

Does Money Matter in Political Campaigns?



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Supporting Questions

1. How much does it cost to become a member of Congress?
2. Where do politicians get their campaign contributions?
3. How do super PACs play a role in political campaigns?
4. Should the government limit contributions to political campaigns?



12th Grade Campaign Finance Inquiry

Does Money Matter In Political Campaigns?

New York State Social Studies Framework Key Idea & Practices

12.G4 POLITICAL AND CIVIC PARTICIPATION: There are numerous avenues for engagement in the political process, from exercising the power of the vote to affiliating with political parties to engaging in other forms of civic participation. Citizens leverage both electoral and non-electoral means to participate in the political process.

✔ **Gathering, Using & Interpreting Evidence** ✔ **Civic Participation**

Staging the Question

Analyze correspondence between political parties and corporations/CEOs to determine if funding is tied to political favors.

Supporting Question 1	Supporting Question 2	Supporting Question 3	Supporting Question 4
Research Opportunity	Research Opportunity		
How much does it cost to become a member of Congress?	Where do politicians get their campaign contributions?	How do super PACs play a role in political campaigns?	Should the government limit contributions to political campaigns?
Formative Performance Task	Formative Performance Task	Formative Performance Task	Formative Performance Task
List how much money members of Congress spent on their last campaigns.	Write 1–2 paragraphs explaining the ways that individuals and companies can donate to political candidates.	Create a graphic organizer that defines super PACs and explains their role in political campaigns.	Write a claim with evidence that answers the supporting question.
Featured Sources	Featured Sources	Featured Sources	Featured Sources
<p>Source A: Current members of the 114th Congress, 2015</p> <p>Source B: Interactive campaign-finance map</p>	<p>Source A: Interactive guide to political donations</p> <p>Source B: Interactive congressional races</p> <p>Source C: Video clip from <i>The Colbert Report</i></p>	<p>Source A: “<i>Civics in a Minute</i>”: <i>What is a Super PAC?</i></p> <p>Source B: <i>Supreme Court Ruling Campaign Finance</i></p> <p>Source C: “Super PAC Mania”</p>	<p>Source A: “The Cost of Campaigns”</p> <p>Source B: <i>Colbert Super PAC—Trevor Potter</i></p> <p>Source C: Collection of essays on campaign finance</p>

Summative Performance Task	ARGUMENT Does money matter in political campaigns? Construct an argument (e.g., detailed outline, poster, essay) that addresses the compelling question using specific claims and relevant evidence from contemporary sources while acknowledging competing perspectives.
	EXTENSION Create a public service announcement that addresses students’ stances on campaign-finance reform.
Taking Informed Action	<p>UNDERSTAND Research five current political campaign ads, noting who is funding each ad and whether the ad is in support of a candidate or against the candidate’s opponent.</p> <p>ASSESS Determine the extent to which candidates (once elected) vote in favor of those who have funded them.</p> <p>ACT Using assorted media platforms, create a presentation that conveys students’ views about campaign-finance reform.</p>



Overview

Inquiry Description

This inquiry leads students through an investigation of campaign finance by examining election costs, expenditures, and the complex relationships between candidates and political-action committees. By investigating the compelling question “Does money matter in political campaigns?” students dissect contemporary political campaigns in order to assess whether or not campaign-finance reform should take place. In investigating contemporary evidence on campaigns and campaign finance, students develop an understanding of who is funding political campaigns and evaluate the extent to which campaign funding is problematic.

In addition to the Key Idea listed earlier, this inquiry highlights the following Conceptual Understandings:

(12.G4c) In addition to voting, there are many ways in which citizens can participate in the electoral process. These include joining a political organization, donating money, and doing volunteer work on a political campaign.

(12.G4d) The United States and New York have political-party systems, and the political parties represent specific political, economic, and social philosophies. Debate over the role and influence of political parties continues, although they play a significant role in United States elections and politics. The role of political parties and the platforms they represent varies among states in the United States.

NOTE: This inquiry is expected to take five to eight 40-minute class periods. The inquiry time frame could expand if teachers think their students need additional instructional experiences (i.e., supporting questions, formative performance tasks, and featured sources). Teachers are encouraged to adapt the inquiries in order to meet the needs and interests of their particular students. Resources can also be modified as necessary to meet individualized education programs (IEPs) or Section 504 Plans for students with disabilities.

Structure of the Inquiry

In addressing the compelling question “Does money matter in political campaigns?” students work through a series of supporting questions, formative performance tasks, and featured sources in order to construct an argument with evidence while acknowledge competing perspectives.

Staging the Compelling Question

To stage the compelling question, students analyze a sampler of political correspondence between the two major United States political parties and their financiers. Teachers should give students time to look through and read the documents and then initiate a class discussion based on the information in the letters. Teachers could prompt students by asking basic questions such as “Who are the political parties writing about?” “What do both sides hope to get out of the agreement?” and “Is the funding tied to favors?” During this staging exercise, students should consider the complex nature of political campaigns and finance.



Supporting Question 1

The first supporting question—“How much does it cost to become a member of Congress?”—helps students establish a basic understanding of the overall cost of a congressional campaign. The formative performance task asks students to list how much money House and Senate members from at least five different districts and/or states spent on their campaigns. Students should use the first featured source, Congress’s online database, to locate House and Senate members from across different districts and states. Next, students work with the second featured source, the interactive campaign-finance map from the Federal Election Commission, to find each of the legislators they chose and to learn about his or her campaign spending. Students are also encouraged to seek additional sources through research.

Supporting Question 2

For the second supporting question—“Where do politicians get their campaign contributions?”—students build on their knowledge of campaign finance by investigating who makes campaign contributions. The formative performance task asks students to write 1–2 paragraphs explaining the various ways that individuals and companies can donate to political candidates and their campaigns. The first featured source is an interactive guide from the *New York Times*, which explains how people can donate and the different amounts of money that people and corporations can contribute to political campaigns. The second featured source is an interactive website on congressional campaigns by OpenSecrets.org, which shows who donated money to each congressional member according to the Federal Election Commission records. The final featured source is a video from the *Colbert Report* in which Trevor Potter, former chairman of the Federal Election Commission, explains how PACs work.

