chapter 31

PACs, 527s, and Other Groups in Congressional Elections

by Michael M. Franz

AMERICANS HEAD TO THE POLLS every two years to elect a new Congress. At stake are all 435 seats in the House of Representatives and one-third of the seats in the Senate. These biennial rituals are critical occasions for all Americans, but especially for organized interest groups. Who gets elected determines who sits on important committees, who occupies the principal leadership posts, and more broadly, which party dictates the agenda. Naturally, presidential elections are always important too, but it is Congress that provides organized interests multiple points of entry into the policymaking process. Congress appropriates money to run the government, and a range of committees and subcommittees in both chambers perform oversight of the bureaucracy and the private sector. Put simply, organized interests have a stake in who in Congress makes these decisions and in how they are made.

As a consequence, interest groups in contemporary American politics invest a lot of resources in the electoral process. They contribute to candidates, both with monetary and in-kind gifts. They also advocate directly for the election or defeat of congressional candidates with expenditures on television ads, grassroots mobilization, get-out-the-vote efforts, and polling, among other labors. This chapter explores the role of interest group electioneering in the context of congressional elections and considers three questions. Which types of groups invest in the electoral process? What goals motivate their efforts? And, are interest groups successful in achieving these electoral goals?

The focus of the chapter is the modern period of American campaigns—that is, post–campaign finance reform in the 1970s. Prior to this period the rules concerning campaign finance were a patchwork characterized by weak enforcement. The post-Watergate reforms, in contrast, signified a more coherent campaign finance structure. It should be noted, too, that interest groups have always participated in the electoral process, and Chapter 30 in this volume explicitly discusses these efforts. But in the last thirty or so years, interest groups have been particularly aggressive campaigners, and their efforts intensify with each passing election cycle.

WHAT TYPES OF GROUPS INVEST IN ELECTIONS?

Defining an interest group is not easy. Any group of citizens with like interests or passions—whether organized and formalized—can constitute an interest group. For that reason, there is no existing list of all groups interested in affecting the political process writ large. Those interest groups that engage specifically in electoral politics, however, fall into a number of defined categories, making them relatively easy to find and track (although many challenges remain). This section identifies three broad categories of groups: political action committees (PACs), Section 527s, and nonprofit 501(c) organizations. In contemporary American elections, these three types of groups are most relevant.

Political Action Committees

By far the most common electioneering group, and the most studied, are political action committees. PACs are relatively simple organizations to understand. They are merely formalized ways for other organizations and collections of like-minded citizens to donate legally to federal candidates or spend independently on their behalf. PACs were first used by labor unions in the 1940s to collect donations from union members and direct them to federal candidates. The organizational form of the PAC in that case was a clever maneuver to avoid a congressional ban (initiated with the Taft-Hartley Act of 1947) on direct labor contributions to candidates.

The PAC was legalized when Congress passed campaign finance reform in the early and mid-1970s. The reform permitted corporations (which had been banned from directly contributing to candidates since 1907), unions, and other interests to form transparent committees to contribute to candidates. Congress placed limits on the size of contributions to federal candidates and parties, however, and they mandated that PACs register with the newly created Federal Election Commission, report receipts and expenditures on a regular basis, and conform to standards in the raising and spending of campaign cash.

PACs fall into two broad categories. Labor unions, corporations, or trade associations hoping to contribute to or spend independently on behalf of federal candidates are called connected PACs. They conduct electioneering activity separate from their sponsor's general treasury (although general treasury money can fund the administrative costs of running the PAC). These connected PACs are split into different subcategories depending on their sponsor: labor union, corporation, or trade association.[1] Consider the beverage industry as an example. Pepsi Company has its own corporate PAC, as does Coca-Cola. The Teamsters Union has a labor PAC, as does the United Food and Commercial Workers International Union, both of which represent the employees of soda producers. American Beverage Licenses is a trade association that funds a PAC to represent beverage retailers, and the American Beverage Association PAC represents producers and distributors.

Any other interest group seeking to influence federal elections, but without a sponsor, is also required to form a political committee. These nonconnected PACs are often called ideological PACs because they regularly organize to advocate for specific issue agendas. KidsPAC is a nonconnected political committee concerned with public policies affecting children and families. To continue the beverage example, the health concerns surrounding soda might presumably motivate part of its advocacy and support for candidates.

There are extensive regulations concerning how both connected and nonconnected PACs can raise campaign money. Connected PACs can raise funds only from their "restricted class." This means that corporations can solicit contributions only from executive and administrative personnel, as well as from stockholders; there are also limited opportunities to solicit from additional corporate employees who are not executives or administrative personnel. Labor can solicit only from dues-paying members and its executive and administrative personnel. Trade association PACs can solicit funds from their executive and administrative personnel, as well as (in limited cases) from the employees of their corporate members. These restrictions on connected committees stand in contrast to solicitation rules for nonconnected PACs, which can accept contributions from any American citizen.

There are also limits on PAC expenditures. For most PACs, direct contributions are capped at $5,000 per candidate per election and $15,000 to a national party committee per election cycle.[2] All PACs, however, can spend unlimited amounts on independent advocacy of federal candidates. Independent expenditures are often television or radio advertisements that expressly urge viewers or listeners to vote for or against a federal candidate, but PACs also spend these funds on direct mail and mass telephone calls, among other things.[3]

Since the passage of campaign finance reform in the 1970s, PACs have had a consistent presence in campaigns. According to the FEC, there were 722 registered PACs in 1975. By 1980 there were 2,551, and by 2000 there were 3,706. Between 1975 and 1984 PACs increased at a rate of about 20 percent per year. They have remained fairly steady in number since then. The rate of PAC increase was particularly strong for corporate PACs in the late 1970s and early 1980s. They numbered 139 in 1975, and ten years later there were more than 1,700 corporate-sponsored PACs. Nonconnected PACs grew from 110 in 1977 to about 1,000 in 1984 and 1,300 in 2007. Trade association PACs totaled about 500 in the late 1970s but grew to nearly 1,000 by 2007. Labor PACs in contrast have consistently numbered between 300 and 400 since 1980.[4]

Most relevant for this chapter, PACs are especially important in congressional elections. In 2008 PACs directly contributed more than $300 million to House candidates and $100 million to Senate candidates. These numbers were historic highs. In 2006 PACs contributed $292 million to House candidates and $89 million to Senate candidates (at the time a new high). In fact, since 1980—the first year with PAC contribution breakdowns—PACs have contributed larger amounts of money to House and Senate candidates in each successive election cycle. To put the growth of PAC contributions in perspective, in 1980 PACs contributed $39 million to House candidates and $19 million to Senate candidates. The election cycle totals for PAC contributions to congressional candidates between 1980 and 2008 are shown in Table 31.1; Table 31.2 shows contribution limits for the 2009–2010 election.

In contrast to contributions, PAC independent expenditures in each election cycle are much lower, as Table 31.1 shows. In 1980 PACs spent $2.5 million on independent advocacy for House and Senate candidates, a mere fraction of the total dispensed as candidate contributions. On the other hand, independent expenditures reached noteworthy levels in 2008: $25 million for House candidates and $17.5 million for Senate candidates. This total is still only 10 percent of the contribution total, but the rise in independent expenditures reflects the changes in campaign finance laws passed in 2002. The Bipartisan Campaign Reform Act of 2002 (BCRA) put new restrictions on how public communications by interest groups could be funded (as discussed in the next section). The new restrictions attempted to rein in interest groups that were using loopholes in existing laws to fund advertisements that were not reportable to the Federal Election Commission. These more aggressive restrictions consequently compelled many groups to use the more regulated category of independent expenditures.

It should be noted that the amount of PAC money contributed to presidential candidates is always very low. (Presidential elections are covered in far more detail in

TABLE 31.1 **Interest Group Investments in Congressional Races, 1980–2008**

	PAC contributions	PAC independent expenditures	Interest group TV ads w/o "express advocacy"	Electioneering communications
1980	$57,995,677	$2,488,543	n/a	n/a
1982	86,794,537	5,827,086	n/a	n/a
1984	109,534,727	5,966,038	n/a	n/a
1986	137,656,050	9,358,171	n/a	n/a
1988	157,507,308	7,113,380	n/a	n/a
1990	161,582,944	5,149,075	n/a	n/a
1992	190,352,000	6,627,799	n/a	n/a
1994	192,821,493	5,089,388	n/a	n/a
1996	217,359,944	8,683,378	n/a	n/a
1998	219,502,297	9,357,695	$5,111,518	n/a
2000	256,803,373	16,928,577	33,672,041	n/a
2002	289,025,500	16,769,528	17,482,158	n/a
2004	316,842,818	14,994,305	12,173,166	$11,577,165
2006	381,120,218	38,101,722	n/a	10,506,998
2008	420,698,168	42,730,263	38,408,710	76,652,295

SOURCE: Data in the first, second, and fourth columns are from the FEC. Data in the third column are from the Wisconsin Advertising Project and account for the top seventy-five media markets only.

