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Election Spending 2016: Outside Groups Outspend Candidates and Parties in Key Senate Races

Ian Vandewalker

**Research provided by Alexis Farmer*

Groups other than the parties or the candidates are the highest spenders in 2016's most competitive Senate races, according to the latest Brennan Center analysis.¹ Of the \$557 million spent so far in ten key Senate contests, nonparty outside groups are responsible for \$282 million, or 51 percent. The vast majority of this outside money was raised by groups not subject to contribution limits. In Nevada, for example, where Democrat Catherine Cortez Masto is locked in a tight contest against Republican Rep. Joe Heck, only 30 percent of the spending has come from the candidates themselves.

Although it is hard to tell because of unreported expenditures in past elections, 2016 may mark the first time outside groups other than the official parties or the candidates account for the majority of spending.

Overall, outside spending is pouring into races at a record pace. The current record-holder for the most expensive Senate race was the 2014 North Carolina contest, when a total of \$116 million was spent. By the end of September in that race, there was \$39 million in outside spending. By contrast, four contests this year have already beaten that mark: Pennsylvania (\$69 million), Ohio (\$49 million), New Hampshire (\$48 million) and Nevada (\$43 million). With spending so far of \$107 million, it seems a safe bet that the Pennsylvania Senate race between Republican incumbent Pat Toomey and challenger Katie McGinty will break North Carolina's record for total spending.

And in a reversal from 2014, Republicans are outspending Democrats. Nearly 60 percent of the money spent so far in the top Senate races has been to either to support GOP candidates or attack Democrats. Secret spending, or "dark money" — money from groups that don't reveal their donors — accounts for much of Republicans' advantage: it favors GOP candidates at a ratio of six-to-one.

Although the dollar amount of secret spending has remained about the same since 2014 (\$87 million), its share of overall spending has dropped, from 23 percent to 16 percent. Our analysis likely underestimates the amount of secret spending however, since much of it is not reported to the FEC or otherwise announced. The reason for the percentage decline since the last election is the massive

increase in spending by super PACs, which are required to disclose their donors, from \$97 million to \$165 million.

This cycle has also seen the debut of a significant new dark-money player. One Nation, a nonprofit with ties to Republican Majority Leader Mitch McConnell, has spent \$31 million so far, 35 percent of all the secret spending we found. Among its known backers is casino magnate Sheldon Adelson, who reportedly has contributed \$10 million to the group. Dark money is also concentrated. Just three groups, One Nation, the Koch network's Americans for Prosperity, and the U.S. Chamber of Commerce, account for 67 percent in dark money spending.

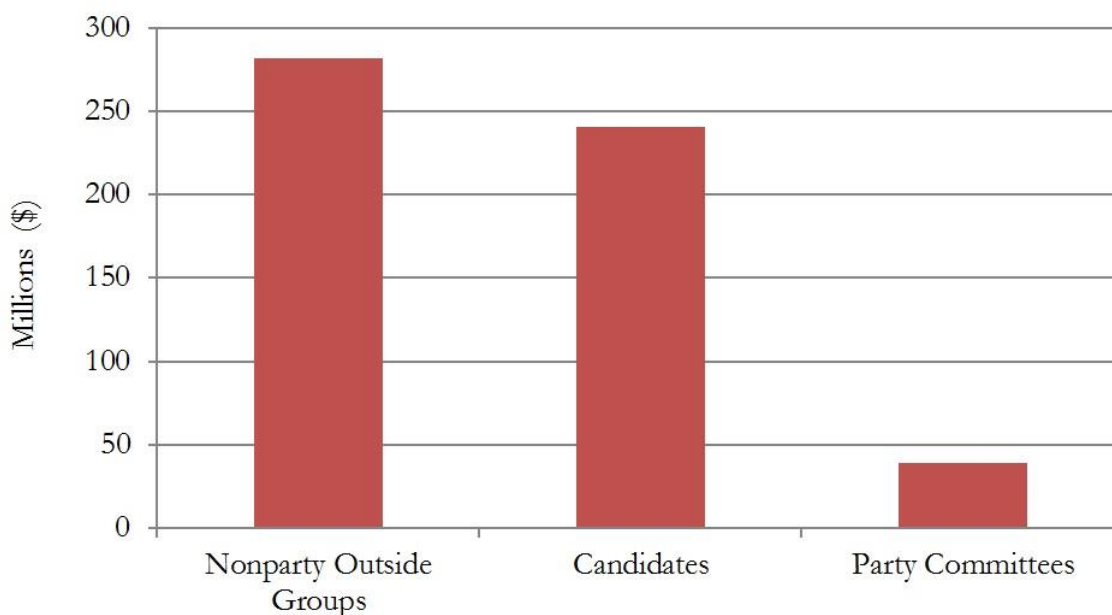
Other findings from the Brennan Center analysis reveal:

