulate and categorize PACs into various subgroups. Many of the earliest PACs are active today, and are categorized as “connected PACs.” Super PACs are the newest addition to the group.

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32 Corrado, pp. 17.
33 57 Stat. 167 (1943).
It was also at this time that the method of campaigning changed drastically. With television on the rise, it became standard procedure for candidates to entertain TV advertisements, which in turn raised campaign costs drastically. From 1956 to 1968, total campaign spending rose from $155 million to $300 million, and media buys grew from $9.8 million to $58.9 million. In 1962, President John F. Kennedy formed a Commission on Campaign Costs to investigate the shortcomings of campaign finance and explore possible solutions, but real reform never came to fruition from that study. It would take another 11 years for the system to be overhauled with the passage of FECA.

**Development of the Federal Election Campaign Act**

The Federal Election Campaign Act was the first major piece of campaign finance legislation since the Tillman Act, and would serve as the predominant legislation for campaign finance regulation until the passage of the Bipartisan Campaign Reform Act of 2002. The FECA was originally passed in 1971, but would be amended in 1974, 1976 (in order to comply with the judicial opinion in *Buckley v. Valeo*), and again in 1979.

The initial FECA sought to address two areas for reform: media advertising and disclosure requirements. It set strict limits on advertising—congressional candidates could spend no more than $50,000, or ten cents for each voting-age citizen per congressional district or state, and no more than 60 percent of that $50,000 may be used for radio or television advertising. The FECA also eliminated many loopholes that allowed candidates and party committees to skirt

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37 Pub. L. 92-255.
disclosure requirements. Under the new rules, all political committees spending or receiving at least $1,000 were required to disclose their receipts, and any contribution of $5,000 or more was to be reported within 48 hours. Additionally, spending and contribution limits that were ineffective were repealed, based on the notion that full disclosure would be more effective at eliminating corruption in the electoral process than placing strict contribution limits would. Simply put, contribution limits were replaced with spending limits.

However, campaign costs continued to rise and the nation witnessed one of the biggest political scandals in American history--Watergate. An investigation into President Nixon’s 1972 campaign for reelection revealed severe misconduct. Illegal corporate gifts and slush funds that helped finance the break-in at the Watergate Hotel implicated Nixon, and raised more questions about the relationship between money and campaigns. Nixon resigned and Congress worked to prevent it from happening again by updating the FECA. The result was a series of amendments passed in 1974. The amendments did five things: establish the Federal Election Commission, implement a number of contribution limits (including independent expenditures made on behalf of a candidate), set spending limits by federal candidates and national parties, mandated that candidates establish one central campaign committee through which all contributions and expenditures would be reported, and created a public fund matching system for presidential campaigns. Many of the provisions from these amendments remain in place today--most notably, the FEC. The FEC is the main institutional body regulating and enforcing campaign finance laws. Among their obligations is to issue advisory opinions on problems pertaining to campaign finance. Two of these opinions were instrumental in creating super PACs in 2010.

38 Corrado, pp. 22.
Although much progress was made as a result of the 1974 amendments, this particular legislative victory was short-lived. Soon after the new laws took affect, it was challenged in the Supreme Court in the case *Buckley v. Valeo*. The Court considered challenges to every provision of the act, but only struck down limitations on campaign and independent expenditures, limits on the amount candidates can contribute to themselves, and appointment procedures for FEC chairpersons. The Court upheld all other provisions of the 1974 FECA, namely all the contribution limits (except for the aforementioned limits on candidate self-giving), as well as the presidential public financing option. The court’s justification relied on the premise that contributions and expenditures represent different kinds of speech. A contribution to a party or campaign expresses an individual’s preference, and--in the court’s eyes--is an “undifferentiated, symbolic act of contributing.” Conversely, the Court found that expenditure limitations impose unconstitutional burdens on free speech, as they provide the actual means for promotion.\(^{40}\)

*Buckley* remains a landmark decision; it established the constitutional right for candidates to spend money to influence elections, and it made clear that campaign contributions are a protected right, even though they can be subject to limitations.

The amendments in 1976 and 1979 sought to tweak the FECA to act more efficiently and to adhere to *Buckley*. Included in the 1976 amendments were contribution limits, stricter disclosure standards, and a new FEC chairperson appointment process. The 1979 revisions eased disclosure requirements and eliminated restrictions on certain types of spending, among a few other reforms. They also exempted certain types of party spending from the expenditure ceilings. Party-building activities, like voter registration or get-out-the-vote drives, were now exempt

from these ceilings, along with grassroots or volunteer activities. Parties still had to use official funds for these purposes, but they were no longer subject to expenditure limitations. 41 These exemptions permitted the use of soft money, which was fully taken advantage of by campaigns in the subsequent years.

The 1979 amendments would be the last substantial reform to campaign finance law until the Bipartisan Campaign Reform Act was passed in 2002. However, the role of money in federal elections remained contentious. The FEC, through a number of advisory opinions in the late 1970s, further established the right to raise and spend money without limits for administrative and party-building purposes—i.e., soft money.42 The exploitation of these advisory opinions allowed both parties to raise massive sums of soft money, increasing from $86 million in 1992 to nearly $500 million in the 2000 election. The eroding enforceability of the laws and the exponential influx of money in campaigns pushed for further reform. Everything was on the table—regulation of soft money, issue advocacy, public subsidies for congressional campaigns, but no wide-ranging consensus was reached, and no major laws were passed until 2002.

The Bipartisan Campaign Reform Act

The 2002 passage of the BCRA was the culmination of a six year fight led by Senators John McCain, a Republican from Arizona, and Russ Feingold, a Democrat from Wisconsin, and is popularly known as the McCain-Feingold Act as a result. The main tenants of the BCRA addressed two areas for reform in federal elections: the role of soft money and issue advocacy.

42 Corrado, pp. 32.
ads. For the former, the new law banned all soft money contributions. These limits were designed to prevent circumvention of the law, and were relatively successful at doing so. A few exceptions to the law did exist, but they applied to fundraising for state or local elections. The other core component of the BCRA was to curb issue advocacy, which had become a central campaign strategy due to its lack of regulation. The new law created a narrower definition of “electioneering communications,” eliminating the possibility of using unregulated funds for any ad featuring a federal candidate, or even implicitly arguing for or against a candidate. Additionally, the BCRA required federal candidates to stand by their ads by personally appearing in them and stating, “I’m (candidate name), and I approve this message.”

The BCRA was the most ambitious step in regulating campaign finance, and as expected, it was challenged almost immediately upon its passage. The plaintiffs, including Senator Mitch McConnell, the RNC, and the ACLU, sought judgements pertaining to the constitutionality of every aspect of the law. The various complaints were consolidated into one case, *McConnell v. Federal Election Commission*, and oral arguments were heard in December 2002, only eight months after the passage of the BCRA. The court upheld all major provisions of the law, albeit in a narrow 5-4 decision. However, the fight against the BCRA was not over. In 2006, the Supreme Court delivered opinions on two separate cases challenging the constitutionality of the law. The first one, *FEC v. Wisconsin Right to Life*, settled a dispute over whether the regulation of issue ads, or electioneering communications, immediately before an election (30 days before a primary election, or 60 days before a general election) are constitutional. The Court ruled in favor of Wisconsin Right to Life, a nonprofit advocacy group hoping to air ads urging citizens to

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43 Corrado, pp. 39.
contact their senators regarding filibusters to oppose judicial nominees. The Court found that the ads did not fall into the express advocacy category, while the FEC defined them as such. This ruling implicitly upheld regulation on express advocacy, but established a new test to determine whether an ad is considered express or issue advocacy. Specifically, the Court stated, “An ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” The court opinion prohibited regulation of contributions for issue ads from corporations, unions, and individuals, and set the tone for election spending in the 2004 and 2008 cycles.