NOTE: Totals are not adjusted for inflation.

Chapter 32.) PACs contributed only about $5 million to presidential candidates in 2008 and about $3.2 million in 2004; that amount represents only about 1 percent of the PAC investment in congressional candidates. To influence presidential elections, then, PACs have relied on independent expenditures almost exclusively.[5]

Section 527 Organizations

The story of 527s is best told as an evolution from PACs. PACs, as is clear from the previous section, abide by strict rules in the raising and spending of campaign dollars. The rules had two consequences for groups interested in aggressively advocating for a particular candidate: the $5,000 candidate contribution limit is likely too low to make any real difference in the outcome of an election, and independent expenditures, although unlimited, have traditionally been paid for by contributions to the PAC, which are themselves limited. (The rules for PACs in that regard changed somewhat in 2010, and the changes are discussed below.) In practical terms, then, the regulations governing PACs formally prevented collections of wealthy donors, as well as union and corporate interests, from pooling their considerable resources to bankroll candidate advocacy efforts.

To compensate, certain interests in the late 1990s and early 2000s established organizations based on a section of the U.S. tax code. Section 527 in fact covers all political organizations, including PACs, but not all 527 groups must register with the FEC and abide by campaign finance reporting requirements.[6] Most relevant for this chapter, 527s that purchase public communications, such as advertisements, direct mail, and mass telephone calls, that mention or picture federal candidates *but do not expressly advocate their election or defeat* can essentially raise or spend as much money as they want, without limit. As a brief point of explanation, express advocacy is typically defined as public communications that contain certain words, such as *vote for, vote against, elect, defeat, support,* and *reject,* which were first listed in the Supreme Court's 1976 campaign finance ruling in *Buckley v. Valeo.* If an advertisement avoids those words, the communication is alternatively defined as nonexpress advocacy, or issue advocacy, which is generally unregulated by the Federal Election Commission.

Section 527 groups first appeared on the political radar during the presidential primary season of 2000. During the Republican primary, a 527 group called Republicans for Clean Air ran advertisements in California, New York, and Ohio criticizing Sen. John McCain but stopping short of telling viewers to vote for George W. Bush.[7] The 527s proliferated thereafter and funded extensive electioneering in the elections from 2002 to 2008. According to the Campaign Finance Institute and the Center for Responsive Politics, 527s in total spent more than $125 million in 2002 (on congressional races), $440 million in 2004 (on the presidential and congressional elections), just above $200 million in 2006, and more than $250 million in 2008.[8]

Majority Action is a pro-Democratic 527 largely bankrolled by labor unions. The group spent $2 million dollars during the 2006 election and $4 million in 2008. Many labor unions fund liberal 527s such as Majority Action (and with very large contributions), but they also often form their own 527 committees to fund unregulated electioneering. In fact, one labor-sponsored 527—the Service Employees International Union (SEIU)—spent nearly $28 million from its 527 account in the 2008 election cycle. This was above and beyond the regulated funds it raised and spent through its PAC.[9]

On the other side of the aisle, Americans for Honesty on Issues is a pro-Republican 527 group that was active in 2006 and spent more than $2.8 million on broadcast ads attacking Democratic congressional candidates. Its principal donor was Texas homebuilder Bob Perry, who contributed $3 million to the organization in September and October of 2006. The Club for Growth is a conservative antitax group that spent more than $7.5 million in 2006 and $5 million in 2008 from its 527 account. It received large contributions in 2008 from Perry ($650,000), investor John Childs ($250,000), and businessman and philanthropist John Templeton ($200,000), among others.[10]

All told, contributions to Section 527s are often large donations from individuals and organized interests. According to one report, of all 527s active in federal

TABLE 31.2 **Contribution Limits for 2009–2010**

	Recipients				
Donors	Candidate committee	PAC[1]	State, district, and local party committee[2]	National party committee[3]	Special limits
Individual	$2,400* per election[4]	$5,000 per year	$10,000 per year combined limit	$30,400* per year	Biennial limit of $115,500* ($45,600 to all candidates and $69,900[5] to all PACs and parties)
State, District, and Local Party Committee	$5,000 per election combined limit	$5,000 per year combined limit	Unlimited transfers to other party committees		
National Party Committee	$5,000 per election	$5,000 per year	Unlimited transfers to other party committees		$42,600* to Senate candidate per campaign[6]
PAC Multicandidate[7]	$5,000 per election	$5,000 per year	$5,000 per year combined limit	$15,000 per year	
PAC Not Multicandidate	$2,400* per election[8]	$5,000 per year	$10,000 per year combined limit	$30,400* per year	

SOURCE: Federal Election Commission, www.fec.gov.

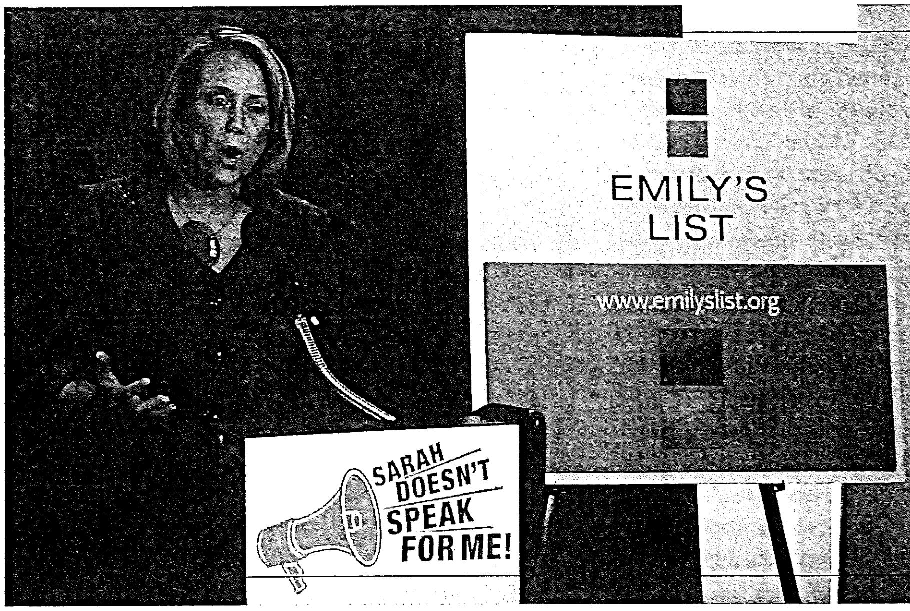
NOTES: * These limits are indexed for inflation in odd-numbered years.

1. These limits apply both to connected and nonconnected political action committees (PACs). Affiliated committees share the same set of limits on contributions made and received.
2. A state party committee shares its limits with local and district party committees in that state unless a local or district committee's independence can be demonstrated. These limits apply to multicandidate committees only.
3. A party's national committee, Senate campaign committee, and House campaign committee are each considered national party committees, and each have separate limits, except with respect to Senate candidates—see Special Limits column.
4. Each of the following is considered a separate election with a separate limit: primary election, caucus, or convention with the authority to nominate, general election, runoff election, and special election.
5. No more than $45,600 of this amount may be contributed to state and local parties and PACs.
6. This limit is shared by the national committee and the Senate campaign committee.
7. A multicandidate committee is a political committee that has been registered for at least six months, has received contributions from more than fifty contributors and—with the exception of a state party committee—has made contributions to at least five federal candidates.
8. A federal candidate's authorized committee(s) may contribute no more than $2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. §432(e)(3)(B) and 11CFR 102.12(c)(2).

elections in 2006, 45 percent of their funds came from individuals contributing more than $100,000, and 36 percent came from labor unions.[11] A similar pattern of large contributions was present in the receipts of 527s for the 2008 cycle.[12] The longevity of specific 527s is an open question, as they have been aggressive spenders in federal elections only in the last decade. Some committees, such as Club for Growth and EMILY's List, have been consistent spenders in the previous three election cycles, but others have been present in only one cycle: Swift Boat Veterans for Truth in 2004, September Fund in 2006, and Alliance for New America in 2008.

