

CREW'S 2014 POST-ELECTION MONEY IN POLITICS ANALYSIS

Introduction

- The Republican wave that washed over Tuesday's election was fueled in part by the depth of the public's dissatisfaction with President Obama and fundamental factors favoring Republicans, such as the number of Senate seats Democrats were defending.
- It is important, however, not to lose sight of the fact that the election marked the continued post-*Citizens United* transformation of American politics. Outside spending played a substantial role for both sides, and is now a major and permanent part of our elections.
- While Republicans had the wind at their backs, the broad trends were cemented by strategic moves by Republicans and their allies, many of which were driven by outside groups.
- Demonstrating the increasingly central role of outside groups, they outspent candidates and parties in many competitive Senate races.
- These groups also continued replacing and mirroring the traditional functions of parties. Outside groups spearheaded the pro-Republican get-out-the-vote effort, and opened their checkbooks early in the cycle to drive the anti-Obama sentiment and soften up Democratic candidates.
- They also played a critical role in helping Republicans recruit stronger and more palatable candidates. As a result, there was no Todd Akins or Christine O'Donnell in 2014.
- Overall, outside spending continued to increase. Super PACs spent \$339 million dollars on federal elections, and parties put in another \$227 million in independent expenditures. Spending by dark money groups that don't disclose their donors hit \$170 million, the highest total for a midterm ever, and about the same amount they spent on congressional elections in 2012. While the final numbers on candidate spending won't be available until early December, candidates raised a total of \$1.5 billion and likely spent the same amount.
- Unlike 2012, outside spending was more evenly matched between the parties. Groups supporting Republicans accounted for about 53 percent of non-party outside spending, a smaller gap than previous years.
- However, there was a stark difference in donor disclosure between the sides, with far more dark money supporting Republicans and more super PAC spending supporting Democrats. Groups supporting Democrats that did not disclose their donors reported spending \$42 million, while Republican-supporting dark money organizations reported spending \$120 million. These figures do not include the hundreds of millions in dark money spending that is not reported anywhere.
- The five dark money groups that spent the most in 2014 federal elections were: U.S. Chamber of Commerce (\$35.4 million), Crossroads GPS (\$26 million), Patriot Majority USA (\$10.6 million), NRA Institute for Legislative Action (\$10.5 million), and the League of Conservation Voters (\$9.4 million).
- The five super PACs that spent the most in 2014 federal spending elections were: Senate Majority PAC (\$47.4 million), House Majority PAC (\$29.4 million), American Crossroads (\$21.6 million), Freedom Partners Action Fund (\$21.5 million), and Ending Spending Action Fund (\$21.3 million).

Analysis of specific races

- The tough environment, combined with the wave crashing on Democrats, explains why races that were expected to be competitive, like Arkansas and Georgia, saw Democrats lose by large margins.
- The Republican wave also goes a long way towards explaining why the Senate race in Virginia was so tight and how Republican Larry Hogan unexpectedly won the gubernatorial race in blue Maryland.
- It also provided momentum that may have pushed a string of competitive governors' races to break for Republicans, including Scott Walker in Wisconsin, Rick Scott in Florida, Sam Brownback in Kansas, and Paul LePage in Maine.

North Carolina Senate: Kay Hagan (D) v. Thom Tillis (R)

- This was the most expensive Senate race in the country, with roughly \$111 million spent by the two candidates, outside groups, and parties. More than 100,000 television ads ran in this race alone.
- The race also broke the record for the most outside spending ever in a congressional election. Outside groups and parties spent about \$81 million.
- Outside groups outspent the candidates and parties combined on television ads, and almost certainly on total spending in the campaign.
- That may explain why this also was the most negative race in the country. In September and October, only 15 percent of all television ads aired in the race were positive.
- The race was a top target for the Koch network. Americans for Prosperity started running ads as far back as June 2013 attacking Hagan. By Election Day, the group had spent over \$13 million on ads and get-out-the-vote efforts in the state, though they only reported less than \$1 million of that to the FEC.