Citizens United v. FEC and the Modern Era of Campaign Finance

Citizens United, a nonprofit advocacy organization, sought to air a documentary titled *Hillary: The Movie* on television within 30 days of the 2008 primaries. The film was critical of Hillary Clinton, thus subjecting it to express advocacy regulation by the FEC. Citizens United filed an injunction with the FEC on two grounds; they argued that section 201 and 203 of the BCRA were both unconstitutional. Section 201 requires the disclosure of contributions towards electioneering communications, while 203 defines electioneering communications and prohibits corporations from using treasury funds for communications. While the challenge was initially denied in U.S. Circuit Court, the Supreme Court upheld section 201, but struck down the prohibition on corporate electioneering communications in section 203. This was a landmark decision, as it overturned a key component in campaign finance law, while also overturning two

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previous Supreme Court decisions—Austin v. Michigan Chamber of Commerce, and McConnell v. FEC.\textsuperscript{46}

The majority opinion, written by Justice Anthony Kennedy, argued that there was no justification for limiting First Amendment rights to free speech by corporations and unions. The ban on corporations from using treasury funds for independent expenditures was originally established in \textit{Austin}, in which the Supreme Court argued that corporations can unfairly influence or corrupt the election process, leaving the government with a compelling interest to regulate against it (known as the anti-corruption rationale).\textsuperscript{47} This argument was invalidated in \textit{Citizens United}, as the majority wrote that the fear of corruption in \textit{Austin} was not well substantiated, and thus inappropriate to legislate against. Additionally, the majority opined that free speech—especially political speech—is vital to democracy, and no less vital when it comes from a corporation. This decision invalidated aspects of \textit{McConnell}, mainly the provision limiting electioneering communications.

Contrary to popular understanding, \textit{Citizens United} did not directly lead to the creation of super PACs. A U.S. Appeals Court case and two FEC advisory opinions in 2010, using \textit{Citizens United} as precedent, further liberalized independent expenditures. SpeechNow, a nonprofit advocacy organization, sought an injunction against the provision of the FECA that places limits on individual contributions towards independent expenditures and disclosure requirements. After they were denied in Circuit Court, their case was heard in the Washington D.C. Court of Appeals in 2010, shortly after \textit{Citizens United}. The Court granted their injunction, citing \textit{Citizens United}, and reiterating that the anti-corruption rationale does not apply to independent expenditures, only

\textsuperscript{47} \textit{Austin v. Michigan Chamber of Commerce}, 494 U.S. 652 (1990).
direct contributions. The Court did uphold the disclosure requirements, stating that the
government may require records kept of the person making or funding speech without imposing
undue burden or limiting the amount of speech. This decision allows individuals to contribute
towards independent expenditures in the same way corporations can, and opened the floodgates
to unlimited individual contributions to IECs in the 2010 and 2012 elections.\footnote{SpeechNow.org \textit{v. FEC}, 599 F.3d 686 (D.C. Cir. 2010)}

In spite of this, super PACs were not officially sanctioned until the FEC issued two
separate advisory opinions. The Club for Growth and Commonsense Ten, two political advocacy
organizations, sought to establish IECs. The Club for Growth wanted to pay for their
committee’s administrative costs, and sought FEC approval, while Commonsense Ten requested
FEC permission to accept unlimited contributions for independent expenditures from individuals,
corporations, political committees, and labor organizations. Relying heavily on \textit{Citizens United}
and \textit{SpeechNow.org}, the FEC approved both requests, formally allowing IECs to solicit from any
individual or organization.\footnote{FEC Advisory Opinion, 2010-09 (Club For Growth) (2010).}  \footnote{FEC Advisory Opinion, 2010-11 (Commonsense Ten) (2010).}

It is important to note that independent expenditures were allowed under the FECA and
BCRA, but with strict contribution limits in place. With \textit{Citizens United}, \textit{SpeechNow.org}, and the
two FEC advisory opinions, campaign finance strategy has taken a sharp turn. Super PACs and
501(c)(4) organizations (definitions and examples of each can be found in \textit{Key Terms}) can use
unlimited amounts to positively or negatively advertise against a candidate. The impact of this is
not well understood. While it is obvious that more money is injected into elections, it is not
obvious how this shapes them. Does it benefit challengers or incumbents? How does it affect
primary elections? Do Republicans or Democrats benefit more? Are independent expenditures merely suggestive of a popular candidate, as opposed to the reason for it? This investigation of the serves to provide further understanding of the effects of unlimited independent expenditures on electoral discourse and outcomes.
Key Terms

An individual lacking the knowledge or education of the rules governing our campaign finance laws will have a hard time parsing through the technical terminology that makes it up. The FEC uses very precise definitions for terms relating to contributions, expenditures, and ads. This section will help the reader understand the meaning of key terms the FEC uses to describe campaign finance.

• Electioneering Communications - An electioneering communication is defined as,

  “Any broadcast, cable or satellite communication that fulfills each of the following conditions:
  • The communication refers to a clearly identified federal candidate;
  • The communication is publicly distributed by a television station, radio station, cable television system or satellite system for a fee; and
  • The communication is distributed within 60 days prior to a general election or 30 days prior to a primary election to federal office.\(^{51}\)

Electioneering communications differ from express advocacy in a few important, but seemingly convoluted ways. While they both may identify a federal candidate, express advocacy works to help elect or defeat a candidate, and thus includes a number of “magic words.” Electioneering communications, on the other hand, do not include any specific language that could advocate for or against a candidate, and are therefore likened to issue advocacy, even though they clearly refer to a federal candidate. The Supreme Court in *Wisconsin Right to Life* held that restrictions on electioneering communications set in the BCRA in 2002 were unconstitutional. This was affirmed again in *Citizens United*, which found

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\(^{51}\) 11 CFR 100.2
both electioneering communications (issue advocacy) and expenditures (express advocacy) by
independent groups and individuals to be constitutionally permissible without limitations.

It is important to note that electioneering communications do not apply to newspaper,
internet, or print advertisements. Only communications that can reach a wide audience by way
of television or radio counts as an electioneering communication. Additionally, any
communication outside of the 30 or 60 day window before an election does not apply to the
reporting requirements. Groups issuing electioneering communications must report their
expenditures and the candidate targeted in their ads, but not whether it supported or opposed
the candidate.

- **Express Advocacy** - Advertisements or communications that seek to persuade the public to vote
for a certain candidate are considered express ads. The official definition is stated as:

“Unambiguously advocating the election or defeat of a clearly identified federal candidate.”

There are two ways that a communication can be defined as express advocacy (candidate
advocacy): by use of certain “explicit words of advocacy of election or defeat” and by the
“reasonable person” test.