Supporting Question 3

By answering the third supporting question—“How do super PACs play a role in political campaigns?”—students analyze the recent growth in super PACs and examine the role they play in funding political campaigns. The first featured source is a brief video from *Take Part* that explains what a super PAC is. The second featured source, a short clip from C-SPAN, presents the ruling in *Citizens United* and how that case has affected the development of super PACs. The last featured source is an article from *Columbia Law Magazine* that discusses the history of campaign finance, the *Citizens United* ruling, and the pervasiveness of super PACs. In the formative performance task, students should use these sources to create a graphic organizer that defines super PACs and explains their role in political campaigns.



Supporting Question 4

Having examined the various ways in which politicians can fund their campaigns, students are asked to consider the final supporting question—“Should the government limit contributions to political campaigns?” The formative performance task requires students to write an evidence-based claim that addresses the supporting question. The first featured source is a short video that provides students with a history of campaign-finance reform and the problems the Federal Election Committee has encountered in regulating campaign finance. The second featured source is another video from the *Colbert Report* in which Stephen Colbert, with the help of former federal election commissioner Trevor Potter, forms a shell corporation in order to keep his donors’ identities private. The final featured source is a set of essays from *Freakonomics*. The first essay is from a former economic adviser to Democratic party candidates in which he discusses the role of contributions in determining elections. The second essay is from an economics professor who uses a repeated-trial hypothesis to argue that election outcomes have very little to do with the money spent during the campaign.

Summative Performance Task

At this point in the inquiry, students have examined the cost and finance of political campaigns as well as the arguments for and against limiting who can contribute to them. Students should be expected to demonstrate the breadth of their understandings and their abilities to use evidence from multiple sources to support their distinct claims. In this task, students construct an evidence-based argument responding to the compelling question “Does money matter in political campaigns?” It is important to note that students’ arguments could take a variety of forms, including a detailed outline, poster, or essay.

Students’ arguments likely will vary, but could include any of the following:

- Money does matter in political campaigns because, without campaign-finance reform, corporations and the wealthy become extremely influential in getting candidates elected.
- Money does not matter in political campaigns because money alone cannot get a candidate elected.
- Money does matter in political campaigns because, even in state elections, the amount of money influencing voters from out-of-state parties is increasing.
- Money does not matter in political campaigns because the groups that directly or indirectly contribute to a politician do so because that politician represents an ideology that is supported by them, placing the influence on the issues, not the politician.

Students could extend these arguments by creating a public service announcement that addresses campaign finance and argues for or against limiting who can contribute to political campaigns. The public service announcements could take the form of a video, radio segment, or class skit.

Students have the opportunity to Take Informed Action by researching current political campaign ads to *understand* who is funding each ad and whether the ad is in support of the candidate or against the candidate’s opponent. Students then *assess* the extent to which candidates (once elected) vote in favor of those who have funded them. Lastly, students can *act* by using assorted media platforms to create a presentation that conveys students’ views about campaign-finance reform.



Staging the Compelling Question

Featured Source

Source A: Democratic National Committee, finance Call Sheet to Glaxo Inc., *Politics and Economy: What Money Buys, Campaign Finance Files*, 1995

Transcript:

DNC FINANCE CALL SHEET

For: Dodd
CALL SHEET PREPARED BY: David Dunphy, Richard Sullivan
DATE: November 13, 1995
NAME: John Gore
TITLE: Vice President Government Affairs
COMPANY: BP
ADDRESS: 1776 Eye Street, NW. Washington, DC
PHONE: -----

ASST NAME:

CONTRIBUTOR HISTORY: BP has given us \$15,000 in 1995 and \$10,000 in 1994.

REASON FOR CALL: Please ask them to give \$85,000 and become Managing Trustees.

ADDITIONAL NOTES: BP has given \$66,000 to Republican committees this year. The Administration helped them out on two major issues this year. The first dealing with deep water drilling in the Gulf of Mexico; and the other, ANS, dealing with oil imports from foreign-owned companies.

RESULTS:

Public domain. To see the original source, click on this link: <http://www.pbs.org/now/politics/cfmemos.html>



Staging the Compelling Question

Featured Source

Source B: Haley Barbour, letter from Haley Barbour to Republican Tom DeLay, *Politics and Economy: What Money Buys, Campaign Finance Files*, 1996

Transcript

May 14, 1996

Hon. Thomas D. DeLay
U.S. House of Representatives
Washington, DC 20515

Dear Congressman DeLay:

It was indeed a pleasure to visit briefly with you last week over dinner during the Team 100 Republican meeting in Washington. While many challenges lie ahead for the Party in 1996, I feel more confident than ever that the Republican Party's Congressional majority will not only prevail, but will increase after the election in November. And, it will be great to once again have our team in the White House.

As we briefly discussed, there is an issue before Congress of significant importance to our company and industry—repeal of the Public Utility Holding Company Act of 1935 (PUHCA). While it is a complex issue and not one that is widely discussed, or understood, it nonetheless presents the Republican Party with an excellent opportunity this year to repeal an outdated and ineffective depression-era law.

Of the 500 electric and gas utilities in the U.S., only 14 companies are regulated by the Act. President Reagan initiated action to repeal PUCHA in the early '80s. Most recently, the Securities and Exchange Commission (SEC), the agency responsible for administering and enforcing the Act, voiced their support for PUCHA repeal.

Senator D'Amato, whose Banking Committee oversees PUHCA, supported by Senators Doyle, Lott, Cochran, Murkowski, Johnston, Dodd and others, has introduced PUHCA repeal legislation in the Senate. Your help would be appreciated in urging House Commerce Committee Chairman Tom Bliley and Energy & Power Subcommittee Chairman Dan Schaefer, to act on PUHCA Repeal legislation this year.

Again, let me say how much I enjoyed visiting with you and I look forward to seeing you again in San Diego if not before. Please feel free to contact me if you have any questions or desire more information on the Public Utility Holding Company Act issue.

Sincerely,

EL/pl

cc: Mr. Haley Barbour

Public domain. To see the original source, click on this link: <http://www.pbs.org/now/politics/cfmemos.html>



Staging the Compelling Question

Featured Source

Source C: Democratic National Committee, fundraiser List, *Politics and Economy: What Money Buys, Campaign Finance Files*, 1996

Transcript:

Counsel Only

Miami, FL

Ask him to serve as a Vice Chair

Stephen Cloobek
Owner, Polo Towers
Nevada, Las Vegas

Stephen committed to write another 25K to get to 50K this year and come to a POTUS coffee. He would like to speak to you about Nevada politics.