Colorado Senate: Mark Udall (D) v. Cory Gardner (R)

- This race saw the most dark money in the country. Non-disclosing groups spent \$21 million trying to sway the outcome, most of which was directed against Udall.
- Overall, outside groups and parties spent \$69 million on the race, more than \$55 million of that by super PACs and 501(c)s. Outside groups also almost certainly outspent the candidates and their parties.
- This race a good example of the different approaches the two sides took to outside spending, as conservative dark money groups battled it out with liberal super PACs. Ending Spending, a conservative nonprofit, spent over \$3 million in the final week of the campaign.
- Although President Obama won Colorado twice, he was surprisingly unpopular in the state. Gardner, a strong candidate, was able to take advantage.

Kentucky Senate: Mitch McConnell (R) v. Allison Lundergan Grimes (D)

- Unlike many of the other close races, there was a significant imbalance in the money backing each candidate in this race, and it appears McConnell's war chest gave him a significant advantage that contributed to his rout of Grimes.
- McConnell outraised Grimes by \$10 million, and outside spending favored McConnell by two to one.

- Outside spending for McConnell completely replaced party money. McConnell asked the National Republican Senatorial Committee to not spend funds for him, and instead he relied on two outside spending groups, a 501(c)(4) and a super PAC, both dedicated solely to his re-election.
- Those two groups, the Kentucky Opportunity Coalition and Kentuckians for Strong Leadership, were the top outside spenders in the race, spending nearly \$14 million in all. Both groups were staffed with former McConnell aides, ensuring that their messages hewed closely to McConnell's.

Iowa Senate: Bruce Braley (D) v. Joni Ernst (R)

- The national environment, gaffes made by Braley, and an effective campaign run by Ernst – all helped along by millions of dollars – combined to turn this into a Democratic loss.
- The race featured a more traditional money battle as the two candidates raised nearly the same amount, and the two largest outside players were the two party committees.
- In all, outside groups and parties spent nearly \$60 million on the race, with about \$4 million more benefiting Ernst.
- Braley initially was considered a strong candidate in this open seat contest, but he was hurt both by an awkwardly dismissive comment he made about Sen. Charles Grassley being a farmer without a law degree, and a past dispute with his neighbors over chickens.
- Republicans and their allies repeatedly referred to these issues, and outside groups mocked them in ads.

Alaska Senate: Mark Begich (D) v. Dan Sullivan (R)

- The Alaska Senate race shows that more money can't overcome a tough environment. While Begich has not yet conceded, it appears he is going to lose.
- Begich outspent Sullivan by more than \$3 million dollars and got considerably more support from third parties, with outside groups and party committees spending \$23 million on his behalf compared to \$17 million on behalf of Sullivan.
- Alaska was the most expensive race in the country on per-capita basis, with more \$250 spent on each vote for Senator.
- Super PACs dominated the outside spending, led by the Put Alaska First PAC's \$10 million attacking Sullivan. Most of Put Alaska First's money came from another super PAC, the Senate Majority PAC.
- Sullivan received aggressive backing from American Crossroads and Crossroads GPS, which combined to spend \$7.5 million on his behalf.

Kansas Senate: Pat Roberts (R) v. Greg Orman (I)

- Perhaps the most unusual race in this year's election, this wasn't considered competitive until Democratic candidate Chad Taylor dropped out of the race, turning it into a two-way race between Roberts and Orman.
- Roberts' campaign was unprepared for the new challenge, not even having done opposition research against Orman, so national Republicans quickly moved in to take over his campaign. Republican stars, including Sarah Palin, Ted Cruz, and Rand Paul, came to support Roberts, and native son Bob Dole barnstormed the state for him.
- Roberts also threw himself into fundraising, raising \$1.6 million in September after only raising \$60,000 in August. He relied heavily on K Street lobbyists.

