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LEFT OF CENTER *RIGHT-LEANING*

The Flow of Funding to Conservative and Liberal Political Campaigns, Independent Groups, and Traditional Public Policy Organizations Before and After *Citizens United*

BY MICHAEL E. HARTMANN AND MICHAEL WATSON

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EXECUTIVE SUMMARY

- January 2010's U.S. Supreme Court decision in *Citizens United* held it unconstitutional to limit donations supporting independent political expenditures, provided that neither the expenditures nor the communications are formally "coordinated" with any particular candidate's campaign.
- *Citizens United* and related cases enlarged and spurred creation of new organizations to influence politics and research and inform policy. The case is widely considered to have transformed political spending. A question: did it similarly change philanthropic support of traditional public policy organizations, effectively displacing and shifting support from those organizations to *Citizens United* groups?
- The flow of funding to political campaigns actually increased after *Citizens United*, if measured by comparing total reported receipts of political campaigns during the two full two-year election cycles before the decision (totaling approximately \$8.3 billion in 2005-06 and 2007-08) with those during the two full two-year election cycles after it (\$8.9 billion in 2011-12 and 2013-14).
- The flow of funding to independent groups affected by *Citizens United* also increased after the decision, of course, measured by comparing total estimated independent expenditures by such groups during the two full two-year election cycles before the decision (about \$525.0 million) with those during the two full two-year election cycles after it (\$2.0 billion). The total of these expenditures was still much less than contributions spent directly on politics, however, for the entire studied period.
- Overall funding of traditional public policy groups like think tanks and advocacy groups experienced a substantial increase during the period, as well, measured by comparing a single-year "snapshot" of revenues before *Citizens United* (around \$6.2 billion in 2006) to a single year afterwards (\$9.6 billion in 2014). Instead of *Citizens United* having the effect of allowing displacement of this kind of policy-oriented giving by increased donations to independent groups' political spending, there was probably no displacement.
- According to these snapshots, funding of liberal policy groups in both 2006 and 2014 far exceeded funding directly to Democratic candidates and to liberal independent groups in both two-year cycles of which they are a part. Funding of conservative policy groups in both years was less than that directly to Republicans and more than that to conservative independent groups in the two-year cycles of which they are a part.
- In terms of political outcomes during the 2005-14 period, Republicans generally did better in non-presidential years and at the state level, and Democrats did better in presidential years and at the federal level. In terms of policy outcomes, Republicans probably did better at the state level and Democrats at the federal level, too.
- Another question, then, perhaps even more meaningful in the new policy-making context that began in 2017: what is a donor interested in politics and policy to do? One answer: consider a more sophisticated strategy of targeted contributions—focusing on specific places at strategic times—to particular campaigns, issues, and traditional public policy organizations, using all available legal avenues. In terms of issues and policy groups that engage in research and public education, there are many potential strategic grant-making options for innovative donors to explore.



The Flow of Funding to Conservative and Liberal Political Campaigns, Independent Groups, and Traditional Public Policy Organizations Before and After *Citizens United*

I. Background and Introduction

By a 5-4 vote in its January 2010 *Citizens United v. Federal Election Commission*ⁱ decision, the U.S. Supreme Court held, among other things, that the First Amendment prohibited the Bipartisan Campaign Reform Act of 2002ⁱⁱ (BCRA, also known as the “McCain-Feingold Act” because of its principal sponsors in the U.S. Senate)ⁱⁱⁱ from limiting a nonprofit corporation’s support of independent political expenditures and electioneering communications, provided that neither the expenditures nor the communications are formally “coordinated” with any particular candidate’s campaign. The ruling’s reasoning applies to for-profit corporations, labor unions, other associations, and individuals, as well.

In March 2010’s *SpeechNow.org v. Federal Election Commission*^{iv} decision, the U.S. Court of Appeals for the District of Columbia Circuit—expressly applying *Citizens United*—held that the First Amendment also prohibited limits on the amounts that individuals could donate to organizations that make such independent political expenditures and electioneering communications. The Supreme Court declined to hear an appeal of the D.C. Circuit’s *SpeechNow* decision.

While the *Citizens United* ruling is considered broad by some, neither it nor *SpeechNow* were so broad as to outright strike down limits on contributions to particular political candidates’ campaigns and political parties, however.^v

By an 8-1 vote, *Citizens United* did uphold BCRA’s requirement that donors, and their unlimited donated amounts, to independent political organizations and for electioneering communications must be disclosed to the Federal Election Commission (FEC)—just as with donors, and their limited donated amounts, to particular candidates’ campaigns and political parties. *SpeechNow* followed this precedent, too. Most state agencies and courts that have considered these questions have come to similar conclusions about the funding and operations of groups making independent political expenditures and electioneering communications.

In the wake of *Citizens United*, *SpeechNow*, and FEC advisory opinions about how to apply them to certain sets of facts, there emerged an additional legal avenue for donors interested in public policy to financially support campaigns and public policy research and education—the “independent-expenditure only committees,” or “super PACs” (political action committees), as they are called. These avenues are in the LIST on the next two pages.

LIST: VARIOUS LEGAL AVENUES THROUGH WHICH DONORS MAY FINANCIALLY SUPPORT POLITICAL CAMPAIGNS AND PUBLIC POLICY RESEARCH AND EDUCATION

