The Impact of *Citizens United* in the States:
Independent Spending in State Elections, 2006-2010*

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ABSTRACT

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There can be no denying the profound changes in U.S. campaign financing since the U.S. Supreme Court's January 2010 decision in *Citizens United* v. *Federal Election Commission.* Nevertheless, there has been confusion about the extent to which the decision should be seen as the primary explanation for what has occurred. This paper begin to disentangle the strands through an analysis of independent expenditures in elections at the state level in 2006 and 2010 from new data gathered and supplied by the National Institute on Money in State Politics.

The paper's findings tend not to support some key claims being made on both sides of the contemporary political debate surrounding independent spending. First, contrary to statements made by some of the decision's critics, we find that *Citizens' United* itself did not have a noticeable direct effect on independent spending in 2010 – although this could, of course, change. Increases were more or less comparable in states that prohibited corporate spending before the decision and those that did not. However, the paper also addresses one of the claims normally associated with the opposite side of the political spectrum. It is often said that limiting contributions to the political parties (ending "soft money") has displaced party money, increasing independent spending by unaccountable non-party organizations. We find that party contribution limits have indeed displaced some party independent spending in the years and states we studied. However, the displacement has been not been toward ideological groups, umbrella organizations or vaguely defined party networks, but rather toward national organizations of state elected and party officials who are acting as party organizations in all but the most formal sense of that term.

The data are not yet available, at this writing, to analyze independent spending at the state level in the elections of 2012. The early indications suggest, however, that the patterns of 2010 continued. If this is borne out, then the independent spending story 2010 probably will come to be seen less as the outgrowth of one Supreme Court decision and more as a manifestation of an ongoing resurgence of amorphously networked political parties.

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There can be no denying the profound changes in U.S. campaign financing since the U.S. Supreme Court's January 2010 decision in *Citizens United* v. *Federal Election Commission* [558 U.S. 50 (2010]) saying that corporations had a constitutional right to make unlimited independent expenditures. Nevertheless, there has been general confusion about the extent to which the decision should be seen as the primary explanation for what has occurred. This paper will begin to disentangle the strands through a study of independent expenditures in elections at the state level in 2006 and 2010.

The paper's findings tend not to support some of the claims being made on either side of the contemporary political debate surrounding independent spending. First, contrary to statements made by some of the decision's critics, we find that *Citizens' United* itself did not have a noticeable direct effect on independent spending in 2010 – although this could, of course, change. Increases were more or less comparable in states that prohibited corporate spending before the decision and those that did not. However, the paper also addresses one of the claims normally associated with the opposite side of the political spectrum. It is often said that limiting contributions to the political parties (ending "soft money") has displaced party money, increasing independent spending by unaccountable non-party organizations. We find that party contribution limits have indeed displaced some party independent spending in the years and states we studied, but the displacement has been not been toward ideological groups, umbrella organizations or vaguely defined party networks, but rather toward national organizations of state elected and party officials which are acting as party organizations in all but the most formal sense of that term.

Citizens United undeniably was important, but it stands as one of at least four important legal and regulatory developments affecting independent spending since John Roberts became Chief Justice in September 2005.

1) On June 25, 2007, the Supreme Court in the case of *Federal Election Commission* v. *Wisconsin Right to Life, Inc.*(WRTL) [551 US 447 (2007)] upheld an "as-applied" challenge to "electioneering" provisions in the Bipartisan Campaign Reform Act of 2002 (BCRA, otherwise known as McCain-Feingold). BCRA had prohibited labor or corporate treasury funds (including funds from nonprofit advocacy corporations) from paying for any broadcast advertising that named or used the likeness of a federal candidate within 60 days of a general election or 30 days of a primary. The Supreme Court had upheld the facial constitutionality of this provision by a vote of 5-4 in *McConnell* v. *Federal Election Commission* [540 U.S. 93 (2003)], but the *WRTL* Court had two new members: Roberts replaced Chief Justice Rehnquist (who had voted with the *McConnell* dissenters on electioneering) and Samuel Alito replaced Sandra Day O'Connor (who had voted with the *McConnell* Court's majority). The Alito appointment made for a new court majority. The seven returning justices repeated the positions they had articulated in *McConnell*, with Justices Kennedy, Thomas and Scalia saying they would reverse the previous ruling. Roberts and Alito were not prepared to reverse, but distinguished the two cases. They said that corporate and labor-funded electioneering could be prohibited, but only if the definition of electioneering were narrowed to exclude "issue ads" and include only those communications that could be interpreted in no way other than being the functional equivalent of express advocacy. By narrowing the definition of "electioneering" in this way, providing constitutional protection to a broader range of issue advocacy, the Court encouraged organizations to spend money in an arena in which disclosure of funding sources is not required. As a result, any comparison of spending within categories of disclosed spending, including the ones we are about to make, must be done with the caveat that we cannot be sure what else is taking place (or had previously taken place) outside of public visibility.

2) After a threading a needle in *WRTL*, the Court only nineteenth months later used *Citizens United* to stake out a position explicitly declaring that corporations (and by extension labor unions) had a right to make unlimited expenditures expressly advocating the election or defeat of a candidate, as long as the spending was done independently. Very soon after this decision many commentators (including President Obama) speculated that there would be an increase in spending by large, for-profit business corporations. There was also reason to expect more spending by nonprofit advocacy organizations with a membership base, and labor unions, both of which had been using the legal space created by *WRTL*. This first empirical section of this paper will examine whether these expectations about corporate and labor spending were borne out in the states in the first election after the decision.

3) *Citizens United* did not settle whether individuals, corporations or others could make unlimited contributions *to* organizations that did nothing more than make independent expenditures. Two months after *Citizens United,* the U.S. District Court for the District of Columbia closed this gap by ruling, *en banc,* that individuals do have a right to make unlimited contributions to such organizations. Some of the legal background to this case, filed well before the *Citizens United* decision, is worth reciting. In the 1976 landmark ruling of *Buckley* v. *Valeo* (424 U.S. 1 [1974]), the Supreme Court declared that *individuals* had a constitutionally protected right to make unlimited independent expenditures, thus overturning a provision in the Federal Election Campaign Act (FECA). After *Buckley*, the FEC sought to apply FECA's independent spending limitations to organizations. In the case of *Federal Election Commission* v. *National Conservative Political Action Committee* (NCPAC) [470 U.S. 480 (1985)] the Court held that this same right to unlimited independent spending applied to a political action committee (PAC). But because NCPAC also made contributions to candidates, contributions *to* NCPAC were limited even after this decision. More than two decades later, *SpeechNow.org* was trying to take the NCPAC precedent to the next step. It argued that if individuals have a constitutionally protect right to make unlimited independent expenditures they ought to be able to pool their money by giving it to a common organization, as long as the organization made no contributions to candidates and spent its money independently. A number of commentators, including one of the co-authors of this paper, had predicted long before *Citizens United* that SpeechNow.org was likely to win its case (See Malbin in Cato, 2008). In other words, the *SpeechNow* decision did not require *Citizens United.* But *Citizens United* certainly made the decision easier. The lower court relied directly on *Citizens United* in its opinion favoring the SpeechNow organization. [*SpeechNow.org* v. *Federal Election Commission*, 599 F. 3d (D.C. Cir., Mar. 26, 2010), *cert. denied* 131 S.Ct. 553 (2010).] Despite the district court's reliance, it is useful for our purposes to keep the issues distinct. While *Citizens United* empowered organizations to use their treasury funds, *SpeechNow* is what allowed a new organization to form with unlimited contributions. *SpeechNow* without *Citizens United* would have been enough to explain most of the contributions and expenditures made in 2010 and 2012 by *federal* independent spending organizations (quickly labeled "SuperPACs" in the press), since most of their money did not come from corporations. *Citizens United* said that whatever independent spending an individual could do, so could a corporation. Putting the two decisions together is what assures corporations the right to contribute to a SuperPAC. The second empirical section of this paper will look at a variety of non-business organizations making independent expenditures in state elections.

4) The fourth set of independent spending legal developments relate to non-actions rather than court decisions. The Federal Election Commission's working definitions of "independent" and "coordinated" spending in practice have allowed the supporters

> of a single candidate to form a SuperPAC supporting that candidate. The FEC looks for coordination by considering whether a candidate and group work together on the content of a *specific message* rather than considering whether the group's and candidate's pattern of behavior and personnel constitute a broader pattern of cooperation over communication strategy. Under FEC's constrained definition of "coordination", candidates can claim to be independent of their SuperPACs even if they give speeches at the SuperPACs' fundraising events and the PAC is run by people who until recently had been on the candidate's political staff. Interestingly, the FEC's use of the specific communication (rather than patterns of interaction) is not new. The procedure had existed in older regulations that had been rejected explicitly by BCRA. Nevertheless, it remains as a working guideline for FEC enforcement because the commission has no formal post-BCRA rules on the subject. Its regulations were overturned by the U.S. Court of Appeals in 2008 (not for the first time) as being inadequate to BCRA's statutory requirements. (See *Shays* v. *Federal Election Commission*, US Court of Appeals for the District of Columbia, 07-5360, June 13, 2008). Candidate-specific SuperPACs have been able to rely on this lack of a rule to play a major role in 2012. These kinds of PACs were not generally active in 2010 and therefore are not part of this study. However, we do describe a prescient California equivalent from 2008 (pre-*Citizens United*) in this paper's closing section.

In this paper, we use state elections to disentangle the growth in independent spending that we can attribute specifically to *Citizens United,* from the broader path flowing from *SpeechNow* and other perhaps more general sources. This would not be easy to do on a federal level, but state elections afford us leverage in approaching the issue. Twenty-five states had bans or limits on corporate and/or union independent expenditures at the time of the *Citizens United* decision. The Court's elimination of these bans provides a quasi-experimental research opportunity to investigate the impact of altering the rules. If *Citizens United* had a strong and direct impact on the level of independent spending, then the twenty-five states with a ban in place before the decision should show a higher rate of spending increase than the twenty-five states without such a ban. These twenty-five states should also show a higher rate of spending increase among business organizations than among others. But if independent spending increased in the states, and the presence or absence of a previous ban does not help explain the increase, we will have to look for other explanations. The most likely source of growth would be among non-business organizations that were able after *SpeechNow* to accept unlimited contributions. We in fact do find this, but we also find that the steepest growth occurred not among the issue and ideological groups predicted but among organizations closely related to the major political party networks.