There was a particular concern after the passage of BCRA in 2002 that groups that formally funded parties with unregulated donations (what was called "soft money," a funding source for parties that was eliminated in 2002) would shift their large contributions to partisan 527s. In other words, some worried that 527s would become "shadow" parties that raised unregulated funds.[13] The initial evidence is somewhat supportive of this assertion, particularly for pro-Democratic interests. In the 2004 elections specifically, many wealthy pro-Democratic donors and unions gave aggressively to liberal 527s, such as America Coming Together and The Media Fund—a trend that continued into 2006 and 2008.[14] Flush with these large donations, liberal 527s used the money in turn to fund political ads and grassroots efforts that criticized Republican candidates for federal office. Wealthy pro-Republican individuals were also aggressive donors to conservative 527s, such as the Swift Boat Veterans and Progress for America (which went on the attack against Democratic candidates), but corporations and trade associations were less likely to give to these groups in 2004–2008, preferring candidate advocacy in other forms (discussed below).[15]

It is important to be clear about the development of Section 527 groups. Before BCRA was passed in 2002, *any* organization could fund nonexpress advocacy ads at any point in the election cycle. During the 2000 campaign, the



EMILY's List president, Stephanie Schriock, speaks about the organization's "Sarah Doesn't Speak for Me" campaign in the summer before the 2010 midterm elections. The campaign was a reaction to Sarah Palin's highly publicized support for conservative congressional candidates. EMILY's List supports pro-choice, Democratic female candidates for public office.

AFL-CIO used its general treasury money to fund nearly 10,000 procandidate ads in the final two months of the election; Planned Parenthood aired almost 6,000 ads. Some probusiness groups also sponsored ads—nearly 11,000 from Citizens for Better Medicare (backed the pharmaceutical industry), 7,500 from the U.S. Chamber of Commerce, and more than 4,500 from Business Roundtable, a coalition of probusiness interests. Labor, liberal, and probusiness groups were also active in the 2002 congressional elections.[16]

The permissive standard for procandidate advocacy changed after 2002 when BCRA created a new category of public messages called "electioneering communications." This new category included widely broadcast public communications (on radio or television) that mentioned or pictured federal candidates and aired within sixty days of a general election or thirty days of a primary. The new law mandated that such communications be funded only by PACs. The goal was clearly designed to expand what was considered express advocacy, and to close the loophole that had left many ads unregulated in previous elections. Nevertheless, there were some ambiguities in the law, especially as to whether Section 527 groups could continue to fund electioneering communications without being regulated. The FEC did not issue clear guidance on the question in the run-up to the 2004 elections, which in turn motivated their expansion in that cycle.[17]

Nonprofit Groups

Just as 527s can be understood as deriving from certain limitations of PACs, nonprofit groups engaged in electoral politics are outgrowths of limitations in Section 527 organizations. For one thing, not everyone agreed in 2004 (when new rules were being written to implement BCRA) that 527s were beyond the reach of FEC regulations. Existing FEC rules, for example, demand that any organization whose "major purpose" is the election of federal candidates must register with the commission. The FEC argued retroactively in 2006 that some 527s active in the presidential election of 2004 were primarily interested in the outcome of the election and therefore subject to FEC regulation.

To that effect, in late 2006 the FEC levied more than $600,000 in fines against MoveOn.org, Swift Boat Veterans for Truth, and League of Conservation Voters for their section 527 electioneering in the presidential contest, arguing that they should have registered with the FEC as PACs.[18] The commission at this time also established more guidelines about what activity by 527s, such as how they solicit money, might constitute coming under FEC regulatory guidelines.[19] In that sense, the pressure grew more intense and the spotlight focused more on them in the aftermath of the 2004 elections.

In response to these developments, some organized groups sought cover under a different section of the tax code, 501(c). Section 501(c) covers nonprofit organizations of a diverse type. The groups coming under 501(c)(3) are religious, charitable, or educational nonprofit organizations, such as United Way and Red Cross. These groups are restricted in the political realm only to nonpartisan voter education, and any partisan slant in its political activity can cost the group its tax-deductible status. The 501(c)(4) are social welfare nonprofits. Some examples include Defenders of Wildlife Action Fund, Focus on the Family, and League of Conservation Voters. Labor unions operate 501(c)(5) organizations, and business associations, such as chambers of commerce, run 501(c)(6) groups.

The 501(c)(4) groups are growing more important in federal elections. These groups can sponsor a PAC and even air independent expenditures that remain unregulated. One justification for this latter electioneering comes from a critical, if obscure, Supreme Court case from 1986: *FEC v. Massachusetts Citizens for Life* (MCFL). In that case, the Court decided that some 501(c)(4) groups can sponsor express advocacy communications (without having to form a PAC) if the ads are paid for by individuals (Condition 1) and the primary purpose of the group was not political electioneering or lobbying (Condition 2).[20]

The MCFL exemption was rarely used prior to 2002 because nonexpress advocacy communications were permitted by any group, including corporations and unions. After BCRA passed in 2002, 527s became the organizational vehicle used primarily for nonexpress advocacy. But with new focus on regulating 527s after 2004, the Court's twenty-year-old ruling in MCFL became particularly relevant for the 2006 and 2008 elections.[21]

The 501(c)(4) groups were further empowered in 2010 because of the Supreme Court ruling in *Citizens United v. Federal Election Commission,* which overturned many restrictions on who could sponsor independent candidate advocacy. The Court decided that the MCFL exemption should apply to all 501(c)(4)s, essentially eliminating Condition 1. This point is discussed in more detail below. The 501(c)(4) groups have one additional benefit: unlike the rule for PACs and 527s, contributions to these groups are not disclosed. Therefore, a 501(c)(4) group can air ads that mention or picture candidates and not publicly make known the source of the organization's funding.[22]

All 501(c) groups have limitations, however. Most notably, these groups cannot be interested *primarily* in elections, which is Condition 2 of the MCFL test. This restriction was not changed by the Court's ruling in 2010. As such, were a 501(c)(4) organization to organize only in the context of an impending election (appearing to be its only purpose) and sponsor broadcast ads that expressly support or attack candidates for office, the IRS might pursue sanctions against the sponsors of the group. The IRS in particular has stepped up its monitoring of 501(c) groups in recent years.[23]

GROUP SPENDING IN CONGRESSIONAL ELECTIONS

How much have 501(c) groups and 527s spent in recent congressional elections? This question is difficult to answer. Unlike PAC independent expenditures, which are disclosed in detail to the FEC, electioneering by 501(c) groups is not systematically tracked. Although 527 groups are mandated to disclose the purpose of their expenditures, they often do so in vague terms, and they almost never identify whether the money was spent for presidential, congressional, or local races. In the previous section, it was noted that 527s spent an estimated $250 million in 2008. Much of this money was devoted to procandidate electioneering, but millions were also spent on administrative costs and genuine issue advocacy and education. Indeed, assigning such expenditures to specific congressional races is impossible with current IRS disclosure rules for 527s. As for 501(c) groups, the Campaign Finance Institute has devoted considerable efforts to tracking expenditures in recent years, but its estimates (by their own admission) are likely low. Nonetheless, the institute reported about $90 million in 501(c) political expenditures in 2006 and more than $195 million in 2008.[24]

Two other sources of detailed data shed light on interest group investments in advertising during congressional elections. The FEC does track one particular type of unregulated public message, the electioneering communication: broadcast ads aired within sixty days of a general election and thirty days of a primary that feature or picture a federal candidate. The FEC mandates that expenditure of this kind be reported even if there are no restrictions on their funding. Almost all PAC expenditures attacking or supporting candidates are classified as independent expenditures, meaning that the electioneering communication database is a rough proxy of advertising totals for non-PACs such as 527s and 501(c)s. Data of this kind are available for the 2004, 2006, and 2008 elections. The category was created after the 2002 elections. Another method of tracking interest group electioneering is the Wisconsin Advertising Project, which monitors all political advertisements from candidates, parties, and interest groups (including PACs) in top media markets. These data are available for 1998, 2000, 2002, 2004, and 2008.[25]

Total expenditures on electioneering communications in congressional races are included in Table 31.1, as are interest group advertising dollars for ads that avoid express advocacy. A few clarifying points are needed. In general, totals for independent expenditures in this table are distinct from the advertising totals and from the electioneering communication totals. The advertising and electioneering communication columns do, however, contain some overlap, as both tap expenditures for television ads.[26]

Overall, the totals in Table 31.1 show nontrivial investments from interest groups in recent congressional elections. Organized interests spent more than $33 million on procandidate issue advocacy on television in 2000, $17.5 million in 2002, and $12.1 million in 2004. Groups also sponsored $10.5 million in election-time procandidate ads

FIVE INTEREST GROUPS ACTIVE IN 2008

Americans for Job Security—a 501(c)(6) business association that sponsored more than 4,000 television ads on behalf of Republican candidates in five Senate races. The ad buys totaled almost $2 million.

Freedom's Watch—a 501(c)(4) group that spent more than $5 million for more than 11,000 ads on behalf of Republicans in seven House races and four Senate races. One of its motivating issues was support for the Iraq War and the Bush troop surge in 2007.

Patriot Majority—a Section 527 group that aired more than 7,000 ads for Democratic candidates in eight House races and six Senate races. The cost for the ads was nearly $5 million. The group received significant financial support from organized labor.