	LIMITS?	TAX-EXEMPT?	CONTRIBUTION DEDUCTIBLE?	DISCLOSURE REQUIRED?
<p>Political Campaigns</p> <p>Expressly advocate (“vote for” or “vote against”) for election or defeat of clearly identified candidates</p> <p>Examples: Hillary for America, Friends of Scott Walker, Smith for Congress, etc.</p>	Yes	Yes	No	Yes
<p>Internal Revenue Code § 527 Political Action Committees (PACs)</p> <p>Can make contributions to political campaigns that expressly advocate for election or defeat of clearly identified candidates</p> <p>Examples: Republican and Democratic Governors Associations’ PACs, Automotive Free Trade International PAC, Service Employees International Union PACs</p>	Yes	Yes	No	Yes
<p>§ 527 “independent-expenditure only committees” (“super PACs”)</p> <p>Cannot make contributions to political campaigns, but can make “independent expenditures” expressly advocating for election or defeat of clearly identified candidates—with whom the committee cannot “coordinate” any activity</p> <p>Examples: Citizens United, SpeechNow.org</p>	No	Yes	No	Yes
<p>§ 501(c)(3) groups</p> <p>Includes almost all “traditional” public policy recipients; cannot participate in political campaigns, though can conduct research and engage in “public education” about issues</p> <p>Examples: American Enterprise Institute, Americans for Prosperity Foundation, Brookings Institution, Cato Institute, Center for American Progress, Competitive Enterprise Institute, Heritage Foundation, Hoover Institution, Manhattan Institute, New America, State Policy Network</p>	No	Yes	Yes	No

	LIMITS?	TAX-EXEMPT?	CONTRIBUTION DEDUCTIBLE?	DISCLOSURE REQUIRED?
<p>§ 501(c)(4)</p> <p>“Social-welfare organizations;” can engage in political activities, but not as their “primary purpose”</p> <p>Examples: AARP, Americans for Prosperity, Crossroads GPS, Heritage Action, League of Conservation Voters, Moveon.org, NAACP</p>	No	Yes	No	No*
<p>§ 501(c)(5)</p> <p>Labor unions; can engage in political activities, but not as their “primary purpose”</p> <p>Examples: Service Employees International Union, Teamsters</p>	No	Yes	Yes	No
<p>§ 501(c)(6)</p> <p>Trade associations and chambers of commerce; can engage in political activities, but not as their “primary purpose”</p> <p>Examples: Americans for Job Security, U.S. Chamber of Commerce</p>	No	Yes	Yes	No

*Some states include (c)(4)’s within their state disclosure regimes.

II. A Political Transformation

“Super PACS” and other *Citizens United*-type organizations can effectively replace several (though not all) of the roles formerly played by campaigns and parties. There is a widespread perception that *Citizens United* has thus diminished the power of campaigns and parties. This diminishment is widely recognized to have transformed the political landscape of the country, for good or ill.

A. Political Campaigns

Merely comparing the aggregated total receipts of federal, state, and local political campaigns during the two full two-year election cycles immediately preceding *Citizens United* (2005-06 and 2007-08) with the two full election cycles after it (2011-12 and 2013-14), however, shows total receipts increased overall by 6.5 percent, from approximately \$8.4 billion to \$8.9 billion. This is according to data publicly available from the Federal Election Commission (FEC) and state election and disclosure agencies, compiled by the National Institute for Money in State Politics (NIMSP).

Using two full cycles for both before and after the decision allows for the inclusion of both a presidential and non-presidential cycle in each case. These data are shown in TABLES 1 through 3 on page 7 and reflected in TIMELINE CHART 1 on page 8.

McCUTCHEON

In April 2014's *McCutcheon v. Federal Election Commission*, which expanded *Citizens United*, the U.S. Supreme Court—by another 5-4 vote—held that the First Amendment prohibited the government from restricting total overall contributions that an individual can make over a two-year period to national party and federal candidate committees. *McCutcheon* may have had an effect of increasing the amount of money received by campaigns during the 2013-14 cycle and will very likely increase this amount in the future.

As shown by the data, for all Republican campaigns, reported receipts grew 25.4 percent, from about \$3.8 billion during the two full pre-*Citizens United* cycles to \$4.7 billion for the two full cycles after it; for Democratic campaigns, though, they decreased 9.1 percent, from around \$4.6 billion before to almost \$4.2 billion afterwards.

In each two-cycle period, there are more in reported overall receipts for the presidential cycle than the non-presidential cycle, for both Republican and Democratic campaigns. Tracking political campaign outcomes during the entire 2005-14 period, generally speaking, Republican victories occurred in the non-presidential cycles and Democrat ones coincided with presidential election years/biennials.

(Donald Trump's victory in 2016 may seem to stand in some contrast to this observation, but only if he is considered a "traditional" Republican candidate and his a "traditional" campaign. In the 2015-16 cycle, political campaign receipts overall totaled \$4.9 billion—with the amounts for both Republicans and Democrats totaling between \$2.4 billion and \$2.5 billion.)

During the studied period's two full cycles pre- and post-*Citizens United*, both parties report more in receipts for state and local campaigns in the non-presidential 2005-06 and 2013-14 cycles. In the presidential 2007-08 and 2011-12 cycles, both parties report more in receipts for federal campaigns. Republican victories occurred more frequently at the state level.

The Great Recession that began in 2008 does not seem to have adversely affected the raw amounts of money given to political campaigns.

TABLE 1: REPORTED REPUBLICAN AND DEMOCRAT FEDERAL, STATE, AND LOCAL POLITICAL CAMPAIGN RECEIPTS, 2005-06 TO 2015-16

	2005-06 CYCLE	2007-08 CYCLE	2009-10 CYCLE	2011-12 CYCLE	2013-14 CYCLE	2015-16 CYCLE
REPUBLICAN						
Federal						
Presidential		605,800,000		598,300,000		639,100,000
House	455,002,325	440,511,819	588,959,746	634,479,699	583,766,584	560,999,718
Senate	245,167,514	195,989,209	421,916,580	412,590,173	327,029,995	278,145,262
Total federal	700,169,839	1,242,301,028	1,010,876,326	1,645,369,872	910,796,579	1,478,244,980
State and local	1,136,838,417	704,514,104	1,415,612,664	885,744,229	1,302,207,248	978,757,770
TOTAL REPUBLICAN	1,836,838,256	1,946,815,132	2,426,488,990	2,531,114,101	2,213,003,827	2,457,002,750
DEMOCRAT						
Federal						
Presidential		1,075,700,000		772,400,000		799,500,000
House	416,820,304	539,440,778	510,778,401	486,798,342	446,776,312	476,406,846
Senate	312,245,185	237,236,304	314,766,965	307,868,409	295,138,920	311,323,789
Total federal	729,065,489	1,852,377,082	825,545,366	1,567,066,751	741,915,232	1,587,230,635
State and local	1,199,070,609	796,299,610	1,215,324,951	714,243,124	1,139,209,260	851,557,413
TOTAL DEMOCRAT	1,928,136,098	2,648,676,692	2,040,870,317	2,281,309,875	1,881,124,492	2,438,788,048
TOTAL FOR BOTH MAJOR PARTIES	3,764,974,354	4,595,491,824	4,467,359,307	4,812,423,976	4,094,128,319	4,895,790,798

Total receipts reported to Federal Election Commission (FEC) for 2008, 2012, and 2016 presidential campaigns and 2006, 2008, 2010, 2012, 2014, and 2016 U.S. House and Senate campaigns as of the end of each two-year campaign period, published online by FEC as of July 7, 2017.