Unfortunately it is not possible to test these thoughts by comparing all states. Not every state requires disclosure of express advocacy independent expenditures and fewer require it for what federal law would call electioneering. Moreover, the records across states until recently had not been maintained in a common format. After *Citizens United*, the National Institute on Money in State Politics (www.followthemoney.org) decided to collect 2006-2010 independent spending information for twenty states and to make the data available to scholars. The laws of these states included a mixture of disclosure practices. Some required disclosure for independent expenditures but not electioneering. Others changed their disclosure laws between 2006 and 2010. Given the variations in states' definitions of the terms independent expenditures and electioneering communication, we refer to all such expenditures as independent spending (IS) but we compare only similar forms of spending in any given state across the years. For general comparisons, that permits us to consider independent expenditures for sixteen states[*]. Electioneering is only included for states with similar data across election cycles.[†] We also omitted 2008. That lets us compare elections before and after *Citizens United* (2006 and 2010) when all of the states among our sixteen were at the same point of their gubernatorial cycles. The second part of the paper, on the offices and candidates being targeted, includes fifteen states instead of sixteen because the disclosure documents for Florida contain no information about the races toward which expenditures were directed.

II

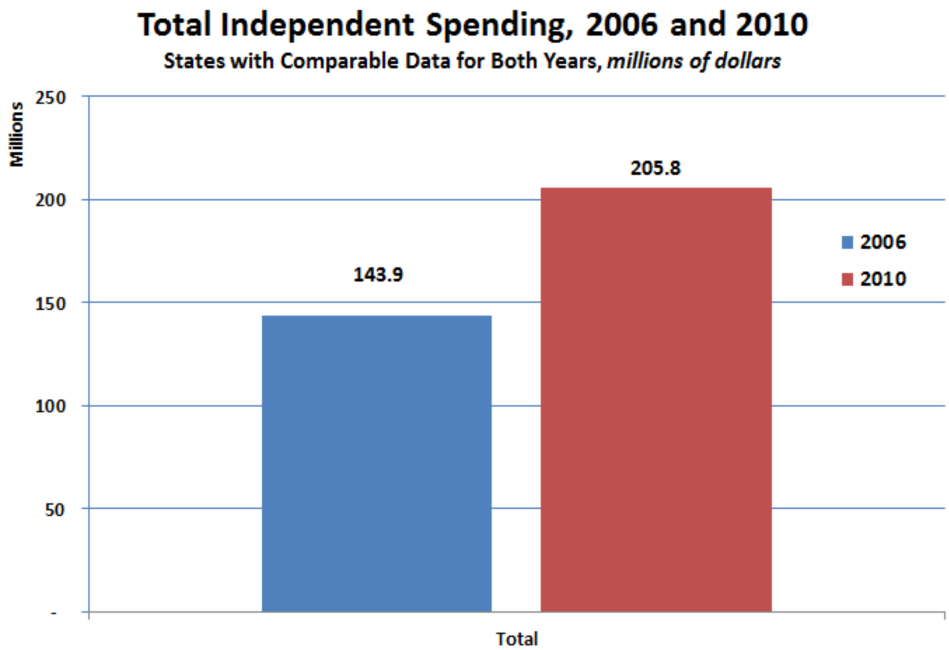
Initial Analysis: Corporate and Labor Spending Before and After Citizen United

The first question is whether independent spending in state elections increased after the *Citizen United* decision as is commonly assumed. The answer, as shown in Figure 1, is a resounding yes. In the 16 states with comparable information for the two years, independent spending rose by $62 million over the four-year period, an increase of 43%. By contrast, contributions to candidates over this period in these same states increased by only 14%.

[*] Alaska, Arizona, California, Florida, Iowa, Idaho, Maine, Michigan, Minnesota, Missouri, North Carolina, Ohio, Oklahoma, Tennessee, Texas, Washington.

[†] We should note here that we have a problem with missing data in several states that we plan to correct for the next phase of this paper. For example, some missing sector identifications in the Washington data may have resulted in what looks like a decline in party and party network independent spending in our data, even though spending by these groups might conceivably have increased. We hope to clean up the missing data soon to verify our findings and make corrections where needed.

Figure 1

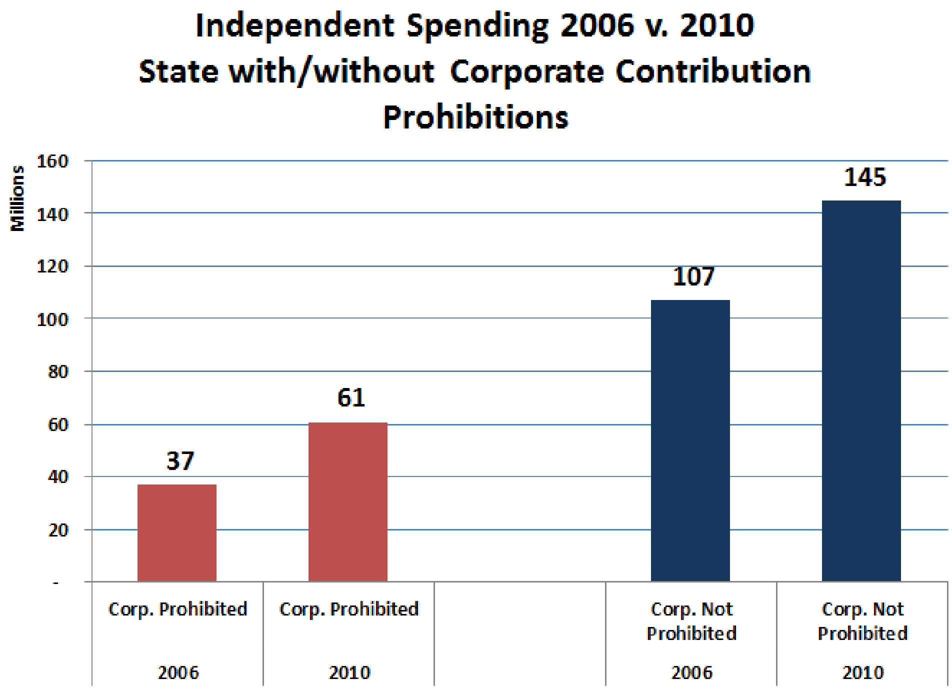


The timing straddles *Citizens United*, but does the decision *explain* the increase? To answer this, we divided the states into two groups: ones prohibiting corporate spending and ones allowing it prior to the decision. If *Citizens United* were behind the increase, we should see it primarily in the ten states that prohibited the spending before *Citizens United*.[*] The results shown in Figure 2 indicate that IS increased significantly in both groups of states. In the states where corporate spending was prohibited in 2006, the increase from 2006-2010 was $24 million or 65%. But spending in the states where corporations were permitted to make IS before 2010[†] also increased $38 million or 36%. Thus, while spending did increase *more* in the states with a prohibition, the fact that a significant increase occurred across both set tells us that we should be looking for alternative and more complicated explanations.

[*] Alaska, Arizona, Iowa, Michigan, Minnesota, North Carolina, Ohio, Oklahoma, Tennessee, Texas.

[†] California, Florida, Idaho, Maine, Missouri, Washington.

Figure 2



C. Independent Spending by Business, Labor and Ideological Sectors

Any useful explanation will have to begin by disaggregating the independent spenders. While a variety of classification systems are possible, we decided to focus on business and labor groups (the ostensible winners from the CU decision), ideological /issue groups, and three sectors related to the political parties. Clarification of the sectors is provided below:

– "Party" refers to official state and local party committees.

– "Party Affiliated" refer to national political committees such as the Republican Governors' Association (RGA), Democratic Governors' Association (DGA), Republican State Legislative Committee (RSLC) and other entities clearly affiliated with one or the other major party.

– "Party Allied" refers to non-party organizations pursuing broad candidate and issue agendas but whose activities and missions make them strongly associated with one or the other party, rather than an issue arena. Organizations in this category may not support all of a party's nominees, but they invariably support nominees from only one of the parties. An example on the national level would be American Crossroads, which supports Republican candidates for many offices.

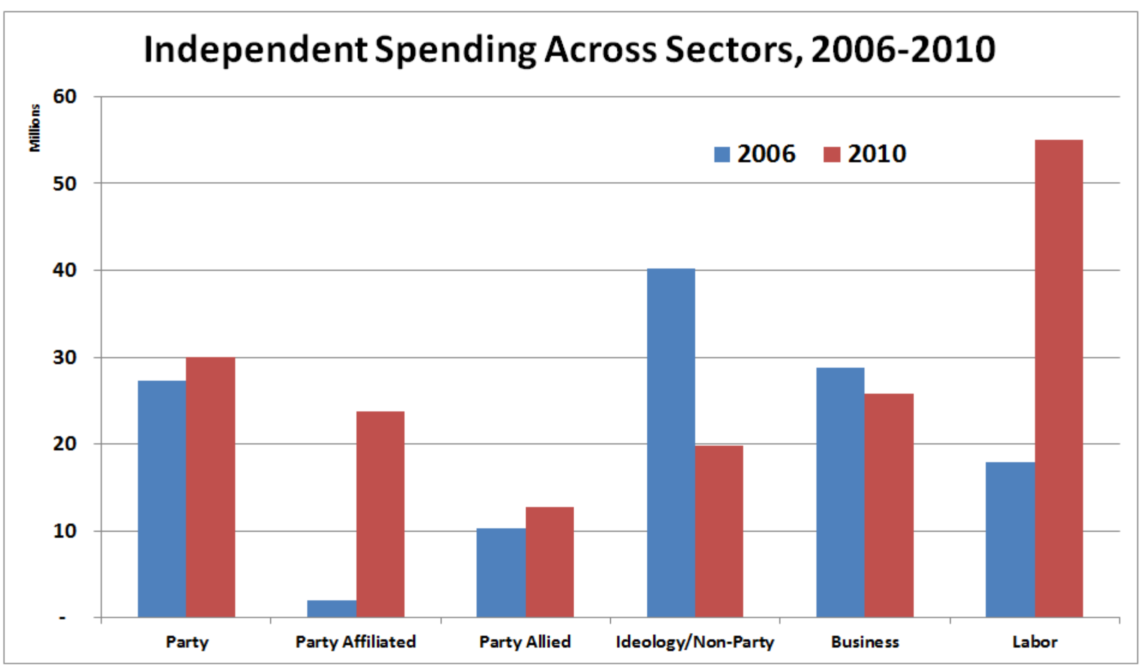
- “Ideological/Issue” refers to organizations strongly associated with ideological or issue positions. These organizations (whether “progressive” or “conservative” may support candidates from one of the parties most or even all of the time, but their identities are independent.

