

## LESSON 8

## How does money impact an election? Campaign Finance

- Objective** Examine the history of campaign finance and explore the different methods for funding campaigns.
- Standards** **Civics and Government**  
 8.17 Examine the development activities of political parties and interest groups and their affect on events, issues, and ideas.  
 HS.30 Analyze the roles and activities of political parties, interest groups and mass media and how the affect the beliefs and behaviors of local, state, and national constituencies.  
**CCSS: Literacy in History/Social Studies**  
 6-8.RH.4. Determine the meaning of words and phrases as they are used in a text, including vocabulary specific to domains related to history / social studies.  
 9-10.RH.4 Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history / social studies.  
**CCSS ELA Standards: Speaking and Listening**  
 SL.8.6. Adapt speech to a variety of contexts and tasks, demonstrating command of formal English when indicated or appropriate.  
 SL.9-10.6 Adapt speech to a variety of contexts and tasks, demonstrating command of formal English when indicated or appropriate.  
 SL.11-12.6 Adapt speech to a variety of contexts and tasks, demonstrating a command of formal English when indicated or appropriate.
- Handouts** (1) Vocabulary; (2) Dollars & Votes: 2012 Election Viewing Questions; (3) Follow the Money: A Worksheet for OpenSecrets.org
- Video** “Dollars & Votes: 2012 Election” by PBS (8 min. 32 sec), [http://www.pbs.org/newshour/thenews/thegov/story.php?id=19461&package\\_id=634](http://www.pbs.org/newshour/thenews/thegov/story.php?id=19461&package_id=634)
- Backgrounders** Pros and Cons of Citizens United; *Citizens United v. Federal Election Commission* Brief; Campaign Finance

### A. Warm-up!

Ask students how they think candidates might pay for running for office. This is called “campaign financing.”

### B. Vocabulary

There is a great deal of new vocabulary in this lesson. Handout 1 contains new terms related to campaign financing. If students have been keeping a running list throughout the unit, some of these should be added.

### C. What's this about Citizen's United?

**News segment viewing activity:** Teachers ask students to respond to the statement, "The current campaign finance structure works for the country" with a 1-strongly agree, 2-agree, 3-disagree, 4-strongly disagree. Designate four corners of the room as 1, 2, 3, and 4 and ask students to go to the corner that best represents their opinion. The center of the room may want to be reserved for group 5-don't know! Ask one or two students from each group to explain why they chose that corner.

Students return to seats. Distribute *Dollars & Votes: 2012 Election Viewing Questions*, Handout 2, and assign questions to students as a listening tool for the video. Show the 8-minute *Dollars & Votes: 2012 Election* film by PBS-MacNeil/Lehrer Productions. Small group discussion of assigned questions may precede whole class discussion of the video. After discussions, ask students to again consider the statement: "The current campaign finance structure works for the country." Choose corners again. Ask who changed their position and get a sampling of why.

This activity is adapted from an excellent lesson from PBS: "Dollars & Votes: 2012 Election" Social Studies Lesson Plan, [www.pbs.org/newshour/thenews/thegov](http://www.pbs.org/newshour/thenews/thegov). PBS provides teachers with options for either social studies or language arts emphasis using the same video.

### D. How are the candidates financing their campaigns?

Using *Following the Money: A Worksheet for OpenSecrets.org*, Handout 3, explore how the 2012 presidential candidates are funding their campaigns. You will need internet access, or copy pages from the website to distribute to students. Go to the "Politicians & Elections" tab, select "Presidential."

### E. Extended Activities

#### Homework / Journal Entry

*There are many ways to extend and expand this lesson. A few of them are listed below.*

**Pros and Cons of Citizens United**, see backgrounder, ask students to discuss in pairs or small groups the three questions on the worksheet. Consider completing Question 1 and chart in small groups, then Questions 2 and 3 as individual short answers.