Leonard Eber
Kentfield, CA

Ask Leonard for 100K and invite him to attend breakfast on Oct. 13th.

Angeleo Tsakapoulos
CEO, AKT Development Corp.
Sacramento, CA

Thank Angelo for raising money for re-elect. Ask him to become a Managing Trustee and write 100K to come to coffee on Oct. 13.

Sandy Robertson
Managing Partner, Robertson, Stephens and Co.

Gave 100K in 1992. Ask him to give 100K and attend Oct. 13th coffee with POTUS with other San Francisco leaders. (Stu Moldau, Alex)

Bob Kenmore
San Francisco

Heirs to Kenmore fortune. Ask them to give 100K to become Managing Trustees and attend Oct. 13th coffee with POTUS with other leaders from the Bay area.

Confidential Information

Public domain. To see the original source, click on this link: <http://www.pbs.org/now/politics/cfmemos.html>.



Staging the Compelling Question

Featured Source

Source D: Mitch McConnell, letter from Mitch McConnell on the Committee for Economic Development, *Politics and Economy: What Money Buys, Campaign Finance Files, 1996*

Transcript:

May 27, 1999

As Chairman of the National Republican Senatorial Committee and lead defender of the private sector's right to participate in politics, let me express my concern that a serious error has occurred, which may cause some embarrassment to you if it is not immediately corrected.

Evidently, an organization called the Committee for Economic Development has listed you, of all people, as a supporter of its campaign to restrict the political speech rights of individuals, candidates, groups, political parties — and even your own company.

I have attached a page from a report issued by CED that prominently identifies you as a backer of its legislative plan to: deny corporations the right to make perfectly legal non-federal contributions to political parties; restrict the right of political parties to advocate positions on issues; limit the free speech of candidates; and force taxpayers to subsidize political activities with which they may not agree.

If CED's proposal were adopted, the NRSC would lose nearly half its revenues and thus be crippled in its ability to assist Republican candidates. On the other hand, labor unions, trial lawyers and radical environmental groups would remain virtually untouched in their capacity to assist those who share their legislative priorities. In short, CED's plan, which claims you as a supporter, amounts to nothing less than *unilateral disarmament*.

I am certain that CED has invoked your name in error, and to ensure that we quickly put this embarrassment to rest, I would welcome any clarification you can provide.

Sincerely,

Mitch McConnell
Chairman

Public domain. To see the original of this source, click on this link: <http://www.pbs.org/now/politics/cfmemos.html>.



Supporting Question 1

Featured Source

Source A: Staff, current members of the 114th Congress, *Congress.gov*, 2015

NOTE: The screen shot below shows the first page of the [Congress.gov](https://www.congress.gov) website. Teachers and their students can access this page and the information on the site by clicking on this link: <https://www.congress.gov/members>.

The screenshot shows the Congress.gov website. At the top, there is a navigation bar with links for 'Legislation', 'Congressional Record', 'Committees', 'Members', and 'Browse'. A search bar is present with the text 'Examples: Sandy Adams, Zorinsky'. Below the search bar, there is a section titled 'Members of the U.S. Congress'. This section contains three main columns: 'Current Members of the 114th Congress' with search filters for 'Find a Representative' and 'Find a Senator', 'How to Contact Your Member' with links for 'Representatives' and 'Senators', and 'Member Guides' with links for 'GPO Guide to House and Senate Members', 'GPO Mobile Member Guide', and 'Biographical Directory of the U.S. Congress, 1774 - Present'. There are also utility links for 'Print', 'Subscribe', 'Share/Save', and 'Give Feedback'.

All Members

The 'All Members' page features a list of members with various filters. On the left, there are filters for 'Congress' (114 (2015-2016) [542], 113 (2013-2014) [554]), 'Chamber' (House [1,949], Senate [384]), and 'Party'. On the right, there is a 'Results per page' dropdown set to 25. The list shows two members:

- MEMBER**
[Representative Abraham, Ralph Lee](#)
 State: Louisiana
 District: 5
 Party: Republican
 Served: House: 2015-Present
- MEMBER**
[Representative Adams, Alma S.](#)
 State: North Carolina
 District: 12
 Party: Democratic



Supporting Question 1

Featured Source

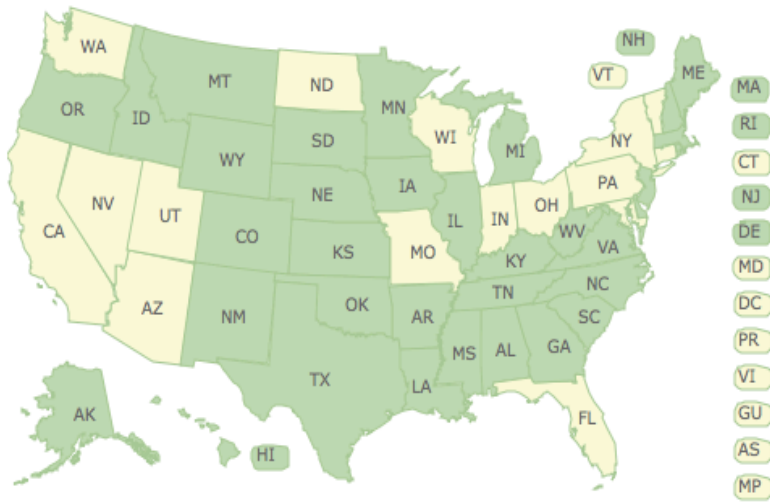
Source B: Federal Election Commission, interactive campaign finance map, *fec.gov*, 2015

NOTE: The screen shot below is of the first page of the *fec.gov* site. Teachers and their students can access this page and the information on the site by clicking on this link: <http://www.fec.gov/disclosurehs/hsnational.do>.

2014 House and Senate Campaign Finance

Election Cycle: 2013-2014 2011-2012 2009-2010 2007-2008

Active Senate Race



What's Included Here?

