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PANEL DISCUSSION:

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**REYNOLDS:** Good morning. My name is Molly Reynolds, and I am a senior fellow in Governance Studies here at Brookings. I am also, for the purposes of today's event, the coeditor with John Green of "Financing the 2020 Election," a new volume published by Brookings and our publishing partner, Roman & Littlefield. The book includes contributions from a distinguished set of contributors, three of whom are here, along with my coeditor today. I will introduce them briefly in a moment, but first, let me say a few words about the book. First, let me note that while — excuse me — this edition is new, the series is not. Indeed, the series dates back to 1960, and the past five volumes since 2000 have been published here at Brookings. Each volume has sought to provide analysis that is both continuous in that we — excuse me — and our predecessors, as editors, have sought to document persistent trends in campaign finance, but also that highlights new and significant developments in how campaigns are financed.

In that spirit, let me set the stage a bit for our discussion today. Every election has something about it which is unique. And for 2020, that was the particular combination of disease — the COVID-19 pandemic — discord — the divisions between segments of the electorate, including those that led to the insurrection at the Capitol on January 6, 2021 — and downturn — the economic consequences of the aforementioned pandemic. But amid that, the story of the 2020 election was largely one of celebrating three preexisting trends: The growth of individual contributions to candidates and non-candidate committees via both small and large donations, the growth of independent expenditures by non-candidate organizations, and the growth and activity by hybrid and super political action committees. In total, at least \$16.8 billion was spent during the 2020 election, which was more than double the comparable figure for 2016.

The consequences of these trends, however, require more nuanced analysis. And that is why I am glad to welcome some of our contributors here today to share. John Green, my coeditor, is director emeritus of the Ray C. Bliss Institute of Applied Politics and distinguished professor emeritus of political science at the University of Akron. He will get us started by talking about the trends in financing both the presidential and congressional elections in 2020. Next, Robin Kolodny, professor of political science at Temple University, will discuss the role of parties in the campaign finance landscape in 2020. Jay Goodliffe, professor of political science at Brigham Young University, will follow, covering interest groups. And then we will conclude with some broader observations on the

landscape of campaign finance policy in 2020 from Robert Boatright, professor of political science at Clark University.

Before I turn things over to John, I want to thank a few additional folks whose work was central to this volume. First, we had two additional contributors to the volume, Sam Garrett, who provided an overview of the legal landscape underpinning campaign finance in 2020, and Diana Dwyre, who is Robin's coauthor for the chapter analyzing parties. Second, David Magleby, who is the editor of the prior editions of this volume in 2012 and 2016, was involved in a number of editions prior to that, built a real foundation for success, on which John and I were grateful to build. And finally, the analyses in this book would not have been possible without the hard work of Brendan Glavin of Open Secrets, who did thorough and careful work to assist each of the authors in preparing our chapters, and I speak for us all when I say how grateful we are for his work. With that, I will turn things over to John to get us started.

**GREEN:** Thank you very much, Molly. In the 2020 election cycle, the finances of the principal campaign committees of federal candidates broke records in real terms, with the presidential candidates raising and spending a total of four, just about four billion dollars — that's billion with a B — and congressional candidates raising and spending just under \$4 billion. For the presidential campaigns, the self-financed nomination candidates in the Democratic nomination process help explain part of the dramatic increase in these finances, including, for example, the one billion dollars that Democrat Michael Bloomberg provided for his own campaign. Another factor in the increase of these finances was the very large number of Democrats that competed for their party's presidential nomination, 29 of which were prominent enough to receive considerable attention. In terms of the major party nominees, Joe Biden and his campaign raised just about one billion dollars, all-inclusive, during the 2020 election cycle.

At the same time, Donald Trump and his unusual alliance with the Republican National Committee raised just about the same amount of money, just about one billion dollars. Indeed, Donald Trump reified a common meme in the commentary on presidential elections, that is of the permanent campaign, by announcing his reelection on inaugural day in 2017 and maintaining an active fundraising and campaign apparatus throughout his term in the White House. Of course, Donald Trump continued this process and this trend after his defeat in 2020, and indeed into the present election cycle. The Biden campaign also innovated, however, particularly in general election finances.

After lackluster nominations and answers, the Biden campaign was able to raise extraordinary amounts of money for the general election so that as Election Day approached, the Biden campaign actually outraised and outspent the Trump campaign. As for the finances of congressional campaigns, the increase of especially competitive races was also a factor, especially two special elections for the U.S. Senate in Georgia. The election which actually occurred in the next election cycle, early in January of 2021. Another factor was an increase in the number of congressional campaign committees in both House and Senate races. More candidates, just like there were more candidates in the presidential race.

If present trends continue, the 2024 presidential nomination finances are likely to be substantially lower than the figures in 2020, and this is largely because there are fewer prominent candidates, most of them on the Republican side, in this particular cycle. So it may very well be that we'll see something very unusual in campaign finance reporting, which is an actual decrease in the amount of money raised or spent. Of course, this all depends that the present circumstances continue, and they're really fragile at the moment. But looking at the major candidates, President Biden's finances look very much like the finances of past incumbents seeking reelection. Donald Trump's finances look very much like the leading candidate in the out party you see in the presidential nomination. So, it may very well be that the general election finances will once again break election--break records. In terms of congressional finance, there's already some evidence that there may be a real increase in the amount of money raised and spent, partly because it looks like the House and the Senate may both be up for grabs in terms of party control. Thus far, Congressional finances are up by almost a quarter over a comparable period in the 2020 cycle. Now that concludes my remarks, Molly.

**REYNOLDS:** Thanks, John. I'm going to turn it over next to Robin to talk about parties.

**KOLODNY:** Thank you. And yes, I coauthored the chapter on political parties with Diana Dwyre. So I'm going to run through a couple of things that we found in 2020, and just like John, comment on what we're seeing so far today. So first of all, as, as the theme goes, the parties did spend more in 2020 than they did in any other previous election cycle. However, they spent less of the total percentage of our spending because of the proliferation in the presence of nonparty groups. Of course, parties have more restrictions on how they can raise money than a lot of other groups. There were lots of special circumstances, but four of them stand out in 2020. The first is about Donald Trump, the Republican National Committee, and Trump's legal fees. When Trump was impeached in

2019, he used the Republican National Committee as a way to help him raise and then spend money on the attorneys that he hired to help him in his defense, and this brought a lot of new people into the cycle. The importance here is it did not result in more campaign spending in 2020, it, in fact, went to a very different kind of spending entirely. The second thing that I expect that we'll see more of in 2024 is a lot more use of joint fundraising committees, and using them to a great effect where the, the party committees, each of the six national party committees, partnering with multiple candidates, state parties, and other victory committees, and so forth to raise large amounts of money, and they were certainly more active in 2020 than they had been previously.