- Significant outside money was late to the race, but it eventually arrived. Freedom Partners Action Fund led the way on Roberts' behalf, pouring \$3 million into the race. Overall, outside groups spent more than \$10 million to support Roberts and nearly \$7 million to support Orman.

New Hampshire Senate: Jeanne Shaheen (D) v. Scott Brown (R)

- Both early and late outside spending may have played a role in making this a race. Before Brown even announced his candidacy, dark money groups ran ads against Shaheen, partly with the idea of encouraging Brown to run.
- And as the race tightened in October, groups on both sides poured money in.
- Outside money could have been limited in this campaign. In Brown's 2012 Senate race in Massachusetts, he signed a "People's Pledge" with Elizabeth Warren to discourage outside spending. Brown, however, rejected a similar pledge in 2014.
- Overall, outside groups and parties spent \$31 million on the race, with nearly \$15 million benefiting Shaheen and more than \$15 million benefiting Brown.

Patterns and Impacts

The fundamentals of this election clearly favored the Republicans:

- Democrats had more seats up, including several in which an incumbent retired, many of those states voted against President Obama in 2012, and President Obama continues to be very unpopular in most of them.
- Perhaps most importantly, Republicans succeeded in turning this election into a referendum on President Obama.
- In some states, like West Virginia, the headwinds of President Obama's unpopularity was so strong that the Senate election was never competitive. In others, the races looked to be competitive, but the anti-Obama forces were too much for Democratic incumbents to overcome.
- Despite these trends, strong Democratic candidates made several potentially tight races noncompetitive. Democrats won handily, for example, in the Michigan, Oregon, Minnesota, and New Mexico Senate races.

Candidate recruitment and nomination was critical for the Republicans:

- Recruitment of strong candidates was critical to the Republican victories. Candidates like Cory Gardner and Tom Cotton bolstered Republicans in states with Democratic incumbents.
- Even more importantly, unlike 2012, Republicans succeeded in nominating less radical candidates and candidates that avoided damaging gaffes.
- Democratic candidates were more uneven. Some, like Bruce Braley and Maryland gubernatorial candidate Anthony Brown ran poor races or were tripped up by their gaffes. Even strong Democrats like Michelle Nunn and Kay Hagan were washed away by the Republican wave in some states.
- Part of the Republicans' success stemmed from business-oriented donors and outside groups spending significant money in primaries, helping establishment candidates beat back Tea Party challengers.
- In North Carolina, for example, American Crossroads spent \$1.6 million boosting Thom Tillis in advance of his primary against Tea Party activist Greg Brannon, and the U.S.

Chamber of Commerce added another \$450,000. That easily overwhelmed the \$175,000 of outside spending for Brannon. Tillis directly credited Crossroads for his victory, saying the group's contribution "can't be overstated."

- Outside groups also helped clear the field for Cory Gardner in Colorado. According to Karl Rove, he told 2012 Republican Senate nominee Ken Buck that Crossroads would not back him if he ran again. Buck changed his plans and sought a House seat instead.

Outside spending and dark money spending on congressional elections reached new highs:

- Total spending on the 2014 election will likely be around \$3.6 billion, about the same as the 2010 midterms and spending on congressional races in 2012. The sources of that spending are shifting, with outside groups spending more and candidates and parties spending less.
- At \$555 million, outside spending in 2014 was by far the largest in any midterm election, and also topped the outside spending for House and Senate races in 2012.
- Reported dark money spending set a midterm record, and was slightly higher than the amount spent on congressional races as 2012. This figure excludes what likely was hundreds of millions spent on issue ads and other activities that do not need to be reported.
- Hundreds of millions more in outside money was spent in state and local elections, but it is impossible to know exactly how much because state disclosure is uneven.
- Outside spending was concentrated in contested elections. Non-party outside groups, for example, paid for more than half the ads in at least 6 battleground Senate races and dozens of House races.