VoteVets.org—a 501(c)(4) group that also sponsors a PAC; both spent almost $1 million for 2,000 ads touting Democrats in four Senate races and two House races. The group opposed the Iraq War and candidates who supported the war; their ads featured veterans.

Citizens for Strength and Security—a 527 group that spent more than $790,000 for four Democratic Senate candidates. Like the Patriot Majority, the group was largely bankrolled by unions.

SOURCE: Wisconsin Advertising Project.

in 2006. Note the general decline between 2000 and 2006, which is likely the consequence of interest groups over this period diversifying their advocacy efforts to include nonbroadcast expenditures, such as grassroots mobilization and mass telephone calls. There is some evidence that groups (particularly labor unions) in recent years found these ground efforts to be more effective.[27] An added bonus is that such electioneering is often outside the scope of FEC reporting requirements (even after the BCRA) if the messages avoid express advocacy.

Of particular interest is the significant jump in broadcast expenditures for 2008, reversing the decline from 2000. Not only did interest groups spend unprecedented amounts on independent expenditures in 2008, but also they spent $38.4 million on television ads that avoided express advocacy and more than $76 million on radio and television electioneering communications. Almost all of these latter expenditures were funded outside of the regulatory process, and through 527s and 501(c) groups. In a recent article, one political scientist noted the dearth of interest groups electioneering in the 2008 presidential general election, calling them "the barking dog that didn't bite."[28] It seems apparent that the same cannot be said of interest group electioneering in congressional races—it reached unprecedented levels that year. This phenomenon is discussed in the next section, but it seems that much looser regulations concerning the funding of broadcast ads was a primary reason for the significant jump.

Neither data set allows for tracking congressional electioneering that take other forms, such as mass telephone calls and direct mail—making them underestimates of interest group electioneering totals—but they offer some insight into the broad scope of some groups' efforts. The box to the left considers the expenditures of five groups in 2008 that appear in Wisconsin Advertising Project data.

All told, the Wisconsin data identify close to sixty groups with active advertising campaigns in House and Senate elections in 2008. Two were labor unions (AFSCME and SEIU) that combined for nearly $4 million in congressional ads. The rest were a mix of liberal and conservative advocacy groups, such as Americans United for Change, Defenders of Wildlife, and U.S. Term Limits, and pro-business groups, such as the U.S. Chamber of Commerce, National Federation of Independent Business, and Employee Freedom Action Committee.

IMPORTANT DEVELOPMENTS

Understanding PACs, 527s, and 501(c)(4) groups is crucial to knowing the parameters of interest group electioneering, but a few final points are worth discussing briefly. They are likely to be quite relevant in future election cycles.

First, despite all of Congress's attempts to rein in nonexpress advocacy, and the Federal Election Commission's pursuit of 527s after 2004, the Supreme Court, under Chief Justice John Roberts, has signaled a much lower interest in campaign finance regulations. In 2007 the Court ruled in *Wisconsin Right to Life v. FEC* that a pro-life group's ads in the 2004 election, urging viewers to contact Sen. Russ Feingold, D-Wisc., about his position on late-term abortion, should not be regulated because they were genuine issue advocacy arguably unrelated to the election or defeat of Feingold, who was up for reelection that year. The Court more generally argued that nonexpress advocacy ads could be regulated only if the ad was unambiguously election related.

In practical terms, this meant that any group (corporation, union, 501(c), 527) could construct an ad that appeared to tout issues but also attacked candidates. The ruling allowed many of these groups a safe haven in the design of their ads. The example in the previous box of Americans for Job Security and its ads in 2008 (the first year that *Wisconsin* was in effect) is relevant here. As a 501(c)(6), and as such the likely beneficiary of corporate funding, it is not eligible for the MCFL exemption and might typically (post-BCRA) be investigated for improperly funding election-related advertisements outside of its PAC. The *Wisconsin* case, however, allowed it to construct ads that avoided such scrutiny. As alluded to above, this ruling seems principally responsible for the significant jump in 2008 in interest group TV advertising.[29] The lesson of the *Wisconsin* ruling was this: the rules concerning electioneering by 527s and 501(c) groups were confused in the immediate aftermath of BCRA, a lack of clarity amplified by the indecisiveness of the FEC regarding 527s. After *Wisconsin*, however, the Court seemed poised to impose clarity: avoid unambiguous express advocacy, and almost any group can campaign without limit (in source or amount) for or against federal candidates.

One feature of the *Wisconsin* ruling did preserve a level of uncertainty, however: What does it mean to avoid unambiguous express advocacy? That is, when is a group "safely" airing an issue ad that features a candidate, and when does it cross the line to express advocacy that was still regulated? The Court ended that debate in 2010 with its landmark ruling in *Citizens United v. FEC*, in which five justices struck down all restrictions on candidate advocacy from any interest group.

On the one hand, the ruling ended the debate over what types of messages fell under the increasingly complicated regulatory structure. On the other hand, advocacy groups hardly needed the ruling to clear a path for electoral investments. Unions had already found numerous paths to entry (through 527s and 501(c)s, for example), and corporations have generally preferred to fund 501(c) groups (to avoid disclosing their investment) over 527s and historically steered clear of the very visible independent expenditure option.[30] Nevertheless, the justices in *Citizens United* signaled an interest in rethinking many features of campaign finance law. The box below includes a discussion of the recent evolution of campaign finance regulations concerning interest groups and highlights the apparent trend toward deregulation in this area.

The 2010 congressional cycle was the first following the *Citizens United* decision, and interest groups were very aggressive in their electioneering, sponsoring more than $100 million in television advertisements in House and Senate races.[31] This level of investment was higher than in any previous election (outpacing the numbers in Table 31.1, in fact). Because parties and candidates also spent significantly more in 2010, however, the proportion of interest group television advertising remained roughly comparable to previous elections.[32] In other words, although some predicted emboldened interest groups, such as corporations, to spend in the hundreds of millions, this did not happen. Interest groups concentrated their efforts on certain House and Senate races, but their total investments in Senate races (as a proportion of all television spending) were similar to 2008 and lower than in 2000 for House races.

DEVELOPMENTS IN CAMPAIGN FINANCE LAWS FOR INTEREST GROUPS

Recent congressional actions and Supreme Court decisions have altered a number of regulations concerning interest group participation in elections. The overall trend is toward deregulation of interest group restrictions. Consider some changes in the following areas:

- **Sponsorship of television and radio ads.** The Bi-partisan Campaign Reform Act in 2002 established new rules for interest groups' ads airing in the final days of a primary or general election, putting stricter restrictions on how such ads could be funded. In 2004 the FEC failed to apply these rules explicitly to 527s, prompting their proliferation in that cycle and in 2006. In 2007 the Supreme Court further exempted all ads interpreted by "any reasonable person" as issue related. In 2010 the Court threw out all restrictions on group-sponsored ads and advocacy efforts that are uncoordinated with a candidate or party.

- **Contributions to PACs making only independent expenditures.** One limit on PACs is the amount of money they can accept from contributors. Two plaintiffs in different court cases, however, have argued that independent expenditures from nonconnected PACs should not be subject to contribution limits. In other words, a nonconnected PAC should be able to pool large contributions for the purposes of airing ads or contacting voters. These cases are *EMILY's List v. FEC* and *Speechnow.org v. FEC*. The D.C. Circuit Court of Appeals in April 2010 agreed with this logic in its ruling in the latter case, and a number of groups took advantage of this new allowance in the 2010 elections

- **Contributions to political parties.** In 2009 the Republican National Committee challenged restrictions (established by the Bipartisan Campaign Reform Act in 2002) on large donations to political parties meant to help nonfederal candidates. These donations, called "soft money," came to prominence in the 1990s as a means for corporations and unions to invest in party-sponsored efforts to indirectly influence federal elections. The case, *RNC v. FEC*, was appealed to the Supreme Court, but the justices in 2010 chose not to hear the challenge.

- **Disclosure of expenditures and contributions for procandidate advocacy.** Congress has responded to such developments with the only weapon it considers beyond reproach, disclosure mandates. Congress considered whether to force all interest groups, including 501(c)s, corporations, and unions, that air procandidate ads to disclose to the FEC their large donors and to compel these donors to appear in procandidate ads to "endorse" the message, as federal candidates are currently required to do. The House passed such a bill in 2010, but it stalled in the Senate. Reformers are still pressing the issue, however.

The biggest impact in 2010 was the migration of 527s and 501(c) groups into express advocacy. Prior to *Citizens United*, only PACs (and some MCFL 501(c)(4) groups) could sponsor these express advocacy messages. After *Citizens United*, any group can do this, and a number of interest groups formed as 501(c)s and 527s, with union and corporate backing, to air ads that directly called for the election or defeat of federal candidates.

In many ways, then, the 2010 elections were not a dividing line between more or less spending; rather, they were part of an emerging trend of more interest group spending in congressional elections that extends back at least fifteen years.