- “Business” refers to General Business groups, such as the Chamber of Commerce, or sector groups – whether in Construction, Finance, Insurance & Real Estate, Health, or other fields.

- “Labor” refers to individual labor unions or coalitions of unions, if the information about the labor affiliation is provided in the group’s name or description.

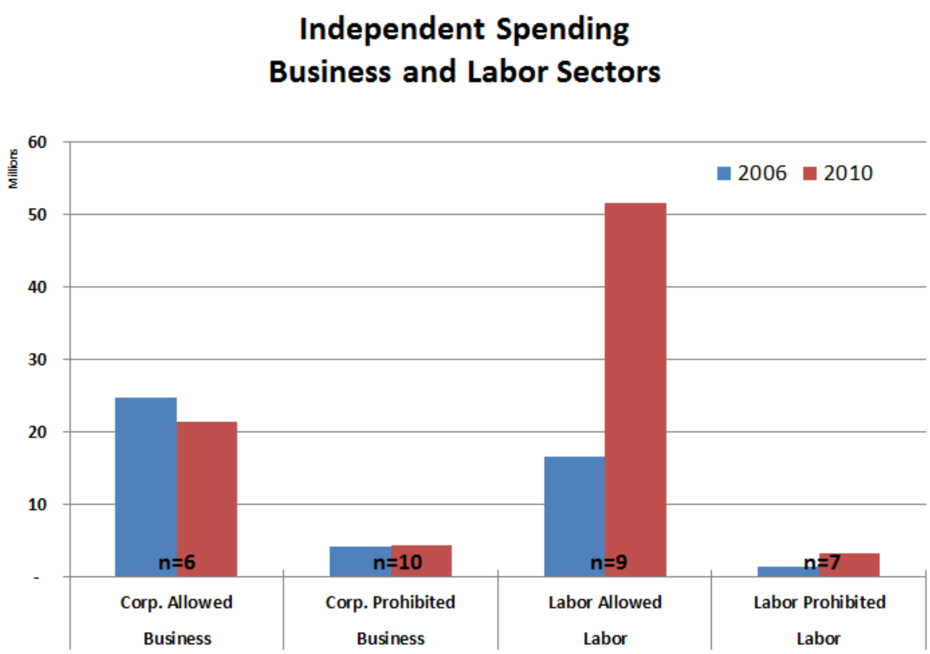
The results shown in Figure 3 are unanticipated. Independent spending rose for 4 sectors and declined for two sectors across the 16 states. Independent spending by business organizations across all 16 states actually decreased from 2006-2010. Figure 4 shows that spending by business organizations stayed level across the ten states that previously prohibited corporate expenditures, while it declined in the six states that permitted the spending before *Citizens United.* (The steepest declines were in Florida and Ohio. See appendix figure A-1 and A-2 for state-by-state details.) If there was any increase in business spending, it was not happening through business organizations.

Figure 3



Labor spending, by contrast, increased dramatically. The increase, however, did not come in those states which had previously banned labor independent spending. Rather, this increase is due almost entirely to spending in California, a state where labor has been active in independent spending for years. Moreover, a significant portion of the shift in California came from a shift in labor's strategy: in 2006 unions gave millions to two organizations we categorized as ideological / party affiliated (Alliance for Betters California and Working Californians) while in 2010 labor's IS money in the state went into direct expenditures by the unions. If the data for California are removed, labor increased from $3.7 million in 2006 to $6.9 million in 2010, with the increase approximately equal across states that previously prohibited labor spending or allowed it.

Figure 4



D. The Complicated Role of Political Parties and Their Allies

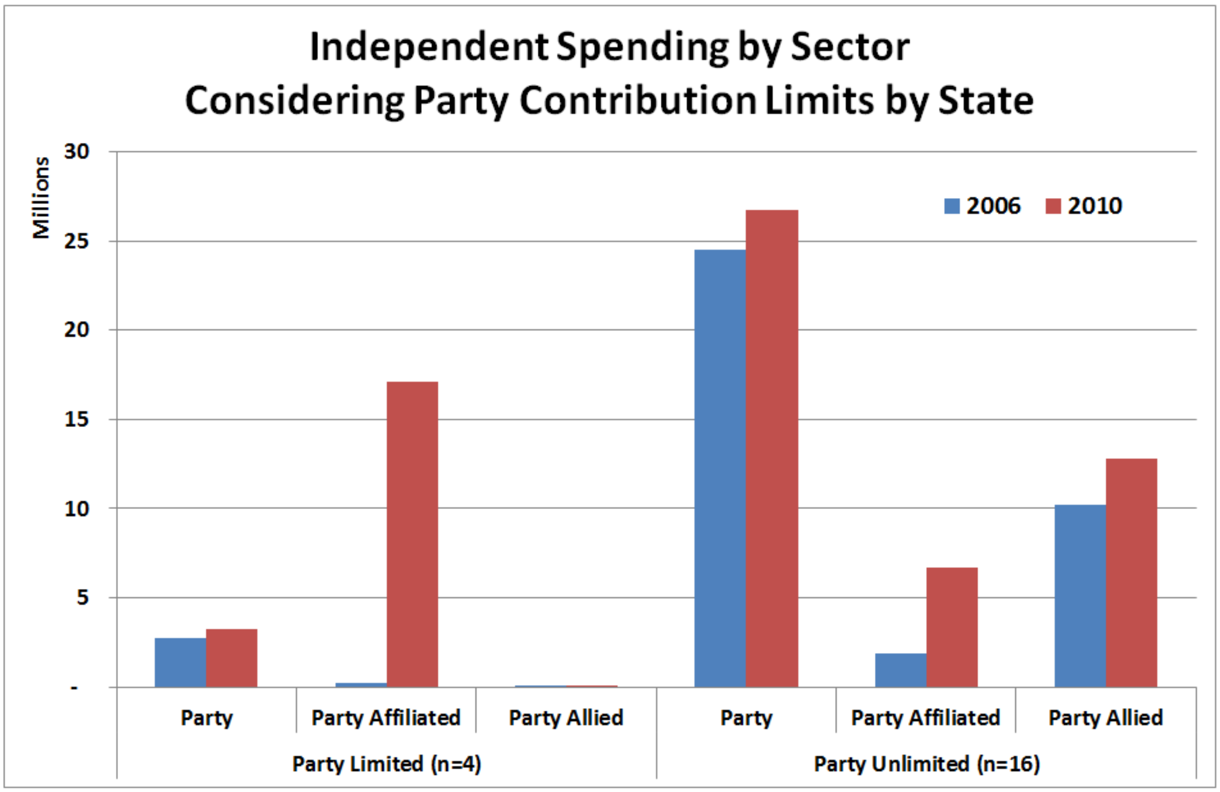
The major sources of increased independent spending in our states were not the business, labor, ideological or issue groups. Rather, they were among groups we might think of as part of extended party networks – the formal political party committees and what we call the party affiliated groups and party allies. These increases were sizable for parties and party allies. They were even larger for the party affiliated groups, such as the Republican and Democratic Governors Association. (We will have more to say about these later in Section IV.) But the various types of party, party affiliated and party allied groups did not behave the same way in all states.

As a working hypothesis, we expected to see political party contribution limits and independent expenditure patterns to relate strongly to each other. That is, we expected parties to make more independent expenditures in their own name if they could accept unlimited contributions, while states in parties with contribution limits would stimulate spending by groups allied to but separate from the formal party organizations. The background for independent party spending begins in the second half of the 1990s. In 1996, the U.S. Supreme Court affirmed the right of political parties to make unlimited independent expenditures (*Colorado Republic Committee* v. *FEC*). In federal elections, however, the parties typically did not spend their money in that way because independent spending had to be paid out of "hard money" accounts, which were governed by contribution limits. Since federal law at the time let the parties raise unlimited "soft money" contributions to spend on "issue advertising" that was functionally equivalent to election advocacy, and because federal law let the parties coordinate with candidates on issue ads, the national parties typically preferred soft-money issue ads to independent spending. BCRA then prohibited soft money at the federal level after 2002. After that, the parties increased their hard-money fundraising sharply and increased the level of their independent spending to replace issue ads. For the elections of 2004-2010, the parties were the dominant spenders during the closing weeks in many competitive congressional districts (Malbin et al. 2011). However, there is some significant possibility that this balance will change after *the SpeechNow* decision permitting unlimited contributions to independent spending committees. In federal elections, we were already seeing some races for the U.S. House and Senate in 2010 in which the newer-style independent expenditure committees were matching the parties (Campaign Finance Institute, 2010). Some political party advocates therefore have urged Congress to repeal the limits on contributions to the political parties, arguing that once the party limits are off, the independent spending groups should wither away.

That expectation seemed plausible enough to warrant testing at the state level. We expected that in states whose laws placed limits on contributions into the political parties, we should not only see more independent spending by non-party groups, but we should also see a greater increase in non-party independent spending in those party-limited states after *Citizens United* and *SpeechNow*. While the expectation is plausible, the results do not show the expected relationship.

Figure 5 shows independent spending by formal party organizations, party affiliated groups and party allied groups in 2006 and 2010. The three pairs of bars on the left show the results for the four states of our sixteen whose laws limited contributions to the party. The pairs on the right show the results for the twelve states with no such contribution limits. The left and right hand set of states are *not* comparable to each other. Ohio is the largest state in our group that limits contributions to the parties, while the unlimited set includes California, Florida, Michigan, Minnesota and Texas. As a result, we cannot draw valid conclusions by comparing the level of spending on the left half of the figure with the level on the right half. The number and size of the states alone would lead us to expect more spending in the unlimited states. Nevertheless, was can learn something from the relative heights of the bars within each of the subsets across the two elections.