- In each of the four most expensive contests (Nevada, New Hampshire, Ohio, and Pennsylvania), candidates account for 37 percent or less of total spending.
- Single-candidate groups — which are groups that take unlimited contributions to support a particular candidate — also account for a smaller share of spending than in 2014, largely because of increased spending by outside groups affiliated with the parties. The \$28 million spent this year by candidate-specific groups amounts to 11 percent, down from 18 percent last election.

Candidates and Party Committees Outspent

Of the \$557 million spent by candidates, party committees, and other groups in the ten key Senate contests, nonparty outside groups are responsible for \$282 million, or 51 percent. The vast majority of this spending comes from groups that are not subject to contribution limits. Candidates have spent \$241 million, or 43 percent of the total. Another seven percent, \$39 million, has come from party committees, for a total between candidates and party committees of \$280 million.

Overall Spending in 10 Key Senate Races



This may be a new high for nonparty outside spending, although direct comparisons to past cycles are hindered by a lack of available data. In the past, we have limited our analysis to spending reported to the FEC because of it is impossible to determine the total amount of spending that is not reported. This cycle, we include secret spending reported in press releases and the media, in part due to One Nation's consistent announcements of its expenditures, which added up to such a large portion of total spending in the key races.

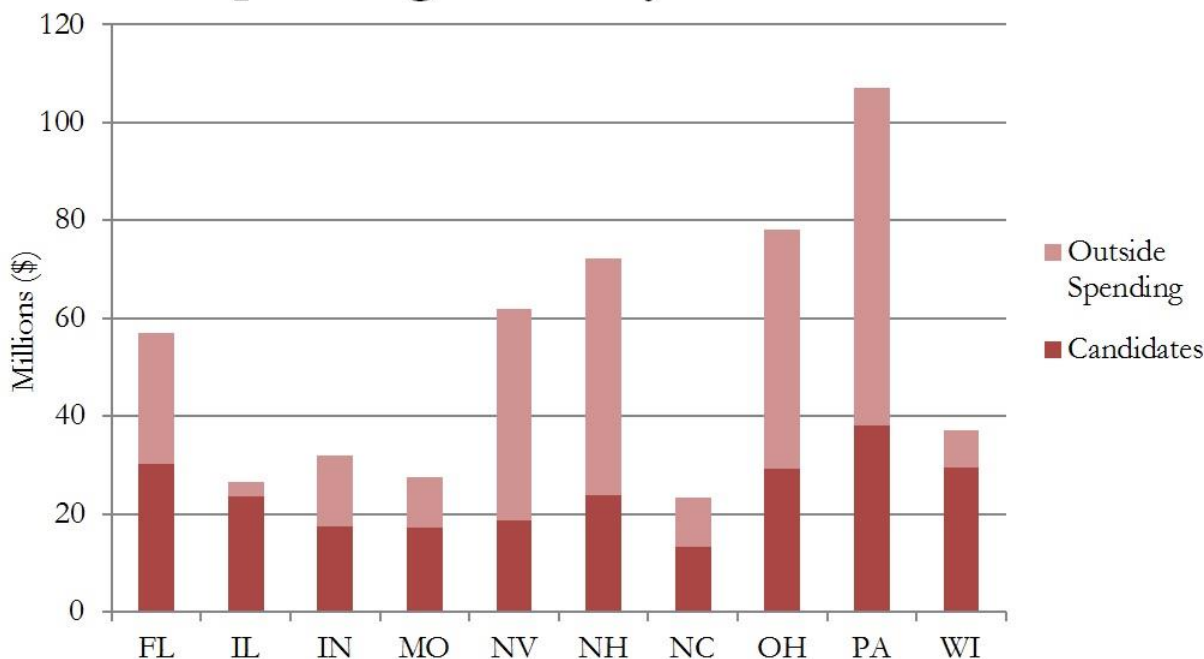
With the caveat that past analyses exclude unreported spending and therefore underestimate nonparty outside group spending, we note that we have never measured nonparty spending as such a high ratio as in this election. At this point in 2014, candidate spending made up the greatest part (49 percent) of total spending in the seven competitive Senate races we analyzed. Party spending accounted for another nine percent. Outside spending in 2014 was 42 percent. In both 2010 and 2012, outside spending in tight Senate races accounted for 40 percent or less.