The first test determines eligibility based on whether the communication uses certain
“magic words.” These words include “vote for,” “reelect,” “defeat,” “oppose,” “support,”
“Smith for Congress,” as well as campaign slogans and pictures of candidates accompanying
the communication. Simply put, if the advertisement urge action regarding a candidate, it is
considered express advocacy. The second test is used when a communication lacks any magic
words. If a “reasonable person” interprets a communication as unmistakably and
unambiguously suggestive of only one meaning--advocating for the election or defeat of a
candidate—it is also considered express advocacy. The “reasonable person” test is subject to interpretation, unlike the “explicit words” test. However, it does not mean the test is any less effective at determining express advocacy. Communications that are classified as express advocacy are subject to FEC contribution limits (depending on whether it is a campaign or independent expenditure) and disclosure requirements.

- **Independent Expenditures** - Expenditures that are made independent of campaigns and committees, but advocate for the election or defeat of a federal candidate are considered independent expenditures. Because they explicitly advocate for or against a candidate, independent expenditures are considered express advocacy. Before *Citizens United*, only political action committees tied to corporations and unions could make independent expenditures. After *Citizens United*, any individual, corporation or union could contribute toward this type of expenditure without being subjected to FEC regulation.

- **Independent Expenditure Committee (IEC)** - Super PACs are technically labeled “independent expenditure-only committees,” but the term does not include all groups that make independent expenditures, like 501(c)(4) groups and 527 committees. For the purposes of this research, all outside spending groups that make express advocacy a main function will be referred to as independent expenditure committees (IECs). In reality, 501(c)(4)’s and other 501(c)-designated nonprofits may make electioneering communications along with independent expenditures (they must demonstrate that political advocacy is not their primary purpose), but since *Citizens United*, those groups actively engaged in influencing elections devote a large amount of their resources towards express advocacy.

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52 11 CFR 100.22, 100.22(a), 100.22(b)
• **Issue Advocacy** - The precise definition of issue advocacy is harder to determine than express advocacy. Simply stated, issue advocacy is a communication that seeks to raise public awareness of a certain issue without naming or suggesting a certain candidate. These communications are not subject to regulation, as they are protected under the First Amendment. Issue advocacy is often utilized by interest groups promoting a certain agenda, such as abortion rights, gay marriage, environmental protection, and so on. However, the line between issue and express advocacy is very thin, and because communications are defined on a case by case basis, there is some inconsistency. While electioneering communications explicitly mention a candidate, they are considered to be issue advocacy so long as they cannot be interpreted to persuade the public to elect or defeat said candidate.

• **Political Action Committee (PAC)** - An organization that campaigns for or against candidates, legislation, or ballot measures. There are three distinct types of PACs--separate segregated funds (SSFs) (often called connected PACs), non-connected PACs, and super PACs. The administrative costs are paid for by the corporations or labor organizations that establish them, but they can only accept contributions from a restricted class--generally shareholders in the case of a corporation, and members in the case of a union. As a result of the Taft-Hartley Act in 1947, corporations and unions could not contribute directly to campaigns, so they established SSFs to skirt the limitations. SSFs may make contributions towards party committees, candidate committees, and other PACs, but with strict limits.

Non-connected PACs are independent committees, not tied to labor organizations or corporations. As a result, they may accept contributions from any individual, including SSFs.

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53 *Citizens for Responsible Gov't State PAC v. Davidson*, 236 F.3d 1174, 1187 (10th Cir. 2000).
54 11 CFR 100.5
and other organizations. Like SSFs, non-connected PACs are subject to contribution limits and are required to disclose all fundraising and operation expenses. Leadership PACs are also considered non-connected PACs. These committees are established by politicians and used to raise money for members of their own parties. Leadership PACs are useful for a number of reasons; established politicians leverage them for raising money and support for fellow party members, which helps build their reputation and makes it easier to gain leadership positions. Leadership PACs may also make independent expenditures for other candidates without limits, but this tactic is not utilized frequently.

Super PACs were created through the judicial opinions of *Citizens United*, SpeechNow.org, and FEC advisory opinions *Commonsense Ten* and *Club for Growth*. These PACs may accept and spend unlimited amounts on independent electioneering communications. They may not contribute to campaign or party committees, nor are they allowed to coordinate campaign strategies with official campaign operations. They are required to disclose all contributions and expenditures. Super PACs are formally known as independent expenditure-only committees.

- **501(c)(4) Groups** - Named after the section of the tax code from where the term is found, 501(c)(4) groups are nonprofit social welfare organizations that may engage in political activity, as long as it is not their primary, stated purpose.\(^{55}\) The term 501(c) is applied to all nonprofit organizations in the United States, and the designation of (4) signifies that it is a social welfare organization. The restrictions against the requirements for spending by these groups are not clearly identified, and there is much debate how they may carry out their...

political activism. They are required to disclose their expenditures, but not contributions. As a result, there has been a proliferation of 501(c)(4) groups since *Citizens United*, as it is now legal for them to make unlimited independent expenditures without disclosing their donors. This has caused significant controversy in the media and among reform minded politicians. 501(c)(4) groups are popularly called “dark money” organizations, as it shields the donors from public disclosure. Many of these are tied to super PACs, the most notable being Karl Rove’s Crossroads GPS 501(c)(4), which is affiliated with his super PAC, American Crossroads.

- **527 Organizations** - After *Buckley*, organizations were permitted to raise and spend unlimited amounts on issue advocacy. Technically, all PACs are 527 organizations, but the term usually refers to groups spending on issue advocacy only. The value of 527 organizations fell as a result of *Citizens United* because organizations may now raise unlimited sums on express advocacy, which more effectively reaches out to voters.
Analysis

General Analysis of the 2012 Election Cycle

Overview and Comparison with Previous Election Cycles

Campaign finance strategy has been undeniably shaped by *Citizens United*, but it has not changed as radically as generally perceived. A common misconception of the judgement was that corporations would be permitted to donate unlimited amounts to candidates, when in fact, they can only carry out independent expenditures. It is also true that independent expenditures—with no limits in some cases—were permitted in previous election cycles. The proliferation of independent expenditures and super PACs since 2010 is certainly evident, but even then, large changes have taken place in the past with less fanfare. In the 2008 cycle, $440 million was spent on elections independent from campaigns in spite of the lack of super PACs.\(^{56}\) This money came from a variety of sources, including campaign committees for each party (DCCC, DSCC, NRCC, and the NRSC), PACs, 501(c) groups, and 527 organizations.\(^{57}\) In 2012, with super PACs in play, the volume of independent expenditures nearly tripled, with $1.25 billion spent. Even midterm elections showed a big increase. In 2006, $268 million was spent, while $409 million was spent in 2010. However, the biggest jump in independent expenditures came in 2004, the first year the BCRA was in effect. Only $36 million was spent independently of campaigns in 2000, but that number was almost ten times higher in 2004. The elimination of soft money that year created a void in election spending, filled by 527 groups like the Swift Boat Veterans for Truth and Moveon.\(^{58}\) While this money was not used for express advocacy (due to the BCRA limitations at


\(^{57}\) DCCC - Democratic Congressional Campaign Committee; DSCC - Democratic Senatorial Campaign Committee; NRCC - National Republican Congressional Committee; NRSC - National Republican Senatorial Committee.

the time), it was still pervasive throughout the election. The seemingly exponential increase of money in elections is not a recent development. A look through historical and scholarly records show that campaign spending has been increasing since the industrial revolution. However, certain events have led to a proliferation of spending, due to either a change in laws, the economy, or in the interests of the public. *Citizens United* is certainly one of those events.