		Receipts	Disbursements
House	All	\$1,033,962,163	\$960,890,448
	Republican	\$583,690,518	\$534,527,379
	Democrat	\$446,371,376	\$422,497,018
	Other	\$3,900,268	\$3,866,050
Senate	All	\$637,457,101	\$656,189,718
	Republican	\$329,903,057	\$336,777,215
	Democrat	\$299,600,447	\$311,454,580
	Other	\$7,953,596	\$7,957,922

[Click here to find candidates not running in 2013 - 2014](#)

Search by Candidate's Name:

Go



Supporting Question 2

Featured Source







Source A: Alicia Parlapiano, Kevin Quealy, Lisa Waananen, Sergio Pecanha, Derek Willis, Archie Tse, and Alan McLean, Interactive guide to political donations, "From \$25 to \$10,000,000: A Guide to Political Donations," *New York Times*, October 17, 2011

NOTE: This is a screen shot from an interactive article best viewed online at:

http://www.nytimes.com/interactive/2011/10/17/us/politics/a-guide-to-political-donations.html?_r=0

From \$25 to \$10,000,000: A Guide to Political Donations

After the emergence of Super PACs that followed recent court cases, political donors are nearly free to give as they choose, with their decisions guided mainly by how they want to direct their money. Here are a sample of donation goals and the options for achieving them.

 <p>\$5,000</p> <p>An ardent supporter of gun rights wants to donate \$5,000 to an organization that will advance the issue nationwide.</p> <p>HOW IT'S DONE</p>	 <p>\$5,000,000</p> <p>An ardent supporter of gun rights wants to donate \$5,000,000 to an organization that will advance the issue nationwide. He does not want his name publicly disclosed.</p> <p>HOW IT'S DONE</p>	 <p>\$10,000,000</p> <p>A billionaire wants to give \$10,000,000 to help Democrats regain control of the House.</p> <p>HOW IT'S DONE</p>
 <p>\$7,500</p> <p>A small-business owner wants to give \$7,500 to re-elect a senator from her state, and she wants the candidate to have as much control over the money as possible.</p> <p>HOW IT'S DONE</p>	 <p>\$1,000,000</p> <p>A wealthy donor, who prefers to remain anonymous, wants to give \$1 million to help Herman Cain win the Republican nomination.</p> <p>HOW IT'S DONE</p>	 <p>\$1,000,000+</p> <p>A national chain restaurant wants to give millions to advance its own interests, regardless of any political parties.</p> <p>HOW IT'S DONE</p>

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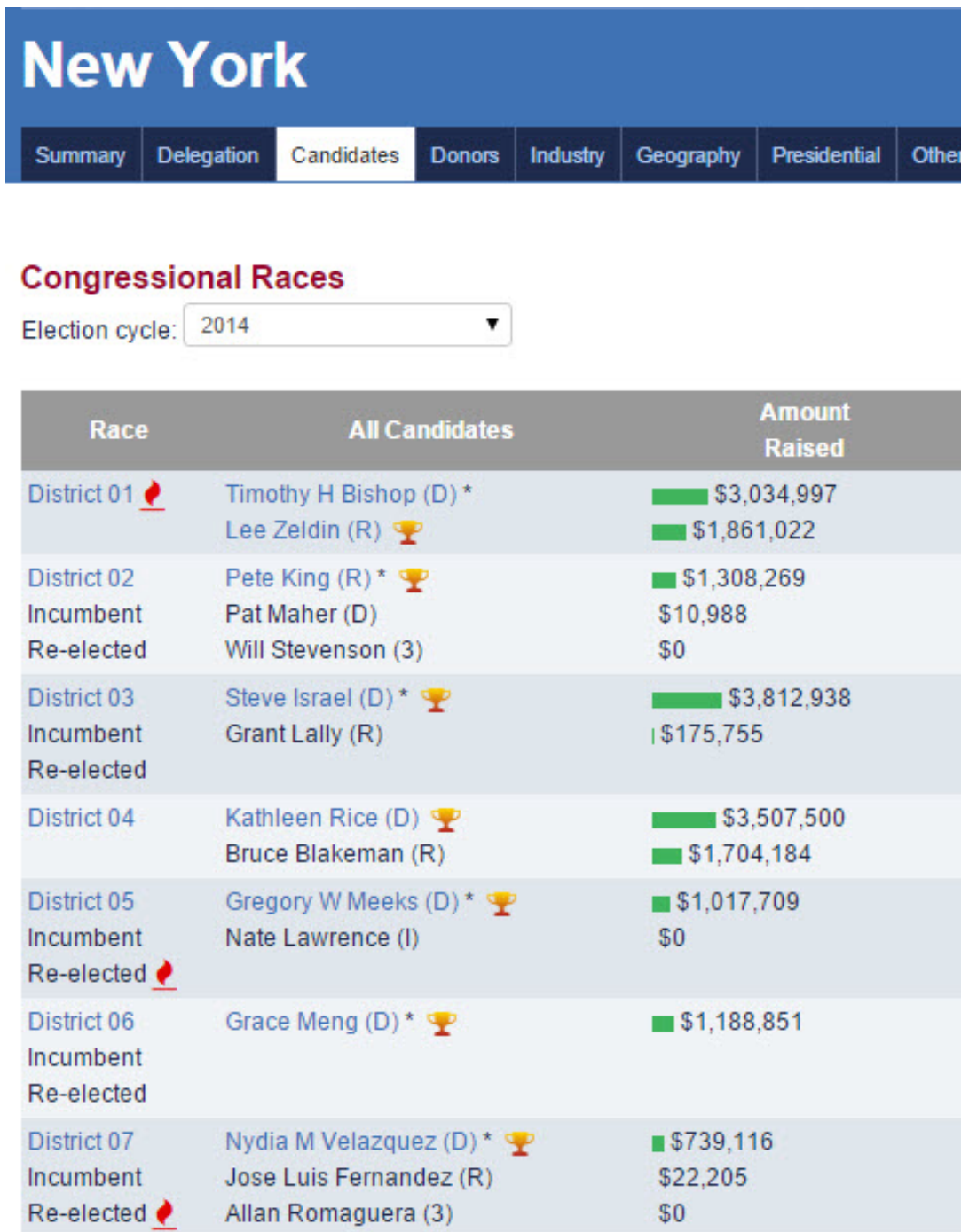
Supporting Question 2

Featured Source

Source B: Center for Responsive Politics, interactive website on congressional races, [opensecrets.org](http://www.opensecrets.org), no date

NOTE: The screen shot below is of the first page of the [opensecrets.org](http://www.opensecrets.org) site. Teachers and their students can access this page and the information on the site, by clicking on this link:

<http://www.opensecrets.org/states/cands.php?cycle=2014&state>.