Part of that is because of the third trend. Political parties now have something that, I guess we call in the book, that's special accounts. This is something that they got in 2014, and in some ways, it's a return. It's making some forms of party soft money hard now because the law now allows for them to raise money for their conventions, for a building account, and for legal and accounting fees in hard money, limited amounts that are separate from what you would donate to the parties for campaign spending expenses. And even though they'd had them since 2014, they could do it in 2016 and 2018, they did the best they ever did in 2020. And I would expect that what you'll see is more of that piggybacked onto the use of joint fundraising committees as well in 2024. In addition — and this is something that we try to keep conceptually distinct but sometimes the press doesn't — is we saw a lot of new activity from party-aligned super PACs. So super PACs are not-- they're interest groups, they're not political party organizations. However, the top four-- four of the top six super PAC spenders are super PACs that are run or sponsored by party leaders with the express purpose of winning a majority in-- for that party in the House or the Senate, and they dominate both the raising and the spending of super PAC money. So we can't say that it's party spending, but it looks an awful lot, it looks like an awful lot of party spending.

The other thing I want to mention is because of what happened with Trump in particular in 2020, there was a lot more spending by the RNC, as, as you would imagine, from a lot more fundraising, but it was not necessarily very efficient. In addition to the legal fees, Trump himself steered a lot of money to paying his own businesses and high rents on properties he owned. So there's, there's some really good accounting by journalists of where, had the parties been free to use whatever they wanted, they would not have spent it on on these particular items. That includes, by the way, a fairly significant ad buy in the D.C. metropolitan area, which, as you may recall, was not really

competitive, but apparently, the president wanted to see his ads. And so, you know, just, I just want to point out that just because you spent a lot of money doesn't mean that it all went for campaigning.

But one other thing that I'm sure others will talk about that we should be paying attention to is that the ActBlue and WinRed, which are party-aligned — but they're, again, not party — technically hybrid PACs, these are the organizations that help with the fundraising platforms for all of the-- all of the aligned interest groups and party organizations, and WinRed only became established in 2020, ActBlue has been around a lot longer. But in 2020, ActBlue accounts raised and spent 4.32 billion dollars, and WinRed, 2.24 billion. And you can see, to date, there's a 320 million that ActBlue has in the first six months of this cycle, and the same-- WinRed is 183 million. So, it's still pretty substantial amounts of money. The issue is hybrid PACs spending in that instance, and they dominate that, isn't really spending. It's transferring to other organizations. So there is a bit of a double counting problem that we've always had with FEC numbers, but this, in particular, will make things seem like there's awfully, you know, many billions, maybe more than is actually spent on campaign activity.

Finally, just to point out that if you pull the records for the first six months of what the parties raised and spent in the last presidential cycle and this one, what you'll note is that by this point, the Republican National Committee had raised 97 million dollars, and in this cycle, they raised 44 million. The drop is because Trump's preferred vehicle became his, his PACs, his super PACs, not necessarily the Republican National Committee. And again, as legal woes mount, he does raise more money, but this time he's not running it through the Republican National Committee as he had past. Other spending patterns seem very similar in the parties at Hill committees because, of course, they're, they're mostly they're limited in coordinated expenditures and contributions, but even their independent expenditures follow everything that you would expect, except, of course, as John Green mentioned, for the two Georgia Senate races — and I'm just, for one, relieved to say Georgia's not having a Senate race — the special circumstance there is, of course, that it's a run-off mechanism. And so, yes, while those elections did happen technically in the 2022 cycle, an enormous amount of fundraising still did happen in November of 2020. And finally, one thing that I'm sure others will talk about, but, but parties are mobilizing for this already, is an increased expectation that they will need to raise and spend money for legal challenges, for recounts, for all of these kinds of things. And that, again, it isn't exactly campaign spending, but it is a different kind of obligation that the parties have. And so I'll, I'll stop there.

**REYNOLDS:** Thanks, Robin. I suspect many people who live in Georgia and have had to watch years of campaign ads are also grateful that there is not an election there in the Senate this year. All right, I'm going to turn it over to Jay, who's going to talk a little bit about interest groups. Jay?

**GOODLIFFE:** Thank you, Molly. Thank you for moderating our panel this morning. I also, although he was thanked earlier, I also want to thank David Magleby, who, besides editing previous volumes, was also worked on the interest groups sections of the financing volumes and [inaudible] with me last time. And so the work that I'm presenting here builds on the work that we did together and that he did previously. My name is Jay Goodliffe from Brigham Young University, and I, I wrote the chapter on interest groups in our most recent financing volume. There are three primary channels through which interest groups attempt to affect and influence elections. The first channel is as the traditional political action committee or PAC. The second channel is the more recent and highly publicized channel as a super PAC. And the third channel is through tax-exempt organizations, and I will talk about each of those in turn.

For traditional PACs, what characterizes a traditional PAC is that they, the traditional PAC, can raise money from its membership, especially for businesses and labor organizations, and-- but they must raise them in limited amounts, and then they can contribute them to candidates in limited amounts. They can also spend in unlimited amounts and independent expenditures, but the primary way that they try to influence is direct contributions to candidates. And for 2020, the story is that traditional PACs mostly followed the patterns that they had before only with more money. So in 2016, in real, in real dollars, they, they spent 1.5 billion dollars, and in 2020, they increased to 1.9 billion dollars. Now, if we classify these political action committees into three groups, say three rough groups, business and trade organizations, labor organizations, and say ideological and issue organizations, most of the contributions came through ideological issue organizations, political action committees. And so, and another feature that was similar to previous elections is that these-- this money mostly goes to incumbents, and this is especially true in the House.