*Who Contributes to Independent Spending?*

Corporations had been effectively barred from participating in elections since the Tillman Act, but *Citizens United* opened the doors to their influence. Surprisingly enough, corporations were minor donors to super PACs. The top 1% of individual donors supplied 47% of all independent expenditures in 2012, while the top 1% of corporate and union donors contributed just 13%.59 The explanations for this vary, but logic tells us that the backlash to taking a side in an election, which risks alienating a large percentage of a customer base, is greater than the potential benefit of working to elect a favorable candidate. It is possible that corporations have contributed to 501(c)(4) groups more than super PACs in order to remain anonymous, but there is little one can do to research this. Individuals, however, face fewer consequences for disclosing their donations. Many wealthy individuals have been upfront in sharing their contributions, as both are a way to gain notoriety and to raise awareness for the issue they support.

The most prolific super PAC donor was Sheldon Adelson, a Las Vegas casino and hotel magnate, who spent nearly $100 million over the course of the primary and general elections. Initially a Newt Gingrich supporter, he donated $20.5 million to Winning Our Future, a pro-

Gingrich super PAC, which almost singe-handedly bankrolled the organization. Adelson shifted his support to Romney after he won the Republican Primary, even though millions were spent by Winning Our Future to initially defeat him. The motivations for such large contributions stem primarily in his interest in strengthening American-Israeli ties. Gingrich’s rhetoric on this issue was strongly supportive of Israel. It would be hard to directly link Adelson’s contributions to Gingrich’s pro-Israel rhetoric, but the correlation seems evident. Adelson was a favorite topic among media outlets and critics of super PACs, singling him out as an example of how wealthy individuals can corrupt the election process. The New York Times website has a special section dedicated to stories about him and his influence.

Along with Adelson, the majority of the top single contributors to super PACs were conservative. Texas executives Harold Simmons and Robert Perry, the second and third largest single contributors in 2012, spent a combined $50 million on pro-Romney groups, and groups working to elect Republican congressional candidates. Their contributions helped give conservative IECs a significant monetary edge, with conservative contributions outnumbering liberal ones 70% to 30% in total. Liberals’ fears of Citizens United disproportionately benefitting conservative groups are legitimate in this regard. However, as the election results show, it mattered little. Arguments for why conservatives have benefitted more from independent expenditures vary; one theory articulates that conservatives do not hold an inherent advantage, but that the political climate spurred more conservative activism in 2010 and 2012. Typically, parties not in power see a greater fundraising advantage, as it is easier to convince someone dissatisfied with the current state of affairs to contribute to a campaign or advocacy group than

61 http://topics.nytimes.com/top/reference/timestopics/people/a/sheldon_g_adelson/index.html?inline=nyt-per
someone content with the status quo. It is entirely likely that if a Republican president were in office, supporters of Democrats would have contributed towards campaigns and IECs in greater numbers than Republicans.

Which Independent Expenditure Committees are the Most Prominent?

There is no official playbook for how independent expenditures are supposed to be carried out. *Citizens United* simply legalized unregulated outside spending, giving individuals and IECs a substantial amount of freedom in this endeavor. However, many IECs are run in a similar way, presumably because they believe they have found the most efficient and effective means at influencing elections. In the 2010 and 2012 election cycles, there were both a proliferation of issue-specific and candidate-specific IECs. Because 2012 was a presidential election year, some of the most active groups were specific to presidential candidates--either in the Republican primary, or in the general election. After the American Crossroads super PAC and its affiliate Crossroads GPS 501(c)(4)--conservative IECs supporting a wide range of congressional candidates--the two biggest outside spending groups were Restore Our Future PAC and Priorities USA Action PAC, the primary super PACs supporting Mitt Romney and President Barack Obama’s campaigns. Restore Our Future was instrumental in Romney’s primary campaign, spending over $39 million attacking his strongest primary opponents, Rick Santorum and Newt Gingrich. During the general election, the super PAC spent $88.5 million attacking President Obama, while spending only $14 million supporting Romney. In total, Restore Our Future spent $142 million during the 2012 cycle. Priorities Action USA was much less prolific,

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63 Ibid.
having spent only $65 million. However, President Obama did not have any primary candidates with which to contend, meaning there was no outside spending on his behalf during the primary season. Also an interesting point—all the advocacy by Priorities Action USA was spent opposing Romney, while not a single dollar was used to support President Obama. Other IECs specific for Romney and Obama were major players in 2012, and operated in a similar fashion as Restore Our Future and Priorities Action USA, but these two groups were by far the largest candidate-specific PACs for the Republican and Democratic nominees. Santorum and Gingrich also received some outside support during their unsuccessful primary bids.

Outside of the IECs dedicated to President Obama, Romney, Santorum, and Gingrich, the biggest IECs were party-specific and multi-candidate, meaning they invested in a multitude of congressional campaigns. The aforementioned American Crossroads super PAC and affiliate Crossroads GPS 501(c)(4), if considered one group, was the biggest IEC in the 2012 cycle, with their total expenditures checking in at $176 million. It’s largest expenditure ($100 million) went towards attack ads on Obama, while they spent another $13 million supporting Romney. In addition to those expenditures, it spent at least $1 million working to elect ten Republican senate and four house candidates, and less than $1 million in 22 other congressional races. As previously stated, the IEC was made up of both a super PAC (American Crossroads) and a 501(c)(4) group (Crossroads GPS) for donors preferring to remain anonymous. American Crossroads spent $104 million, while Crossroads GPS spent $71 million. The IEC was founded and is operated by political strategist and former George W. Bush Administration Chief of Staff, Karl Rove. Out of its entire $175 million budget, only $11.5 million was spent successfully, meaning

that 93.4% of its money was spent on losing efforts.\textsuperscript{66} While this certainly frustrated many donors, it is not necessarily indicative of poor planning and strategy, as the races in which Crossroads was involved were highly contentious and, in some cases, unlikely for a Republican victory in the first place. It is likely that Crossroads’ spending made these races much closer than they would have been in the absence of strong outside spending.

Liberal multi-candidate IECs, while quite active in certain races, did not have as much monetary support as conservative groups. The two largest liberal IECs outside of Priorities Action USA were Majority PAC and House Majority PAC, which spent roughly $38 million and $31 million respectively. As their names suggest, these super PACs aimed for a majority of Democrats in the Senate and House of Representatives, thus sponsoring candidates that could help achieve that goal. Like many other IECs, Majority PAC and House Majority PAC almost exclusively funded attack ads aimed at Republican opponents. Majority PAC’s senate candidates were 85% successful and achieved the goal of keeping a Democratic majority in the Senate.\textsuperscript{67} House Majority PAC, while coming up short of ensuring a majority of Democrats in the House of Representatives, still had a 57% success rate.\textsuperscript{68} Outside of these two super PACs, Democratic and liberal-leaning IECs were far less influential, with independent expenditures from Democratic groups accounting for only 30% of total outside spending. It is difficult to draw any conclusion from this, particularly relating to its effects on election results. However, it is clear that IECs--regardless of ideology--seem to implement similar strategies and carry out their

\textsuperscript{66} Ibid.
\textsuperscript{67} \url{http://www.opensecrets.org/outsidespending/detail.php?cmte=C00484642&cycle=2012}
\textsuperscript{68} \url{http://www.opensecrets.org/outsidespending/detail.php?cmte=C00495028&cycle=2012}
expenditures in a predictable way. Namely, all IECs devote their resources disproportionately towards attack ads.