Figure 5



The results shown in Figure 5 are surprising. Our assumption led us to expect proportionally more non-party independent spending activity by party affiliated and party allied groups in states where contributions to the formal parties are limited. Instead, we see very little spending by party allies in either year in these states and little party affiliated spending in 2006. In contrast, we see proportionally more party affiliated and party allied spending in 2006 in the states *without* party limits than in states with them. IS also went up in 2010 in both of these categories in the states without party limits.

The one category that seems to follow our expectations is that of the party affiliated groups in 2010. But before we start treating one example as a universal law, we have to note how much of the increase is due to a single organization, the Republican Governors Association (RGA). In 2006, party affiliated organizations made $208,099 in IS in states with limits on parties. In 2010 the figure was $17,106,913. The RGA made no independent expenditures in these four states in 2006 (and only $244,528 in states without party limits). In 2010 the RGA spent $12.8 million in the four states with limits and nothing in the states without limits. The RGA's $12.8 million made up three-quarters of the total IS by party affiliated groups in the four states with limits. Interestingly, the DGA had no direct IS in our 16 states.) The presence or absence of party contribution limits undoubtedly had something to do with the RGA's spending decisions, but the RGA was not the only party affiliated organization with increased IS in 2010. The Republican State Leadership Committee – an organization focused on legislative races – spent $205,000 in 2006 compared to $2 million in 2010. But in contrast with the RGA, $1.8 million (90%) of the RSLC's spending in our 16 states in 2010 was in states without party limits. So, as we noticed before when we compared states with and without corporate spending limits before *Citizens United*, something more complicated is going on.

One problem stems from the fact that labels in disclosure documents are often inadequate to tell us what is happening. The Republican Governors Association spent a combined $6.6 million through two organizations in the state of Ohio to influence the very close contest between the successful GOP candidate John Kasich, who won with 49% of the vote (and who raised $18.3 million for his own campaign), and the unsuccessful Democratic incumbent, Ted Strickland, who received 47% (and raised $16.6 million). Supporting the other side in that same state was an organization that existed for only one election cycle called Building a Stronger Ohio. Building a Stronger Ohio had receipts and expenditures of $4 million, with $3.8 million in IS. Of the organization's $4 million in receipts, $3 million came from the Democratic Governors Association and another $785,000 from labor unions. This illustrates that an organization can choose to support independent spending through direct spending or through contributions to others who make those expenditures. We can see this more clearly by using another state as a case study.

Minnesota Case Study: To exemplify the complex paths independent spending money can take, we offer Minnesota as a case in point. (Other states could serve equally well, but one state will be enough to illustrate the relevant issues.) Minnesota allows unlimited contributions from individuals and political action committees to the political parties (and therefore was categorized as being "unlimited" in our tables) but it does prohibit corporate and labor treasury contributions to parties and PACs.

One factor strongly heightening the interest of national organizations in the 2010 elections in many states was the importance of redistricting to the coming decade's politics. In Minnesota, the new state legislative and congressional districts would be enacted by statute, requiring support by each of the legislative chambers and signature by the Governor. If one party could control both chambers and the Governorship, that would give the party control over redistricting. Going into the election, Democrats controlled the state House of Representatives (87-47) and Senate (46-21). The Governor was a Republican, Tim Pawlenty, who was leaving office to run for the Presidency. After the election both legislative chambers switched by substantial margins to Republican majorities of 72-62 in the House and 37-30 in the Senate. The gubernatorial election was decided by a razor-thin margin, requiring a recount. Democrat Mark Dayton defeated Republican Tim Emmer by

43.6% to 43.2%, with a third party candidate receiving 11.9%. If one-half of one percentage point more had voted for Emmer, the GOP would have controlled the redistricting process.

Independent spending in Minnesota increased 10% from 14.6 million in 2006 to $16 million in 2010 – although the level of faith one can put on this comparison is limited by the state's lack of electioneering disclosure. Within that total, however, direct spending by the formal parties went down from $8.6 million to $5.2 million. At the same time, the State of Minnesota responded to *Citizen United* and *SpeechNow* by enacting an explicit provision allowing committees that only engage in independent spending to accept unlimited contributions (including corporate and labor contributions). As a result of the new law, older-style political committees that both contribute and spend reduced their independent spending from $6 million in 2006 to $1.8 million in 2010. The new independent-spending-only committees (equivalent to federal Super PACs) spent $9.1 million in 2010.

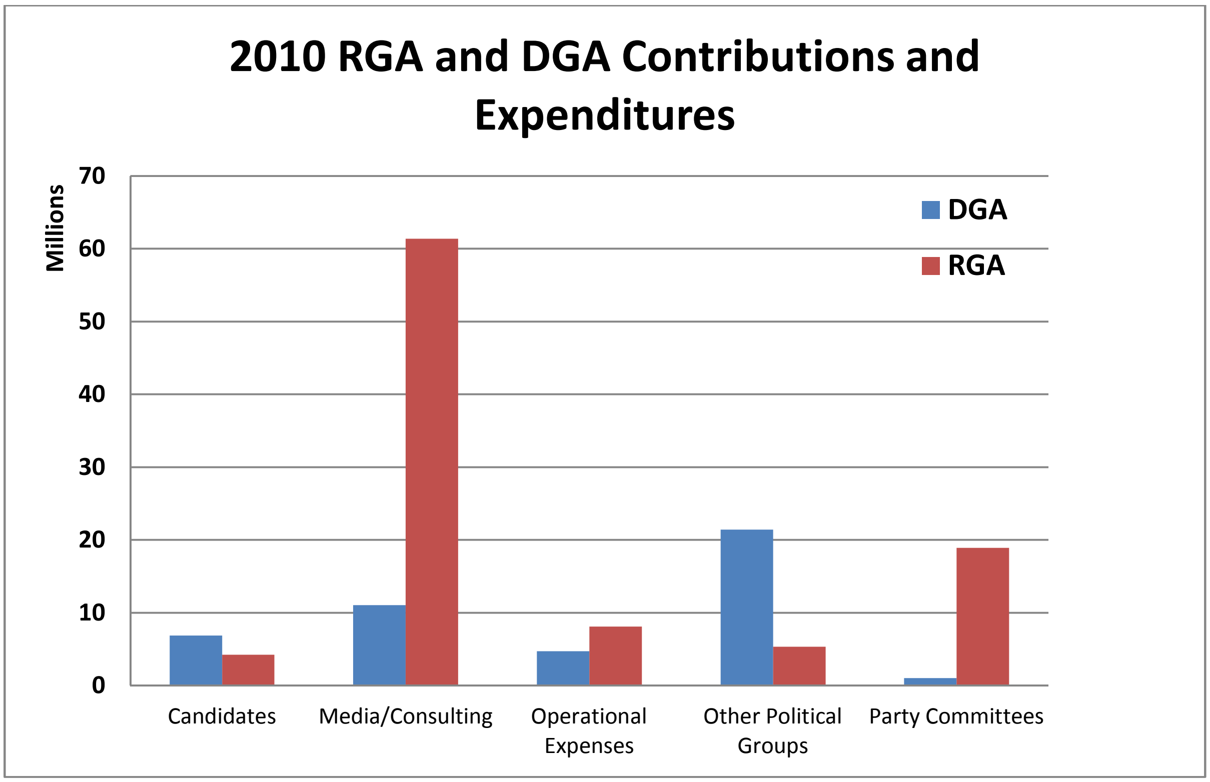
Based on information from the state's disclosure site as well as reports that political committees file with the Internal Revenue Service, we can learn the following about the three organizations that together accounted for 88% of the 2010 spending by post-CU independent spending committees in the state.

- *Alliance for a Better Minnesota* is a liberal group that spent $5.2 million to support Dayton or oppose Emmer for governor. The money came from two main sources: the Win Minnesota Political Action Fund ($3.4 million) and the 2010 Fund ($2.4 million).
    - *Win Minnesota Political Action Fund* had a total of $3.6 million in receipts, almost all of which was turned over to the Alliance. $1.4 million this came from individuals and $865,000 from Win Minnesota's parent organization. $1 million was from the DGA.
    - *The 2010 Fund*'s receipts and its contributions to the Alliance were identical ($2.4 million). Much of its money came from organized labor and from Win Minnesota, the parent organization of the above mentioned Win Minnesota Political Action Fund.
- *Minnesota's Future* described itself as being "public school advocates." It in fact was an organization that supported the Republican candidate for governor. It spent $1.4 million in 2010, almost all of it in opposition to Mark Dayton. Minnesota's Future reported receiving its funds from Minnesota's Future LLC, which in turn received $2.3 million from the RGA.
- *Minnesota Forward* spent $1.4 million, almost all of which was to oppose Dayton or support Emmer. The organization had $1.9 million in receipts. $1.6 million came in contributions from 38 corporations (including a highly publicized $150,000 contribution from the Target Corporation). The publicity Target received after this contribution has made it a poster-child for why many for-profit corporations do not like to be identified with politically divisive issues.

Diverse Spending Paths: Unlike several of our other states, independent spending did not increase much in Minnesota between 2006 and 2010. The above information was presented to illustrate the variety of paths money can take within the world of disclosed independent spending. Even this, however, does not begin to portray the layers that can exist between an original giver and the final spending organization, particularly when a nonprofit issue organization spends money in the political arena.

In Minnesota, the DGA and RGA chose to give their money to other organizations rather than contribute it to the state party or spend it directly themselves. Minnesota's Future received most of its money from the RGA. The DGA contributed a substantial amount to an alliance of party, labor and liberal groups. But the organizations' decisions varied across states. The following figure portrays how the RGA and DGA spent their money in 2010.