Some of these organizations are very oriented towards the parties. For example, the Republican-- more oriented to the Republicans, is the American Bankers Association and more oriented towards the Democrats are the, for instance, unions like the American Federation of Teachers. And some organizations contribute to both almost equally, for example, the realtors donate

to both, contribute to both the Republican and the Democratic Party equal-- roughly equally. So that again, the story for traditional PACs is that it's more of the same, but with more money.

Of course, the big story that's been occurring in campaign finance over the last few election cycles is the rise of super PACs, especially working through independent expenditures. And what makes a political action committee "super" is that they can raise money in unlimited amounts, and they can spend it on an unlimited amount as long as they do not coordinate directly with the campaigns or with the candidates. And so in 2016, super PACs spent — sorry — super PACs, they, in 2020, they raised 2.7 billion dollars. Now, that is a very high percentage of the 3.3 billion dollars that was spent in independent expenditures overall. So there's other organizations besides super PACs that do independent expenditures, but it's mostly super PACs that do this, that spend in these unlimited amounts. And so the story of super PACs this election cycle, like previous election cycles, is concentration. Most of the super PACs are raising their money in large amounts from wealthy donors, and there's only a small, of the number of super PACs exist, only a small percentage of them are spending most of the money to influence the elections. So sup-- independent expenditures are going up over time. In 2016, it was two billion, and in 2020 went up to 3.3 billion. As I mentioned, this mostly came from-- was spent by super PACs.

If we look at the donors of the super PACs, as I mentioned before, most of the money comes from wealthy donors. So this might be on the Republican side, Republican-oriented, would be the Adelson family. And on the Democratic side would be Michael Bloomberg. And so of the 2.7 that was raised for super PACs, 2.4 billion dollars came from individuals and about a third of the money came from the top 25 donors. So they're providing almost 900 million dollars just from 25 donors or spouses. So we find that donations to super PACs, that is the funders of super PACs, are mostly wealthy or certainly highly concentrated among the wealthy. And then we can look at the way that super PACs spend their money, and again, this is highly concentrated. The top 25 super PACs spent two billion of the dollars, the two billion of the 2.6 billion dollars, and this wasn't a Republican or a Democratic feature, both parties this spending was highly concentrated, but roughly equally distributed among Republicans and Democrats.

And we can divide the super PACs into, say, three different categories. We can-- party-oriented super PACs. This is the ones that, that Robin talked about before, like the Senate Leadership Fund on the Republican side and the Senate Majority PAC on the Democratic side. They spend

money supporting candidates in their own party. Then there's candidate-aligned super PACs. These are ones that are supporting a specific candidate. For example, the Future Forward super PAC supported by Biden and the America First Action Committee supported Trump. And then there are issue-based super PACs that will donate to both parties and to multiple candidates. One is the Club for Growth, would be among the more Republican-oriented side or the more conservative side, and then there's the League of Conservation Voters, which is a major super PAC that was on the more progressive side. Now of these 2.6 billion dollars that was spent in elections by super PACs, about a third was spent by each of those categories. A third by the party-oriented, a third by the candidate-aligned super PACs, and a third by the issue-based super PACs. Now in the most competitive races, sometimes the super PACs spent more than the candidates did. This is especially found in the Georgia Senate runoff elections. And what happened here is that the Democratic candidates end up raising more than the Republican candidates in both of those elections, but the Republican-oriented super PACs made up the difference and were able to be-- they spent more than the Democratic-oriented super PACs, so that the money was roughly equal, that was the Republican-aligned money and the Democratic-aligned money were roughly equal.

The third major channel through which interest groups affect elections is through tax-exempt organizations. At tax-exempt organizations, they can't spend all of their money on elections. Otherwi-- that's the IRS requires them to spend less than the majority, but some of them spend up close to a majority, just und-- all you have to spend is 49% or less, and it will work. On the Democratic side, some of the major organizations were-- was Defending Democracy Together, and on the Republican side, Americans for Constitutional Liberty. These are both tax-exempt organizations that spent money on elections. And then there was organizations such as the 1630 Fund, which didn't really spend money directly on elections — that is funding candidates or spending money on ads supporting candidates — they were spending money on elections, turnout, and ballot access. And they ended up spending, according to their own reports, over 400 million dollars on the election, the 2020 election, for those-- to support those causes. And if we classified them as a super PAC, they would have spent more than any other super PAC in the 2020 election. So we see that they can work through other channels. They often will even donate themselves as a tax-exempt organization to super PACs, which then can turn around and spend that money on supporting or opposing a particular candidate.

The last thing I want to mention is that this is, this is more of the same, is that these outside organizations, interest groups often will be the more negative people, more negative players when they're doing advertising in these different elections. So it's often the case that candidates will advertise in a more positive or contrasting manner, highlighting their-- the candidate's characteristics, some characteristics. And the outside organizations, such as super PACs and other interest groups, will come in and will oppose or attack the other candidate. So super PACs are often spending, interest groups generally are often spending in a negative way. And that's more of the same of what we've seen from previous elections. Thank you.

**REYNOLDS:** Thanks, Jay. Before I turn to Rob, I want to remind viewers that you can submit questions for the speakers by emailing [events@brookings.edu](mailto:events@brookings.edu), or via Twitter at-- using the handle @BrookingsGov and the hashtag ElectionFinance. We will turn in a couple moments to some initial questions from me and then to questions from the audience. So you still have a chance to get in any questions you may have. All right, over to Rob to talk a little bit about sort of the big-picture landscape here.

**BOATRRIGHT:** Thanks, Molly. I want to start by saying that it's really an honor that Molly and John asked me to write the concluding chapter to "Financing the 2020 Election," particularly because this is the 60th anniversary, as Molly mentioned, of the first volume in the series. In reviewing prior year's editions of this book, I was struck by the fact that so many previous elections produced one big story that reformers or people who are perhaps more casually interested in campaign finance than those of us on this webinar are could take away. For instance, there's the election after the McCain-Feingold reforms, the election where presidential public financing collapsed, the one after Citizens United, and so on. There are many stories I think that people will tell about 2020, but I don't know that there's one big campaign finance story that people would take away or that the stories that they tell will necessarily be about campaign finance. I think in many ways this is because there have been so many things going on, that people are worried about election reform probably have a lot of other concerns than campaign finance at the moment.