Outside groups spent more early in this cycle than in any previous midterm election:

- By January 2014, outside groups had reported spending almost three times as much as they had at the same point in the 2010 election.
- That doesn't include massive spending by the Koch network and others on sham issue ads, which is not reported to the FEC. It is impossible to determine the total amount of this spending, but it likely exceeded \$100 million.
- Just between July 2013 and April 2014, groups in the Koch brother's network spent more than \$33 million criticizing health care reform, aimed at making it a campaign issue.
- As one Koch strategist admitted: "This is a huge push behind a single issue – and it's all happening very early, which is pressuring cash-strapped candidates and committees to make hard decisions about how they spend their dollars."

Outside groups invested heavily in get-out-the-vote efforts:

- Overall, most outside money again was spent on television ads.
- As in 2012, however, the barrage of advertising may have reached a point of significantly diminished returns in states saturated with political ads.
- Republicans significantly increased their spending and attention on get-out-the-vote efforts in an attempt to match the Democrats, and it paid off.
- The Koch network was instrumental in developing and deploying the pro-Republican get-out-the-vote effort.
 - After the Obama campaign's turnout machine crushed the Republicans in 2008, the Koch brothers started investing heavily in voter data and get-out-the-vote capabilities, using several tax-exempt organizations and businesses such as the Themis Trust and i360.

- Turf battles among Republicans and their allies slowed progress, but in August 2014 the groups finally agreed to share their critical voter data files.
- Americans for Prosperity alone spent more than \$60 million on its field operations, hiring more than 500 field workers. In all, they made 7 million phone calls and knocked on 2 million doors.
- It is impossible to ascertain how much either side spent on their efforts because ostensibly non-partisan get-out-the-vote efforts – regularly conducted by groups with a clear candidate preference – are not reported the way partisan spending is.

One result of the massive outside spending is the continued negativity in campaign ads:

- Overall, more than half the ads run in Senate races after September 1 were purely negative, with another 22 percent of the ads comparing the two candidates in an often negative way.
- Outside groups were the worst, with about 80 percent of their ads negative. Interestingly, pro-Republican groups ran more positive ads than the groups supporting Democrats did.

Last minute outside spending did not appear to be the decisive factor in most races:

- Several news stories reported significant last minute outside spending in key races.
- Some super PACs continued to exploit a loophole in election law to keep some donors secret until after the election while still spending millions.
- Nonetheless, it appears this very late spending was not the decisive factor in most races. The total amount was only a small fraction of the outside spending, and candidates and parties were responsible for much of the money spent close to the election.

Single-candidate groups:

- In this cycle, a new kind of dark money group emerged – organizations focused on a single candidate. These are not unlike the single-candidate super PACs that supported otherwise failing Republican presidential candidates in 2012, like Newt Gingrich and Rick Santorum.
- The new groups, however, are 501(c)(4)s that do not disclose their donors.
- The largest is the Kentucky Opportunity Coalition, which reported spending \$7.5 million dollars supporting Sen. Mitch McConnell, making it one of the top 10 dark money groups in the entire 2014 election.
- Other single-candidate 501(c)(4)s popped up to spend millions supporting other Senate candidates, including Thom Tillis in North Carolina, and TW Shannon, a Republican state legislator who lost in the Oklahoma Senate primary.
- These groups need to go to extraordinary lengths to maintain their tax-exempt status that allows them to keep their donors secret. The Kentucky organization, for example, spent at least \$7 million in late 2013 and early 2014 on issue ads that relentlessly touted McConnell's support for coal. It will almost certainly claim these are non-political.

Keeping donors secret:

- Dark money groups continue to exploit loopholes in campaign finance and tax law to protect the names of their donors. They refined some the techniques used in 2010 and 2012, and have developed some new ones as well.
- One tactic groups are using to skirt disclosure laws is for political groups to hide the ultimate source of funding by funneling donations through nonprofits that do not have to disclose their donors.