*Positive and Negative Independent Expenditures*

Certain aspects of independent expenditures are required in reports to the FEC. They must include the candidate targeted by the ad, and whether it was in support or opposition of the candidate. For reasons not entirely understood, independent expenditures overwhelmingly fall under the negative (opposing) category. The eleven races reviewed in the following section confirm this trend. Only one candidate—Republican Linda McMahon of Connecticut—had greater positive than negative outside support. (She also happened to receive the least amount of independent support overall.) One theory why independent groups use negative advertising at a much greater rate is that candidates are less accountable for negative ads on their behalf, whereas they are solely responsible for ads approved by the campaign. While negative ads have proved to be an effective means for political engagement, candidates can come under fire for a particularly nasty or distasteful ad. It would be easier to deflect criticism if it is known that a candidate did not coordinate with the IEC responsible for the ad.69 The deferment of blame allows candidates to reap the rewards of negative ads without facing undue criticism. This effect is compounded with the known benefits of negative campaigning, which is discussed in the literature review of this thesis.

Analysis of Individual Congressional Elections

Analyzing data for individual campaigns is a painstaking, carefully undertaken process. It is easy to get overwhelmed by the sheer amount of data available on spending, fundraising, and other aspects of campaign financing. However, analyzing the data reveals some clear correlations. Most importantly, it affirms one of the core components of the hypothesis—that spending, both by campaigns and from IECs—is associated with electoral success. This was not true with every race analyzed, as some winning candidates were outspent by their opponents. However, once the details of those races are realized, the lack of correlation can be explained by other factors unrelated to campaign funding. Also, while distinctions are made between independent expenditures and official campaign contributions, there is little that indicates they have different effects on the results of the election. It seems—at least on the surface—that the introduction of super PACs into electoral discourse simply increased the amount of spending on elections.

Many features of these races were consistent with the current trends of independent expenditures. For one, super PACs placed a much higher emphasis on negative than positive advertising. In the five senate races studied, super PACs spent more than four times as much on negative advertising. In the six congressional races, negative spending was six times higher. Also, more money was spent by super PACs than by the campaigns themselves for many, but not all the races. Again, this was consistent with the general trend in this election cycle.
### Summary of Expenditures for Selected Senate Races

<table>
<thead>
<tr>
<th>Senate Race</th>
<th>Candidate*</th>
<th>Positive Outside Spending**</th>
<th>Negative Outside Spending</th>
<th>Net Total Outside Spending</th>
<th>Campaign Contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>Jeff Flake (R)</td>
<td>$4,036,416</td>
<td>$9,000,564</td>
<td>$13,036,980</td>
<td>$9,007,856</td>
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<td></td>
<td>Richard Carmona (D)</td>
<td>$211,976</td>
<td>$8,465,168</td>
<td>$8,677,144</td>
<td>$6,459,521</td>
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<td>Connecticut</td>
<td>Linda McMahon (R)</td>
<td>$925,898</td>
<td>$85,313</td>
<td>$1,011,211</td>
<td>$49,871,231***</td>
</tr>
<tr>
<td></td>
<td>Chris Murphy (D)</td>
<td>$1,312,231</td>
<td>$6,370,139</td>
<td>$7,682,370</td>
<td>$10,435,412</td>
</tr>
<tr>
<td>Indiana</td>
<td>Richard Mourdock (R)</td>
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<tr>
<td></td>
<td>Joe Donnelly (D)</td>
<td>$1,087,738</td>
<td>$10,738,448</td>
<td>$11,826,186</td>
<td>$5,572,123</td>
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<td>North Dakota</td>
<td>Rick Berg (R)</td>
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<td>$4,683,515</td>
<td>$6,236,474</td>
<td>$6,501,693</td>
</tr>
<tr>
<td></td>
<td>Heidi Heitkamp (D)</td>
<td>$495,247</td>
<td>$7,157,066</td>
<td>$7,652,313</td>
<td>$5,339,258</td>
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<tr>
<td>Massachusetts</td>
<td>Scott Brown (R)</td>
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<td>$2,192,521</td>
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<td>Elizabeth Warren (D)</td>
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<td>$2,968,459</td>
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</tbody>
</table>

*Winning candidates in **bold.**

**Positive super PAC spending is defined as expenditures that promote a candidate, while negative spending refers to attack ad expenditures against the candidate’s **opponent**. Net total super PAC spending is the candidate’s combination of both types of spending. ‘Campaign contributions’ refers to the official contributions and donations towards a candidate’s campaign. This money is not related to super PACs and can be used to fund endorsed ads and other campaign expenses.

***McMahon’s campaign was 97% self-financed.**
Arizona

The 2012 Arizona Senate Election pitted Republican Jeff Flake against Democrat Richard Carmona. Jeff Flake, the eventual winner, replaced retiring Senator Jon Kyl, keeping the seat for the Republicans. Kyl held onto his seat comfortably for 18 years, but the 2012 contest proved to be no lock for the Republicans. The race included two seasoned political figures--Flake had served six terms as a U.S. Representative and Carmona was the Surgeon General under George W. Bush from 2002 to 2006--and the polls were tight as a consequence. Over $21 million in outside money was spent during the campaign, with Flake holding a $4.3 million advantage over Carmona. For this race, the spending figures correlate to opinion polls and the final vote tally, but do not necessarily indicate if success dictated spending or visa versa.

Flake enjoyed a slight advantage over Carmona for much of the campaign. In February 2011, Flake received the backing from the Club for Growth, a conservative organization with an
affiliated 501(c)(4) and super PAC. This early endorsement propelled him to an easy primary victory, as his experience as a member of Congress was reinforced by attack ads against his challenger, Wil Cardon, at the hands of the Club for Growth. They continued to provide independent expenditures for Flake in the general election, spending $1.25 million running ads opposing Carmona, and over $500,000 in support of Flake. Carmona, who did not have a primary challenger, found support from independent organizations as well. The most prolific IEC for Carmona was the Majority PAC, a group dedicated to maintaining the Democratic majority in the Senate. In all, they spent $2 million in opposition to Flake. Both advocacy groups are ideologically mainstream for their respective parties; the Club for Growth ran ads showing Carmona endorsing Obamacare, while the Majority PAC ran an ad tying Flake with environmental damage. A Carmona-approved ad (one using official campaign funds) highlighted his senate confirmation hearing after being appointed as the Surgeon General. The ad consisted of Senator John McCain lauding Carmona for his service, which served to bolster his credentials among conservatives. With Arizona being a solidly conservative state, it is necessary to appeal to the right in order to have success.

Carmona received a larger share of the vote than any Democratic senate candidate in the state since 1994, losing the election 46.1% to 49.2%. The reason Carmona was able to perform so well as a Democrat in a conservative state is due to two factors--the lack of an incumbent effect, and Carmona’s image as a moderate, if not conservative-leaning Democrat. It was not enough to overcome Flake, as the spending, fundraising, and polling figures show a solid financial advantage and voter based advantage for Flake.