Nonetheless, in my chapter, I did try to focus on several developments that I think we can anticipate reformers kind of latching on to in coming years, both within Congress and outside. These mostly pertain to the presidential campaign, but many of them have implications for Congress as well. First, I'd argue that in 2020, political elites and American citizens grew increasingly interested in the

symbolic value of small political contributions. The DNC, for instance, established a threshold number of unique contributions as one of the criteria for participation in the primary debates. This may have led to inefficiencies in campaigning, as many candidates spent a lot more money raising contributions of, say, a dollar or so, than they were bringing in.

Although the donor list may have had long-term value for candidates or the party, Democratic primary candidates were treating contributions not as fuel for the campaign necessarily, but as symbols of grassroots support. The symbolism is not just a Democratic thing either. You may have noticed that Republicans are doing this in their 2024 debates as well. To get into the debates, one of the criteria is, again, having a threshold number of donors. The pursuit of small donors can also lead to abuses, though, because small donors can eventually become big donors. This was illustrated in April 2021. There's a series of New York Times articles that investigated the pre-checked box strategy in the Trump campaign's fundraising emails. Many people who thought they were making small one-time contributions failed to diligently uncheck all the boxes in their emails and wound up giving much, much more than they anticipated. The Trump campaign, however, wasn't unique in employing this strategy, and subsequent Times articles noted instances where Democratic Party fundraising appeals had done this as well.

Second, super PACs played a much less significant role in the presidential nomination process than in other recent years, and their activities bore little resemblance to the 2012 or 2016 elections. This is largely a consequence of Democratic candidates' opposition to them. Only one of the Democratic primary candidates had super PAC support in excess of five million dollars, all though, as John has pointed out, there were a couple self-funding candidates in those races who spent far more than the other candidates combined. However, as Jay has noted, super PACs did play a major role in many congressional campaigns where the public was perhaps less focused on the individual donors, who was less likely to draw conclusions of the candidates based on their super PAC support. Another super PAC-related concern in 2020 though, was the role of so-called scam PACs. Scam PACs, as defined by FEC commissioners Weintraub and Ravel, are, and I quote, "Political committees that collect political contributions frequently using the name of a candidate, but which spend little to none of the proceeds on political activity benefiting that candidate." They-- scam PACs have existed since the Citizens United decision, but it's been difficult to reach consensus on what they are, how much of a problem they are, or what to do about them. Most research concludes, however,

that scam PACs have disproportionately been a problem on the right, that they prey upon older and less technologically savvy donors. Some people in the Trump campaign claimed in 2019 that they were finding it difficult to compete with other groups that were using Trump's name in their fundraiser.

And third, the most unprecedented feature of the 2020 election was the degree of post-election fundraising by the defeated presidential candidate. No other defeated president has ever raised money so aggressively to dispute the election result. One report from early December estimated that Donald Trump and his allies raised over 200 million dollars in the month following the election. This was, in fact, more than Trump had raised in the month preceding the election. Trump and the RNC spent some of this money on election integrity efforts and other legal challenges, yet much of the Trump money remained unspent as of early 2023. One analysis concluded that in the month after the election, approximately 10 million dollars was spent on legal costs, while over 50 million dollars was spent by Trump and Trump-affiliated groups on advertising. While it's not unusual for campaigns to allocate money for litigation around close outcomes, and while, in fact, the system kind of encourages that, it's unprecedented for so much money to be spent on advertising after Election Day. Trump's fundraising, of course, didn't stop once the 2020 presidential election had been certified, however, and it gradually shifted toward addressing his legal woes, as Robin has mentioned, in seeding his 2024 campaign. One thing Trump didn't do, however, was to offer financial support for Republicans seeking congressional office in 2022. Some Republican leaders worried that Trump's 2022 fundraising interfered with fundraising for the party's own candidates in the midterm elections.

So what sort of policy response might be appropriate and thinking about these things? Well, for several years, Democrats in Congress have floated this sort of all-purpose reform bill, the For the People Act, which includes, among other things, new disclosure rules for dark money groups, a voluntary small donor matching program, greater coordination restrictions for super PACs, and FEC reform. I think I'll surprise no one in the audience when I point out that the likelihood of enacting the For the People Act is pretty low. The bill has generally served more as a symbolic statement of Democratic priorities surrounding campaign finance and elections more broadly. Republicans in 2021 responded to this with a similar omnibus bill that was largely deregulatory, lifting a variety of existing contribution limits, disclosure rules, and coordination restrictions. This bill, like the Democratic bill, is not really a serious policy proposal, but instead a symbolic statement of principles. Despite this partisan impasse though, I think there are some smaller steps Congress or the executive branch

might take to address some of the things I've described. There may well be a bipartisan constituency reform for reforms that would address scam packs, pre-checked boxes or other deceptive fundraising practices, and there may be bipartisan agreement on doing away with the separate party fund for litigation expenses.

But the dilemma, as I see it, is that many plausible reform ideas come off in the current context as being responses to Donald Trump and his campaign. And as long as this is the case, Congress is likely to polarize and block even the smallest changes. This is a pattern, of course, that goes well beyond campaign finance to other issues, including executive authority, corruption prevention, and voting. In the absence of a path forward at the federal level, reformers have little choice but to continue to focus on the state and local level and in skirmishes with the Supreme Court about what's permissible there. Now, at the time I wrote this chapter, it seemed like we were really in an unprecedented situation where both parties' presidential campaigns were frozen while the two elderly front runners pondered whether or not to pursue the nomination. Now that we do indeed seem headed toward a Biden-Trump rematch, we see many of the same phenomena that have characterized prior years. President Biden seems positioned to substantially outspend Donald Trump, but it's unclear how much this will matter. Super PACs associated with the Trump campaign continue to raise money that's been-- much of which has been channeled into addressing Trump's mounting legal troubles. And as was the case in the 2012 and 2016 campaigns, super PACs have played a larger role in the Republican presidential campaigns than in Democratic ones, and the lines between candidates' campaigns and those of their super PACs are as blurry as ever.