We count shadow party groups — super PACs and nonprofits run by former top staff of party committees or party leaders and able to mimic party spending strategy² — as nonparty outside groups. This is because these groups, despite being controlled to some degree by the parties, take unlimited contributions and sometimes hide their donors. That the parties are increasingly outsourcing their finances to unregulated shadow parties severely weakens the campaign finance system’s protections against corruption and undue influence.

Nonparty groups across a spectrum of issues appear to be spending more this election, including groups devoted to labor, reproductive rights, gun control, and the environment. But the greatest surge has been from a few Republican shadow party groups and the Koch brothers’ network.

For instance, the Nevada race has turned into something of a proxy war between retiring Democratic Sen. Harry Reid and the Koch brothers, a frequent Reid target. While the candidates themselves have only spent about \$18.6 million so far, Koch network’s Freedom Partners Action Fund has poured \$7.6 into the race, while the Reid-affiliated Senate Majority PAC has spent \$4.8 million.

Spending in 10 Key Senate Races



In New Hampshire, where GOP Sen. Kelly Ayotte is battling against Democratic challenger Gov. Maggie Hassan, the candidates have been outspent two-to-one. However, the independence of the outside money is highly questionable, since the biggest spender is a single-candidate super PAC backing Ayotte called Granite State Solutions (profiled below). In fact, Granite State Solutions has spent more money attacking Hassan than Hassan’s own committee has spent on her entire campaign.

Pennsylvania has seen the highest candidate spending, with \$38 million coming from the campaigns, largely driven by incumbent Sen. Pat Toomey's \$23 million. Even with such large expenditures — Toomey has already spent more than double the average cost of a winning Senate campaign³ — candidate spending has been swamped by outside expenditures. The campaign committees account for only 36 percent of the \$107 million spent so far. The Democrats' Senate Majority PAC has spent more than \$13 million to boost the challenger, Katie McGinty. Independence USA PAC, a super PAC funded entirely by former New York City Mayor Michael Bloomberg to support moderates willing to reach across the aisle, is a dominant force in the race, spending \$9 million support Toomey.

In Ohio, candidates have put up about \$29 million, or 37 percent, of the \$78 million spent on the Senate race. The major outside players are the Koch network, Senate Majority PAC, and a single-candidate super PAC devoted to reelecting Sen. Rob Portman (R) (discussed in greater detail below).

Secret Spending

About nine percent of all reported spending, \$48 million, in the ten key Senate races is from groups that, despite spending millions to influence elections, do not register with the FEC as political committees and so do not report their donors. The Brennan Center uncovered another \$39 million in spending not reported to the FEC, although this number no doubt does not capture all spending. The \$87 million in estimated secret spending accounts for 16 percent of the total spending of \$557 million in these races.