WHAT MOTIVATES INTEREST GROUPS TO PARTICIPATE?

Once we understand which groups participate in congressional elections, and the extent to which they invest in these elections, the next question is obvious: What exactly do these groups hope to attain? The interest group literature focuses predominantly on two electoral goals, which are most often applied to the allocation of PAC money: access to sitting members of Congress during policymaking, or replacement of unfavorable members of Congress during elections.[33] With the development of 527s and 501(c) groups, we might also add a third goal: issue salience. Certainly, some electoral behavior, such as issue advocacy campaigns, might be motivated to put issues or policy proposals on the agenda during an election campaign.

Access goals are derived from the monetary needs of candidates running for office. As campaigns have become more expensive since the 1960s, mostly as a consequence of the rising cost of television ads, incumbent candidates have sought out PACs for contributions. PAC limits are higher than contributions from individuals, and they have more funds to dispense to candidates than most voting citizens. In other words, it is simply easier to raise funds from PACs—whose purpose is contributing money to candidates—than from individuals, who have less to give. (This might be changing, however, as noted below.) PACs, acting in their self-interest, are more than happy to contribute, but often in exchange for access to the elected official when relevant policy is debated in Congress. Robert Kaiser's provocative book, *So Damn Much Money*, discusses the development of lobbying as a profession, and he spends considerable time highlighting the role of campaign cash in facilitating such lobbying.[34] See again the ever-growing PAC contribution totals in Table 31.1. They indicate that access politics is as strong as ever.

Elections, however, are also opportunities for PACs and other groups to create more directly a policymaking environment that reflects the desires of participating interests. That is, some contributions and other electioneering efforts are not so much designed to curry favor in the halls of Congress but to move votes at the ballot box. Replacement tactics can take many different forms: campaign contributions and independent spending; grassroots mobilization and get-out-the-vote efforts; endorsements, recruitment, and training of potential candidates; and direct mail and mass telephone calls. In general, interest groups can use their resources to make direct appeals to voters on behalf of or in opposition to particular candidates.

For the most part, the explicit goal of interest group electoral participation is rarely known; that is, no PAC or interest group telegraphs its goal in clear terms. One can make inferences from patterns in the data, however. The vast majority of PAC contributions flow to incumbents, the actual policymakers. And it is clear that PACs tend to favor influential policymakers (committee and party leaders) over backbenchers. It also seems reasonable to assume that such contributions are designed to secure access.[35] There is also evidence that interest groups consider district- and state-level factors, such as the percentage unionized or per capita income, when seeking access to members representing relevant constituencies.[36] Labor surely wants access to legislators who represent constituencies with a high number of union workers. When PACs give to competitive incumbents, challengers, and candidates in open seats, however, these contributions are presumably replacement-inspired.[37] Furthermore, independent expenditures and electioneering communications from 527s and 501(c) groups most often appear in competitive races and are likely motivated by replacement goals.

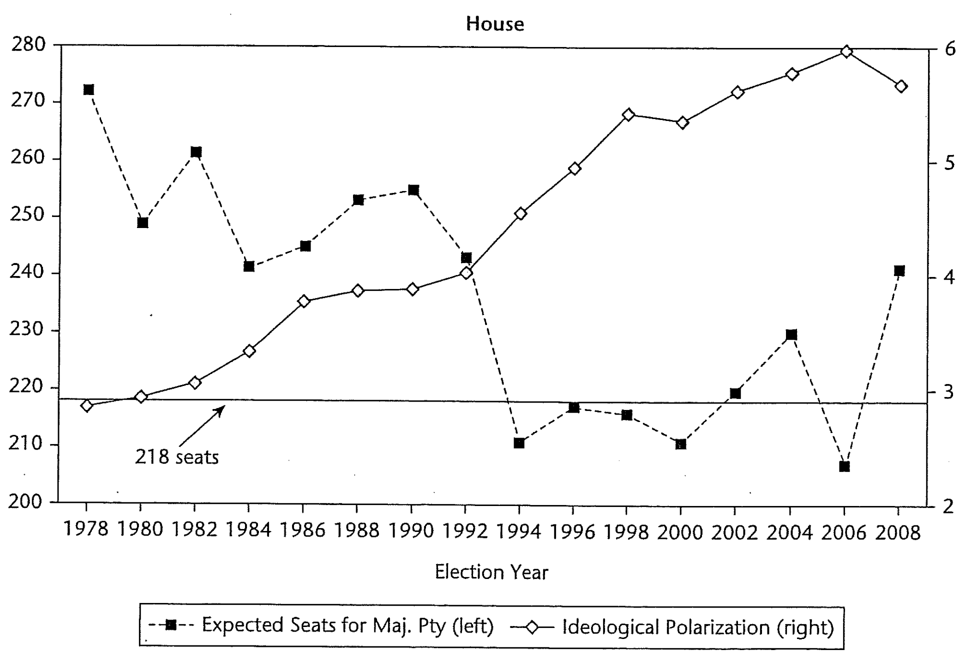
What drives a PAC to favor access over replacement in its contributions? What motivates 527s and 501(c)s to view competitive elections as worthwhile investments? The standard approach is to examine differences across group types. Unions and advocacy groups are considered more ideological and therefore more likely to invest in open seats, competitive races, and so forth. Labor groups in particular contribute mostly to (and spend independently for) Democratic candidates with a strong chance of defeating vulnerable Republican incumbents. Corporations are seen as more pragmatic and are therefore more likely to contribute highly visible PAC dollars to both parties in the hopes of gaining access, but on balance, corporate interests more often prefer Republicans. As was already discussed, some procorporate interests invest in elections with 501(c)s, mostly with the goal of helping Republicans win close races.

One factor that is not often discussed in the literature on PACs, however, is the role of the larger partisan context in explaining changes in interest group electioneering. More than two decades ago one PAC scholar argued, "The conventional wisdom holds that corporations are inclined towards bipartisanship in their PAC activity for a variety of reasons, including the likelihood of having to deal with a Democratic-controlled House, and the sharp ideological schism in the ranks of the Democrats which renders many conservative Democratic candidates palatable to corporation interests."[38] Brooks Jackson additionally recounts the story of how Tony Coelho, former chairman of the Democratic Congressional Campaign Committee (and Al Gore's campaign manager in 2000), persuaded many corporate PACs in the 1980s to contribute to Democrats under the assumption of long-term Democratic control of the House.[39]

All of this changed in the mid- to late 1990s, when control of Congress was no longer certain in each election cycle. In addition, parties in the late 1990s grew more ideologically polarized and homogeneous. Figures 31.1 and 31.2 show the change visually for House and Senate elections between 1978 and 2008. Each graph has two lines. The solid line is a measure of ideological polarization between the parties. It is derived from Keith Poole and Howard Rosenthal's estimates of incumbent members of Congress, which places each member of the House and Senate on a scale from -1 (liberal) to 1 (conservative).[40] The numbers reported in both figures are calculated as follows: the median Democrat and Republican in each chamber is divided by the standard deviation of each party's members; the resulting two measures are then differenced. Larger numbers indicate more ideological distance between the two parties and homogeneity within the two parties. In both the House and Senate, polarization has grown steadily in the last thirty years; the measures in both chambers increased by almost 100 percent over this time. The other line in each graph shows the number of seats the majority party is expected to win in each cycle, excluding highly competitive elections. (These numbers come from *Congressional Quarterly's* assessments, done in October of election years, of competitive congressional elections and combine safe, leaning, and favored seats for the majority party.) In both contexts, the majority party is at threat of losing its control of the chamber for most elections after 1992. There is more variability in Senate elections, but the general pattern holds.