**Campaign Finance Simulation Game** is a fun simulation that takes students through the process of deciding to run for office, and raising and donating funds to political campaigns. Developed in Connecticut, the Word document can be easily modified for Oregon, and include your objectives, and student population. It includes a role play with ample number of roles for even the largest classes. Check it out at [http://www.ctn.state.ct.us/civics/campaign\\_finance.asp](http://www.ctn.state.ct.us/civics/campaign_finance.asp)

**History of Campaign Finance.** Using the one-page *Campaign Finance* backgrounder, explore the changes that have occurred over time. Possible activities: create timeline, class discussion, note-taking/outline. Alternatively, a detailed timeline may be found online at:

[http://www.ctn.state.ct.us/civics/campaign\\_finance/Support%20Materials/campaign\\_finance\\_historical\\_timeline.htm](http://www.ctn.state.ct.us/civics/campaign_finance/Support%20Materials/campaign_finance_historical_timeline.htm). It can be edited to show as much of the history as is appropriate for your students.

***Super PACs in 2012 Campaign, C-SPAN Classroom.*** Interview with Sheila Krumholz, Executive Director for the Center for Responsive Politics. “Topics included the identities of those funding the super PACs, how super PACs will influence the presidential and congressional elections, how coordinated campaigns and super PACs can legally be, and how super PACs are spending their money.” While this is a rather long video, there are some parts that would make for quality clips. <http://www.c-spanclassroom.org/Video/1275/Super+PACs+in+2012+Campaign.aspx>

## Handout 1

**Vocabulary**

**Advocacy ads:** Ads criticizing or supporting a candidate's stand on an issue.

**Bipartisan Campaign Finance Reform Act of 2002 (aka McCain-Feingold Law):** A bipartisan act that banned “soft” money; banned advocacy ads (those criticizing or supporting a candidate's stand on an issue) 60 days before an election; and mandated contribution limits and donor disclosure requirements.

***Citizens United v. Federal Election Commission:*** A U.S. Supreme Court case that ruled in a 5-4 decision in January 2010 to allow corporations and unions to use their general treasuries to pay for political advertisements that expressly call for the election or defeat of a candidate. The decision also allowed nonprofit groups to use corporate or union funds to air electioneering communications within 30 days of a primary election and 60 days of a general election, which had previously been prohibited since the Bipartisan Campaign Reform Act of 2002.

**Federal Election Campaign Act (FECA):** 1972 legislation that required candidates to disclose sources of campaign contributions and campaign expenditures.

**Federal Election Commission:** An independent regulatory agency created in 1975 whose members are appointed by the president; responsible for overseeing campaign financing, including who can give money, how much they can give, and how donations are disclosed.

**“Hard money”:** The regulated contributions from an individual or PAC to a federal candidate, party committee or other PAC, where the money is used for a federal election; subject to contribution limits and prohibitions and can be used to directly support or oppose a candidate running for federal office.

**Independent expenditures:** Advertisements that expressly advocate the election or defeat of specific candidates and are aimed at the electorate as a whole.

**Individual contributions:** Limited, regulated contributions made by an individual to a candidate's campaign committee, a PAC or a political party.

**Issue ads:** political communications, usually in the form of advertising, that are framed around an issue. Issue advocacy does not specifically instruct the audience to vote for or against a candidate.

**Lobbyists:** Individuals who try to influence how public policy is created and how members of Congress will vote. Lobbyists must register with the Senate and House, and must disclose who hired them, how much they are paid, what issues or bills they are lobbying on, and what federal agencies they are contacting.

**Persuasive appeals:** Devices specifically used to persuade the audience; other rhetorical devices are used to reveal persuasive appeals.

**Political Action Committee (PAC):** A political committee that raises and spends money to elect or defeat candidates; restricted in how much money can be used to support specific candidates.

**Public Financing of Presidential Campaigns:** Under the 1974 amendments to the Federal Election Campaign Act of 1971, presidential candidates can receive government subsidies if they accept spending limits. Currently, they can obtain as much as \$20 million in public subsidies. To be eligible to receive the public funds, the candidate must limit spending to the amount of the grant and may not accept private contributions for the campaign. In addition, candidates may spend up to \$50,000 from their own personal funds. During the 2008 election campaign, Barack Obama and John McCain both refused to accept public funding for the presidential primary campaigns but McCain did accept public funding during the general campaign.