As the country focuses more and more on somewhat bigger and maybe scarier questions about democracy, however, I think what struck me the most is how routine the post-Citizens United rule has become. Apart from the symbolic adoration of super PAC funds that characterized most Democratic presidential primary campaigns, super PACs have really become an unremarkable component of elections. In my overwhelmingly Democratic home state of Massachusetts, for instance, all of the primaries for statewide office in the last election were really battles between super PACs. And progressive activists would speak casually about influencing downfield races by raising super PAC money and trying to find wealthy donors to fund super PACs for these campaigns. My students have a dim memory of being told that Citizens United had something to do with corporations, but they, I think, like much of the public, lacks any sort of opinion or the sort of outrage that characterized prior

elections about Citizens United, large contributions, the role of money in politics, so on. So perhaps that then was the campaign finance story of 2020. It was the year in which once controversial campaign finance changes became [inaudible].

**REYNOLDS:** Thanks, Rob. Before I pose some questions that we've got from the audience, I have a couple of questions of my own to ask of the panel. And this first one, I'm gonna start with John, but if others have thoughts, I'd love to hear you come in after John. So John, I know that in your chapter on the presidential campaign, as well as in sort of the introduction and my own chapter on congressional campaigns, we have a fair amount of treatment of sort of the way that the COVID pandemic shaped the raising and spending environment for 2020. I-- given that that was a particularly unique part of the 2020 election cycle, I was wondering if you could talk a little bit more about sort of where we saw the, the existence of a global pandemic shaping raising and spending in 2020.

**GREEN:** I'll be happy to address that question, and I hope our colleagues will be able to join in on that. It seems to me that the pandemic had — excuse me — global effects on on campaign finance and campaigning, basically because of the limitation on social interaction that was required by the lockdowns, masking, and all the other things that went along with the response to the pandemic. And that meant that many of the characteristic ways that candidates and their allies raised and spent money were affected. And people got really pretty creative in finding ways around those limitations. I suspect that as we go into the 2024 election, we'll, in many ways, we'll go back to the status quo antics. We'll go back to doing the kinds of things that required social interaction that we did before the pandemic.

But I also think that some of the innovations, both in fundraising and in campaigning, including the spending of money, will persist. For instance, online campaigning and online fundraising was already a trend that was expanding, but it grew quite dramatically during the pandemic for kind of obvious reasons. I don't think it's going back to where it was before. partly because, you know, these are useful tools, but people had a kind of forced experiment on how to use them, and they found out that most of these techniques work very, very well.

**REYNOLDS:** Others have thoughts on sort of the particular role of the pandemic in shaping what we saw in 2020?

**KOLODNY:** Well, I have a couple of things to say about that. First of all, of course for the parties, the nominating conventions, after a lot of dramatic twists and turns about how they would

operate, both ended up being pretty much completely online events. And I can't imagine that we return to the full-throttle in-person event with a huge host committee in one location that we had prior to COVID/ So I'm sure that there will be more of an in-person component for the conventions, but the hybrid model just is too convenient for a lot of people, especially delegates who might have to pay for their own travel. But one thing that I noticed that I think is, is probably here to stay [inaudible] up during COVID, was that fundraisers realized that it really wasn't necessary to hold a big event in order to collect a lot of money. There were a couple of reports about this. And as I said to my coauthor, I said, "I can hear the sounds of Marriott catering managers across the country groan because it turns out that you don't need, as we say, the rubber chicken dinner to pull in at pretty substantial haul." Donors were happy to have a Zoom event like we're having right now, or some other kind of online interaction that might give them more of a chance to see the candidate in action than it would be to go to a physical high-dollar event. I don't mean for the small donor stuff; I'm meaning more for the mid or higher-level things.

And I just can't see that we're going to go that way again, because also, as John said, we already were moving toward online fundraising in social media. And now, of course, we have a whole generation of younger activists on both the left and the right who operate in this cheap communication space, and I don't expect that, that we're going to see-- I mean, you keep wondering when, when will TV fall by the wayside? And we're not probably there yet, but we're getting closer as more ways of advertising are available that are are very different and were the kinds of things that COVID encouraged, like more use of streaming services, like more video-on-demand kinds of things. And that is also, it's a really murky area for the Federal Communications Commission because it's not clear where that reporting happens if it isn't on broadcast and so it's it's actually can be a little stealthy as well. So I don't think there's any question that COVID has changed the way that both parties see their operations, and especially for me in terms of events around fundraising.

**REYNOLDS:** Thanks, Robin. Jay?

**GOODLIFFE:** Well, this-- COVID probably affected the super PAC side more than the traditional PACs side. Traditional PACs raise their money from their members, say, for unions, it's a check off on their or automatically from their paycheck, but similarly, for employees of businesses, it's just-- they don't go to a fundraiser, they're just sending the money to their organization. And then the issue traditional PACs or ideological issue PACs, they're often raising their money through mail or

through their membership, again, rather than in-person fundraisers. Super PACs, on the other hand, what-- one of the things super PACs are known for are pushing the limits — especially on candidate-oriented, candidate-aligned super PACs — are for pushing the boundaries of what counts as coordination. So what might happen is that a candidate might come and speak to a bunch of big donors of a super PAC or potential donors of a super PAC, then leave the room, and then the super PAC organizers will ask for the money. That's what counts as not coordination, is that they're not in the room at the time that the request was made. That was impossible with COVID, right? They didn't have the-- they didn't have those kinds of fund-- or they didn't always have those kinds of fundraisers. And I would expect that to return a little bit more in-- for 2024, where-- especially among candidate-aligned super PACs, where the candidates, where they have those in-person events. For the other kinds of super PACs, like party-aligned super PACs and issue-based super PACs, it's going, it's-- I don't think that they were doing these in-person events very much. I think that they-- so there was not much change in 2020, and I expect that to continue in 2024, that they raise-- I mean, when you're raising money from a huge-- a large donor that might be, continue to be a personal interaction, but I don't think that personal interaction actually changed during COVID. I think that they wore their masks or whatever they did and then still made requests for a big donation.