One Nation leads all dark money spenders with \$31 million, followed by the U.S. Chamber of Commerce with \$20 million. The Chamber's spending has significantly increased from 2014, when it spent \$12 million. The Koch network's Americans for Prosperity has reported spending \$8.5 million. None of these groups discloses their donors, although some have been revealed. One Nation reportedly took \$10 million from casino magnate Sheldon Adelson.⁴ The Chamber mostly relies on large donations from a small number of businesses.⁵

Secret spending overwhelmingly favors the GOP, as it has in past elections. All three of the major spenders just mentioned have supported exclusively Republicans this election. Across the 10 key Senate races, 86 percent of spending by groups that hide their donors either supports Republicans or attacks Democrats.

Single-Candidate Groups

Outside groups dedicated to electing a single candidate, or "buddy groups," allow donors to support a candidate with donations far in excess of the limits set on contributions directly to campaigns. This year's single-candidate groups in key Senate races have spent about the same as in our 2014 sample, \$28 million, but their share of nonparty outside spending has decreased from 18 percent to 11 percent.

The biggest reason for the decline in share of spending is the rise of shadow party groups — super PACs and nonprofits run by former top staff of party committees or party leaders and able to mimic party spending strategy. In fact, buddy groups can be funded by shadow party groups. The biggest-spending buddy group, Granite State Solutions, a super PAC dedicated to reelecting Sen. Kelly Ayotte (R-N.H.), received \$12.1 million from the Senate Leadership Fund, which has ties to Senate Majority Leader Mitch McConnell. The groups share a spokesperson and have partnered on ad buys.⁶

Buddy groups are typically run by a candidate’s former staffers, who are likely to be familiar with campaign strategy. They can mimic the campaign’s message while relying on unlimited or even secret contributions. Buddy groups sometimes depict themselves as associated with the candidate in order to attract donors. For example, a representative of the super PAC dedicated to reelecting Sen. Pat Toomey recently wrote in a letter asking for money from a major GOP donor, “We are the blessed Super PAC by Sen. Toomey.”⁷ The letter also touted the super PAC’s use of Toomey’s former staff.

Some buddy groups share vendors with the candidates they support, even on services that could enable collaboration on strategy. For instance, according to data collected by the Center for Responsive Politics, the two biggest clients of polling firm North Star Opinion Research this election are Marco Rubio’s (R-Fla.) presidential campaign and the Florida First Project, a super PAC formed to support Rubio’s Senate bid the same day he announced he was seeking reelection.⁸ As another example, a super PAC supporting Sen. Mark Kirk (R-Ill.), uses the same fundraising firm as Kirk’s campaign and his leadership PAC.⁹

Incumbents are usually the biggest beneficiaries of buddy groups.¹⁰ In 2016, virtually all of the highest spending single-candidate groups support Republican incumbents. Most of the spending has come from just two super PACs, which are supporting senators in New Hampshire and Ohio; those groups are profiled below.

Granite State Solutions

Granite State Solutions is a super PAC dedicated to helping Sen. Ayotte win reelection over her challenger, sitting Gov. Maggie Hassan. The super PAC is run by Ayotte’s 2010 campaign manager, Brooks Kochvar.¹¹ Last year, Kochvar helped a group called Impact America run a \$1 million ad campaign attacking Hassan, who at the time was widely expected to seek Ayotte’s seat.¹² Kochvar denied the Impact America ads were related to the Senate contest, despite his previous work on Ayotte’s campaign.

Granite State Solutions was formed last June, and it immediately attracted a \$500,000 check from North Carolina businessman Jay Faison, who explained that the money “to support” Ayotte was part of a \$175 million commitment to encourage Republicans to respond to the threat of climate change.¹³ Faison also gave Ayotte’s campaign committee the maximum \$5,400 within days of his check to the super PAC.

By the end of September, Granite State Solutions had raised a total of \$14 million from just seven sources; none of its donors are residents of New Hampshire. More than \$12 million came from the Senate Leadership Fund. Nevada casino magnate Sheldon Adelson gave \$1.5 million. Adelson and his wife Miriam each also gave the \$5,400 limit directly to Ayotte.