**Rhetorical devices:** any manipulation of language, especially in persuasion.

**“Soft money”:** Unlimited and unregulated contributions to national political parties.

***SpeechNow.org v. Federal Election Commission:*** A federal court decision in March 2010 that found that it was unconstitutional to impose a contribution limit on groups whose sole purpose was funding independent expenditures.

**SuperPAC (independent expenditure-only committee):** A type of political action committee that may raise and spend unlimited sums of money for the sole purpose of making independent expenditures to support or oppose political candidates. Unlike traditional political action committees, super PACs may not donate money directly to candidates.

**Tillman Act:** An act that specifically prohibited direct contributions from corporations and businesses to political parties and election committees; the first law on the books to specifically address campaign funding on the federal level.

[http://www.pbs.org/newshour/thenews/materials/SuperPacLA\\_LessonPlan.pdf](http://www.pbs.org/newshour/thenews/materials/SuperPacLA_LessonPlan.pdf)

Handout 2  
**Dollars & Votes: 2012 Election  
Viewing Questions**

1. **Describe** the type of organizations expected to spend the most money in this year's election.
2. **Explain** why Congress outlawed corporate contributions for all Congressional and Presidential campaigns after Teddy Roosevelt's 1904 election.
3. **Describe** what the Tillman Act called for and who or what it and its subsequent amendments affected most.
4. **Describe** the balance Congress has to find when passing campaign reform legislation.
5. **Explain** the U.S. Supreme Court's decision in *United v. Federal Election Commission* (2010) and describe the Court's reasoning.
6. President Obama was a critic of the Court's decision in *Citizens United*. However his campaign committee announced that a Super PAC would be formed to assist in President Obama's reelection in 2012. **Describe** the campaign committee's reasoning for this decision.
7. **Explain** why it might be an advantage to Super PACs to not have to disclose their donor list.

Source: "Dollars & Votes: 2012 Election" Social Studies Lesson Plan,  
[www.pbs.org/newshour/thenews/thegov](http://www.pbs.org/newshour/thenews/thegov)

## Handout 3

**Follow the Money: A Worksheet for OpenSecrets.org**

*Select your preferred 2012 presidential candidate. Complete this worksheet for his/ her campaign financing, using information found on the website OpenSecrets.org.*

1. Presidential candidate's name:
  
2. Total amount raised to date:
  
3. Amount contributed by political action committees (PACs):
  
4. Money contributed by candidate (self-financing):
  
5. How much "cash on hand" does the candidate have to spend in the balance of this election cycle?
  
6. How does the candidate's fundraising totals compare with his/ her competitors?
  
7. What is the balance between small and large individual contributions to the candidate? Why might this matter?
  
8. Have any Super PACs been formed in support of this candidate? List them and the money they have raised to date.
  
9. How complete are the candidate's financial disclosures to date? Why is transparency around campaign finance sources and expenditures important to voters?
  
10. Peruse the candidate's personal finances. Is there anything here that captures your attention? Explain. To what degree are personal financial records important in candidate selection?

Source: McCormick Foundation, Campaign Finance Lesson Plan  
<http://documents.mccormickfoundation.org/Civics/programs/Education/ProfessionalDevelopment/TWC-Sum10.htm>

**Backgrounder**  
**Pros and Cons of *Citizens United***

1. Should private companies, corporations, and labor unions be able to give as much money as they wish to support candidates sympathetic to their interests? List three arguments, in favor, and three in opposition, to the free flow of money from these sources to individual candidates.


2. Do you believe these companies, corporations, industries, and labor unions hope to receive political favors in return for the financial contributions? If so, what form might they take?

3. Do limitations on campaign contributions from individuals who represent certain companies, industries, and labor unions infringe upon their First Amendment freedom of speech? Explain.