**REYNOLDS:** Thanks, Jay. Next question I'd like to pose is, again, targeted a little bit of Robin and Jay based on things that you said, but again, Rob or John, if you have comments, I'd love to hear them. So, Robin and Jay, you both talked in your discussion of super PACs about these party-aligned super PACs. And I don't have to tell anyone watching this webinar that we are in a moment of some pretty stark divisions within particularly the Republican Party. So, both-- there's this question of, you know, I think we would probably all agree that Trump remains the frontrunner in the presidential nominating contest on the Republican side, but there are a range of folks mounting strong challenges to him. And then on the congressional side, it's Monday, October 16th, we are on something like day 13 without an elected speaker of the House. There are huge divisions within the House Republican Conference. There are divisions within the Senate Republican Conference over sort of the future leadership of of that body in the form of Mitch McConnell or otherwise. So I'm just curious, you know, we have these kind of very strong party-aligned super PAC actors in this space, do we see any of these sorts of intraparty tensions playing out in their behavior? How should we think about that? Again, right now, it's especially on the Republican side, I think there are some-- there can, we can

imagine some ways some of this might happen on the Democratic side. But maybe, Robin, I'll go to you first, and then to Jay.

**KOLODNY:** I'm so glad you asked that because I predicted what I'm about to repeat, literally as Kevin McCarthy was saying this. So if you recall that one of the concessions that the far right got from Kevin McCarthy when they selected him as speaker was that he wouldn't use a party-aligned super PAC, the Congressional Leadership Fund, or any super PAC that he helped do incredible fundraising for — and Kevin McCarthy is a very successful, very prolific fundraiser — he wouldn't use those resources to primary these far-right candidates. And that is to go in and sponsor someone else that's also running as a Republican, because, of course, those districts are very Republican-oriented for the general election. But that's a very different question about who will represent the Republican Party. So while I — while apparently Kevin McCarthy was saying this — and I said, "Well, if I was Kevin McCarthy, I think that promise is apparently done if you remove me from power," and that apparently he was saying, "Well, you know, there are a lot going to happen between now and next spring in terms of what happens in the primaries." And in another study that Dwyre and I did, we looked at how in 2014, the parties were still reluctant to get even their party-allied organizations involved in primaries, but they used their friend and proxy, the U.S. Chamber of Commerce, to successfully defeat seven Tea Party members in their primaries because the U.S. Chamber of Commerce has made it very, very clear, votes about the debt ceiling, things like government shutdowns, no. We can have a discussion about lots of things on the agenda, but this is a very important problem for the financial sector.

So I would not at all be surprised that, that one of the fallouts of this, and as we're seeing more drama coming, is that the primary candidates are probably now being very actively recruited with promises of significant support from McCarthy and his allies and so forth in some of those key races, and probably even a few more that we're not paying attention to at the moment, and this is a, it's a really tough time. You know, looking at the parties, I personally never like to see one party being overly dysfunctional because it then takes away from what the general election message is going to be and what the leadership will be, but this is a self-inflicted wound right now. And the Democrats who've shown some problems with this have succeeded getting past this in more recently, especially after the gubernatorial [inaudible] year-- gubernatorial election in in Virginia where the Democratic progressive left who had been making some noise about how, you know, the budget compromises

Biden supported were a little too establishment, as soon as they saw that, you know, the Democratic seat shifted right, they all kind of fell in line. And so that, that's what I'm expecting to see. But, yeah, it's-- we've not seen the party-aligned super PACs to be weaponized for an intraparty division, but I think we're going to see it now.

**REYNOLDS:** Thanks, Robin. Jay, anything to add?

**GOODLIFFE:** Well, one of the things we've known about anyone who works in House leadership or Senate leadership — so, for example, Kevin McCarthy as House speaker until he was, I guess, deposed — was that you-- in order to get into that leadership role, you need to be a good fundraiser. If you're not a good fundraiser, you can't even be considered for that role, especially as the parties have become more important within the House and the Senate in terms of setting the agenda. This is particularly true in the House, but Senator Schumer is an excellent fundraiser, Senator McConnell is an excellent fundraiser. And so even though the Republicans are talking on that side, as long as Senator McConnell has Steven Law working for him — who is the, you know, a fabulous fundraiser for the Senate Leadership Fund and other super PACs as well — he would, he's gonna to be a force to be reckoned with. You're going to have to figure out not only how you're going to replace him, McConnell, but how are you going to raise the funds that he's currently raising? So unless you can make that a credible case for that, then it's-- we're still going to see among anyone that's in the House leadership or the Senate leadership, the requirement is that you have to be an excellent fundraiser for your party and for other candidates through, say, your leadership PAC, which is what rolls up under a traditional PAC in this case.

**REYNOLDS:** Thanks, Jay. Rob, go ahead.

**BOATRIGHT:** Well, I think to follow up on what Robin has said, in a lot of ways, this is a problem that's been brewing in the Republican Party for a decade now. Democratic super PACS have generally been very hierarchical. They've really been extensions of the party leadership. And Republicans, going all the way back to the 2012 presidential election, super PACs on the Republican side have behaved very inefficiently. And I think this comes in part from the characteristics of the kind of person who would have found a super PAC —this is something that Darrell West from Brookings explored a few years ago — that if somebody is going to start their own super PAC, they often have very strong ideas about what the parties are not doing right, you know, what their spending could do that the parties are not currently addressing. On the Republican side, this has led to conflict over

issues. On the Democratic side, to the extent that there have been divisions, it's been about what kinds of people to elect, which winds up being a little bit less complicated, right? You can have a group like EMILY's List go into a race, you can have other kinds of groups that champion particular types of candidates going to races, and it doesn't necessarily boil down to a giant party fight. But on the Republican side, when you have different groups competing over what the party should be about, not just who should win, you have much more extensive conflict. So I think the really the pivotal moment in the speaker conflict was this proposal that Fox put out, right? "We're gonna have this discussion between the speaker candidates." Although it didn't come to pass, it suggested that there are people within the Republican Party who see the battle over who should be speaker, not as something for party members to decide, but as something that the public should decide, right, their Republican voters, Republican donors should get into. That's, that's pretty unprecedented, and I'm not sure how the party will easily resolve that.

**REYNOLDS:** Thanks, Rob. That actually is a bridge to a final question before I go to audience questions that I want to pose to you, which is, one of the things I thought was particularly interesting that you talked about in your comments was this way in which now both parties have embraced the number of unique donations as one of their sort of institutional measures of viability for presidential primary candidates. I was wondering if you talk a little bit more about kind of how we should think about that in kind of the broader nominating process, this question of like the role of small donors — as you noted, small donors can become large donors as a result of sort of repeated giving. But if you could just sort of expand on, as a sort of small "d" democracy question, how might we think about this choice by both of the parties to embrace unique donations as a, as a measure of viability?