District 08 Incumbent Re-elected	Hakeem Jeffries (D) * 🏆 Alan Bellone (3)	■ \$1,113,687 \$0
District 09 Incumbent Re-elected	Yvette D Clarke (D) * 🏆 Daniel J Cavanagh (3)	■ \$624,079 \$0
District 10 Incumbent Re-elected	Jerrold Nadler (D) * 🏆 Michael J Dilger (3) Ross Brady (3)	■ \$1,143,416 \$0 \$0
District 11 Incumbent Re-elected 🔥	Michael Grimm (R) * 🏆 Domenic Recchia (D) Hank Bardel (3)	■ \$2,000,574 ■ \$2,479,667 \$0
District 12 Incumbent Re-elected	Carolyn B Maloney (D) * 🏆 Nicholas S Di Iorio (R)	■ \$1,410,064 \$83,767



Supporting Question 2

Featured Source

Source C: Stephen Colbert and Trevor Potter, video explaining the creation of PACs, *The Colbert Report*, 2011

NOTE: To view this video segment from The Colbert Report, teachers and their students can click on this link: <http://thecolbertreport.cc.com/videos/dtl1ew/colbert-pac---trevor-potter>. Teachers should note that an advertisement appears at the beginning of the video.



Supporting Question 3

Featured Source

Source A: Staff, video explaining Super PACs, “‘Civics in a Minute’: What is a Super PAC?” *TakePart*, 2012

NOTE: The screen shot below is of the first page of the *TakePart* site. Teachers and their students can access this page and the information on the site, by clicking on this link: <http://www.takepart.com/video/2012/05/04/what-super-pac-civics-minute>.

'Civics in a Minute': What Is a Super PAC?

TakePart's Jacob Soboroff explains what Super PACs are.

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“Civics in a Minute”: What is a Super PAC?

Super PACs—everybody is talking about them this election cycle. And while they sound like what you might find in a superhero’s tights, they’re actually much more creepy.

PACs, or Political Action Committees, have been around since the 1940s. They’re private organizations that raise money for candidates or issues. Everyone from soda companies to pot smokers can form a PAC, and until recently, there were strict limits on how much money individuals could give to them. That all changed in 2010 when two Supreme Court decisions set off a campaign cash-feeding frenzy.



One said that laws barring corporations and unions from spending money for political purposes violated the first amendment. The second one ruled that caps on how much an individual can give to an independent political organization were also unconstitutional.

And thus, the Super PAC was born! Technically called “Independent Expenditure Only Committees,” Super PACs can raise as much money as humanly possible from corporations, unions, and deep-pocketed fat cats. There are absolutely, positively zero limits on how much money they can raise or spend. And while Super PACs are prohibited from coordinating with individual campaigns, they’re often run by friends or associates of the candidates.

So why does anybody care about these groups? Because we are talking big, big bucks going into influencing our democratic process. As of March 2012, 364 Super PACs had sucked in more than 130 million dollars and spent more than \$75 million supporting their candidate or trashing his opponents.

Are Super PACs destroying our democracy or are they protected by the first amendment? Let us know. Log onto takepart.com/Tuesday, comment right here on this video, subscribe to our channel, and maybe send us a tweet.



Supporting Question 3

Featured Source

Source B: C-SPAN, video clip detailing the Citizens United v. FEC Supreme Court ruling, “Supreme Court Ruling Campaign Finance,” 2012

NOTE: The screen shot below is of the first page of the C-SPAN site. Teachers and their students can access this page and the information on the site, by clicking on this link: <http://www.c-span.org/video/?c3817900/supreme-court-ruling-campaign-finance>.

Supreme court ruling on Campaign Finance

4:10 - 5:56

The screenshot shows a video player interface for a C-SPAN live broadcast. The main video area displays a woman, identified as Melanie Mason, in a studio setting with a cityscape background. A play button is centered over the video. In the top right corner of the video frame, a 'LIVE' indicator shows the time as '4:52 am PT'. Below the video, a yellow banner reads 'SUPREME COURT RULING ON CAMPAIGN FINANCE'. Underneath, a blue banner identifies 'MELANIE MASON' as a 'Los Angeles Times/Chicago Tribune Money & Politics Reporter'. Logos for 'WASHINGTON JOURNAL', 'C-SPAN', and 'C-SPAN.ORG' are visible. A red 'HD' label is in the bottom right. At the bottom of the player, a progress bar shows '01:46' and a 'NEXT' indicator for 'IMPACT OF MEXICAN PRESIDENTIAL ELECTION LIVE 8:30am ET'. Standard video control icons (play, volume, closed captions, full screen, share) are in the bottom right corner.

©Copyright C-SPAN.



Supporting Question 3

Featured Source

Source C: Robert Barnes, article describing the influence of Super PACs, “Super PAC Mania” (excerpts), *Columbia Law School Magazine*, 2012

Super PAC Mania

Super PACs bankrolled by a relatively small number of multimillionaires have changed the landscape of this year’s presidential race. How did we get here, and what can we expect from future elections held in the era of super PACs?

The Supreme Court does not often become a foil for late-night television comedians, and the nation’s complicated campaign finance laws are an unlikely source for comedy. But there was Stephen Colbert on a recent episode of *The Colbert Report* opening with a mini-seminar.

“Folks, it seems like these days, everyone is talking about super PACs, which, thanks to the Supreme Court’s *Citizens United* ruling, can collect and spend unlimited money on political advertising,” Colbert told his viewers, some of whom had already contributed to his own super PAC creation: Americans for a Better Tomorrow, Tomorrow.

Colbert’s super PAC (which has raised more than \$1 million) is not intended to have much impact on the 2012 presidential election, and his understanding of recent Supreme Court precedent may lack nuance. Still, Colbert’s matter-of-fact invocation of *Citizens United v. Federal Election Commission* when discussing the independent campaign spending organizations known as super PACs is an indication of how the case has become embedded in the national conversation during this election season.

It might seem that a Supreme Court decision that drew an immediate and unprecedented rebuke from the president in his State of the Union address could not become more controversial with the passage of time. But that is exactly what has happened to *Citizens United*, the Court’s 5-to-4 ruling in 2010 that allowed unlimited corporate and union spending in candidate elections. The 2012 presidential campaign is unfolding in a never-before-seen wave of spending from wealthy donors and super PACs functioning as shadow fundraising arms of the candidates. *Citizens United*, meanwhile, has become—rightly or wrongly—shorthand for the ills that campaign finance reformers say are fundamentally changing presidential politics.