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70 [http://www.clubforgrowth.org/perm/?postID=14758](http://www.clubforgrowth.org/perm/?postID=14758)
Connecticut

Senator Joe Lieberman’s retirement opened up a seat in the liberal state of Connecticut. On paper, the spending figures are odd. The Republican candidate, Linda McMahon, appeared to have raised upwards of $50 million for her campaign, compared to just $10 million for her opponent, U.S. Representative Chris Murphy. Yet, she lost by more than ten percentage points. This most certainly does not follow known trends, as large amounts of spending generally correlate to success. So, why did McMahon fail miserably in spite of her enormous spending?

Looking into the data, we see that McMahon self-financed her campaign to the tune of $49 million, roughly 97% of her entire fund. McMahon, who runs World Wrestling Entertainment with her husband Vince McMahon, spent a similar amount in another bid for the Senate in 2010, yet lost by a similar margin. A recurring issue for McMahon in both races was that she lagged far behind in terms of outside spending.

In all, Murphy received more than seven times as much support in the form of outside spending over McMahon. A few conclusions can be drawn from this. One, it shows that self-financing isn’t necessarily the key to a successful campaign. McMahon spent nearly $100 million in two senate races, yet lost by a wide margin both times. Her popularity among Connecticut voters was questionable, as she was only able to raise $1.2 million from individual donors, while Murphy raised almost $9 million. This advantage, along with the independent spending advantage, casts Murphy as the more popular candidate in the race, and the one in which voters had more confidence. Despite McMahon’s expensive campaign, voters rejected her for the second time in two years. Second, it fits with the argument that independent spending is an indicator of success, but not necessarily a cause of it. While Murphy had a considerable
outside spending advantage, it was made irrelevant by McMahon’s massive self-financing. However, the fact that Murphy was able to attract more small contributions from voters indicates that he was more popular than McMahon, and that no amount of self-financing could have helped lead her to victory.

Indiana

The Indiana Senate Election was fascinating for a few reasons. It was one of the few races where the incumbent was defeated in the primary, with Tea Party-backed Richard Mourdock defeating the established Hoosier and six-term Senator Richard Lugar. This race served as an example for how outside spending (or campaign spending in general) can be used to effectively challenge incumbents in primaries. Lugar lost favorability in his state’s Republican Party, which had grown frustrated with his moderate brand of Republicanism and compromising nature in the senate. Ultimately, his challengers labeled him as a RINO (Republican in name only). Right wing and Tea Party advocates threw their support behind Richard Mourdock, and with a solid stream of outside spending from like-minded organizations (namely the Club for Growth and Crossroads), he was able to defeat Lugar in the primary contest. With the incumbent gone, the state suddenly became a battleground. Democrats were hopeful they could steal a seat, while Republicans were optimistic at the thought of having an uncompromising conservative taking a moderate’s job.

For much of the general election season, Mourdock enjoyed a substantial advantage. Joe Donnelly, a U.S. Representative and his Democratic challenger, was losing the polling and fundraising battle with less than a month remaining. It would be difficult for Donnelly to make up the ground, as the conservative base was invigorated by Mourdock in a state that leans
Republican traditionally. However, during a debate on October 23, Mourdock made a statement that profoundly changed the race. When asked for his views on abortion for rape victims, Mourdock stated, “Life is that gift from God that I think even if life begins in that horrible situation of rape, that it is something that God intended to happen.”71 The media picked up on this immediately, casting him as a pariah and someone too out of touch and socially conservative for the general populace. It was enough to sink his campaign, and he would go on to lose the election by 7%.

There are two points to takeaway from this race. One, that outside spending can be highly effective during a primary campaign, if the goal is to elevate an insurgent candidate past an incumbent. In a general election, individuals that align with a particular party are likely to vote along a straight party line, regardless of the candidates and their political positions. However, a primary contest allows those who are frustrated with the established candidate to make their voices heard, by nominating someone who reflects their values more. It can be assumed that many of the people who voted for Mourdock over Donnelly would still have voted for Lugar over Donnelly if that was the only option. The second point to take away is that candidate gaffes can and do have a larger impact on the scope of the election than any amount of spending does. Mourdock had a sizable spending advantage over Donnelly, but it proved to be impossible to overcome his poor word choice.

North Dakota

The contest for North Dakota’s open seat was one of the most competitive races of the election cycle. Kent Conrad, a longtime Democrat Senator, stepped down, leaving a seat up for grabs in a very conservative state. Heidi Heitkamp, a former state Attorney General, emerged as the Democratic candidate, while Rick Berg, a U.S. Representative, was her Republican opponent. The spending and polling figures suggested a highly competitive race. Berg had a stronger campaign fund, but Heitkamp had more independent support. Even still, the margins between the two candidates in both categories of spending were slim. Pre-election polls fluctuated between the candidates, which also suggested a tight matchup. Heitkamp ended up besting Berg by only 0.9%, or 3,000 votes. Nate Silver, a writer and election analyst for the New York Times Five Thirty-Eight blog, incorrectly predicted Berg to win, which was his only incorrect prediction in the 2012 cycle. The data used to project the winner in this race fell within the margin of error, making it difficult to accurately determine the result. An analysis of other such races may help discover how large that margin is, and if there are other tools that can be utilized to better predict election results in tight races.

Massachusetts

The Massachusetts Senate Election was one of the most highly publicized of the season. In January, 2010, Republican Scott Brown won a special election after Senator Ted Kennedy’s death. Democrats were caught off-guard by a strong Republican resurgence in the traditionally democratic stronghold of Massachusetts. It would not be so easy for Brown this time though. His challenger was Elizabeth Warren, a Harvard Law professor and chairperson of the Congressional Oversight Panel implemented in the wake of the 2008 financial crisis. Both candidates were
aware of the heightened media and political scrutiny surrounding this race, and did not want to get caught up in a negative campaign by way of runaway outside spending. The solution to this was an agreement crafted by both campaigns that imposed penalties to either candidate benefitting from independent expenditures.\footnote{http://www.scottbrown.com/wp-content/uploads/2012/03/signed-agreement.pdf} The agreement, dubbed the “People’s Pledge,” was successful at reducing IEC interests. However, the campaigns themselves spent massive amounts of money; the combined total of Brown and Warren’s spending made this race the most expensive of the 2012 cycle.

Warren and Brown’s pledge was the first of its kind--no candidates had previously sought to reduce the amount of outside influence in elections before. For those not in favor of outside influence in elections, the pledge provided hope that efforts would be made to finally reverse course. While the pledge was not enforced strictly, it vastly reduced the amount of independent spending in the contest. A total of roughly $7 million was spent for both candidates by outside groups, the lowest of the five senate races included in this study. This, however, does not tell the full story. Likely as a result of the “People’s Pledge,” the campaigns themselves raised and spent massive sums of money. Warren raised more than $42 million, while Brown raised $28 million. While there was little in the way of negativity from outside interest groups, any hope of a tame campaign was out of the question with the presence of this much money.