Figure 6



The figure shows that nationally the RGA put most of its money directly into political consulting or media. Its independent spending would fall within this category, but so would issue advertising and other direct public communications. Its second highest level of spending was for direct contributions to political parties. The DGA, in contrast, channeled most of its money through other political groups. The DGA's strategy had little to do with political party contribution limits, since it pursued the same strategy almost everywhere. The RGA clearly was giving its money to the parties as contributions only where the law permitted it to do so. Nevertheless, it would be a mistake to say that state contribution limits were causing the RGA's *donors* to bypass state parties and give to state-level independent spending committees. That misses the intermediate step. Donors gave unlimited contributions to the RGA and DGA, which were national committees organized under Section 527 of the Internal Revenue code to influence state elections. The donors clearly expected the RGA and DGA to behave strategically to affect gubernatorial elections in whatever way made the most sense. The donors were not steering contributions into direct spending or contributions depending upon state law. They gave the RGA and DGA whatever amount they might choose, and the RGA or DGA decided the most effective way to spend it.

Table 1

Sources of Contributions to the RGA and DGA

	Individual		Corporate		Labor		Other	
	$ (Millions)	*%*	*$ (Millions)*	*%*	*$ (Millions)*	*%*	*$ (Millions)*	*%*
RGA								
2006	10.6	24%	30.8	73%	0.5	1%	0.8	2%
2010	44.2	38%	67.3	57%	0.5	0.40%	5.2	5%
DGA								
2006	6	18%	19.5	57%	8	23%	0.5	1%
2010	8.2	15%	34.9	63%	11.6	21%	0.7	1%

Source: Analysis of reports filed with the Internal Revenue Service

Table 1 indicates shows the sources of contributions to the RGA and DGA in 2006 and 2010. The table shows that the major donors to both the RGA and DGA were a mixture of individuals (with most of the money coming in large contributions of $75,000 or more), corporations, and labor unions (for the DGA only). The mixture was roughly the same *both* in the 2006 election before *Citizens United* and after it in 2010. Between 2006 and 2010 both organizations doubled their corporate intake, but the RGA also more than quadrupled its receipts from individuals. Some of the RGA's increase came from the top individual donors. Houston home builder Bob Perry, a frequent donor to Republican and conservative causes, topped the list in both years with gifts of $2,050,000 in 2006 and $8 million in 2010. But the RGA, under the leadership of Mississippi Gov. Haley Barbour, also persuaded new donors to give. In 2006, the top 20 individual donors gave $8.8 of the $9.9 million from individuals. In 2010 the top 20 individual donors gave $20.8 million of a total of $42.8 million. (For a law review article about the RGA and DGA from 2002-2010, see Torres-Spelliscy, 2012.)

The top corporate contributions also carry a cautionary tale for the analyst. The largest business contribution to the RGA in 2010 was from the Michigan Chamber of Commerce for $5.4 million – more than four times as large as the next highest. Yet when we look through our database of disclosed independent spending, we see no activity in Michigan by the RGA. Significantly, Michigan does not disclose electioneering. According to an investigative report by the Michigan Campaign Finance Network (MCFN), the RGA's Michigan PAC (which does not accept corporate money and is legally distinct from the multi-state "527" political organization being discussed so far[*]) received 98% of its $8.4 million in income from major out-of-state individual donors (including the previously mentioned Bob Perry and another familiar conservative donor, David Koch). It then gave $5.2 million to the Michigan Republican Party (which is allowed to accept unlimited contributions). The state party, perhaps coincidentally, shows up in our data with just about the same amount ($5.2 million) in independent expenditures. The *Michigan* Republican Party also gave $3 million to *Texas* Gov. Rick Perry's 2010 reelection campaign, an action the MCFN described as "illogical" for a state party. (Perry preceded Barbour as chair of the RGA in 2008 and succeeded him in 2011.) Meanwhile, the RGA's nationally active 527 committee, (the entity with the $5.4 million contribution from the Michigan Chamber of Commerce) spent at least $3.5 million in issue ads in Michigan that were not disclosed through the state's campaign finance reports. According to MCFN, the RGA's 527 committee disclosed $26.4 million in advertising through Target Enterprises in its reports to the IRS. MCFN was able to account for $3.5 million in Target-placed ads for the RGA in Michigan by examining broadcast and cable television station logs in the state (Michigan Campaign Finance Network, 2011).

III

What Offices Were Targeted?

We focused on the RGA and DGA because of their importance in the increased spending in our states between 2006 and 2010. As is evident from their names, the two organizations were most active in competitive gubernatorial elections. We therefore wondered what factors explain the decisions by independent spenders to become involve in a gubernatorial election, and whether the considerations are different for legislative elections.

The next section focuses on the type of offices targeted by organizations engaged in independent spending. Most commentators when discussing IS tend to refer to the actions of organizations in terms of one specific office (e.g., governor). Our perspective is more encompassing. We assume that the goals of organizations in the six sectors vary, that these

[*] The term "527 organization" is a popular term more precisely defined as follows: All political organizations are required to register and disclose their receipts and disbursements with the Internal Revenue Service unless they are exempted from doing so. One exemption covers any organizations that already disclosed the same information through the Federal Election Commission. Organizations are also exempt if they operate in only a single state and disclose the same information to a state or local agency that makes the information publicly available. The RGA's Michigan PAC would fall under this single-state exemption. Multi-state organizations (such as the RGA and DGA) and organizations involving material participation by federal candidates or office-holders, must disclose through the IRS or FEC. See U.S. Internal Revenue Service, "Definition of a Qualified State or Local Political Organization," at http://www.irs.gov/faqs/index.html. Accessed August 25, 2012.

variations lead different sectors to focus on different races, and that political parties, party affiliates and party allied groups are most concerned with controlling those offices that are obviously partisan in nature and have a significant amount of power. If our assumptions are correct, then we would expect to see party-like groups concentrating on gubernatorial and legislative elections, especially in 2010 when decisions on redistricting were to be decided in the 2011-2012 legislative session. Some independent spending money could be spent by these party organizations on other statewide offices but we expect little spending by them organizations on statewide judicial races.

Table 2 presents independent spending by party groups in the 2006 and 2010 election across offices.

Table 2

Party and Party Network Groups * Independent Spending by Office**

Election Year	*Judicial*	*Gubernatorial*	*Other Statewide*	*Legislative*	*None Listed*
2006	8.8%	39.8%	3.2%	48.2%	0.0%
2010	2.4%	55.2%	5.3%	31.7%	5.4%

*Party and party network groups includes party committees, party affiliated groups, and party allies

**Excludes CO, CT, FL, MA, and WI, states in which the target of the majority of IS is not identified or comparable data for both elections is not available

As anticipated, independent spending by party and party network groups was not distributed evenly across different types of races. In the 2006 election, party and party network groups directed 88% of their independent spending toward gubernatorial and legislative elections. In 2010, the figure was 87%. Since political party and party network independent spending is most prominent in gubernatorial and legislative elections, we will confine our analysis to those offices in this paper. We devote the next two sections of the paper explaining the variation in independent spending for gubernatorial and legislative races.

IV. Targeting the Governor's Race

A. Determining the Level of Party and Party Network Independent Spending Per Vote

Our foray into examining party spending in gubernatorial races involves determining the relationship between independent spending by party and party network groups[*] and four electoral and institutional variables. To do this, we conduct a multivariate analysis with independent spending by party and party network groups in gubernatorial races as our

[*] For the remainder of the paper, we refer to independent spending by political party committees, party-affiliated groups, and party-allies as spending by “party and party network groups”.

dependent variable[*]. We make our data more comparable across states by dividing party and party network groups independent spending by the total number of votes in the gubernatorial election. The mean of this dependent variable is $3.76 per vote with a range of $16.80 per vote, ensuring we have plenty of variation to study despite the small sample size.

We hypothesize that the electoral and political environment will affect the level of independent spending by party and party network groups in gubernatorial elections. Our first electoral independent variable of interest is the total amount of candidate contributions. We expect that the greater the level of contributions raised by gubernatorial candidates, the more likely that independent spending by party and party network groups will also be higher since the race is attracting more money overall. Like the dependent variable, we also divide total candidate contributions by the number of total votes in the election in an effort to make our data comparable across states.

We also hypothesize that the level of competition in gubernatorial elections will have a significant impact on the willingness of various party and party network groups to engage in independent spending. Races which are one-sided, either because of incumbency advantage or due to the political complexion of the state, should have little, if any, independent spending by party and party network groups. Their money is better spent on other races. We measure the level of competition by calculating the margin of victory between the top two vote-getters. This approach helps us account for the three states (Maine, Colorado, and Minnesota) with more than two serious candidates running for governor and where the winner's share of the total vote was thus less than 50%. We expect the margin of victory to have a negative relationship with party and party network groups independent spending.

Our multivariate analysis also includes two institutional variables that may affect the amount of independent spending by party and party network groups in gubernatorial elections.[†] The first of these institutional factors is control over redistricting, which we include in an attempt to measure the relative value of the governor's office across the states. Our redistricting control variable sorts the states into three categories: political control over redistricting, a hybrid system, or states with a redistricting commission.[‡] States with political control of the redistricting process give power to the legislature and governor. Redistricting commissions are independent from elected officials, limiting the influence of the legislature

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[*] Some of the 2010 Republican Governors Association spending in Ohio did not include target information. We assume this $3.3 million was spent in the gubernatorial race, because the rest of their $8.4 million independent expenditures were spent in the gubernatorial race.

[†] We initially included the institutional powers of the governor (Beyle 2007, Ferguson 2012) in our multivariate analysis. We expected that the higher the institutional powers of the governor, the more likely party and party network groups will engage in independent spending. However, the variable did not have a significant relationship with party and party network groups independent spending in gubernatorial races. Due to the small sample size, we decided to exclude the gubernatorial institutional power variable from our final regression.

[‡] We used the National Conference on State Legislatures' *Redistricting Commissions: Legislative Plans* website to create this variable: http://www.ncsl.org/legislatures-elections/redist/2009-redistricting-commissions-table.aspx.

and governor. We chose redistricting rather than other indicators of gubernatorial power because this is the issue toward which the parties should be the most sensitive. Party and party network groups are interested in control of the redistricting process because it affects the party's ability to gain/maintain a majority in the legislature. Thus, we predict that party and party network groups will increase their independent spending in states with political control over redistricting.