Source: McCormick Foundation, Campaign Finance Lesson Plan  
<http://documents.mccormickfoundation.org/Civics/programs/Education/ProfessionalDevelopment/TWC-Sum10.htm>



**Backgrounder**  
**CITIZENS UNITED V. FEDERAL ELECTION COMMISSION**  
**BRIEF**

Topic: First Amendment, Commercial Speech  
Appellant: Citizens United  
Appellee: Federal Election Commission  
Opinion: 558 U.S. \_\_\_\_ (2010), Thursday, January 21, 2010

**Facts of the Case**

Citizens United sought an injunction against the Federal Election Commission in the United States District Court for the District of Columbia to prevent the application of the Bipartisan Campaign Reform Act (BCRA) to its film *Hillary: The Movie*. The Movie expressed opinions about whether Senator Hillary Rodham Clinton would make a good president.

In an attempt to regulate "big money" campaign contributions, the BCRA applies a variety of restrictions to "electioneering communications." Section 203 of the BCRA prevents corporations or labor unions from funding such communication from their general treasuries. Sections 201 and 311 require the disclosure of donors to such communication and a disclaimer when the communication is not authorized by the candidate it intends to support.

Citizens United argued that: 1) Section 203 violates the First Amendment on its face and when applied to *The Movie* and its related advertisements, and that 2) Sections 201 and 203 are also unconstitutional as applied to the circumstances.

The United States District Court denied the injunction. Section 203 on its face was not unconstitutional because the Supreme Court in *McConnell v. FEC* had already reached that determination. The District Court also held that *The Movie* was the functional equivalent of express advocacy, as it attempted to inform voters that Senator Clinton was unfit for office, and thus Section 203 was not unconstitutionally applied. Lastly, it held that Sections 201 and 203 were not unconstitutional as applied to *The Movie* or its advertisements. The court reasoned that the *McConnell* decision recognized that disclosure of donors "might be unconstitutional if it imposed an unconstitutional burden on the freedom to associate in support of a particular cause," but those circumstances did not exist in Citizen United's claim.

**Question**

- 1) Did the Supreme Court's decision in *McConnell* resolve all constitutional as-applied challenges to the BCRA when it upheld the disclosure requirements of the statute as constitutional?
- 2) Do the BCRA's disclosure requirements impose an unconstitutional burden when applied to electioneering requirements because they are protected "political speech" and not subject to regulation as "campaign speech"?
- 3) If a communication lacks a clear plea to vote for or against a particular candidate, is it subject to regulation under the BCRA?

4) Should a feature length documentary about a candidate for political office be treated like the advertisements at issue in *McConnell* and therefore be subject to regulation under the BCRA?

### **Conclusion**

No. No. Yes. Yes. The Supreme Court overruled *Austin v. Michigan Chamber of Commerce* and portions of *McConnell v. FEC*. (In the prior cases, the Court had held that political speech may be banned based on the speaker's corporate identity.) By a 5-to-4 vote along ideological lines, the majority held that under the First Amendment corporate funding of independent political broadcasts in candidate elections cannot be limited. Justice Anthony M. Kennedy wrote for the majority joined by Chief Justice John G. Roberts and Justices Antonin G. Scalia, Samuel A. Alito, and Clarence Thomas. Justice John Paul Stevens dissented, joined by Justices Ruth Bader Ginsburg, Stephen G. Breyer, and Sonia Sotomayor. The majority maintained that political speech is indispensable to a democracy, which is no less true because the speech comes from a corporation. The majority also held that the BCRA's disclosure requirements as applied to *The Movie* were constitutional, reasoning that disclosure is justified by a "governmental interest" in providing the "electorate with information" about election-related spending resources. The Court also upheld the disclosure requirements for political advertising sponsors and it upheld the ban on direct contributions to candidates from corporations and unions.

