



# NEWS RELEASE

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Independent special interest groups, many of which operate with little or no public disclosure of their activities, have spent an estimated \$63 million on gubernatorial and legislative elections in New Jersey since 1977, according to a new analysis by the New Jersey Election Law Enforcement Commission (ELEC).

More than \$55 million- 87 percent- has been spent just in the past five years. The 2013 gubernatorial and legislative elections attracted a record \$39 million in so-called “outside” spending- campaign funds spent independently of parties or candidates by groups or individuals with special interest agendas.

**Table 1**  
**Estimated Independent Spending in Gubernatorial**  
**or Legislative Races in New Jersey**

<b>Year</b>	<b>Total</b>
1977	\$ 10,700
1981*	\$ 14,600
1985	\$ -
1989	\$ 287,000
1993	\$ 326,000
1999	\$ 113,255
2001	\$ 6,783,119
2003	\$ 4,857
2005	\$ 411,224
2007	\$ 165,000
2009	\$ 14,096,167
2011	\$ 1,835,500
2012	\$ 299,049
2013	<b><i>\$ 38,802,531</i></b>
<b>TOTAL</b>	<b><i>\$ 63,149,002</i></b>

\*Largest of several small expenditures

“In federal, state and even local races, independent spending has emerged as a dominant force in political campaigns,” said Joseph Donohue, Deputy Executive Director and the study’s author. “It’s a new ballgame both nationally and in New Jersey.”

The analysis is contained in “White Paper No. 24- Independents’ Day- Seeking Disclosure in a New Era of Unlimited Special Interest Spending.” For a copy of the report, go to ELEC’s website at [www.elec.state.nj.us](http://www.elec.state.nj.us).

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Some may think independent spending mushroomed only after the landmark *Citizens United v. FEC* ruling by the U.S. Supreme Court (2010), which allowed corporations and unions to spend unlimited sums independently. It actually has grown steadily since the 1970s.

After the U.S. Supreme Court in *Buckley v. Valeo* (1976) struck down a \$1,000 contribution limit on independent spending, nearly \$16 million- about \$45 million in current dollars- was spent on the 1980 presidential campaign by groups not subject to the then-existing ban on corporate or union independent spending.

By the 2012 presidential race, non-party independent spending had soared to \$1 billion.

Independent campaign outlays surged as court rulings gradually eased restrictions on independent spending and issue advertisements became popular in the 1990s. They also surged after the Bipartisan Campaign Reform Act (aka McCain Feingold) banned unlimited soft money contributions to the national parties, forcing special interests to do more spending on their own. The spending intensified after *Citizens United*.

In New Jersey, the 1977 governor's race attracted \$10,700 in independent spending. By 2013, spending reached an estimated \$20 million on the governor's race alone.

There are pros and cons to independent spending, which is mostly done by Super PACs, and non-profit groups organized under sections 501 and 527 of the IRS code.

Independent groups increase the amount of free speech in campaigns, and can help candidates remain competitive in campaigns like the 2012 Republican presidential primary.

"The downsides are that they are responsible for some of the nastiest political advertisements in history. And they are less accountable. They often operate with far less scrutiny than parties, candidates and regular political action committees (PACs) because many of these groups are exempt from disclosure requirements," Donohue said.

For instance, in the 2013 campaign, nearly \$15 million- more than the entire spending on the 1985 governor's race- occurred without any disclosure of contributions. The amount was about 38 percent of the total independent spending in 2013.

In April 2010, ELEC, in a bipartisan vote, urged the Legislature to require independent groups to abide by the same disclosure requirements followed by candidates, parties and regular PACs.

Currently, state law provides little pre-election disclosure by independent groups. Independent spenders only are required to disclose their expenditures to ELEC if they run campaign ads that explicitly call for a candidate's election or defeat.

Under ELEC’s proposal, variations of which have been introduced in the Legislature, groups that engage in this type of “express advocacy” also would be required to disclose their contributions before the election.

In addition, groups that run more vaguely worded issue-oriented advertisements that obviously are intended to support or attack candidates also would be required to disclose their contributions and expenditures before the election.

“Disclosure was strongly endorsed by the U.S. Supreme Court in *Citizens United*,” Donohue said.

Said the court in its 2010 ruling: “The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”

Donohue added that “broad disclosure by political spenders is hardly a radical notion. Ballot question committees, which essentially are the original Super PACs since they have been able to raise unlimited amounts of money since 1978, have always disclosed their contributions and expenses.”

“ELEC is asking only that independent groups follow the same rules as candidates, parties and PACs,” he said.

**Table 2**  
**Current Versus Proposed Disclosure Requirements**  
**for Independent Spending Groups**

CURRENT	PROPOSED
Independent Spenders that Spend More than \$1,400 Must Disclose <u>Expenditures</u> Before the Election If They Explicitly Urge a Candidate’s Election or Defeat	Independent Spenders that Spend More than \$1,400 Must Disclose <u>Contributions</u> and <u>Expenditures</u> Before the Election If They Explicitly Urge a Candidate’s Election or Defeat
Independent Spenders Who Run Issue-Oriented Communications, also called Electioneering Ads, About Candidates Do Not Have to Disclose Before the Election*	Independent Spenders Who Run Issue-Oriented Communications About Candidates Would Have to Disclose Before the Election their Contributions and Expenditures for Ads that Run After January 1. Applies to Communications by Network Or Cable Television, Radio, Internet, Direct Mail, Other Printed Literature, Telephone and Billboards.
No Contribution Disclosure by Independent Spenders Unless They Register as a Political Committee or Continuing Political Committee.	Contributions of \$5,000 or More Must be Disclosed by Independent Spenders

\*Some disclosure has been done through grassroots lobbying reports filed in February after the election.