The final independent variable of interest is the presence or absence of limitations in a state's campaign finance laws on contributions to political party committees.[*] We expect that where such restrictions exist, organizations within the party network other than the formal party will be more likely to engage in independent spending, while the formal party committees will be less likely to spend. That is, we expect that well resourced and highly motivated donors faced with limits on contributions to the parties will find (or be offered) a functionally equivalent way to give, thus displacing money that might otherwise have been party money into non-party organizations affiliated with or allied with the parties.

A multivariate analysis helps sort out the significant factors that influence party and party network groups' independent spending in gubernatorial elections. We separate our analysis for party committees and party network groups (party-affiliated groups and party-allied groups) in order to test our differing expectations for these two groups regarding the contribution limits on donations to parties.[†] Please keep in mind that we have a limited number of cases for one election on which to make our assessment. With this limitation understood, we performed a regression analysis with the four previously discussed independent variables (See Table 3).

[*] We also included in some regressions a variable indicating whether public financing was available for the gubernatorial candidates. The variable was insignificant, so we did not include it in the final regression due to our small sample.

[†] We also ran a regression with a dependent variable combining independent spending by party committees and party network groups (see Table A-1 in the appendix). The results for the most of the combined dependent variables were very similar to the regressions reported in the text. The exception was for contribution limits on donations to the party, which now show up as being insignificant. We should expect this, since the hypothesis was not that limits would reduce spending, but that they would displace spending from one set of organizations to another. In a sense, therefore, one could see this null finding as a rejection – in a world of protected independent expenditures – of some decades-old claims that spending limits would reduce the total amount of money in politics.

Table 3

2010 Party and Party Network Groups'* Independent Spending in Gubernatorial Races**

	Party Independent Spending Per Vote	Affiliated & Allied Groups' Independent Spending Per Vote
Candidate Funds Per Vote	0.0349*	0.0837*
	(0.018)	(0.045)
Redistricting Control	0.082	0.302
	(0.138)	(0.343)
Margin of Victory	-0.0234*	-0.0998**
	(0.013)	(0.031)
Contribution Limits on Donations to Parties	-0.456*	1.154*
	(0.247)	(0.615)
Constant	0.164	0.672
	(0.405)	(1.009)
Observations	15	15
R-squared	0.550	0.694

Standard errors in parentheses. *** p<0.01, ** p<0.05, * p<0.1
*Party network groups include independent spending by party-affiliated groups and party-allies.
** CT & FL excluded because the target of IEs are not identified. MO, NC, & WA did not have gubernatorial elections in 2010.

Three of the four variables are statistically significant. The level of candidate contributions and the level of competition each has a significant effect on spending in this arena, with each showing the impact more strongly for party-affiliated and party-allied groups than for the party organizations. Limiting contributions to parties depresses independent spending by party committees in gubernatorial elections, as expected, while they at the same time increase independent spending by party affiliated and party allied groups. Our final independent variable, redistricting control, does not have a significant effect on either party or party network groups independent spending.

We can illustrate the influence of these variables with some examples. Maine meets both criteria for high party and party network groups' independent spending. In Maine, the funds per vote were high in the gubernatorial election ($24.30 per vote) and the winning candidate won with a small margin of victory (1.76%). As expected, the level of independent spending per vote by party and party network groups in the Maine gubernatorial election was high ($16.90 per vote). In fact, party and party network groups' independent spending per vote was highest in Maine. Additionally, Maine has no limits on donations to political party committee, suggesting that party independent spending should be high in Maine. Indeed, party committees spent $1.90 per vote, which is the highest independent spending by party committees in any gubernatorial election. Even so, we should point out that despite the lack of a restriction on contributions to the parties, the party-affiliated and party allied groups outspent the formal party organizations by more than seven to one.

On the other hand, Idaho does not meet either criterion for high party and party network groups independent spending. There was a fairly low amount of candidate funds raised per vote in the Idaho gubernatorial election ($9.52 per vote), and the margin of victory was large (26.3%). Unsurprisingly, independent spending by party and party network groups in the Idaho gubernatorial election was among the lowest ($0.27 per vote). As in Maine, the lack of any limits on donations to political parties in Idaho suggests that independent spending should be channeled through the formal parties. Although the $0.27 per vote spent by party committees in Idaho is not particularly high, no party-affiliated and party allied groups independently spent money in the election.

Clearly, the level of candidate funds and the level of competition in gubernatorial races influence the amount of independent spending by party and party network groups, while the presence or absence of contribution limits channeled the paths that the money took. In the next section, we explore whether these variables also influence how much party and party network groups spend in legislative elections.

V. Targeting the Legislature

A. Determinants of Party and Party Network Independent Spending Per Vote

From the 2006 to the 2010 election, independent spending by party and party network groups in legislative elections increased by a much smaller amount than the increase in gubernatorial elections. Party and party network groups' independent spending in gubernatorial elections more than doubled to $33.3 million in the 2010 election, while independent spending in legislative elections only increased by $2.1 million for a total of $20.7 million. Despite this much smaller increase, exploring whether political and institutional variables influence the level of independent spending is still of interest. Therefore, we again use a multivariate analysis to examine whether independent variables similar to those in the gubernatorial elections regression also influence the level of independent spending by party and party network groups in legislative elections.

In the multivariate analysis of legislative elections, our dependent variables are the amount of independent spending by party committees and party network groups (party-affiliated and party allied groups) in legislative races aggregated to the chamber level.[*] To make the level of spending comparable across states, we again divide party and party

[*] As in the gubernatorial analysis, we also ran a regression with a dependent variable combing independent spending by party committees and party network groups (see Table A-2 in the appendix). Apart from the public financing variable being insignificant, the results for the combined dependent variable were very similar to the regressions reported in the text.

network groups' independent spending by total votes. Making this analysis somewhat different, our dependent variables exclude clearly uncompetitive legislative elections.[*] Restricting our analysis in this way allows us to focus on races where party and party network groups actually spent money. A race is excluded if the winning candidate received 75% or more of the vote. All races with the winner receiving 74% or less of the votes are included in our data. We use this high of a cutoff in an effort to make sure we did not miss races that were competitive initially but not by the time of the election.

As in the gubernatorial analysis, one of the key independent variables is the candidates' level of total contributions per vote. Again, we expect higher candidate fundraising to be associated with higher independent spending by party and party network groups in legislative elections. We also include control of the redistricting process with the expectation that party and party network groups independent spending will be higher in legislative elections where the legislature has more control over redistricting.

The variable for restrictions on contributions to political party committees also remains the same. We expect party committees to spend less in states with contribution limits on donations to parties. Additionally, we hypothesize that limits on contributions to parties will increase the level of independent spending by party-affiliated organizations and party allied groups.

The other independent variables differ from those in the gubernatorial analysis. First, we include a variable indicating whether public financing with spending limits is available to candidates. We expect that party committees and party network groups will spend more in chambers with public financing available, since the candidates who accept public funds must adhere to spending limits. Because of data limitations for other states, our only public funding states were Minnesota and Maine.

We also add a political variable measuring the percentage of seats the majority party held in each chamber. We include this variable in an attempt to include competition over control of the chamber in the analysis. Our expectation is that independent spending by party and party network groups will be higher when the majority party holds a smaller percentage of seats; in other words, spending should increase when control of the chamber is more likely to be at stake (Moncrief 1992, Moncrief and Patton 1993).

Table 4 displays the regression results for the party committee and party network groups' independent spending in legislative elections. Unlike our results for the gubernatorial elections, the legislative multivariate regressions do not particularly help clarify how the political and institutional factors may influence independent spending by party and party network groups, except with respect to public financing. The R^2 in both legislative

[*] We also ran our analysis on party and party network groups' independent spending in legislative elections with all legislative races. The results for the multivariate analysis with all legislative races are very similar to the analysis excluding the uncompetitive races. The main difference is a slightly lower R^2.

regressions is much lower than in the equivalent gubernatorial regression. Moreover, apart from public financing in the party independent spending regression, none of the independent variables significantly affect independent spending by party and party network groups. Public financing with a spending limit, however, does seem to be associated with higher levels of independent spending by the parties.

Table 4

2010 Party and Party Network Groups* Independent Spending in Competitive Legislative Races**

	Party Independent Spending Per Vote	Affiliated & Allied Groups Independent Spending Per Vote
Candidate Funds Per Vote	-0.006	-0.015
	(0.013)	(0.013)
Redistricting Control	0.225	0.118
	(0.201)	(0.198)
Majority Party Share of Seats	-0.019	-0.015
	(0.016)	(0.016)
Contribution Limits on Donations to Parties	-0.326	0.487
	(0.321)	(0.316)
Public Financing with Spending Limit	1.085**	-0.186
	(0.484)	(0.477)
Constant	1.394	0.999
	(1.133)	(1.116)
Observations	34	34
R-squared	0.34	0.169

Standard errors in parentheses. *** $p<0.01$, ** $p<0.05$, * $p<0.1$
*Party network groups include independent spending by party-affiliated groups and party-allies.
**CT & FL excluded because the target of IEs are not identified. AZ also excluded because two-member districts complicate calculating race competitiveness.

Although the sign of the coefficients are in the expected directions, contribution limits on donations to party committees do not significantly depress independent spending by party committees or increase independent spending by party-affiliated and party allied groups. Interestingly, the availability of public funds for legislative candidates does significantly affect independent spending by party committees but not party network groups. Spending limits are believed to stimulate outside spending, so it might seem puzzling to see that public financing only significantly impacts party committees and not their allies. We expect this may be because both of these public funding states allow unlimited contributions to the political parties.

It is also surprising that neither the amount of contributions raised by candidates per vote, nor the size of the majority party, influences the party and party network groups' level of independent spending in legislative elections. These results are perplexing because competitiveness, whether in a race or in the chamber, routinely has been found to influence the level of spending in elections. We plan to investigate this issue in future developments of the paper[*]. For now, we move on to explore which party and party network groups account for significant increases in independent spending from the 2006 to 2010 elections. Our analysis focuses on four states with increases greater than $750,000.