Granite State Solutions spent nothing until August 31 of this year. Days after a \$4.8 million infusion from the Senate Leadership Fund, Granite State Solutions began an ad blitz that resulted in \$10.6 in expenditures attacking Hassan in a single month. As noted, that is more than Hassan's campaign has spent over the whole election.

Fighting for Ohio Fund

The buddy group boosting Republican Sen. Rob Portman, Fighting for Ohio Fund, was founded by Barry Bennett, a veteran of Portman's prior campaigns.¹⁴ The group has spent \$8.6 million attacking Portman's opponent, former Gov. Ted Strickland, since its first ads early in 2015. Like its analog in New Hampshire, Fighting for Ohio Fund has spent more on ads slamming Strickland than Strickland has spent on his whole campaign.

Fighting for Ohio Fund depends on large contributions; 81 percent of its funding comes from 32 contributors of \$100,000 or more. Several of the country's biggest conservative donors have written checks worth six figures or more. Tech investor Peter Thiel gave \$1 million. Hedge fund manager Kenneth Griffin gave the maximum \$5,400 to Portman's primary and general election campaigns and later gave \$250,000 to the buddy group. Several more of Fighting for Ohio's donors of more than \$100,000 maxed out to Portman's committee.

But the group's largest funder is a secret spending group called Freedom Vote, Inc., which has given \$1.7 million. Although Freedom Vote's donors are hidden, it has taken money from the Koch network in the past.¹⁵

Political consulting firm Majority Strategies is one of Fighting for Ohio's biggest vendors, and the company has also worked directly for Portman's campaign. In addition, Majority Strategies has been employed by other big spenders in the race, including the GOP party committee, Senate Leadership Fund, the NRA, and Americans for Prosperity.

Republicans Step Up Senate Spending

Nearly 60 percent of all spending this year has been to support Republicans or attack Democrats. This reverses the partisan advantage in 2014's close Senate races, when overall spending favored Democrats, driven in large part by the shadow party group Senate Majority PAC.¹⁶ It also contrasts with this year's presidential race, where outside spending is favoring Democrat Hillary Clinton by a 2-to-1 margin.¹⁷ The Republican advantage in Senate spending this year is most pronounced in secret spending, which favors Republicans six-to-one.

The organizations that have expanded their role most significantly compared to 2014 are GOP shadow party groups and the Koch network, which also exclusively supports Republicans. Indeed, the ability of the Koch network to rival party spending puts significant pressure on Democrats' outside money operation to keep up with attacks on its candidates. Although the Kochs have disagreements with establishment Republicans — notably, the Koch network refuses to aid embattled New Hampshire Sen. Kelly Ayotte due to her support for regulations on carbon emissions¹⁸ — the two factions are frequently united in attacks on Democrats.

Top Outside Spenders: 10 Key Senate Races

| <i>Organization</i> | <i>Spending</i> | <i>Description</i> | <i>Disclosure</i> |
|--|-----------------|--|-------------------|
| Senate Majority PAC | \$39,481,037 | Democrat shadow party super PAC | Full |
| One Nation | \$30,923,302 | Republican shadow party secret spending group | None |
| Freedom Partners Action Fund | \$28,887,268 | Koch network super PAC | Full |
| National Republican Senatorial Committee | \$24,786,686 | Republican party committee | Full |
| Senate Leadership Fund | \$20,759,014 | Republican shadow party super PAC | Full |
| U.S. Chamber of Commerce | \$19,573,749 | Conservative secret spending group | None |
| Democratic Senatorial Campaign Committee | \$14,419,727 | Democratic party committee | Full |
| Independence USA PAC | \$12,354,747 | Michael Bloomberg's super PAC | Full |
| Granite State Solutions | \$10,602,018 | Single-candidate super PAC supporting Republican Sen. Ayotte | Full |
| American Fed. of State, County, and Municipal Employees People | \$10,506,699 | Labor union PAC | Full |

There have been reports, however, that the Democrats have a cash advantage in the home stretch.¹⁹ It remains to be seen whether late spending in favor of Democrats, especially by the shadow party super PAC Senate Majority and other outside groups fueled by unlimited contributions, can overtake pro-Republican spending by Election Day.