Total receipts reported to state election/disclosure agencies as compiled by National Institute on Money in State Politics (NIMSP) for state and local campaigns in 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016, as published online by NIMSP as of July 9, 2017.

TABLE 2A: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS FROM 2005-08, BEFORE *CITIZENS UNITED*

Republican	3,783,653,388
Democrat	4,576,812,790
Total	8,360,466,178

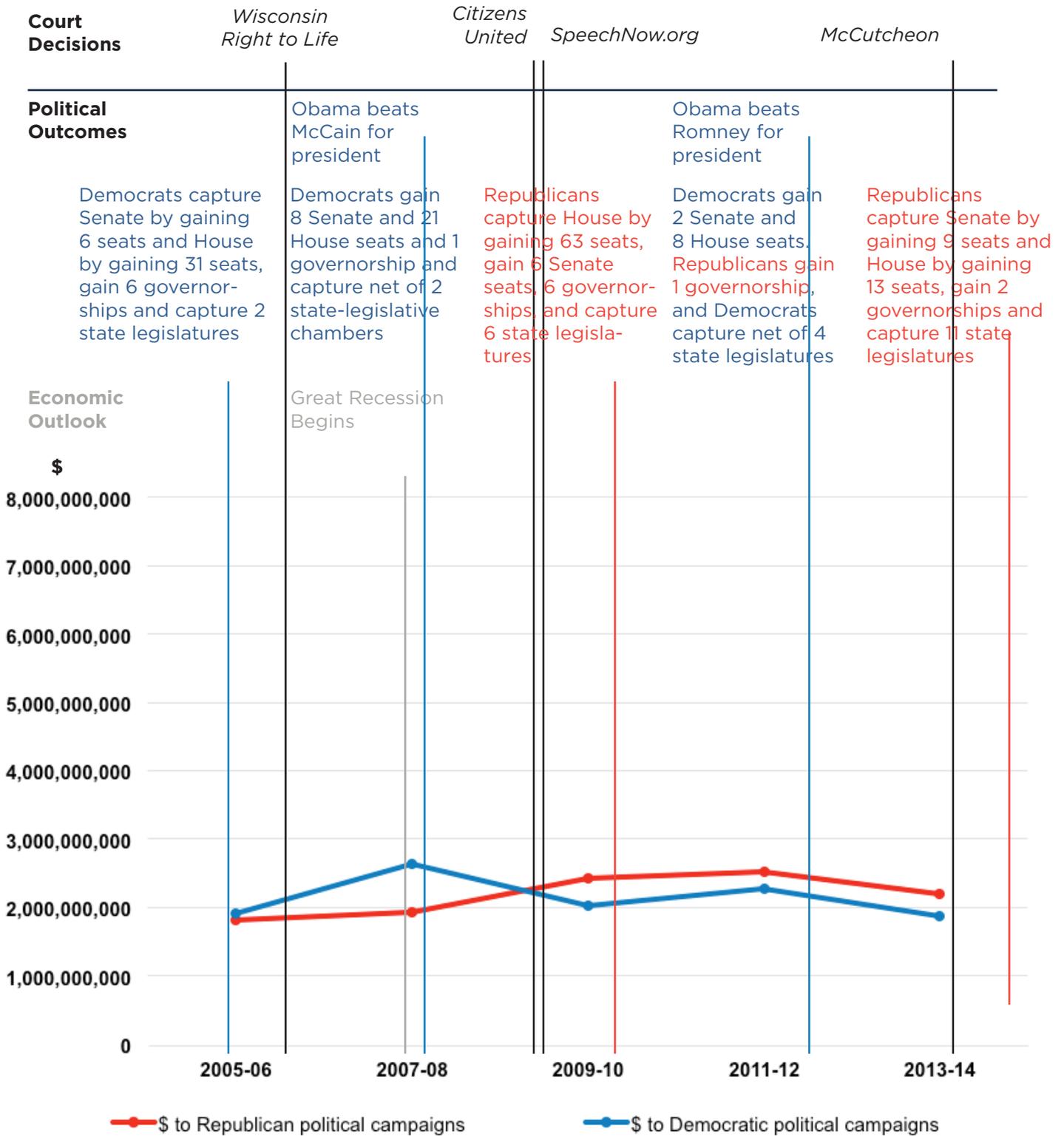
TABLE 2B: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS FROM 2011-14, AFTER *CITIZENS UNITED*

Republican	4,744,117,928
Democrat	4,162,434,367
Total	8,906,552,295

TABLE 3: PERCENTAGE CHANGE IN AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS, BEFORE AND AFTER *CITIZENS UNITED*

Republican	25.4
Democrat	-9.1
Total	6.5

TIMELINE CHART 1: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS FROM 2005-14



B. Independent Spending

Merely comparing the estimated aggregated total independent spending by conservative and liberal groups in federal elections and reported independent spending for Republicans and Democrats in state elections during the two full two-year election cycles immediately preceding *Citizens United* (2005-06 and 2007-08) with the two full election cycles after it (2011-12 and 2013-14) shows spending increased substantially—by 278.3 percent, from approximately \$525.0 million to \$2.0 billion.