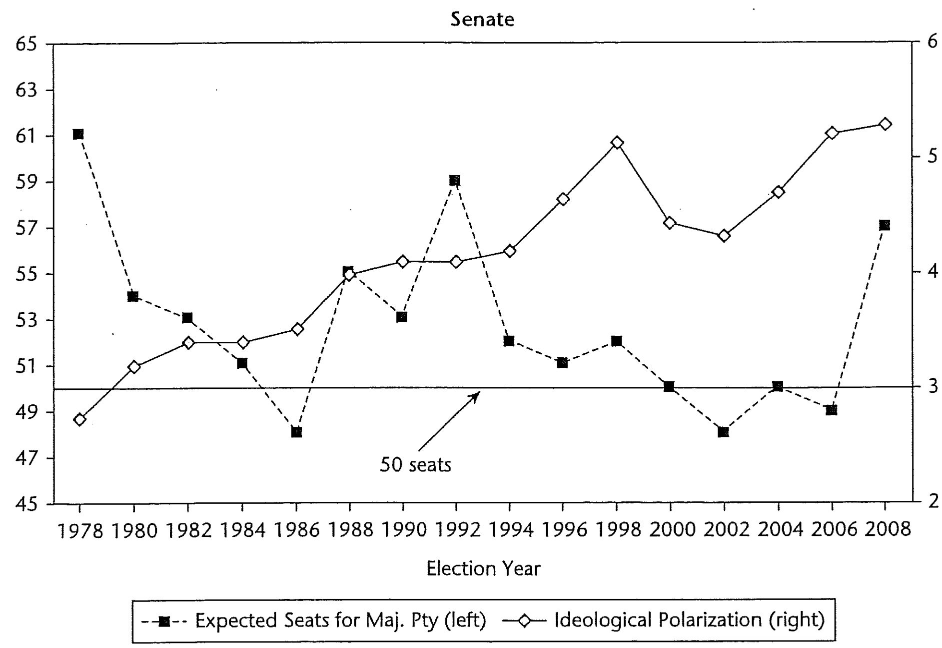
In 1978, for example, the Democrats held a huge lead over Republicans in the House and Senate—meaning the elections that year posed no threat to their status as the majority party—and the two parties were moderately polarized (the Democratic median was –0.304 and the GOP median was 0.228). By 2006 the Republican majority in the House and Senate was at serious risk, and the two parties were more ideologically polarized than at any other time in the previous generation: the Democratic median was –0.406

FIGURE 31.1 **Control of the House is Less Certain in Recent Elections and Features More Polarized Parties**



SOURCE: "Expected Seats" is derived from *Congressional Quarterly's* October election-year assessments of House elections. The total shown here is the combined number of safe, leaning, and favored races for the majority party. The number of seats needed to control the chamber is 218. Ideological polarization uses Keith Poole and Howard Rosenthal's (voteview.com/) DW-Nominate scores, which places incumbent House members on a scale of –1 (most liberal) to 1 (most conservative). The number reported here is derived as follows: the Democratic median is divided by the standard deviation of all Democrats; the same is done for Republicans. The Democratic number is then subtracted from the Republican number.

FIGURE 31.2 **Control of the Senate is Less Certain in Recent Elections and Features More Polarized Parties**



SOURCE: "Expected Seats" is derived from *Congressional Quarterly's* October election-year assessments of Senate elections. The total shown here is the combined number of safe, leaning, and favored races for the majority party. The number of seats needed to control the chamber is 51. Ideological polarization uses Keith Poole and Howard Rosenthal's (voteview.com/) DW-Nominate scores, which places incumbent Senate members on a scale of −1 (most liberal) to 1 (most conservative). The number reported here is derived as follows: the Democratic median is divided by the standard deviation of all Democrats; the same is done for Republicans. The Democratic number is then subtracted from the Republican number.

and the Republican median was 0.535. The 2006 election was not unique, however. Between 1994 and 2006 congressional elections featured ever more polarized parties in the context of fragile majority control.

The change in the partisan context is likely the chief causal variable in the development of 527s and 501(c)s. In short, changes in the partisan and ideological context compelled many groups to pursue replacement goals, helping the candidates in either party pursue control of Congress. This demanded the development of tactics that allowed for the infusion of more cash into competitive races—hence the discovery of 527s and 501(c)s. Keep in mind, as Chapter 33 notes, interest groups barely utilized nonexpress advocacy advertisements before 1996. Groups pursued procandidate electioneering almost exclusively through PACs in the 1980s and early 1990s. Moreover, there is even some evidence in the existing scholarship that the change in the partisan context compelled many PACs in recent years to spend more aggressively in competitive congressional races, ramping up the use of regulated dollars for the purpose of pursuing replacement goals.[41] As Table 31.1 shows, independent expenditures reached unprecedented levels in 2006 and 2008.

The partisan context is not the only motivating force that explains why some groups electioneer with 527s and 501(c)s. Chapter 33 discusses differences across groups (short-lived versus long-standing groups, for example) that motivate some to pursue electioneering ads and others to utilize grassroots mobilization or direct mail. In addition, pushing issue agendas and/or raising the profile of the group might reasonably be more important to some interests than influencing voter decisions on Election Day. All told, however, as congressional elections have become more competitive in the last fifteen years, interest groups have pursued replacement goals more aggressively.

The 2008 elections deserve some mention here. Figures 31.1 and 31.2 show that incumbents in the House and Senate were incredibly polarized in 2007 and 2008, but control of Congress was comfortably in Democratic hands—they were expected to win at least 240 seats in the House and 57 seats in the Senate. With Congress a safe Democratic institution once again, why were interest groups so active in congressional races in 2008? Some of this activity was motivated by the incredibly permissive legal context. As the Court continues to break down barriers in what is permissible electioneering, many wealthy interests will use their resources to tip close races where possible. In that sense, replacement tactics are not abandoned simply because control of Congress is more certain. At the same time, because ideological polarization in Congress is so intense, liberal and conservative groups see each competitive election as incredibly important. Liberal groups see opportunities to pursue wider margins in both chambers, and conservative groups are forced to participate to guard against deeper losses. This held particular relevance in the Senate during the 2008 election when Democrats hoped to win 60 seats for the first time since 1976.

But we should not focus only on the implications for majority control in single election cycles. The consequences of a particular cycle can reverberate in future elections. The 2012 and 2014 elections highlight this: of the sixty-six Senate seats to be contested in both years, the Democrats are incumbents in forty-two of them (64 percent), which suggests the potential for GOP gains and continued struggles for control of the chamber. This situation conceivably might also have motivated some participation by interest groups in 2008 and 2010,[42] to help lay the groundwork for a more favorable 2012 and 2014. Here too the primacy of majority control suggests increased investments from interest groups that are strongly allied with one of the two major parties.

ARE INTEREST GROUPS SUCCESSFUL?

Understanding what motivates organized interests to participate with PAC contributions or 527s and 501(c) groups conveys only half of the story. An important follow-up question seems evident: Are interest groups successful in their efforts? The conventional wisdom says yes; in other words, why would there be so much money in the system if it was not successful? Most everyone has an anecdote of how money seems to influence the development of health policy or economic policy. Put simply, lobbyists roam the halls of Congress with PAC cash to dispense—surely it must matter.

In the arena of congressional policymaking, however, there is surprisingly little evidence that PAC contributions lead consistently to certain voting patterns. Some research suggests that PAC contributions can influence floor voting, but overall only sporadic evidence that members of Congress *change* their voting habits *after* receiving campaign contributions. Political scientist Richard Smith reviewed the literature on the relationship between roll call votes and PAC contributions and discerned that contributions are likely to affect roll calls only under certain circumstances, such as when the issue is not salient with the national electorate.[43] Another study took a similar approach and concluded that the existing scholarship leaves only a thin trail of a money-for-votes relationship in policymaking.[44] The growing consensus in the scholarship then is that PAC money follows congressional voting behavior instead of leading it; that is, PACs contribute to incumbents already inclined to support their interests.

This consensus does not end the debate, however. In the previous section, the goal of "buying votes" was not even listed—almost no scholarship starts from the premise that PACs seek out members of Congress to bribe. Instead, it was noted that PAC behavior is motivated in large measure to secure access to policymakers. In this regard, the evidence is more affirming. PAC contributions seem related to levels of participation by members of Congress on certain policies and in committee work on those policies.[45] But access does not guarantee policymaking success, and there is hardly overwhelming evidence that access to policymakers results in policies different from a process without their input. Once organized interests get a seat at the table, though—a situation more common for campaign contributors than noncontributors—their perspective is very likely to be considered in the resulting legislation. This is an outcome that might reasonably concern many.

If access is often a consequence of making contributions (and more work is still needed in this area), it is not evident that replacement tactics are successful. In fact, there is surprisingly little research on the success of interest group efforts in campaigns.[46] At first glance, it seems obvious that PAC contributions to candidates will have fewer impacts on election outcomes—$5,000 can buy very few political ads. But what of the success of independent expenditures and electioneering bankrolled by 527s and 501(c) groups? Do aggressive ads from groups move enough votes to alter election outcomes? Are interest group negative ads more successful than candidate-sponsored attacks? There are no clear answers to these questions.

This is not to say that evidence does not exist. Plenty of commentators assert a relationship between interest group efforts and election outcomes. Bill Clinton argued that electioneering by the National Rifle Association in 2000 tipped Arkansas for George W. Bush, effectively costing Al Gore the election.[47] The Swift Boat Veterans are often credited with derailing the election of John Kerry in 2004. Surely, interest group electioneering in close races contributes to some election outcomes, but more controlled studies that look for specific effects are needed. If any area of interest group scholarship needs more rigorous empirical work, this is it.

WHAT ROLE SHOULD INTEREST GROUPS PLAY?