And despite President Barack Obama’s extremely public campaign finance pronouncement—“I don’t think American elections should be bankrolled by America’s most powerful interests,” he said during the 2010 address to Congress—his reaction to the growing influence of super PACs in 2012 has been to wade into the fray. Obama’s re-election campaign has wholeheartedly endorsed a super PAC organized by former aides and has said Cabinet secretaries, and even senior White House staff, are available to attend fundraisers.

Obama’s campaign managers are quick to assert that they could not unilaterally disarm in the face of super PAC spending that has lapped what the Republican presidential candidates themselves have raised. Restore Our Future, the super PAC supporting Mitt Romney, relies on 16 donors who each contributed \$1 million or more during this campaign cycle; many of the donors have also contributed the maximum amount to Romney’s formal campaign. And while the super PAC that supports Rick Santorum is also technically independent from Santorum’s now suspended campaign, its chief donor, Foster Friess, sometimes traveled with the candidate.



None of this was specifically authorized, or perhaps even contemplated, when the Court made its decision in *Citizens United*, according to Columbia Law School Professor Richard Briffault, who is among the nation's foremost campaign finance authorities. But he says the ruling provided the rationale for subsequent court decisions and Federal Election Commission (FEC) actions that make for profound changes.

"*Citizens United*, particularly the Supreme Court's flat assertion that independent expenditures, whatever their actual effect on the political process, raise no danger of corruption or the appearance of corruption, provided crucial doctrinal support for the legal actions that launched super PACs and have enabled them to flourish," Briffault, the Joseph P. Chamberlain Professor of Litigation, writes in a forthcoming law review article. "The rise of super PACs suggests that the real impact of *Citizens United* may be the re-validation of the unlimited use of private wealth generally in elections, not just spending by corporations and unions."

Whether viewed as a ringing defense of the First Amendment or an abandonment of protections against the corruption of politics, *Citizens United* strikes most experts as extending a strain of Supreme Court jurisprudence that goes a long way toward dooming the campaign finance regulatory regime that Americans enacted after the resignation of President Richard Nixon.

"The post-Watergate system that was created in 1974 is basically on the verge of collapse," says Richard Briffault, adding that the reasoning behind *Citizens United* may curtail future attempts to restrict spending on behalf of candidates. "The Court is making campaign finance law almost impossible."

Briffault and Nathaniel Persily, the Charles Keller Beekman Professor of Law and Professor of Political Science, say attempts to curb the influence of money in politics created a natural tension between free speech and campaign regulation. The Court first dealt with the conflict in its 1976 *Buckley v. Valeo* ruling, holding that campaign contributions could be limited to deal with corruption concerns, but that campaign spending was political speech that should not be confined. The Roberts Court, although closely divided, has been vigilant in rejecting restrictions on independent spending committees, as well, if the result would be less political speech.

Although *Citizens United* dealt with the ability of corporations and unions to use their general treasuries for such spending, the real consequence of the decision has been "to basically unleash money more generally," Briffault says. "So what you're really seeing now with the likes of super PACs is not so much corporate funds as [spending by] wealthy individuals. And the corporations that you are seeing, for the most part, are not business corporations but not-for-profits that have been put together as devices for collecting and pooling and channeling the money of wealthy individuals, and maybe some businesses too."

Persily adds that the ruling gave reassurance to unions, corporations, and wealthy individuals that almost any form of express advocacy would be permitted. "While *Citizens United* itself was not that big an advance in the law, it turned a license for corporate involvement in the political process into a blessing," he says.

The Court's prescription for equipping voters to evaluate this new infusion of political speech was disclosure of information on the donors. But gridlock in Congress prevented action on new and more timely disclosure rules. And the FEC, mired in a partisan standoff, has been less active in a watchdog agency role.

As a result, Professor Robert J. Jackson Jr. says, voters are often left in the dark about the sources of spending, and shareholders of many publicly held corporations have no idea about the extent of a company's political spending.

"The reality right now is that corporations spend hundreds of millions of dollars—at least—and none of that is meaningfully disclosed," says Jackson, referring to money spent on both campaigns and lobbying efforts. "That's



just the straightforward reality.”

The 2012 election financing morass at least partially stems from a case that many believe could have been decided much more narrowly. The majority in *Citizens United* bypassed an opportunity to rule based on the unique facts of the case—which involved the right to air a documentary critical of Hillary Clinton during the 2008 election season. Instead, the Court struck down part of the existing campaign finance law and overruled its 1990 decision in *Austin v. Michigan Chamber of Commerce*, which held that corporations and unions could not use general funds to support or oppose candidates.

Key to what has happened since was a finding in the majority opinion by Justice Anthony M. Kennedy. “We now conclude that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption,” Kennedy wrote.

Lower courts and the FEC have interpreted the Court’s decision to mean that, since independent spending cannot be corrupting, there is no justification for limiting the amount that individuals and corporations can give to groups involved in independent spending.

The changes have fundamentally altered the arc of the Republican presidential contest. While individual contributions made directly to a candidate are capped at \$2,500 during the primary, super PACs offer the possibility of unlimited “indirect” spending in support of a candidate’s electoral goals. And big bucks can net real impact. The decision of Las Vegas casino magnate Sheldon Adelson and his wife Miriam to give more than \$10 million to the super PAC supporting Newt Gingrich’s campaign for the Republican presidential nomination gave the former House speaker new life after a shaky start.

Some proponents of the *Citizens United* decision, such as longtime First Amendment lawyer Floyd Abrams, say detractors of the ruling have distorted its meaning. Even if what individuals can give directly to a candidate is capped, campaign donors since the *Buckley* decision have been able to fund express advocacy to whatever extent they want. Both Democrats (George Soros) and Republicans (Karl Rove) had already found ways to contribute, collect, or bundle money to further their political interests.

But Briffault says the new super PACs are taking the next step. “I think people assumed there might be committees that existed purely to elect Republican candidates or Democratic candidates or anti-tax candidates or environmental candidates,” Briffault says. “I don’t think what was fully foreseen was the emergence of committees existing solely to elect Romney or Gingrich or Rick Perry. They function as if they are the candidate’s committee, except they have to keep their distance from the candidate. And they are raising and spending in some cases more than the candidate.”