This is according to data reported to and publicly available from the FEC as compiled and categorized by the Center for Responsive Politics (CRP) and from state election/disclosure agencies compiled by NIMSP, as shown in TABLES 4 through 6 on the next three pages and reflected in TIMELINE CHART 2 on page 13.

As shown by the data, estimated spending by conservative groups in federal elections collectively grew 684.0 percent, from about \$131.0 million to \$1.0 billion. By liberal groups, it grew 124.7 percent, from just more than \$235.0 million to almost \$528.0 million. The CRP-compiled federal data do not include spending by party committees.

In state elections, independent spending grew 172.7 percent, from about \$159.0 million to \$434.0 million. These NIMSP-compiled state data do not include party spenders.

During the 2005-14 period, conservative and Republican victories generally occurred in the non-presidential cycles, and liberal and Democrat wins coincided with presidential election biennials. (Once again, Donald Trump's victory in 2016 may seem to stand in contrast to this observation, if he is considered a "traditional" Republican candidate and his a "traditional" campaign.)

Yet again, during the studied 2005-2014 period, conservative and Republican victories were more likely to be achieved at the state level.

Overall from 2005 to 2014, in percentage terms, money given to independent groups far outgrew traditional, or "normal," direct campaign activity after the 2010 decision. In raw-dollar amounts, however, direct campaign activity nonetheless remained much larger than independent group activity.

WISCONSIN RIGHT TO LIFE

In *Federal Election Commission v. Wisconsin Right to Life* in June 2007—three years before *Citizens United*, though by another 5-4 vote—the U.S. Supreme Court held that the First Amendment prohibited the government from preventing corporations and unions from directly or indirectly funding "electioneering communications." BCRA had sought to bar spending by outside groups on these communications, defined as broadcast advertisements costing in excess of an aggregated \$10,000 that even mentioned a federal candidate within 30 days of a primary election or 60 days of a general election.

Wisconsin Right to Life may have had an effect of increasing the spending by outside groups during the 2007-08 cycle and those cycles thereafter.

TABLE 4: ESTIMATED AGGREGATED TOTAL INDEPENDENT SPENDING BY CONSERVATIVE & LIBERAL GROUPS IN FEDERAL ELECTIONS AND REPORTED FOR REPUBLICANS & DEMOCRATS IN STATE ELECTIONS, 2005-06 TO 2015-16

	2005-06 CYCLE	2007-08 CYCLE	2009-10 CYCLE	2011-12 CYCLE	2013-14 CYCLE	2015-16 CYCLE
By conservative groups in federal elections, excluding party committees	18,600,000	111,900,000	189,300,000	719,900,000	303,200,000	810,000,000
By liberal groups in federal elections, excluding party committees	39,300,000	195,900,000	104,300,000	293,400,000	235,000,000	566,600,000
In state elections, excluding party spenders	92,672,565	66,639,252	130,553,095	1,433,167,939	291,322,052	279,208,076
TOTAL FOR BOTH IDEOLOGIES/ PARTIES	150,572,565	374,439,252	424,183,095	1,156,467,939	829,522,052	1,655,808,076

Independent expenditures, electioneering communications, and communication costs reported to FEC as compiled and categorized by Center for Responsive Politics (CRP) for 2006, 2008, 2010, 2012, 2014, and 2016 as of the end of each two-year campaign period, as published online by CRP as of February 2, 2018.

Independent expenditures and electioneering communications reported to state election/disclosure agencies as compiled by NIMSP for state campaigns in 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016, as published online by NIMSP as of February 2, 2018. (NIMSP's independent-spending database does not include 2005.)

TABLE 5A: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS & ESTIMATED EXPENDITURES BY INDEPENDENT GROUPS FROM 2005-08, BEFORE *CITIZENS UNITED*

	\$ TO POLITICAL CAMPAIGNS	\$ SPENT BY INDEPENDENT GROUPS	TOTAL
Republican Conservative groups in federal elections, excluding party committees	3,783,653,388	130,500,000	
Democrat Liberal groups in federal elections, excluding party committees	4,576,812,790	235,200,000	
State elections, excluding party spenders		159,311,817	
TOTAL	8,360,466,178	525,011,817	8,885,477,995