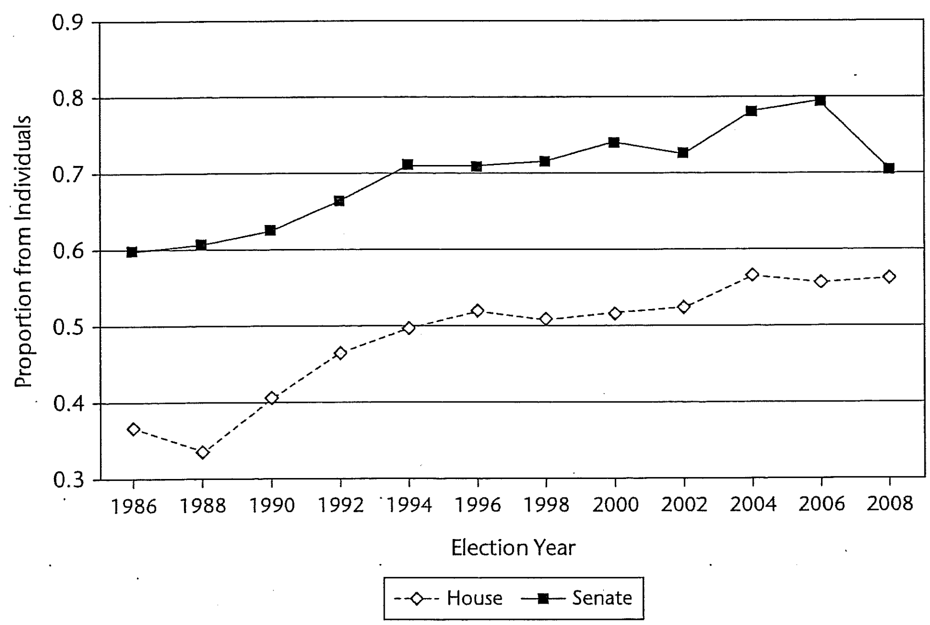
The empirical evidence reviewed above may suggest that organized interests are unlikely to have "bought and sold" elections and public policies, but many still worry about their influence in ways that cannot be easily measured. What happens in the halls of Congress that citizens cannot see and that lobbying and campaign finance disclosure laws do not make clear? There are two important correctives against these standard claims of undue influence. First, organized interests are exercising a First Amendment right to associate freely and to pressure government. This right cannot easily be constrained, nor should it be. To that end, James Madison in *Federalist* 10 first argued that the best way to counter the influence of "factions" was not to limit them but to encourage still more factions, thereby reducing the influence of any single group. This is the essence of a pluralist polity. Second, organized interests do serve a valuable function in providing elected officials with expertise in crafting policy to address complex issues. Who better to advise Congress on the design of new Medicare policy than groups advocating for senior citizens (who can speak specifically to what works and does not work in current policy) and prescription drug companies (who are on the front lines of innovative treatments), among others?

To be sure, such arguments might not successfully counter the assertion that organized interests have a pernicious effect on American policymaking. After all, E. E. Schattschneider noted a long time ago that organized interests reflect an "upper-class" bias, in that many interests, such as low-income citizens, never get organized to pressure for policy changes. This bias skews the policies considered in Congress away from unorganized interests. His observation is as apparent and relevant today as it was in 1960.[48]

Nevertheless, a few final points might more effectively serve to allay concerns about interest group dominance. First, and counterintuitively, the influence of special interest money might actually be on the decline. To that end, contribution limits for individuals are indexed to inflation (a change made with BCRA), but PAC contributions limits are not. As such, in the 2010 cycle, an individual could contribute $2,400 to a candidate per election—up $400 since 2004 (and up $1,400 over the pre-BCRA $1,000 limit). PAC contributions remain at $5,000, a limit unchanged since 1974—still higher in fact (and still attractive to candidates running for office) but declining in relative terms.

This has had the practical effect of boosting candidates' contribution totals from individual citizens. To demonstrate, Figure 31.3 shows the percentage of contributions from individuals to House and Senate candidates between 1986 and 2008.[49] In 1986 individuals accounted for 60 percent of contributions to Senate candidates, and only 37 percent of contributions to House candidates. By the 2008 elections, individuals contributed 70 percent of Senate candidates' budgets (down from near 80 percent in 2004 and 2006), and 56 percent of House candidates' budgets. The trend upward is particularly apparent for House candidates, while the percentage was always high(er) for Senate candidates. There is an apparent bump in both the House and

FIGURE 31.3 **Contributions from Individuals to House and Senate Candidates**



NOTE: Contributions from individuals include only itemized contributions (>$200 per donor) in each cycle's FEC detailed contributor file. Contributions to candidates from PACs, parties, and other candidates are included in the denominator, but candidate transfers between committees and loans to candidate committees are not.

Senate trends after 2002 when individuals' limits were raised, but the trend was sloping upward even before BCRA. This is likely the consequence (among other things) of the development of the Internet, which greatly facilitates fundraising from regular citizens. To be sure, the influence of PAC dollars is higher for some candidates than others (especially incumbents and senators from smaller states), but such influence is on the whole waning.

Second and relative to the influence of 527s and 501(c) groups, by two opponents of BCRA worry in a recent book about the migration of unregulated soft money from parties (a feature of campaign finance practices in the 1990s) to such independent groups.[50] In their view, contributions are more accountable when they go to political parties than when they enter the coffers of largely unknown or short-lived advocacy organizations. This is certainly true—strong parties are in general counterweights to the power of organized interests—but there is almost no evidence that 527s and 501(c)s have had a damaging impact on the behavior of sitting elected officials. Most of this money goes into public communications, which voters are free to accept or reject. Put simply, there is almost no evidence that TV ads from 527s lead to corrupting access in the halls of Congress.

CONCLUSION

Organized interest groups are permanent features of American politics. They play a particularly large role in congressional elections, one that increased and diversified in the late 1990s as Congress grew more polarized and control was up for grabs. Their success, however, is hard to pinpoint. Very little evidence shows that PACs buy votes on the floor of the House and Senate, and there is very little research on the effects of group electioneering efforts on the outcomes of elections. On this last point, then, the gloom and doom suggested by much commentary in the aftermath of the *Citizens United* decision seems potentially overblown. Interest groups have worked hard to locate loopholes in election law, and the Court merely ended the parlor game of byzantine congressional regulation followed by loophole discovery. More still, just as groups have increased their investments in congressional elections, so too have individuals, who account for ever-growing percentages of campaign budgets. All of these points might lead to one reassuring inference: interest groups are active in politics and elections, which is what a pluralistic political process demands, but no single group or industry holds determinative sway on the outcomes of elections or the policy process.

NOTES

1. There are two other connected PAC types: cooperatives and corporations without stock. These are much rarer, however.

2. These limits refer to multicandidate PACs, a classification for any PAC (connected or nonconnected) that receives contributions from more than fifty people and makes contributions to more than five federal candidates. PACs that do not classify as multicandidate can only contribute $1,000 to candidates, but can give $20,000 to national party committees.

3. Sponsors of connected PACs can also spend general treasury funds on direct candidate advocacy if the message is distributed only to its restricted class.

4. These numbers are from a 2008 FEC press release.

5. PACs can also contribute to party committees, who can in turn use those funds to advocate for presidential and congressional candidates.

6. IRS guidelines for 527s can be accessed at: www.irs.gov/charities/political.

7. John Mintz, "Texan Aired 'Clean Air' Ads; Bush's Campaign Not Involved, Billionaire Says," *Washington Post*, March 4, 2000, A6.

8. See www.opensecrets.org/527s/index.php for totals in 2004, 2006, and 2008. The total for 2002 is from Stephen Weissman and Kara Ryan, "Soft Money in the 2006 Election and the Outlook for 2008," Campaign Finance Institute, 2007, 1, www.cfinst.org/pr/prRelease.aspx?ReleaseID=132.

9. Many interest groups have both a PAC and 527 account. This is also true for nonprofit 501(c) organizations.

10. Information on specific 527s is from the Center for Responsive Politics searchable database, www.opensecrets.org/527s/index.php.

11. Weissman and Ryan, "Soft Money," 2.

12. Campaign Finance Institute, "Soft Money Political Spending by 501(c) Nonprofits Tripled in 2008 Election," www.cfinst.org/pr/prRelease.aspx?ReleaseID=221.

13. Richard Skinner, "Do 527's Add Up to a Party? Thinking About the 'Shadows' of Politics," *The Forum* 3, 3 (2005).

14. David Magleby and Kelly Patterson, "War Games: Issues and Resources in the Battle for the Control of Congress," in *The Battle for Congress: Iraq, Scandal, and Campaign Finance in the 2006 Election*, ed. David B. Magleby and Kelly D. Patterson (Boulder: Paradigm Publishers, 2008), 22–24.