B. Party and Party Network Groups and Variations in Independent Spending

Independent spending by party and party network groups in legislative elections did not universally increase across states. Party and party network groups' independent spending actually decreased in legislative elections in five states. Of the eight states where independent spending was higher in the 2010 elections, the increase was relatively minor in several states. Table 5 displays the changes in independent spending by party and party network groups from the 2006 to 2010 election.

[*] Part of the issue may be our assumption that parties are unified and active in all the states in our sample. We plan to include a measure of party strength in the future. Additionally, missing data in some states with competitive chambers (e.g., OH, WA) may be influencing our results. We also plan to correct some of this missing data in the future.

Table 5

Change in Party and Party Network Groups Independent Spending from 2006 to 2010 Legislative Elections*

State	Party Committees	Party-Affiliated Groups	Party-Allies	Party Groups Total
AK	5,993	0	100	6,093
AZ	-77,125	-16,201	126,496	33,171
CA	314,736	1,097	33,012	348,845
IA	0	0	0	0
ID	0	0	0	0
ME	182,002	1,995,252	27,852	2,205,105
MI	1,538,974	-1,520	-457,260	1,080,195
MN	-1,634,885	0	55,709	-1,579,176**
MO	-1,275,223	-33,493	-713	-1,309,429
NC	16,887	1,512,331	367,554	1,896,772
OH	-294,610	0	0	-294,610**
OK	-316,375	145,744	283	-170,348
TN	937,086	-44,544	-7,000	885,542
TX	-8,455	513,673	-336,591	168,627
WA	-231,240	75,597	156,969	1,326
Total Change	-842,235	4,147,936	-33,590	3,272,111

*Excludes CO, CT, FL, MA, and WI – states in which the target of the majority of IEs are not identified or comparable data for both elections is not available.

**Due to missing data in these states, these decreases may be exaggerated. In the 2010 MN elections, 5.8% of party and party network groups independent spending does not have an identified target. In the 2006 OH elections, 7% of party and party network independent spending does not have an identified target. This increases to 14.3% in the OH 2010 elections.

The level of independent spending in legislative elections by party and party network groups increased more than $750,000 in five states – Maine, Michigan, North Carolina, and Tennessee. We are interested in what groups account for these large increases. To do this, we analyze more deeply the party and party network groups that increased their spending in the 2010 election.

The state and legislative party committees (e.g., Maine Republican Party, House Democratic Campaign Committee) are very active independent spenders in Maine legislative elections. However, an almost $2 million increase in party-affiliated independent spending accounts for the majority of the large increase in independent spending by party and party network groups. The entrance of the Republican State Leadership Committee Maine PAC in the 2010 elections is the source of this almost $2 million increase in spending in Senate races. The Republican State Leadership Committee is a national organization GOP public officials working to elect Republican majorities in state legislatures and other offices. Party-affiliated groups were even more involved in Maine legislative elections than the independent spending data shows, because the Maine Republican Party received about one-third of its funds in the 2010 election from the Republican Governors Association (which is double what the RGA contributed to the state party in 2006). Clearly, party-affiliated groups are important actors in Maine elections.

The increase in party and party network groups' independent spending in North Carolina was also due largely to party-affiliated groups. The Republican State Leadership Committee (RSLC) actually did not do independent spending in North Carolina in 2010 after spending $10,000 in 2006. But though the RSLC did not engage in direct independent spending, the group donated $1.25 million to Real Jobs NC, which we classified as party-affiliated because it was created in 2010 and received three-quarters of its money from the RSLC[*]. Real Jobs NC spent $1.5 million in independent expenditures in the 2010 election, making it the main source of the increase in party-affiliated independent spending in that state.

National Republican party-affiliated groups were also the source of increases in independent spending in the Michigan and Tennessee legislative elections. From the public records, it would appear as if the state party committees were the groups that dramatically increasing their independent spending. However, in both states, the RGA was a major donor to the Republican Party committees. The Tennessee Legislative Campaign Committee (TLCC) spent almost $900,000 through independent spending in the 2010 election. This large increase accounts for most of the increase in party and party network spending in the 2010 election, since the TLCC did not engage in independent spending at all in the 2006 legislative election. But this increase in spending coincided with an influx of money from the RGA. While only 3% of the TLCC's money came from the RGA in 2006, the RGA donated one-third of TLCC's funds in 2010. Although we cannot confirm the TLCC specifically used the RGA donations for independent spending, money is fungible and these large donations clearly provided the TLCC with the money to spend more on legislative races.

The situation in Michigan is similar. The Michigan Republican Party increased its independent spending in legislative elections by $1.8 million from 2006 to 2010, making it the most active party and party network group in Michigan legislative elections and accounting for most of the increase in party and party network independent spending in 2010. The RGA donated 57% of the Michigan Republican Party's funds in 2010 after donating nothing to the state party in 2006, making this national, party affiliated organization an important source for the increase of independent spending by the Michigan Republican Party in the 2010 legislative election. Thus, even though it first appears that much of the increase in party and party network groups' independent spending was due to more active party

[*] It is not clear whether this organization will continue to be classified as a party affiliated rather than a party-allied organization if we analyze it in subsequent years. It continued to operate in 2012 on a smaller level (as of early reports), with $250,000 from two corporate donors and $50,000 from the RSLC.

committees in Michigan and Tennessee, party-affiliated groups (specifically the RGA) actually funded this increase in independent spending by party committees.

This analysis demonstrates that party-affiliated groups were the source for much of the increase in independent spending by party and party network groups in the 2010 legislative elections. This finding is important because it demonstrates that national party-affiliated organizations are now very active in state elections through independent spending and/or contributing to state party organizations. These national organizations, particularly the DGA, RGA and RSLC, are spending large sums of money to influence state gubernatorial and legislative elections. Desire to control the redistricting process may have increased the activity of these national, party-affiliated groups in 2010, so it will be interesting to see whether the national party groups continue to spend heavily in future state elections.

V. Conclusions and Speculations

Unlike many common predictions regarding the effects of the *Citizens United* decision, we find little evidence that businesses heavily increased their independent spending in state elections between 2006 and 2010. Instead, we find that parties and party network groups are the organizations most actively engaged in independent spending before and after *Citizens United*. Additionally, corporate and labor independent spending mainly increased in states with no previous prohibitions on corporate and/or labor spending. Therefore, *Citizens United* and related decisions appear to have had little direct impact on independent spending patterns in the first set of state elections after the ruling.

Much of our analysis focuses on independent spending by party and party network groups, because they seem to be the real story in independent spending in state elections. Apart from labor groups in California, party and party network groups accounted for a majority of increases in independent spending since the 2006 election. Through more in-depth analysis of independent spending by parties and party network groups, we find that party-affiliated groups are prominent actors in many state elections. Many of these party-affiliated groups are national organizations made up of state public and party officials. They account for much of the increase in party and party-network groups' independent spending. These important actors need to be incorporated in future studies of state party politics.

While we find little evidence that *Citizens United* explains changes in independent spending in state elections, we do find some evidence that campaign finance laws influence independent spending. Specifically, we find that contribution limits on donations to party committees reduce independent spending by formal party committees while increasing the spending of party network groups. In recent years, scholars have written about parties not simply as organizations but as overlapping networks of participants in the broader political environment (Cohen, *et al.* 2008; Koger, Masket and Noel 2009; Masket 2009; Monroe

2001.) Some have expressed the concern that the campaign finance system is bleeding the power of the formal parties into these amorphous and informal networks (see, for example, LaRaja 2011 and 2012). We would note that the specific form this has taken so far in state elections is not quite so dramatic: national, partisan organizations of public and party officials have raised money and either given it to parties or spent it. Either way, the decision about where and when to spend the money comes from the national organizations raising the money. If the national actors in state elections had been informal party allies rather than party affiliates, then the concern might have more weight. So far, however, this has happened.

That is not to say the future will look like the past. The court decisions described at the beginning of the paper were in some ways a jolt to the system. Political actors may need more time to react. But not everyone will have the incentive, or the organizational capacity, to adapt equally well. According to the National Conference of State Legislatures, there are 7,382 state legislative seats in the United States (NCSL 2012). With so massive a potential scale of operation, it is possible that the party-affiliated organizations, with professional political staff and ongoing relationships across the states, will maintain a crucial advantage over their potential organizational competitors.

Yet, there are bound to be some organizational developments we cannot yet foresee. Two examples will show how inventive a politically determined actor can be with sufficient resources. The first example is from California. We typically think of independent expenditure committees (or SuperPACs) as post-*Citizens United* inventions. They are not. California's contribution limits are indexed for inflation. In 2008 individuals could not give more than \$3,600 to a candidate but they could give unlimited amounts to an independent expenditure committee. Assembly candidate Bob Blumenfield raised more than \$775,000 in 2008 for an open and normally safe Democratic seat. His two opponents in the Democratic primary raised \$340,000 and \$381,000. Blumenfield won the primary with 53% of the vote; his two opponents received 21% each. Despite what might have looked like an easy race, an independent sending committee named Valley Democrats for Change supported his campaign to the tune of an additional \$385,000. Who were the Valley Democrats for Change's main financial supporters? According to the California Secretary of State's records, the Berman for Congress Committee gave \$240,000 and Michael Blumenfield gave \$75,000. Michael Blumenfield is the candidate's father. U.S. Rep. Howard Berman was his employer. The scenario reads like some that have provoked comments about the supposed independence of some of the candidate-specific SuperPACs involved in the presidential election of 2012.

The other story comes from the State of Washington. It is so convoluted that we rely on a secondary source, the National Institute of Money in State Politics (NIMSP), to unravel it. The following is quoted from NIMSP's report:

> Philip Lloyd, a financial advisor and owner of Project Accounting, in 2010 registered dozens of committees for independent expenditures. PACs connected to Lloyd spent $1.1 million in 2010. Despite some having names like "Conservative PAC," the only time these PACs were against Democratic races was when there was another Democrat running. For instance, in the Senate District 38 primary, Stand Up for Citizens spent $157,568 opposing Jean Berkey (D) and spent $76,785 in support of Nick Harper (D).
>
> While most of Lloyd's PACs list their main contributors as other PACs that Lloyd is treasurer of (for example, Win PAC receives its contributions from Victory PAC), those main contributing PACs are funded mostly by unions, such as the Service Employees International Union (SEIU), the Washington Federation of State Employees (WFSE), the Washington State Labor Council's Don't Invest in More Excuses (DIME) PAC, and a handful of others. (Parkinson, 2012)

What followed in the report was a table that was nearly impossible to follow, tracing the shell games for passing money from one PAC to another before the final PAC in the daisy chain would make an expenditure that would have to be disclosed to the public. Of course, NIMSP was able eventually to track the spending (long after the information might have been useful to voters) because Lloyd decided to use PACs as his intermediaries. If the next person uses nonprofit advocacy organizations, the money would not be traceable under current law.