Elizabeth Warren was ultimately successful in her bid for the senate, which accurately correlates to the fundraising figures. She enjoyed a substantial campaign fund advantage over Brown and received endorsements from a number of high-profile newspapers and politicians. More importantly, she received $18.7 million in small contributions, compared to just $4.5
million for Brown. Her receiving considerably more small donations indicates greater popularity and a stronger voter base. This race serves as another example of election results predictably correlating with campaign and independent expenditures. However, it also shows that eliminating independent spending (or at least trying to) is ineffective at reducing the overall amount of monetary influence in campaigns, and instead, it just pushes the money elsewhere.

House of Representatives

<table>
<thead>
<tr>
<th>Congressional Race</th>
<th>Candidate</th>
<th>Positive Outside Spending</th>
<th>Negative Outside Spending</th>
<th>Net Total Outside Spending</th>
<th>Campaign Contributions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona 01</td>
<td>Jonathan Paton (R)</td>
<td>$1,070,373</td>
<td>$2,777,007</td>
<td>$3,847,380</td>
<td>$1,472,722</td>
</tr>
<tr>
<td></td>
<td>Ann Kirkpatrick (D)</td>
<td>$126,816</td>
<td>$4,141,777</td>
<td>$4,268,593</td>
<td>$2,339,143</td>
</tr>
<tr>
<td>California 07</td>
<td>Dan Lungren (R)</td>
<td>$104,162</td>
<td>$2,916,553</td>
<td>$3,020,715</td>
<td>$2,702,536</td>
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<tr>
<td></td>
<td>Ami Bera (D)</td>
<td>$708,200</td>
<td>$6,616,352</td>
<td>$7,324,552</td>
<td>$3,634,839</td>
</tr>
<tr>
<td>California 26</td>
<td>Tony Strickland (R)</td>
<td>$343,808</td>
<td>$1,649,272</td>
<td>$1,993,080</td>
<td>$2,454,507</td>
</tr>
<tr>
<td></td>
<td>Julia Brownley (D)</td>
<td>$1,085,724</td>
<td>$1,278,622</td>
<td>$2,364,346</td>
<td>$2,152,910</td>
</tr>
<tr>
<td>Iowa 03</td>
<td>Tom Latham (R)</td>
<td>$1,499,707</td>
<td>$2,419,973</td>
<td>$3,919,680</td>
<td>$3,398,743</td>
</tr>
<tr>
<td></td>
<td>Leonard Boswell (D)</td>
<td>$97,089</td>
<td>$3,351,835</td>
<td>$3,448,924</td>
<td>$1,741,222</td>
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<tr>
<td>Illinois 12</td>
<td>Jason Plummer (R)</td>
<td>$274,907</td>
<td>$3,985,827</td>
<td>$4,260,734</td>
<td>$1,344,543</td>
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<tr>
<td></td>
<td>William Enyart (D)</td>
<td>$428,597</td>
<td>$4,622,150</td>
<td>$5,050,747</td>
<td>$1,168,108</td>
</tr>
<tr>
<td>Illinois 13</td>
<td>Rodney Davis (R)</td>
<td>$201,011</td>
<td>$3,663,127</td>
<td>$3,864,138</td>
<td>$1,332,739</td>
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<tr>
<td></td>
<td>David Gill (D)</td>
<td>$155,315</td>
<td>$5,103,140</td>
<td>$5,258,455</td>
<td>$1,313,027</td>
</tr>
</tbody>
</table>

The spending figures for the six congressional races included in this study highlighted many of the same correlations from the senate races. In five of the six contests, the winning candidate received more outside funding than the loser, and in four of the races, the winner had a larger official campaign fund. It was difficult to find specific details for house races, as they are
much less publicized than senate races. Information relating to candidate ads, debates, and news articles were harder to come by. To counteract this lack of information, the Cook Partisan Voting Index (PVI) is included for the house races. The PVI was created by political scientist Charlie Cook to provide a mechanism for understanding how districts tend to vote. The index calculates the presidential vote for the previous two elections and compares it to the national average. The difference between a district’s average vote and the national vote makes up the PVI.\textsuperscript{73} For example, if the national average vote percentage for a Republican presidential candidate in the previous two election cycles was 48%, and a given district averaged 55% for Republicans, that district would have a PVI of R+7. While there are flaws with how the PVI is calculated, it still provides insights into why certain candidates are successful.

<table>
<thead>
<tr>
<th>Congressional Race</th>
<th>Candidate</th>
<th>Percentage of Vote</th>
<th>PVI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona 01</td>
<td>Jonathan Paton (R)</td>
<td>45.1%</td>
<td>R+3</td>
</tr>
<tr>
<td></td>
<td>Ann Kirkpatrick (D)</td>
<td>48.8%</td>
<td></td>
</tr>
<tr>
<td>California 07</td>
<td>Dan Lungren (R)</td>
<td>48.9%</td>
<td>R+3</td>
</tr>
<tr>
<td></td>
<td>Ami Bera (D)</td>
<td>51.1%</td>
<td></td>
</tr>
<tr>
<td>California 26</td>
<td>Tony Strickland (R)</td>
<td>48.3%</td>
<td>D+2</td>
</tr>
<tr>
<td></td>
<td>Julia Brownley (D)</td>
<td>51.7%</td>
<td></td>
</tr>
<tr>
<td>Iowa 03</td>
<td>Tom Latham (R)</td>
<td>52.3%</td>
<td>R+1</td>
</tr>
<tr>
<td></td>
<td>Leonard Boswell (D)</td>
<td>43.6%</td>
<td></td>
</tr>
<tr>
<td>Illinois 12</td>
<td>Jason Plummer (R)</td>
<td>41.9%</td>
<td>D+2</td>
</tr>
<tr>
<td></td>
<td>William Enyart (D)</td>
<td>51.5%</td>
<td></td>
</tr>
<tr>
<td>Illinois 13</td>
<td>Rodney Davis (R)</td>
<td>46.6%</td>
<td>D+1</td>
</tr>
<tr>
<td></td>
<td>David Gill (D)</td>
<td>46.2%</td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{73} [http://cookpolitical.com/](http://cookpolitical.com/)
Interestingly, the PVI figures hardly correspond to spending data. Arizona’s first district is listed at R+3, yet the Democratic candidate, Ann Kirkpatrick, won the election by a 3% margin. For California’s seventh district, the PVI was listed at R+3 as well, yet Democrat Ami Bera won by 2%. Illinois 12 and Iowa 03 deviated even more from the PVI--Illinois Democrat William Enyart won by almost ten percentage points, despite a PVI of D+2, while Republican Tom Latham of Iowa won his election by 9% in a district that is listed at R+1. In the other two races, California 26 and Illinois 13, the margin of victory was much closer to the PVI. Still though, the fact that the outcomes from four out of six races did not correspond to the PVI indicates that it may not be the best tool with which to speculate on elections.