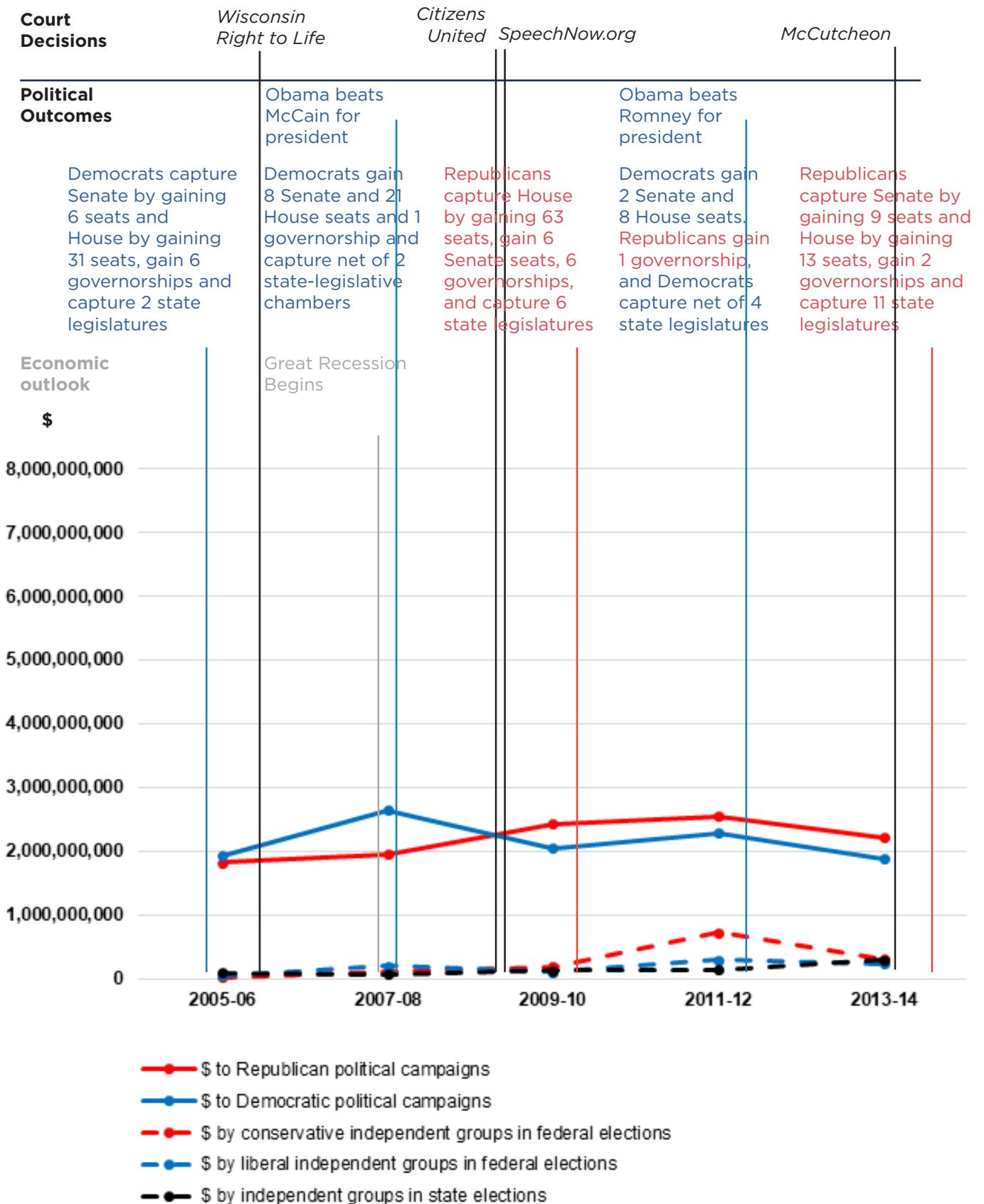
TABLE 5B: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS & ESTIMATED EXPENDITURES BY INDEPENDENT GROUPS FROM 2011-14, AFTER *CITIZENS UNITED*

	\$ TO POLITICAL CAMPAIGNS	\$ SPENT BY INDEPENDENT GROUPS	TOTAL
Republican Conservative groups in federal elections, excluding party committees	4,744,117,928	1,023,100,000	
Democrat Liberal groups in federal elections, excluding party committees	4,162,434,367	528,400,000	
State elections, excluding party spenders		434,489,991	
TOTAL	8,906,552,295	1,985,989,991	10,892,542,286

TABLE 6: PERCENTAGE CHANGE IN AGGREGATED TOTAL POLITICAL-CAMPAIGN RECEIPTS & ESTIMATED EXPENDITURES BY INDEPENDENT GROUPS, BEFORE AND AFTER *CITIZENS UNITED*

	% CHANGE IN \$ TO POLITICAL CAMPAIGNS FROM 2005-08 TO 2011-14	% CHANGE IN MONEY SPENT BY INDEPENDENT GROUPS FROM 2005-08 TO 2011-14
Republican	+25.4	
Conservative groups in federal elections, excluding party committees		+684.0
Democrat	-9.1	
Liberal groups in federal elections, excluding party committees		+124.7
State elections, excluding party spenders		+172.7
TOTAL	+6.5	+278.3

TIMELINE CHART 2: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS AND ESTIMATED EXPENDITURES BY INDEPENDENT GROUPS FROM 2005-14



III. A Philanthropic Transformation?

While election spending after *Citizens United* undoubtedly increased (in both absolute dollars and as a percentage of growth), few observers have considered whether the decision transformed “traditional” public policy philanthropy, that is, giving to 501(c)(3) groups like think tanks. Has this changed too, though, and if so, how?

A. Numerical “Snapshots” and the Nature of Public Policy Philanthropy

1. Numerical “Snapshots”

In terms of raw dollars, it is difficult to measure reliably whether *Citizens United* has changed (much less transformed) public policy philanthropy. It may be possible, however, to take numerical “snapshots” and identify rough trends in such philanthropy before and after the 2010 decision.

To begin to make such broad “trend claims,” we examined the publicly available revenue figures in 2006 (before *Citizens United*) and 2014 (after the decision) for “traditional” public policy organizations that received financial support from six conservative and six liberal philanthropies, including donor-advised funds. For conservatives, the examination additionally includes the revenues for groups that are members and associate members of the State Policy Network (SPN), a group of conservative state-level think tanks.

In 2006, the sum of reported revenues received by 372 groups supported by the selected conservative grantmakers—the Bradley Foundation, the Bradley Impact Fund, Donors Trust, the Charles Koch Foundation, the Sarah Scaife Foundation, and the Searle Freedom Trust—and SPN members totaled almost \$1.3 billion. In 2014, the same revenues totaled just less than \$2.2 billion, a roughly 71 percent increase over 2006 levels.

In 2006, the sum of reported revenues of 1,078 groups supported by the selected liberal grantmakers—Community Initiatives, the Marisla Foundation, NEO Philanthropy, the Open Society Foundations, the Proteus Fund, and the Tides Foundation—totaled over \$4.9 billion. In 2014, they exceeded \$7.4 billion, about a 50 percent increase.

These sums are shown in TABLES 7 through 8 on the next two pages and reflected in TIMELINE CHART 3 on page 17.

SELECTED PHILANTHROPIES THAT SUPPORT “TRADITIONAL” PUBLIC-POLICY ORGANIZATIONS

CONSERVATIVE

Bradley Foundation
Bradley Impact Fund
Donors Trust
Charles Koch Foundation
Sarah Scaife Foundation
Searle Freedom Trust

LIBERAL

Community Initiatives
Marisla Foundation
NEO Philanthropy
Open Society Foundations
Proteus Fund
Tides Foundation

Based on these quick point-in-time “snapshots,” the trend appears to be an appreciable increase in support of “traditional” public policy recipients, post-*Citizens United*. In percentage terms, this increase would be bigger for conservative groups. In raw-dollar terms, support of liberal groups would remain much, much larger.