The basic conclusion we have drawn from this study is that business groups were not the primary beneficiaries of the developments popularly subsumed under the label of *Citizens United*. Rather, the first post-CU state elections seemed to be one for the party affiliates. Nevertheless, we are reluctant to use this past election to predict the ones coming. Any major shock to a complex system can take time to show its effects, as the system's participants learn how best to accomplish their goals under new conditions. For that reason, it will be important to continue this research for several election cycles.

The data are not yet available, at this writing, to analyze independent spending at the state level in the elections of 2012. The early indications suggest, however, that the patterns of 2010 continued. Consider these two states. (All 2012 numbers are preliminary.)

- North Carolina prohibited corporate treasury expenditures before *Citizens United*. Independent spending was $8.8 million in the gubernatorial election year of 2008 and $14.5 million in 2012. The increase straddled the *Citizens United* decision. However, $9.5 million of the 2012 money came from familiar sources: the Republican Governors Association ($4.9 million), North Carolina Citizens Association ($2.6 million – a liberal group with substantial funding from the Democratic Governors Association), and the North Carolina

Judicial Coalition, whose top supporter was the Republican State Leadership Committee ($1.9 million) (Parkinson, 2011; Kramm, 2013).

- Washington's 2012 patterns look like North Carolina's, even though Washington did *not* have a corporate spending ban before 2010. Independent spending in the gubernatorial election year of 2008 came to $23.9 million. In 2012, the next gubernatorial year, independent spending was $30.6 million, an increase of $6.9 million. The Washington State RGA PAC alone increased its independent spending by more than $5 million over the four years. The RSLC (increasing from $900,000 to $3 million) accounted for another $2 million. Our Washington, a liberal organization receiving money from organized labor and the DGA, spent $8.8 million. (See (Parkinson, 2012; Washington Public Disclosure Commission 2012.)

This brief comparison of two states with gubernatorial elections in 2008 and 2012 seems to confirm what we saw from a broader comparison of the changes between 2006 and 2010. Once again, the increase in independent spending seems to have come largely from party-related organizations, party allies and ideological groups. Moreover, the results are not confined to the gubernatorial level. The 2012 legislative elections seem consistent with these patterns in the states we have examined preliminarily. Finally, we must note that the patterns do not simply reflect a surge in corporate money passing through party-related funding streams. Three of the major, national, party-related organizations active in state elections (RGA, DGA and RSLC) saw their receipts grow substantially from 2006/2008 to 2010/2012. However, the percentage of the money that these organizations raised from corporations stayed level or went down.

These results may seem surprising or counterintuitive, but they relate to an important development in American politics. Let us assume the early indications from 2012 are borne out after full analysis. In that case, the independent spending in the first two sets of state elections after *Citizens United* would not be best understood as a manifestation of corporate power flowing from a Supreme Court decision. Rather, the spending in these elections seems to fit in more comfortably as a part of a longer, still developing story about the resurgence of amorphously networked political parties.

Appendix

Figure A-1

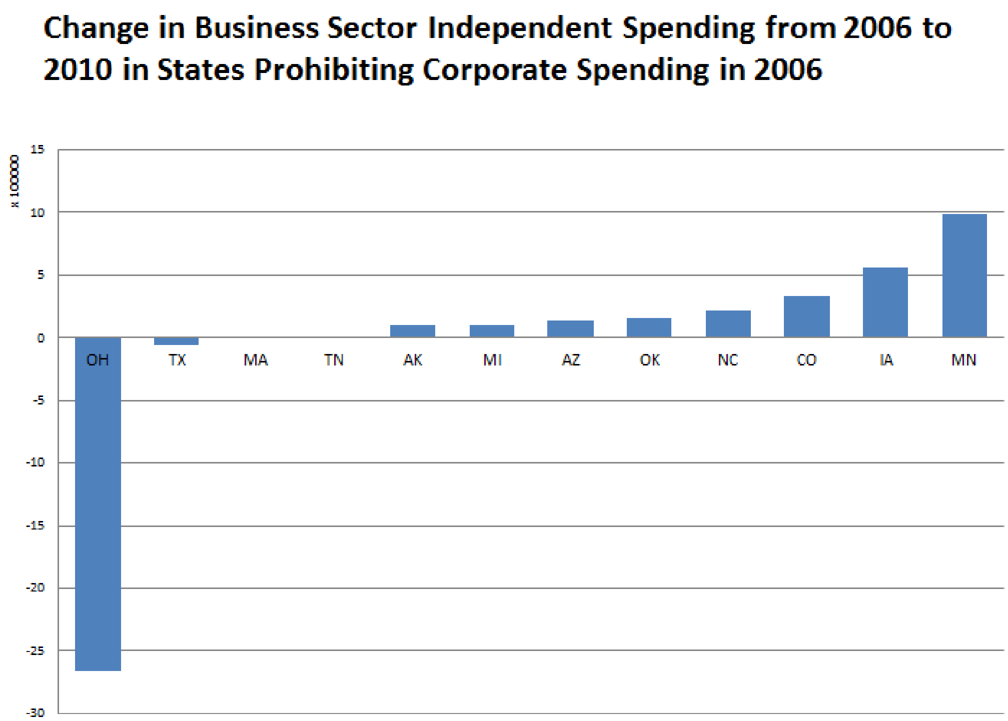

Figure A-2

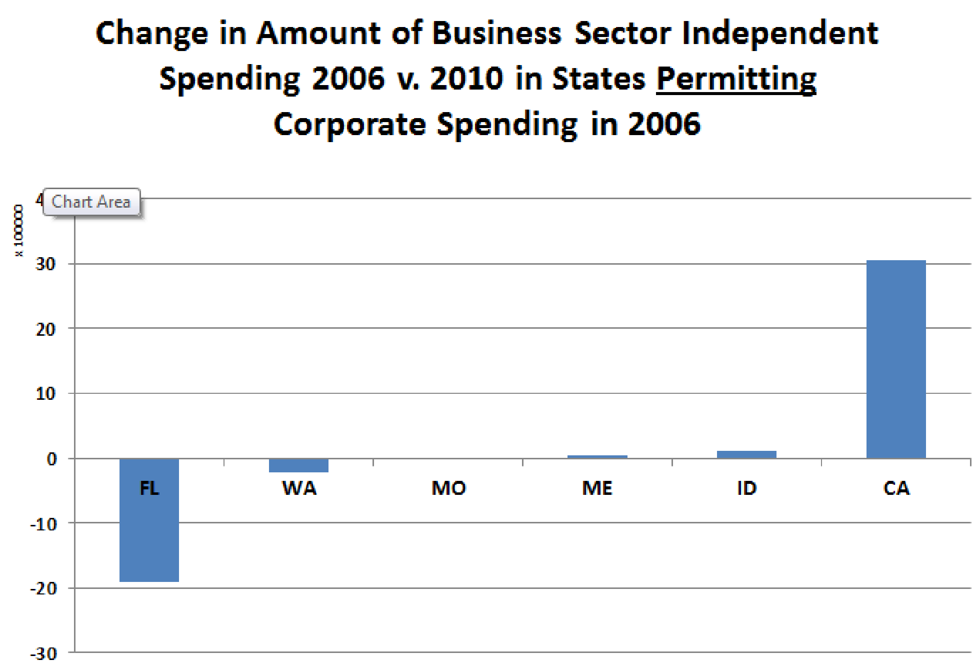

Table A-1

2010 Party and Party Network Groups* Independent Spending in Gubernatorial Races**

	Independent Spending Per Vote
Candidate Funds Per Vote	0.119**
	(0.056)
Redistricting Control	0.383
	(0.422)
Margin of Victory	-0.123***
	(0.038)
Contribution Limits on Donations to Parties	0.697
	(0.756)
Constant	0.837
	(1.241)
Observations	15
R-squared	0.664

Standard errors in parentheses. *** p<0.01, ** p<0.05, * p<0.1
*Party network groups include independent spending by party-affiliated groups and party-allies.
**CT & FL excluded because the target of IEs are not identified. MO, NC, & WA did not have gubernatorial elections in 2010.

Table A-1 includes the results for a regression with the total party and party network groups independent spending in gubernatorial elections as the dependent variable. The results in this regression are similar to the results in the regressions with separate dependent variables for party independent spending and party network groups independent spending. The main difference is that the contribution limits on donations to parties variable is insignificant in this regression and significant in the party independent spending regression reported in Table 3. This is understandable, since we expected the contribution limits on donations to parties to affect spending by parties and spending by party network groups differently.

Table A-2

2010 Party and Party Network Groups* Independent Spending in Competitive Legislative Races**

	Independent Spending Per Vote
Candidate Funds Per Vote	-0.020
	(0.017)
Redistricting Control	0.343
	(0.264)
Majority Party Share of Seats	-0.033
	(0.021)
Contribution Limits on Donations to Parties	0.162
	(0.421)
Public Financing with Spending Limit	0.899
	(0.635)
Constant	2.395
	(1.487)
Observations	34
R-squared	0.279

Standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1

*Party network groups include independent spending by party-affiliated groups and party-allies.

**CT & FL excluded because the target of IEs are not identified. AZ also excluded because 2-member districts complicate calculating race competitiveness.

Table A-2 displays the results for a regression with the total party and party network groups independent spending in legislative elections as the dependent variable. Overall, the results are very similar to the regressions with separate party spending and party network groups spending dependent variables (see Table 4). The only difference among all three regressions is the significant relationship between public financing and party independent spending.

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