The ability to give unlimited amounts to a super PAC supporting a candidate seems to be a way around *Buckley’s* support for limiting contributions that go directly to a candidate, according to Briffault. “I think the distinction has collapsed,” he says.

During the first month of the election year, five wealthy individuals contributed \$19 million, approximately a quarter of the total raised for the presidential race in January, according to a *Washington Post* analysis. A dozen people have sent nearly \$65 million total to super PACs in the 2012 cycle.

During the 2010 elections, super PACs spent nearly \$84 million. Richard Briffault says that was merely a warm-up for 2012. The pro-Romney super PAC alone has already spent more than half that amount.



Such astronomical figures, Briffault says, are part of the reason that the *Citizens United* ruling has struck such a chord with the general public, which polls show are overwhelmingly opposed to the decision. “I think the public sees this as connecting to general problems of growing inequality and the growing power of the wealthy and powerful in American life and American politics,” he says.

The reasoning of the Court’s decision is easy to understand, according to Briffault: “The logic was that the real interest here was in people hearing the ideas. And that there is less interest in who’s doing the speaking than in hearing whatever there is to be said.” But that leaves little room for those who worry about the role of money in politics.

“One of the real, lasting consequences of *Citizens United*,” Nathaniel Persily says, “is the anemic view of corruption that survives....You’re left with something like quid pro quo corruption, and that is the most difficult kind of corruption to prove.”

In addition, the Court last year struck down provisions of public campaign finance laws that proponents say make them most attractive. In *Arizona Free Enterprise Club v. Bennett*, the Court said Arizona could not increase the amount of money given to a publicly funded candidate based on the spending of his or her privately financed opponents. Such provisions function as attempts at “leveling the playing field,” and Chief Justice John G. Roberts, Jr. reinforced in the *Arizona* decision that this is not a legitimate reason for curbing First Amendment rights.

“The majority of the Court, and it’s really a bare majority of five, is hostile to anything that smacks of equalization,” Briffault says. “They are willing to permit states and Congress to adopt rules that are designed to prevent corruption, but they take a very narrow view of when corruption is likely to happen.”

Beyond the *Arizona* decision, the Court has shied away from taking any new challenges to the campaign finance regime. It has turned down a petition from the Republican National Committee to reconsider the McCain-Feingold campaign finance reform act’s prohibition on “soft-money” contributions to political parties. And it upheld, without hearing the case, a lower court’s decision that foreign nationals are not allowed to contribute to campaigns.

Persily suspects the Supreme Court may be taking a time-out on this issue. “I was surprised by the public backlash to *Citizens United*,” he says. “And I think they were, too.”

But new challenges await. A district judge in Northern Virginia recently ruled in a criminal case that direct corporate contributions to candidates—banned since 1907—cannot be squared with the court’s reasoning in *Citizens United*. The decision is on appeal to the U.S. Court of Appeals for the 4th Circuit in Richmond.

And as united as the Court’s current majority appears in taking a libertarian approach on campaign finance issues, it is worth remembering Briffault’s point that it is a slim one-vote majority. If President Obama wins another term and a member of the *Citizens United* majority retires, the shift could be significant. Justices Ruth Bader Ginsburg ’59 and Stephen G. Breyer, dissenters in the case, have even suggested that the Court should re-examine the ruling in light of what has transpired since it was decided in 2010.

One vehicle for a reassessment would be a decision by the Montana Supreme Court late last year that upheld the state’s ban on corporate spending in elections, which is directly at odds with *Citizens United*.

“Montana’s experience, and experience elsewhere since this Court’s decision in *Citizens United*...makes it exceedingly difficult to maintain that independent expenditures ‘do not give rise to corruption or the appearance of corruption,’” Ginsburg wrote in support of hearing the case.



But it seems unlikely that the majority is ready to reconsider.

“So,” Briffault concludes in his upcoming law review article, “105 years after Congress enacted the first restrictions on contributions in federal elections, and 38 years after the comprehensive post-Watergate contribution limits were adopted, we appear to be rapidly heading into an era in which those contribution limits have been rendered functionally meaningless. We shall soon find out what this means for our campaign finance system, our elections and our politics.”

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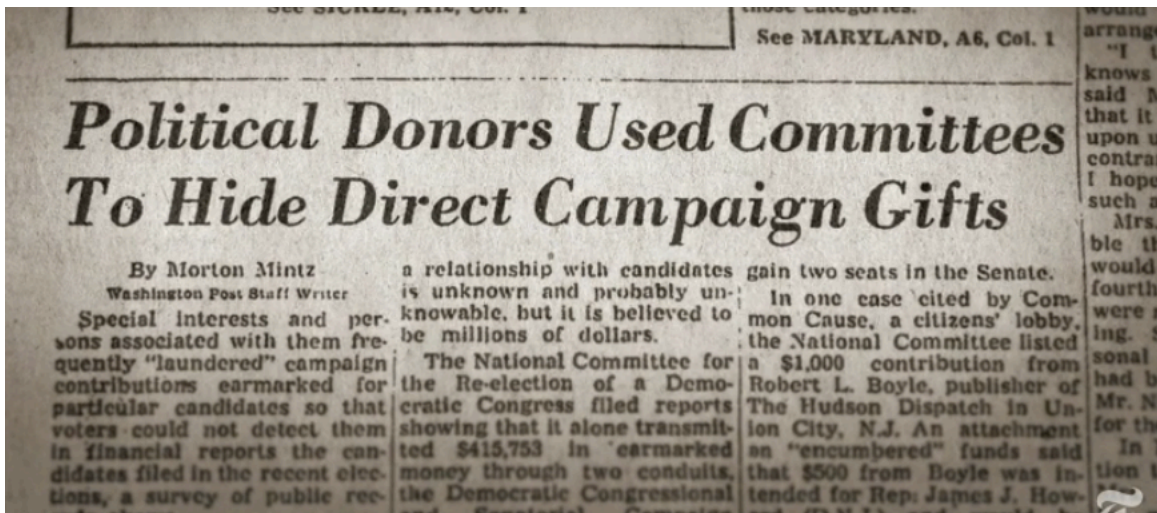


Supporting Question 4

Featured Source

Source A: *New York Times*, video describing the evolution of campaign contributions, “The Cost of Campaigns,” *Retro Report*, 2014

NOTE: This screen shot is from the video, “The Cost of Campaigns,” produced by the New York Times. Teachers and students can view the video by clicking on this link: <http://www.nytimes.com/2014/10/20/us/the-cost-of-campaigns.html>.