In a separate concurring opinion, Chief Justice Roberts, joined by Justice Alito, emphasized the care with which the Court handles constitutional issues and its attempts to avoid constitutional issues when at all possible. Here, the Court had no narrower grounds upon which to rule, except to handle the First Amendment issues embodied within the case. Justice Scalia also wrote a separate concurring opinion, joined by Justices Alito and Thomas in part, criticizing Justice Stevens' understanding of the Framers' view towards corporations. Justice Stevens argued that corporations are not members of society and that there are compelling governmental interests to curb corporations' ability to spend money during local and national elections.

### **Decisions**

5 votes for *Citizens United* (Kennedy writing for the majority, Roberts, Scalia, Thomas, Alito). 4 votes against (Stevens, Ginsburg, Breyer, Sotomayor).

*Source: The Oyez Project, Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_\_ (2010); ([http://oyez.org/cases/2000-2009/2008/2008\\_08\\_205](http://oyez.org/cases/2000-2009/2008/2008_08_205)).

## Backgrounder

# Campaign Finance

While fundraising amongst constituents for presidential races is not new within the history of the United States, campaign finance reform has evolved so much in the past ten years that the political fundraising efforts in the 2012 presidential election is a news breaker itself. As of August 2012, Mitt Romney raised \$524.2 million and President Obama raised \$587.7 million for their reelection campaigns. Though these totals are large amounts of money, they do not even include the indirect contributions from the newly-created **Super PAC's**, which formed after the landmark 2010 Supreme Court ruling ***Citizens United v. Federal Election Commission***.

### Brief History of Campaign Finance

Campaign financial restrictions truly started in 1907 with the **Tillman Act**, the legislation that specifically prohibited direct contributions from corporations and businesses to political parties and election committees. Though the legislation was the first of its kind, it contained loopholes that allowed businesses to give money to their employees, who were then supposed to donate that money as **individual contributions** to the candidates the business owners wanted to support. Because of loopholes similar to these in later legislation, the **Federal Election Campaign Act** of 1972 was passed with the stipulation that candidates had to disclose sources of campaign contributions and campaign expenditures. Soon after, the **Federal Election Commission** (or FEC) was created to monitor campaign spending.

In 2002, Senator John. McCain and Senator Russ Feingold worked together to sponsor the Bipartisan Campaign Finance Reform Act (also known as the McCain-Feingold Law). One of the first major campaign finance laws in 25 years, the McCain-Feingold Law banned **soft money** donations for political parties and made it illegal for individual political candidates to seek soft money donations. It also deemed it illegal for special interest groups to spend soft money on so-called "issue ads" that identify a specific federal candidate within 60 days of a general election or 30 days of a primary election.

In 2008, a conservative nonprofit organization called Citizens United created a documentary that contained negative political commentary against Hillary Clinton and her 2008 presidential campaign. The FEC prohibited Citizens United from broadcasting the 90-minute video, or from running advertisements for it. Citizens United took the case all the way to the U.S. Supreme Court, citing that it was the company's right to voice its members' opinions. In January of 2010, the Supreme Court ruled by 5-4 that the government could not ban political spending by corporations during campaign elections because it interferes with First Amendment rights of free speech. After this ruling, corporations were allowed to spend unlimited amounts to support a candidate, provided that the corporations were not working directly with the candidate. The decision also allowed nonprofit groups to use corporate or union funds to air electioneering communications within 30 days of a primary election and 60 days of a general election.

In March of 2010, a similar decision was reached in the ***Speechnow.org v. Federal Election Commission*** court case: the Supreme Court granted corporations and unions the ability to use their general treasury money for political expenditures. In the wake of both decisions, scores of new groups -- often called **super PACs** -- declared to the Federal Election Commission their intent to raise unlimited donations from corporations, unions and individuals. Super PAC differ from regular PACs because **PACs**, or political action committees, are restricted in how much money they can donate to a specific candidate. While Super PAC can raise funds indefinitely as long as they don't specifically donate their money to a candidate or political party. PACs can only donate \$5,000 to a candidate and only \$15,000 to a political party during an election.

Source: [http://www.pbs.org/newshour/thenews/materials/SuperPacLA\\_LessonPlan.pdf](http://www.pbs.org/newshour/thenews/materials/SuperPacLA_LessonPlan.pdf)