Support of conservative public policy recipients exceeds that for conservative independent groups in elections and approaches the amount given directly to Republican candidates. Support of liberal policy groups remain far in excess of financial support for both liberal independent groups in elections and funds contributed directly to Democrat candidates.

It might be worth more closely examining the direct political and independent-group amounts in the 2013-14 cycle versus the sum of reported revenues to the policy-oriented (c)(3) recipients in 2014. Unlike amounts given to the political and independent groups, the giving to nonprofits was not even close to being distributed equally between liberal and conservative organizations.

As shown in PIE CHART 1 on page 19, for Republicans during the 2013-14 cycle, federal and state campaign receipts were 54.1 percent of the total overall amount. For Democrats, they were 45.9 percent of the total. In the same cycle, as shown in the following PIE CHART 2, independent spending by conservatives on federal elections was 56.3 percent of the total, and for liberals, it was 43.7 percent of the overall amount.

In 2014, however, the reported revenues of the 372 groups supported by the selected conservative grant makers summed almost \$2.2 billion, or 22.7 percent of the overall amount, as shown in PIE CHART 3. The sum of reported revenues of the 1,078 groups supported by the selected liberal grant makers was more than \$7.4 billion, or around 77.3 percent of the total.

TABLE 7A: TOTAL RECEIPTS OF SELECTED “TRADITIONAL” PUBLIC POLICY NONPROFIT RECIPIENTS IN 2006, BEFORE *CITIZENS UNITED*

Conservative	1,275,252,885
Liberal	4,948,333,644
Total	6,223,586,529

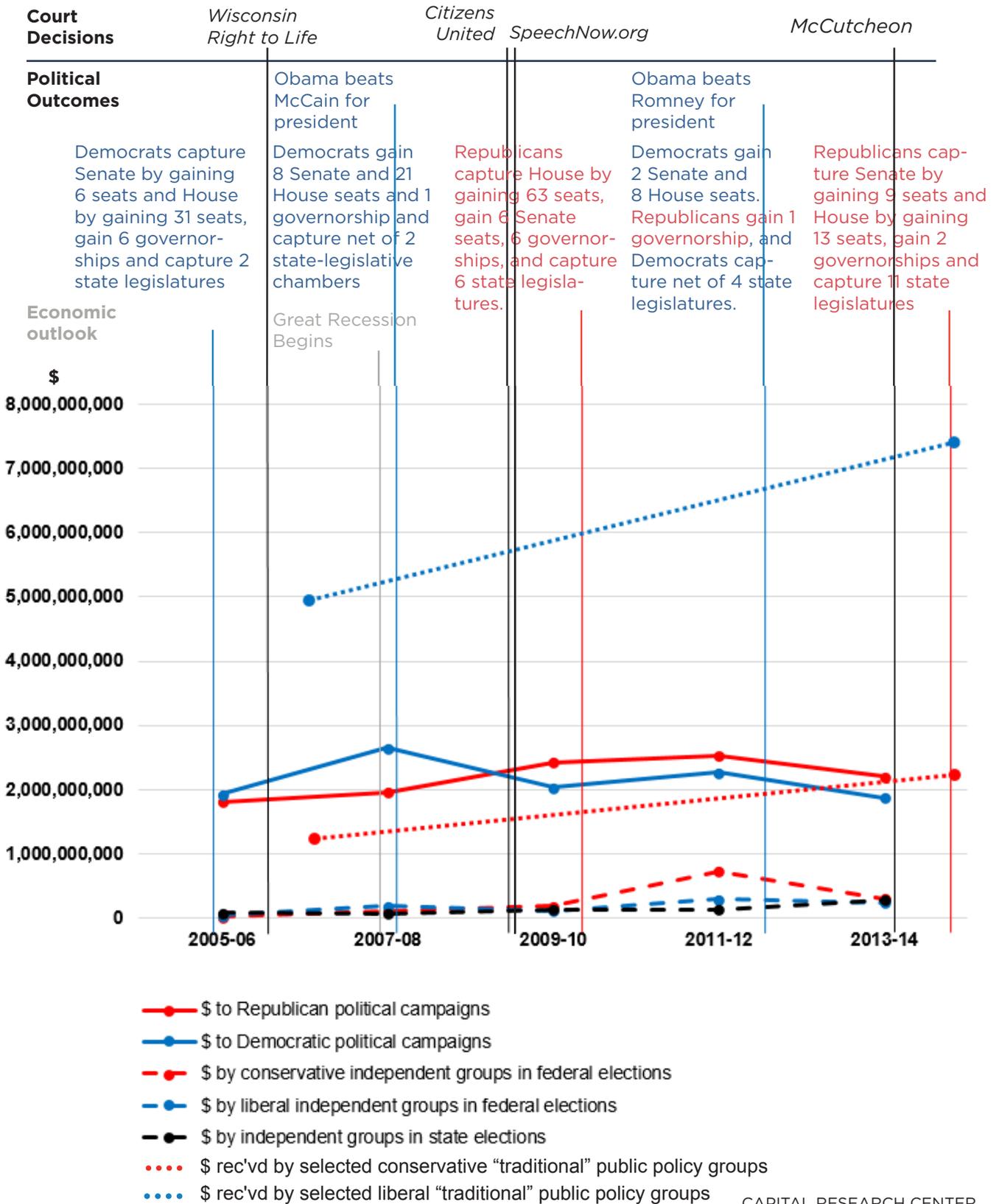
TABLE 7B: TOTAL RECEIPTS OF SELECTED “TRADITIONAL” PUBLIC POLICY NONPROFIT RECIPIENTS IN 2014, AFTER *CITIZENS UNITED*