Conclusion

Since it was unleashed by *Citizens United*, outside spending has taken up a greater and greater share of election expenditures; it has now eclipsed the candidates and parties in key Senate elections. The Court must recognize the damage that outside spending is doing to our politics and reverse *Citizens United*. But there are also policy solutions available today.²⁰ Buddy groups can be reined in by strong rules against coordination between candidates and outside groups. Disclosure can be improved by

legislation like the DISCLOSE Act, as well as through agency rulemaking addressing the role of nonprofits or publicly held corporations. Most fundamentally, public campaign financing would provide an alternative to the incentives to chase bigger and bigger checks that currently drive political spending, allowing candidates to fund competitive campaigns without relying on the wealthiest donors.²¹

Endnotes

¹ We examined FEC data, media reports, and press releases concerning outside spending through September 30. We selected races that are listed as “toss-ups” by the Cook Political Report either on their September 30 rating, or for four or more of Cook’s ratings over the summer: Florida, Illinois, Indiana, Missouri, Nevada, New Hampshire, North Carolina, Ohio, Pennsylvania, and Wisconsin.

² IAN VANDEWALKER, BRENNAN CENTER FOR JUSTICE, ELECTION 2016 SPENDING: JUST THREE INTERESTS DOMINATE, SHADOW PARTIES CONTINUE TO RISE (2016), <http://www.brennancenter.org/publication/election-2016-spending-analysis-just-three-interests-dominate-shadow-parties>.

³ David Knowles, *U.S. Senate seat now costs \$10.5 million to win, on average, while US House seat costs, \$1.7 million, new analysis of FEC data shows*, N.Y. DAILY NEWS, Mar. 11, 2013, <http://www.nydailynews.com/news/politics/cost-u-s-senate-seat-10-5-million-article-1.1285491>.

⁴ Peter Stone, *Turned off by Trump: Republican mega-donors focus on congressional races*, THE GUARDIAN, Aug. 27, 2016, <https://www.theguardian.com/us-news/2016/aug/27/republican-donors-trump-congress-local-races-sheldon-adelson>.

⁵ PUBLIC CITIZEN, THE GILDED CHAMBER 2.0: BIGGER, RICHER, AND (STILL) UNDISCLOSED (2016), http://www.chamberofcommercwatch.org/wp-content/uploads/2016/09/Gilded_Chamber.pdf; PUBLIC CITIZEN, THE GILDED CHAMBER (2014), <http://www.citizen.org/documents/us-chamber-of-commerce-funders-dominated-by-large-corporations-report.pdf>.

⁶ Rebecca Ballhaus, *Super PAC Reserves \$40 Million in Air Time to Bolster GOP Senate Races*, WALL ST. J., Jun. 28, 2016, <http://blogs.wsj.com/washwire/2016/06/28/super-pac-reserves-40-million-in-air-time-to-bolster-gop-senate-races> (noting SLF plan to partner with Granite State Solutions); John DiStaso, *Conservative group about to add radio ads to its anti-Hassan campaign*, WMUR, Jun. 11, 2015, <http://www.wmur.com/article/new-hampshire-primary-source-conservative-group-about-to-add-radio-ads-to-its-anti-hassan-campaign/5201017> (noting Kochvar’s role in Impact America ads).

⁷ Robert Faturechi & Lauren Kirchner, *Super PAC to Billionaire: We Need More Money to Save a Republican Senate*, PROPUBLICA, Oct. 14, 2016, <https://www.propublica.org/article/super-pac-to-billionaire-we-need-more-money-to-save-a-republican-senate>.

⁸ Center for Responsive Politics, *Vendor/Recipient: North Star Opinion Research*, <https://www.opensecrets.org/expends/vendor.php?year=2016&vendor=North+Star+Opinion+Research> (last visited Oct. 20, 2016).