As it turns out, spending figures are a better indicator of electoral success. Unlike the PVI numbers, both independent and official campaign spending data more accurately predicts election results. Among the house races covered, only Illinois 13 does not follow this trend. Rodney Davis won that district despite having $1.5 million less in independent support than his challenger, David Gill. Even though Davis, a Republican, won with only 0.4% of the vote, the result is not consistent with the rest of the races. The Democratic Congressional Campaign Committee (DCCC), the Democratic Party’s fundraising arm for electing Democratic candidates to the House of Representatives, spent more money trying to elect Gill than they did for any other candidate in the country in 2012--$4.9 million. Yet, this wasn’t enough to propel him to victory. In reality, their support may have hurt Gill’s campaign. A controversial ad depicted Gill talking to citizens about his steadfast refusal of corporate contributions, calling it “legalized bribery.” However, the ad was funded in part by the DCCC, which accepts corporate

74 Similar committees exist for Democratic Senatorial candidates and Republican candidates for both the House of Representatives and Senate. Spending by these groups is independent from campaigns, and works similarly to super PAC spending, or any kind of independent spending.
contributions. Gill’s campaign stumbled with their response to an inquiry in the matter and were criticized for having a hypocritical standpoint. While not a scandal of large proportions, it nonetheless may have offset any gains he would have made with the DCCC’s monetary support.\textsuperscript{75,76}

Apart from the Illinois 13 case, the house races largely followed the expected set of outcomes. Money--both independent and official--is a strong indicator of success, and in the aforementioned Illinois race, the inconsistent result can be at least partially explained by the controversial ad. Again, it is impossible to establish a causal relationship between spending and success; it can only be safely assumed that there is a correlation between the two variables.


Conclusion and Other Thoughts

The observations and analyses from the nine congressional races included in this study highlight a variety of interesting insights. It is clear that in the post-*Citizens United* era of campaign finance, money raised on independent expenditures outweigh the money raised for campaign contributions almost universally. While the races included were all competitive, and thus more likely to attract outside spending, the trend is distinctly moving towards fewer individuals contributing more money to federal races. This has an unquantifiable effect on political efficacy and participation in the democratic process, as ordinary, or average citizens may feel marginalized by the power of the very rich, but it shows no discernible impact on election results. On the whole, it is true that successful candidates had more money spent for them from independent expenditure organizations, but other factors tend to be a better predictor of success than just outside spending. Individual and PAC contributions to campaigns themselves, which are subject to strict limits, still favored winning candidates, suggesting that a monetary advantage is more indicative of a successful campaign than a cause of it. Smaller contributions from a wider range of individuals and organizations suggests a greater level of investment in a campaign, which is then reflected in polling data and the vote count. Massive expenditures by wealthy individuals with unpopular positions (Sheldon Adelson, for example), while helpful for communicating ideas and messages on a mass scale, do not necessarily sway public opinion. It is ultimately up to the candidate to attract a broad base of supporters, and if they are successful, it will yield greater investment and participation, reflected through contributions, and ultimately, votes.
The Connecticut senate race highlights this phenomenon. The Republican candidate, Linda McMahon, held a massive financial advantage over her opponent, yet still lost. This advantage was in the form of self-financing, not independent spending, but it illustrates the same point. Despite spending nearly $50 million on her own senate bid, she failed to attract contributions from a broad base of individuals and political groups, showing that she had a limited base of supporters from the start. It indicates that the financing of a candidate is irrelevant if they do not already have a solid foundation of support, or if they hold unpopular positions. If anything, these kinds of campaigns show that the American people are not so easily persuaded to vote against their convictions, in spite of every intention to make them do so.

The presidential contest unfolded in a similar way, yet on a more massive scale. Independent expenditures for Romney outnumbered those for Obama more than three to one. However, this sizable advantage is trivial considering that only 1% of all individual contributions to IECs provided nearly half of all their money. Conversely, Obama raised more than $230 million in small contributions, while Romney only raised $80 million. More voters were willing to invest in the President’s reelection bid, signifying a larger base of support. Simply put, the large independent expenditures made on behalf of Romney could not help him overcome the vast popularity enjoyed by Obama.

However, there are ways independent expenditures can be a valuable tool. In primary elections, a candidate challenging an incumbent is more likely to be unknown to voters, and can reap large benefits from a strong, independently financed publicity campaign. Certain advocacy groups can use their funds to help defeat an incumbent holding positions in opposition to the

group’s ideology, and to help elect a candidate more agreeable. In the 2012 cycle, this was evident in Indiana, where long time moderate Republican Senator Richard Lugar was ousted in his primary in favor of socially conservative Richard Mourdock. A similar challenge was mounted in Utah to defeat six-term Senator Orrin Hatch in the state’s primary, but he was ultimately successful in his reelection bid. Independent expenditures used this way may affect current legislators’ behavior. For instance, they may be less inclined to defy party conventions for fear of facing a primary challenge in their next reelection bid. If this is true, it will further the partisan divide, place a higher emphasis on ideological concerns, and lessen the ability for legislators to find meaningful, constructive solutions to problems they face. In this way, independent expenditures have the potential to significantly alter the behavior of our politicians for the worse.

Sources of Data

The spending data utilized for this project was taken in large part from the Center for Responsive Politics (CRP), and their website, www.opensecrets.org. This nonpartisan, nonprofit organization collects, organizes, and analyzes information relating to money and politics, including campaign donations, independent spending, candidate self-financing, information relating to the lobbying industry, and a host of other resources. They are able to gather such an extensive amount of data thanks to the laws requiring disclosure of campaign finances. The Federal Election Commission maintains databases with information pertaining to disclosure as well, but the CRP synthesizes it in a way more easily understandable to the average reader. The CRP’s use of this data is unparalleled, and contributes greatly to our understanding of the effects
of money and politics, which promotes political efficacy and democracy in general. They have been an active government watchdog group since 1983, and currently, their resources are utilized extensively by individuals like myself seeking to discover correlations between money and politics. Without such a resource, this research project would have been undeniably more difficult, and on a larger level, our democratic process would be more susceptible to forces seeking to stifle the openness that symbolizes our electoral process. For this, I owe the CRP my gratitude.

Another source used for this research project was the FEC’s website, which, in addition to providing hard campaign finance data, keeps databases of their advisory opinions, definitions, and reading guides for understanding the nuances of campaign finance law. Again, this is beneficial for both my own research, and for our democracy at large. Any individual interested in learning how campaign finance law works in practice can consult the FEC at www.fec.gov.

Areas for Further Research

Noting the possibility for independent expenditures to have a greater effect in primary contests, a logical extension of this research would be to focus exclusively on independent expenditures in primaries. The tools, methodology, and research question could be formed in a similar way, and case studies of individual primary races could be undertaken easily. This project only briefly examines this topic, and a deeper analysis of these elections may further the understanding of the consequences of campaign finance in ways previously unknown or overlooked. An analysis of this kind will require a deep understanding of the development of political parties--how they organize, build a platform, and create agendas--and how they attract a
base of supporters. Most importantly, it will detail why certain candidates are able to attract more outside money, and how that will affect the behavior of federal politicians.

Another possible area for research would be an investigation into the effectiveness of candidate self-financing. Inspired by Linda McMahon’s failed Connecticut senate run, this area of research would help determine--at the very least--the effectiveness of different types of campaign spending. Despite the massive amount of money spent on her campaign and advantage over her opponent, she still lost the election by more than ten percentage points. If that money came from small individual contributions, or even from wealthy super PAC donors, it is likely that her fate would have changed. A greater willingness of others to contribute to a campaign likely indicates more popularity for the candidate, whereas a rich candidate only looks out for their own interests and ignores the signs of a losing campaign. While there is little evidence backing up this claim, a thorough investigation into this would reveal noteworthy insights about the successes of candidates willing to use their own personal wealth to further their political aspirations.
References


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