**BOATRIGHT:** Well, in a lot of ways, it's an easier metric than polling results, having people show that they've, say, gotten one percent at a bunch of polls it's a, it's a messy metric to use. And I think forcing people to show that they can raise money, it shows that, you know, what is your skill as a candidate? That your skill is that you can convince a few thousand people to give you a dollar, right? Arguably, that is worth something. But, you know, I think it does, as I mentioned in my comments, I think it makes campaigns inefficient. It helps the candidates and the parties gather information, so now you have a few more people in your database that kind of feeds into the data-intensive strategy that parties have followed in creating platforms like Catalist and Voter Vault and all these sorts of things. So it's a way to get candidates to help the party. Perhaps it works well that if, say, somebody

like Vivek Ramaswamy can attract new donors who have no history in the Republican Party, well, they're pulled in, right? And now they can be contacted again and again by other people in the party.

So it's good for them, but there's a, there's a troubling downside. There's not only this issue of the pre-checked boxes that I mentioned, but platforms like ActBlue and WinRed routinely disclose all of their donors. So now it's, it's pretty easy to just go online and find out not just who's given 200 dollars, not which used to be what we could do for candidates, but to find their five-dollar donors, their one-dollar donors. All this stuff is out there. And I think it's possibly useful for parties, but it's also troubling for, I think, perhaps, for democracy, that all this stuff is much more transparent than ever. The people who are giving a dollar don't really realize that now their identity is out there as a one-dollar donor. So I think we are overdue as a country for a big debate over privacy, non-retaliation, all of these sorts of things that the FE-- that used to be talked about decades ago and have kind of stopped being part of the campaign finance picture, but I think are likely to reemerge.

**REYNOLDS:** Thanks, Rob. Anyone else have comments on sort of the role of small donors?

**KOLODNY:** One thing I would quickly is that what the Obama campaign really showed everybody starting in 2008 is that one of the big values of a small donation, a dollar or five dollars, is that that person is now literally invested in a way that they had not. And so donors are also voters, and I think that this has been an asymmetrical advantage for the Democrats. And one reason why ActBlue emerged when it did and how it's kept going is that Democrats have a harder time mobilizing their voters. Except, once somebody gives a few dollars and takes a yard sign, now the dynamic has shifted, and you can use them as a point to reach out to other donors who were previously-- sorry, other occasional voters who were previously unengaged. So I think you'll see that there'll be a difference in how the parties deploy that.

**REYNOLDS:** Go ahead, Jay.

**GOODLIFFE:** Although super PAC fundraising is-- comes primarily for wealthy donors, it turns out that super PACs are also raising a lot of money through individual donations, small individual donations. So the average donation is actually a small donation to a super PAC or — sorry, the median donation, not the average, the median — so over half the donations that go to super PACs are small donations. I mentioned before that a third of the money coming from super PACs comes from the top 25, but over half of it comes from — not half of the money, sorry — over half of the donations are small donations. So although, although we often think about individuals giving to

campaigns and candidates, it turns out they're also giving, small donors are also giving to super PACs frequently.

**REYNOLDS:** Thanks. I'll just make one other observation in the congressional context, which actually ties back into the first question that I posed about the sort of consequences of COVID. One thing that we saw in 2020, I think in a particularly dramatic way, and it's something I'll be watching to see if we see more of in 2024, is a number of Senate races where challengers to incumbents were the incumbents were, for a range of reasons, very unpopular with Democratic voters. A number of sort of unsuccessful Senate candidates drawing enormous amounts of money from small donors in what I think we should interpret as sort of an expressive behavior. That was accentuated, I think, by this sort of sense, particularly on the Democratic side of the aisle among Democratic voters, of a sort of sense of... not helplessness, but just a desire to sort of do something in-- during, during the 2020 campaign. So we saw this in Kentucky with Amy McGrath. We saw in South Carolina with Jaime Harrison. To some degree, we saw it with Sara Gideon in Maine, although that race was sort of more competitive, although ultimately Susan Collins sort of won quite easily. So sort of this notion of donors using their, their small, their small donations in an expressive way, I think it's something that I, at least, will be paying attention to, to see if we see more of that going forward.

I'm going to turn now, with our last sort of 14 minutes, to some questions that were submitted from audience members. If you are watching and have additional questions, again, you can submit them via email to [events@brookings.edu](mailto:events@brookings.edu), or on Twitter by tweeting at [BrookingsGov](https://twitter.com/BrookingsGov) using the hashtag [ElectionFinance](https://twitter.com/ElectionFinance). The first question that I'd like to pose, and I'll sort of open this up to the, to the whole group is, most of what we've talked about so far is federal regulation and federal campaigns, but obviously states also set to some degree, their own campaign finance policies. And one of our viewers is curious about the role of state-level campaign finance policy, perhaps particularly around the influence of high-dollar individual donors, but I'll sort of broaden the question and just say, is there anything in particular that we saw in 2020 around state-level policy or anything that anyone is watching in 2024? Go ahead, Rob.

**BOATRRIGHT:** I think a lot of the reform energy around state elections these days is focused on things like ranked-choice voting, you know, other types of voting reforms. I think there's a sense of exhaustion regarding campaign finance. The Supreme Court has really very vigorously pushed back against efforts by the states to come up with stronger regulations and the federal government has. So

there are a few things on the margins. States can impose disclosure requirements, sort of like what the Democrats have talked about in Congress. So a number of states have these these detailed disclosure provisions where a super PAC basically has to say, you know, when they put up an ad, you know, these are all the, you know, these are the top three donors we have or something like that. So you get these kinds of big, unwieldy disclaimers that, you know, for the savvy viewer, give you a sense of where that super PAC is coming from, especially if the donor is a consequential individual. So there's a lot that can be done in terms of disclosure. But other than that, I think, you know, the kinds of folks who would push for campaign finance reform are the same kinds of people who would push for voting reform, who would push for other kinds of stuff. So, so I think the energy this year is really kind of diverted into other sorts of things.