⁹ Lynn Sweet, *Pro-Kirk super PAC shows how mega-donors avoid spending caps*, CHICAGO SUN-TIMES, Oct. 10, 2016, <http://chicago.suntimes.com/politics/pro-kirk-super-pac-shows-how-mega-donors-avoid-spending-caps> (the super PAC is also advised by Kirk’s former chief of staff).

¹⁰ Robert G. Boatright, Michael J. Malbin & Brendan Glavin, *Independent Expenditures in Congressional Primaries after Citizens United: Implications for Interest Groups, Incumbents, and Political Parties*, Interest Groups & Advocacy (forthcoming), http://cfinst.org/pdf/papers/Boatright-Malbin-Glavin_IEs-in-Primaries-after-CU.pdf.

¹¹ Rebecca Ballhaus, *Super PAC Reserves \$40 Million in Air Time to Bolster GOP Senate Races*, WALL ST. J., Jun. 28, 2016, <http://blogs.wsj.com/washwire/2016/06/28/super-pac-reserves-40-million-in-air-time-to-bolster-gop-senate-races>.

¹² John DiStaso, *Conservative group about to add radio ads to its anti-Hassan campaign*, WMUR, Jun. 11, 2015, <http://www.wmur.com/article/new-hampshire-primary-source-conservative-group-about-to-add-radio-ads-to-its-anti-hassan-campaign/5201017>.

¹³ Jay Faison, *I’m a Republican. I Want My Party to Tackle Climate Change.*, POLITICO, Jul. 19, 2015, <http://www.politico.com/magazine/story/2015/07/a-gop-approach-to-tackling-climate-change-120336>.

¹⁴ Deirdre Shesgreen, *Portman confidant to form Super PAC for 2016 race*, CINCINNATI ENQUIRER, Feb. 18, 2015, <http://www.cincinnati.com/story/news/politics/2015/02/18/portman-confidant-to-form-super-pac/23610453>.

¹⁵ Al Shaw, Theodoric Meyer & Kim Barker, *How Dark Money Flows Through the Koch Network*, PROPUBLICA, Feb. 14, 2014, <https://projects.propublica.org/graphics/koch>; Center for Responsive Politics, Freedom Vote: Receipts reported to IRS by Contributing Organizations, https://www.opensecrets.org/outsidespending/nonprof_contrib_rcpt.php?id=273004397&cycle=2016 (last visited Oct. 22, 2016).

¹⁶ IAN VANDEWALKER, BRENNAN CENTER FOR JUSTICE, ELECTION SPENDING 2014: 9 TOSS-UP SENATE RACES (2014), <http://www.brennancenter.org/publication/election-spending-2014-9-toss-senate-races>.

¹⁷ Nicholas Confessore & Rachel Shorey, *Outside Money Favors Hillary Clinton at a 2-to-1 Rate Over Donald Trump*, N.Y. TIMES, Oct. 22, 2016, <http://www.nytimes.com/2016/10/23/us/politics/clinton-trump-gop-money.html>.

¹⁸ Julie Bykowicz, *Koch brothers' network focusing on GOP Senate, not Trump*, A.P., Oct. 16, 2016, <http://bigstory.ap.org/bd4b6d967abf4acd8a8304bbb182c8a8>.

¹⁹ Alex Isenstadt, Seung Min Kim & Kevin Robillard, *Senate GOP faces late cash crunch*, POLITICO, Oct. 15, 2016, <http://www.politico.com/story/2016/10/senate-gop-cash-crunch-229830>.

²⁰ For a fuller description of policy options, see the Brennan Center's report on spending in the 2014 Senate elections. IAN VANDEWALKER, BRENNAN CENTER FOR JUSTICE, ELECTION SPENDING 2014: 9 TOSS-UP SENATE RACES 19-21 (2014), <http://www.brennancenter.org/publication/election-spending-2014-9-toss-senate-races>.

²¹ ADAM SKAGGS & FRED WERTHEIMER, EMPOWERING SMALL DONORS IN FEDERAL ELECTIONS (2012), <http://www.brennancenter.org/publication/empowering-small-donors-federal-elections>.