15. Robert Boatright et al., "Interest Groups and Advocacy Organizations after BCRA," in *The Election after Reform: Money, Politics and the Bipartisan Campaign Reform Act*, ed. Michael J. Malbin (Lanham, Md.: Rowman and Littlefield, 2006).

16. Interest group totals for ads in 2000, and the claim about 2002, are taken from ibid., Table 6.3. The presence of some probusiness ads in these totals is important, because it indicates that although corporations have been risk averse in funding conservative 527s, as was noted, they are more comfortable with procandidate advocacy if funded by other probusiness entities, particularly those in which there is no disclosure. See also Jennifer Steen, "Financing the 2008 Congressional Elections: A Prospective Guide," *The Forum* 6, 1, (2008): 6–7.

17. Stephen Weissman and Ruth Hassan, "BCRA and the 527 Groups," in *Election after Reform*, 79.

18. From FEC press release: www.fec.gov/press/press2006/20061213murs.html.

19. Weissman and Ryan, "BCRA and the 527 Groups," 3-6.

20. The totals for independent expenditures in Table 31.1 include such MCFL-sponsored expenditures. They account for only a small portion of the total before 2008 and about 15 percent of the total in 2008.

21. Weissman and Ryan, "BCRA and the 527 Groups," 6–10.

22. There is one caveat on this statement. If a 501(c)4 group sponsors an independent expenditure or an electioneering communication, it must disclose to the FEC donations to the group made explicitly for the production and distribution of the ad. This is also true for 527s. In practical terms, this rarely clarifies who is behind the ad because these groups can claim that no particular donation was made to the group for that explicit purpose.

23. Steen, "Financing the 2008 Congressional Elections," 14–15.

24. See Campaign Finance Institute, "Soft Money Political Spending."

25. The "electioneering communications" data are reported by the FEC, and the advertising data were generously provided by the Wisconsin Advertising Project. Data on the project are available at wiscadproject.wisc.edu. There are a few limitations to the data that deserve mention. The FEC electioneering communication database often does not list the candidate that is mentioned in the broadcast ads—presumably because more than one federal candidate was the subject of a reported ad buy. This makes it hard to isolate ads for congressional candidates from ads for presidential candidates. The Wisconsin advertising data reported an estimated cost for each ad buy, not the actual cost. The estimates are based on the market and time of day, but the actual costs could be higher or lower.

26. The overlap is not complete, however. TV ads in Table 31.1 include ads aired outside the sixty-day and thirty-day windows, while electioneering communication totals include radio ads.

27. Peter Francia, *The Future of Organized Labor in American Politics* (New York: Columbia University Press, 2006), 111.

28. David Kimball, "Interest Groups in the 2008 Presidential Election: The Barking Dog That Didn't Bite," **The Forum** 6, 4 (2008).

29. Another relevant factor was the lack of investment in the presidential election, freeing up resources for congressional races. Interest groups who in 2007 were gearing up for aggressive electioneering in 2008 were dissuaded to invest in the presidential election because of the fundraising prowess of Barack Obama and the disapproval of such electioneering by John McCain.

30. The totals in Table 31.1 do not break down independent expenditures by type, but corporate PACs rarely sponsor them. Procorporate efforts of this kind are usually funded with trade association PACs.

31. This number comes from the Wesleyan Media Project, which tracked advertising in the 2010 elections. See election-ad.research.wesleyan.edu/.

32. Michael Franz, "The *Citizens United* Election? Or Same as it Ever Was?" *The Forum* 8, 4 (2010).

33. Diana Evans, "Oil PACs and Aggressive Contribution Strategies," *Journal of Politics* 50, 4 (1988): 1047–1056; Larry Sabato, *PAC Power* (New York: Norton, 1984).

34. Robert Kaiser, *So Damn Much Money* (New York: Alfred Knopf, 2009).

35. David Gopoian, "What Makes PACs Tick? An Analysis of the Allocation Patterns of Economic Interest Groups," *American Journal of Political Science* 28, 2 (1984): 259–281; Janet Grenzke, "Candidate Attributes and PAC Contributions," *Western Political Science Quarterly* 42, 2 (1989): 245–264; Keith Poole, Thomas Romer, and Howard Rosenthal, "The Revealed Preferences of Political Action Committees," *American Economic Review* 77, 2 (1987): 298–302; Thomas Romer and James Snyder, "An Empirical Investigation of the Dynamics of PAC Contributions," *American Journal of Political Science* 38, 3 (1994):745–769.

36. Frank L. Davis, "Sophistication in Corporate PAC Contributions: Demobilizing the Opposition," *American Politics Quarterly* 20, 4 (1992): 381–410; John Wright, "PACs, Contributions, and Roll Call: An Organizational Perspective," *American Political Science Review* 79, 2 (1985): 400–414.

37. James Endersby and Michael C. Munger, "The Impact of Legislator Attributes on Union PAC Campaign Contributions," *Journal of Labor Research* 12, 4 (1992): 79–97; James Herndon, "Access, Record, and Competition as Influences on Interest Group Contributions to Congressional Campaigns," *Journal of Politics* 44, 4 (1982): 996–1019; Michael Malbin, "Of Mountains and Molehills: PACs, Campaigns, and Public Policy," in *Parties, Interest Groups, and Campaign Finance Laws*, ed. Michael Malbin (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1980); Candice Nelson, "The Money Chase: Partisanship, Committee Leadership Change, and PAC Contributions in the House of Representatives," in *The Interest Group Connection: Electioneering, Lobbying, and Policymaking in Washington*, ed. Paul Herrnson, Ronald G. Shaiko, and Clyde Wilcox (Chatham, N.J.: Chatham House Publishers, 1998).

38. Gopoian, "What Makes PACs Tick?" 262

39. Brooks Jackson, *Honest Graft: Big Money and the American Political Process* (Washington, D.C.: Farragut Publishing, 1990).

40. I use first-dimension DW-NOMINATE scores,voteview.com/.

41. Michael Franz, *Choices and Changes: Interest Groups in the Electoral Press* (Philadelphia: Temple University Press, 2008), esp. chap. 4.

42. In 2010 there was also the more immediate goal of winning control of Congress. In the run-up to that election, the House was considered more winnable for Republicans, while the Senate was considered a long shot.

43. Richard Smith, "Interest Group Influence in the U.S. Congress," *Legislative Studies Quarterly* 20, 1 (1995): 89–139.

44. Stephen Ansolabehere, John de Figueiredo, and James Snyder, "Why Is There so Little Money in U.S. Politics?" *Journal of Economic Perspectives* 17, 1 (2003): 105–130.

45. Richard Hall and Frank Wayman, "Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees," *American Political Science Review* 90, 4 (1990): 797–820. John Wright, "Contributions, Lobbying, and Committee Voting in the U.S. House of Representatives," *American Political Science Review* 84, 2 (1990): 417–438.

46. In total, there are only a handful of studies that look at sponsorship effects in advertising persuasion. See, for example, G. M. Garramone, "Effects of Negative Political Advertising: The Roles of Sponsor and Rebuttal," *Journal of Broadcasting and Electronic Media* 29 (1985): 147–159; L. L Kaid and J. Boydston, "An Experimental Study of the Effectiveness of Negative Political Advertisements," *Communication Quarterly* 35 (1987): 193–201; Michael Pfau et al., "Issue-Advocacy Versus Candidate Advertising: Effects on Candidate Preferences and Democratic Process," *Journal of Communication* 52 (2002): 301–315.

47. William Clinton, *My Life* (New York: Alfred Knopf, 2004), 928.

48. E. E. Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (New York: Holt, Rinehart and Winston, 1960).

49. In actuality, these percentages are low because they exclude unitemized contributions from individuals giving less than $200 to a candidate. The trend goes back only to 1986 because this is the first cycle that the FEC makes available its "miscellaneous" file of all contributions and transfers between any registered committees.

50. Peter Wallison and Joel Gora, *Better Parties, Better Government: A Realistic Program for Campaign Finance Reform* (Washington, D.C.: American Enterprise Institute Press, 2009), 52–54.

SUGGESTED READING

Berry, Jeffrey M., and Clyde Wilcox. *The Interest Group Society.* New York: Pearson Longman, 2009.

Francia, Peter. *The Future of Organized Labor in American Politics.* New York: Columbia University Press, 2006.

Franz, Michael. *Choices and Changes: Interest Groups in the Electoral Press.* Philadelphia: Temple University Press, 2008.

Kaiser, Robert. *So Damn Much Money.* New York: Alfred Knopf, 2009.

Sabato, Larry J. *PAC Power.* New York: Norton, 1984.

Schattschneider, E. E. *The Semisovereign People: A Realist's View of Democracy in America.* New York: Holt, Rinehart and Winston, 1960.

Wallison, Peter, and Joel Gora. *Better Parties, Better Government: A Realistic Program for Campaign Finance Reform.* Washington, D.C.: The American Enterprise Institute Press, 2009.