Conservative	2,183,260,640
Liberal	7,447,972,154
Total	9,631,232,794

TABLE 8: PERCENTAGE CHANGE IN AGGREGATED TOTAL AMOUNTS DIRECTLY TO POLITICAL CAMPAIGNS, ON EXPENDITURES BY INDEPENDENT GROUPS, AND IN RECEIPTS OF SELECTED “TRADITIONAL” PUBLIC POLICY RECIPIENTS, BEFORE AND AFTER *CITIZENS UNITED*

	% change in \$ to political campaigns from 2005-08 to 2011-14	% change in money spent by independent groups from 2005-08 to 2011-14	% change in \$ received by selected “traditional” 501(c)(3) public policy recipients from 2006 to 2014
Republican	+25.4		
Conservative groups in federal elections, excluding party committees		+684.0	
Conservative			+71.2
Democrat	-9.1		
Liberal groups in federal elections, excluding party committees		+124.7	
Liberal			+50.5
State elections, excluding party spenders		+172.7	
TOTAL	+6.5	+278.3	+54.8

TIMELINE CHART 3: AGGREGATED TOTAL POLITICAL CAMPAIGN RECEIPTS AND ESTIMATED EXPENDITURES BY INDEPENDENT GROUPS FROM 2005-14, AND TOTAL RECEIPTS OF SELECTED "TRADITIONAL" PUBLIC POLICY RECIPIENTS IN 2006 AND 2014



In other words, the overall revenue of the liberal groups was more than three times that of their conservative counterparts. Even if discounting for reasonable disagreements about definitions of “liberal” and “conservative,” this is a lopsidedly unequal picture of support in this third flow of giving.

2. The Nature of Public Policy Giving

Determining with certainty whether *Citizens United* has changed, much less transformed, the nature of public policy philanthropy by rewarding “short-term” and “political” outcomes, may be impossible. Observers can reasonably conclude that philanthropically supported traditional public policy organizations—for good or ill—are more cognizant of the electoral ramifications of their activities than they used to be. But whether difficult or not, researchers should continue to study the types of changes in funding patterns of direct candidate support, indirect political spending, and nonprofit research and public education.

ONE PARTICULAR ASPECT OF THE PHILANTHROPIC IMBALANCE

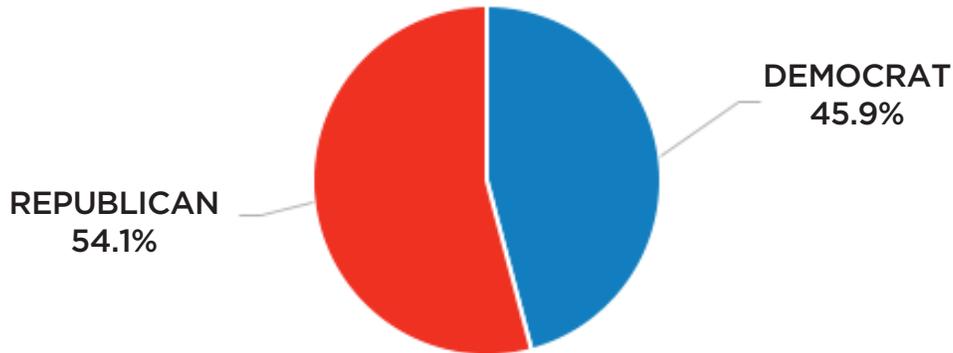
For a March 2017 Manhattan Institute paper, [*When Policy-Oriented Foundations Sunset*](#), the Institute’s Howard Husock created a database of 64 major U.S. philanthropic foundations that have a record of funding research aimed at influencing public policy from 2000-15. The value of that particular form of philanthropy was estimated by Giving USA to equal \$26.9 billion, or 7 percent of all philanthropy, in 2015. Fifty-two of these foundations, Husock found, had an identifiable political perspective on policy outcomes and could be characterized as either conservative or liberal. Based on their mission statements, 28 of these foundations are right-leaning, and 24 are left-leaning.

Right-leaning foundations were identified from a 2004 report published by the National Committee for Responsive Philanthropy on conservative public policy foundations. In addition to those from the 2004 report, four additional major foundations were added: the Searle Freedom Trust, the William E. Simon Foundation, the John Templeton Foundation, and the Adolph Coors Foundation. The list was checked against, and complemented by reference to, *The Right Guide*. *The Left Guide* was the basic resource used to identify left-leaning public policy foundations. This guide was supplemented by a review of philanthropic media through the Google News search function for media analysis and mentions of major liberal public policy foundations.

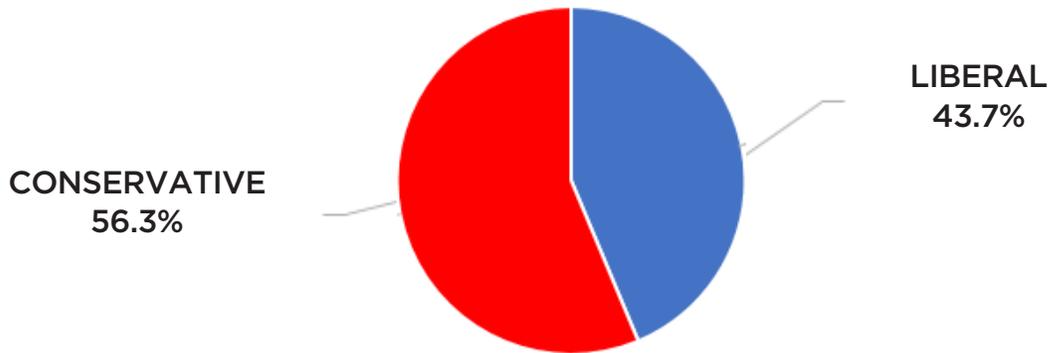
Husock and his team graciously made the database available to us. If the overall annual contributions by these 28 right-leaning and 24 left-leaning foundations were combined into two-year totals to allow for comparison with the two-year election cycles from 2005-06 to 2013-14, this type of big philanthropic giving itself exceeds both direct political giving and independent spending in each cycle—usually by approximately \$1.0 billion, but by even more in 2009-10, when it almost doubled the total of the other two categories. In 2013-14, for example, contributions by these foundations totaled just less than \$6.5 billion, compared with the \$4.0 billion contributed to politics directly and \$850,000 in independent spending.