- This is known as “dead end disclosure.” Even though super PACs are required to disclose their donors to the FEC, using a nonprofit as a pass-through is an easily abused loophole.
- For instance, the Government Integrity Fund Action Network, a super PAC, spent more than \$1 million supporting Tom Cotton in Arkansas. The only donor to the group was a related nonprofit, the Government Integrity Fund.
- Conservative groups have gotten very adept at staying within the law, at least how the IRS and FEC have misinterpreted it.
 - To avoid disclosure, the groups need to spend less than half their money on explicit political ads.
 - As a result, many dark money groups spent heavily on sham issue ads early in the cycle that they will claim are not political.

What does this mean going forward?

- This was the third national election since *Citizens United*, and increasingly patterns are emerging.
- Foremost, massive spending by outside groups is the new normal for American politics, and is likely to increase in the future. The Republican victories portend more financial support for pro-Republican outside groups that can accept unlimited contributions, and more spending by them, particularly early in the cycle. It is unclear how supporters of Democratic groups will respond, but even more of an arms race may develop for 2016 and beyond.
- Another development that may result in more spending by outside groups is their increasing ability to virtually coordinate with campaigns and parties. Weak laws and even weaker enforcement allow candidates and parties to clearly suggest the message, targets, and even video they want outside groups to use in their ads, and these became standard techniques this cycle. In some ways, it is a misnomer to call them “outside” groups at this point. Examples of this coordination include:
 - Many candidates put video of themselves in various positive settings on their websites so that outside groups could use it in their ads. Mitch McConnell’s “b-roll” was mocked by Jon Stewart, but his single-candidate 501(c)(4) group used it in ads, and groups supporting Thom Tillis, Kay Hagan, Cory Gardner, and numerous other candidates used b-roll in their ads.
 - Tillis also widely distributed a memo specifying what he needed in the weeks before the election, including the number of ratings points in television ads in Charlotte, more digital videos, and campaign spending in Asheville.
 - The official House Republican campaign committee posted on its website a sample script that could be used against Rep. Sean Patrick Maloney (D-NY) and suggesting the message “he’s still looking out for himself.” Later, the American Action Network sent out mailers saying “Vote Against Sean Patrick Maloney – He’s only looking out for himself,” and ran an ad using similar language.
- As we noted in our 2012 post-election analysis, outside groups had started taking over some of the functions of traditional parties. This development accelerated in 2014 as groups increasingly became involved in get-out-the-vote efforts and spent heavily on advertising.
- Some groups also have started investing in building a full-time political presence with an eye toward future legislative fights and the 2016 elections. Americans for Prosperity, for

example, said its goal is to “build a long-term, permanent infrastructure,” and planned to spend more than half of its 2014 budget expanding its presence on the ground in states.

- As we also noted in 2012, the presence of extensive spending by outside groups has put pressure on candidates to build bigger war chests. Members of Congress are spending more and more of their time fundraising, and less time legislating.
- The need for very deep pockets is particularly driving fundraising by 2016 presidential hopefuls. They are cultivating billionaires like Sheldon Adelson as political patrons, and raising as much funds as possible to protect against wealthy donors who can inject millions on behalf of one of their opponents.
- It also is unclear if establishment groups like the U.S. Chamber of Commerce will get involved in the 2016 Republican presidential primaries, or if the Koch network will put their considerable resources behind any one candidate.
- Outside groups also are developing new vehicles for dark money spending that are likely to be used more widely in 2016 and future elections.
 - Single-candidate 501(c) groups will almost certainly pop up to support 2016 presidential hopefuls.
 - The Koch brothers also are increasingly creating 501(c)(6) business leagues instead of 501(c)(4) social welfare groups. Business leagues are even less regulated than 501(c)(4)s, and do not disclose their big donors even to the IRS, as 501(c)(4)s do.