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Supporting Question 4

Featured Source

Source B: Stephen Colbert and Trevor Potter, video explaining shell corporations, *The Colbert Report*, 2011

NOTE: To view this video segment from The Colbert Report, teachers and their students can click on this link: <http://thecolbertreport.cc.com/videos/3yzu4u/colbert-super-pac---trevor-potter---stephen-s-shell-corporation>. Teachers should note that an advertisement appears at the beginning of the video.



Supporting Question 4

Featured Source

Source C: Stephen J. Dubner, collection of essays on campaign finance featuring Robert Shrum and Jeff Milyo, “How Much Does Campaign Spending Influence the Election? A Freakonomics Quorum,” *Freakonomics*, 2012

Robert Shrum, a senior fellow at New York University’s Robert F. Wagner Graduate School of Public Service, has been a senior adviser on many Democratic campaigns, including Dick Gephardt (1988), Al Gore (2000), and John Kerry (2004).

In politics there is certainly no linear relationship between amount of money and degree of success. Just ask the well-heeled Republican losers of presidential primaries past — former Texas Governor John Connally, former Texas Senator Phil Gramm, and former Mayor and front-runner Rudolph Giuliani. Or how about Howard Dean, who raised and spent nearly \$40 million before crashing and burning in the 2004 Iowa caucuses?

Big money without the right message can become a penny waiting for change. Thus Dean misread the Iowa landscape. While voters were focusing in on one overwhelming question — which candidate had the best chance to beat George W. Bush? — Dean and Dick Gephardt were engaged in a well-financed exchange of petty negative ads. Maybe Dean never could have been a plausible answer to the determinative question in Iowa in any event. But he never seemed to try — and left the field almost entirely open to John Kerry who, Iowans rightly judged, could give Bush a real run for the White House. Similarly, this year no amount of cash could have rescued the malaprop Rick Perry; GOP caucus goers decided, once again rightly, that he couldn’t face up to Barack Obama — or measure up to the requirements of the Oval Office.

Kerry’s come-from-behind win in Iowa also illustrates the other side of the coin: You don’t need the most money, but you do need enough. Kerry took out a mortgage on his home to keep his campaign afloat when he was written off in the fall.

In 1960, Hubert Humphrey’s resources in the West Virginia primary weren’t remotely equal to John Kennedy’s — and Kennedy’s victory there all but sealed the nomination for him. Gephardt, in his first run in 1988, carried Iowa but then couldn’t raise enough money fast enough to compete on Super Tuesday. In 2012 the disparity in super-PAC money let pro-Romney forces dismember Newt Gingrich during December. Gingrich is probably fatally flawed, but it didn’t help that he couldn’t defend himself or go after Romney early on.

Finally, money doesn’t make all the difference — unless it does. Much as Obama did in 2008, Kerry raised prodigious sums, a lot on the internet, during the primaries four years before. The campaign then made a mistake of accepting federal funding in the general election; this meant that Kerry had the same amount of money for a thirteen-week campaign that Bush had for eight — because the Republican convention came more than a month after the Democrats, and Bush could keep spending primary dollars in the meantime. The result was a form of financial disarmament which deterred a swift response to the Swift Boat ads — because that would have drained limited end-of-the-race funds in mid-August. More broadly, as the 2008 Obama experience suggests, staying outside federal funding could have let Kerry broaden the list of target states and potentially prevail in a tight contest where a football stadium’s worth of voters in Ohio decided the outcome.

So gold doesn’t always glitter in politics — but you better have some of it, and sometimes, sometimes, having the most can matter the most.

Courtesy of Robert M. Shrum. Used with permission.



Jeff Milyo is an economics professor at University of Missouri at Columbia. His research includes campaign finance, state and local health policy.

The misperception that political spending drives electoral outcomes is reinforced every campaign season by sensational media coverage, post-election debriefs from losing candidates and the exaggerated rhetoric of professional reform advocates. And this first presidential election cycle post-*Citizens United* promises to bolster that errant view as sanctimonious posturing by pundits on the evils of money in politics will likely crescendo to a spectacle rivaling only a North Korean grief orgy.

It is true that winning candidates typically spend more on their campaigns than do their opponents, but it is also true that successful candidates possess attributes that are useful for both raising money and winning votes (e.g., charisma, popular policy positions, etc.). This “reverse causality” means that campaign spending is potentially as much a symptom of electoral success as its cause.

In order to identify the treatment effect of campaign spending on electoral success, researchers exploit natural experiments. For example, imagine re-running a race between two candidates but varying the campaign spending of each; repeat that exercise enough times and you have an experiment that will allow you to observe the causal effect of campaign spending, all else constant. That’s basically the approach taken by Steve Levitt in his seminal study of repeat meetings of the same Congressional candidates over time.

Levitt finds that changes in campaign spending produce negligible changes in electoral outcomes when candidate characteristics are held constant. Now that doesn’t mean that candidates don’t need to get their message out to voters. We’re talking about marginal changes in campaign spending. Given you are already spending a million dollars running for a House seat, another hundred grand or so won’t make any appreciable difference.

Of course, repeat meetings of candidates don’t happen by chance, so Levitt’s study is susceptible to the criticism that it isn’t the cleanest of experiments. However, I have poked at those results without being able to overturn them, even though I was highly motivated to do so (Steve is a great friend, but the professional acclaim I might have had from reversing his finding far outweighs the value of one friendship at the margin).

I have examined several other natural experiments and found similar results. For example, large shocks to campaign spending from changes in campaign finance regulations do not produce concomitant impacts on electoral success, nor do candidates with vast personal wealth to spend on their campaigns fare better than other candidates.

These findings may be surprising at first blush, but the intuition isn’t that hard to grasp. After all, how many people do you know who ever change their minds on something important like their political beliefs (well, other than liberal Republicans who find themselves running for national office)? People just aren’t that malleable; and for that reason, campaign spending is far less important in determining election outcomes than many people believe (or fear).

Courtesy of Jeffrey D. Milyo. Used with permission.

These essays are available at: <http://freakonomics.com/2012/01/17/how-much-does-campaign-spending-influence-the-election-a-freakonomics-quorum/>.