The liberal foundations outspent the conservative ones in each year, by rough magnitudes of 5.1:1 in 2005, 4.9:1 in '06, 3.8:1 in '07, 4.6:1 in '08, 5.0:1 in '09, 1.2:1 in '10 (when the Walton Family Foundation, considered right-leaning, made a number of unusually large gifts), 3.4:1 in '11, 3.1:1 in '12, 4.1:1 in '13, and 3.3:1 in '14. In 2014, the conservative foundations made contributions totaling just more than \$2.2 billion, and the liberal foundations contributed more than \$7.4 billion.

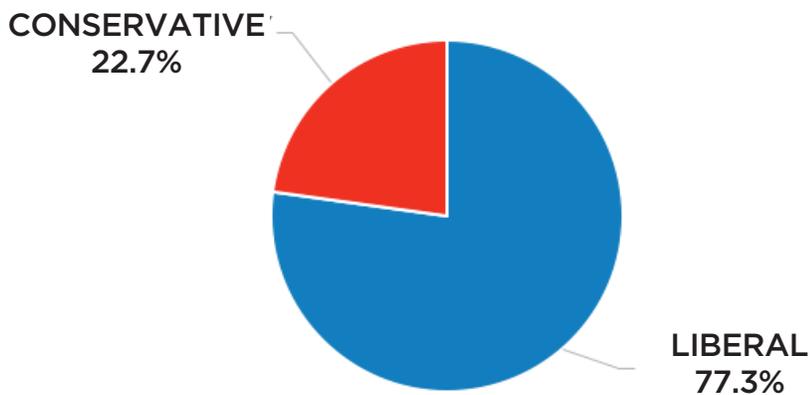
PIE CHART 1 Federal, state, and local campaign receipts, 2013-14 (\$4.1 billion)



PIE CHART 2 Independent spending on federal elections, 2013-14 (\$538.0 million)



PIE CHART 3 Receipts of selected “traditional” public policy non-profits, 2014 (\$9.6 billion)



B. Options for the Future

In examining options for future policy-oriented giving based on observations of the recent past, liberals and Democrats seem to be scoring meaningful political, policymaking, and legal victories post-*Citizens United*—despite what are sometimes clamorous claims to the contrary about conservative gains from the decision—especially in the 2011-12 presidential cycle. The huge federal Affordable Care Act (passed in 2010 and known as “Obamacare”) may be the foremost example.

Conversely, conservatives and Republicans have made meaningful achievements at the state level and in the non-presidential cycles. Some important and potentially pathbreaking state employee-rights policy changes (e.g., right-to-work laws) and a few legal decisions upholding them are the most notable examples. For conservatives, however, it might be worth wondering about another question: have these victories been worth the hyped increased investment of conservative donors—in either political campaigns, *Citizens United* independent groups, or traditional public policy philanthropy?

Moving forward, for liberal givers interested in effectively influencing public policy, the best option may essentially be the status quo, perhaps with a greater emphasis on state-level activity and in non-presidential cycles, using all available legal avenues.

Conservatives interested in effectively influencing policy outcome may seriously consider:

1. “doubling down” on contributions to political campaigns;
2. “doubling down” on support of *Citizens United* independent groups, especially considering donors have a greater chance of exercising more input or control over those groups’ activities;
3. withdrawing or seriously curtailing such political and related giving in favor of supporting traditional policy groups; or,
4. a more nuanced (and complicated) giving strategy that would involve targeted contributions—in specific places, at strategic times—to particular campaigns, issues, and traditional public policy organizations, using all available legal avenues, with the size of contributions varying based on the anticipated effectiveness of the outcome.

The fourth option won’t be for the faint of heart or for donors who prefer to set their giving practices to autopilot. However, from our experience observing the philanthropic landscape during the pre- and post-*Citizens United* cycles, an increasing number of donors truly interested in affecting policy change are beginning to engage in innovative and entrepreneurial thinking. Some find it best to pursue short-term, low-cost projects (“low-hanging fruit”), while others seek out projects that will require multi-year commitments. Independently minded donors are supporting projects that require fewer resources and those that can be pursued without partners or in a limited geographic area. Some with a longer view are supporting projects and plans that require collaboration and maybe time, but hold potential for structural change.

IV. Summary and Conclusion

Overall, giving directly to politics increased after *Citizens United*; giving to independent groups increased after the decision, too, of course—more so to conservative organizations than liberal ones, but the totals to these groups were still less than that directly to political candidates (regardless of party).

Giving to “traditional” public policy groups seems to have increased as well, but much more to liberal nonprofits than conservative ones. Giving to liberal policy groups, in fact, likely far exceeds contributions made directly to Democrats; giving to conservative policy groups is probably closer to the amount directly contributed to Republican candidates.

In the *Citizens United* world—given the political and policy outcomes since 2010, the availability of data, and the new policymaking context in which decisions are now being made—donors interested in politics and policy should explore strategic grantmaking options to give more efficiently and intelligently in more-targeted ways, using all available legal means that would allow them.



Michael E. Hartmann is Senior Fellow and Director, Center for Strategic Giving, and Michael Watson is a Researcher at Capital Research Center, Washington, D.C.

- ⁱ 558 U.S. 310, 130 Sect. 876 (2010).
- ⁱⁱ Pub.L. 107-155, 116 Stat. 81, enacted March 27, 2002, H.R. 2356.
- ⁱⁱⁱ Republican Sen. John McCain of Arizona and former Sen. Russ Feingold, a Democrat from Wisconsin.
- ^{iv} 599 F.3d 686 (D.C. Cir. 2010).
- ^v In November 2016, a three-judge panel of the U.S. District Court for the District of Columbia upheld BCRA's limit on donations to state and local political parties that have an effect on federal election activity. *Republican Party of Louisiana, et al. v. FEC* (Case 1:15-cv-01241-CRC-SS-TSC, Nov. 7, 2016). In May 2017, the U.S. Supreme Court affirmed this judgment.



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