**REYNOLDS:** Nice job. Others have observations on the states here and how state policy might make a difference?

**GOODLIFFE:** I can say, I mean, different states have different rules. So some states it's the Wild West, and that's true for some of the Western states, where there's unlimited donations, unlimited spending, and others have much more strict guidelines, more similar to the federal guidelines. And I think that the the publicity usually goes for the federal campaigns because the money is just so much higher than most state campaigns. And that's not always true, California has more and more expensive state legislative elections. But, but some of the states, it's like Rob was saying, that sometimes that the most that you're going to push for is disclosure, and they allow almost everything. And then you see some states that are actually clamping down and trying to make even smaller requirements, reducing the amount that can be contributed or are trying-- are experimenting things with public financing to try to encourage even more small donations.

**REYNOLDS:** Thanks, Jay. Next question from an audience member, and maybe I'll go to Rob first on this and then we'll see if others have thoughts. So, Rob, you touched on this a little bit in your comments about kind of the evolving place of Citizens United, both legally and then kind of in our discourse and understanding of the campaign finance landscape. But a listener is interested in whether there's any possibility of Citizens United being overturned. And again, I'll sort of broaden this to just let Rob and anyone else come in on any particular kind of where you think the next frontier in legal challenges to our current campaign finance laws might be. So, Rob, I'll go to you first and then I'll see if anyone else wants to join.

**BOATRIGHT:** I mean, maybe I'm being overly cynical, but I don't foresee the Supreme Court reconsidering Citizens United any time soon until the makeup of the court changes substantially. As I mentioned in my comments, I think that, you know, people on the left have learned to live with that, and in many ways, to thrive with it. Super PACs are really a big part of Democratic campaigns as Jay has kind of pointed out, and that's true not only in Congress but at the state level. At the same time, none of the people who are beneficiaries of these things want to make a point saying that, you know, "Citizens United was not a bad decision." So I think we see a lot of Democrats who benefit from super PAC expenses that nonetheless will be quiet about about that or will sort of pay lip service to doing away with Citizens United. So, you know, things could change, but I don't see a whole lot of energy behind that over the next few years.

**REYNOLDS:** Go ahead, John.

**GREEN:** I agree with Rob completely. I don't think there's any realistic possibility that Citizens United's decision will be reversed. However, there is one area that seems to be ripe for litigation, and I suspect we'll see some of it, and that is on the definition of what an independent expenditure is, you know, what does it really mean to coordinate or not coordinate with a candidate? And, you know, most people who pay attention to this will use the word fuzzy to describe those rules. So I think there's, there is a place where we might see the federal courts, you know, if an appropriate case came up, change some of the rules that influence how Citizens United actually operates in the real world.

**REYNOLDS:** Thanks, John. Robin or Jay, anything on the legal front that you are watching in particular?

**GOODLIFFE:** Well, before going for-- looking forward, I also want to look back a little bit, that when Citizens United what-- occurred, and then SpeechNow that followed, the expectation was that businesses would get directly involved, that they'd spend out of their, out of their revenues on spending on elections, and that is not actually come to pass. Businesses have done it occasionally. And often when a business jumps into a political fight, they get burnt. And they realize they don't want to do that because they're going to hurt some of their customers, or their consumers, or turn them away, and so they have not joined in. Now, on the other hand, individuals associated with businesses have jumped-- that's, that's where the real action is in the super PACs. There, that's where the big fund donors are. So when we have a particular legal decision, we may, we may not understand what

the consequences will be. These were not the expected consequences. Going forward, the places that you see the legal challenges being raised or starting to be raised are on disclosure that raise and at least the disclosure limit. So the \$200 limit was set quite a while ago, never indexed to inflation. And so what was a small donor today is different than what was a small donor years ago, at least in real dollars. And so there's a big change there. And so this is among the ideas of privacy that we should allow people to express their preferences, at least in small amounts, without having their names recorded where anybody can look them up and then, and perhaps harass them. So that's one of the places, at least, that we're going to see that going on.

The other place that you sometimes see this going is on trying to restrict foreign money, especially as it comes through tax-exempt organizations. And since you don't have to-- tax-exempt organizations do not need to declare their donors. They're IRS-regulated rather than Federal Election Committee commission-regulated. And so, in theory, a foreign donor can donate to a tax-exempt organization, that's okay. But then the tax-exempt organization can then take some of their money and donate it, spend it on elections, or even donate it to a super PAC. And so we see when the money is given to a super PAC or spends as independent expenditures, but we don't see where the money is coming from. So that opens up the opportunity for-- we don't know where the donations are coming through. And sometimes you see journalistic accounts which are trying to trace the money, and this is sometimes it's called dark money. And so that foreign money, most Americans, and certainly members of Congress, don't like foreign money coming in, and so we might see that as a way of trying to regulate. That's one of the few places, actually, that Republicans — some Republicans, at least — are in favor of increasing regulations. Usually, Republicans are on the side of decreasing regulations in campaign finance. And in this case, a lot more Republicans are in favor of increasing regulations.

**REYNOLDS:** Robin?

**KOLODNY:** Thank you. I would add that I agree. There's no-- I think there's, there's a lot less devotion to overturning Citizens United than there had been in previous cycles, and one reason that we haven't mentioned is because the Walt Disney Corporation might be successful in using Citizens United to counter Governor Ron DeSantis' actions against them because they are currently suing him, saying that, "If a corporation has free speech rights, then if we disagreed with 'don't say gay' and the governor came after us, then we're being assaulted for our free speech rights." I don't think anybody

saw that kind of logic coming. And in fact, recent cases in Florida, Disney Corporation has dropped some of the other charges so that they could focus pretty exclusively on this argument. So I think we'll all be fascinated to see where that goes.

But the other thing that's rea-- it's a different kind of disclosure problem is that-- of course, what Citizens United did, most people, when they hear corporations, they think like, as Jay was saying it, that corporations that sell things. But just as more important really is the idea that you can use a corporate form to disclose your couple of wealthy friends that do this. And now, today is the very last day you can go to the Federal Register and find this, where you can put a comment in on the FEC's newest call for more regulation of artificial intelligence and its use in campaigns; that is if you have to disclose that you used A.I. to generate images and so forth. I think that, you know, it wasn't that long ago a lot of us can remember when fact-checking became a really big part of campaigns about making them honest. I think that this thing about use of TikTok and of artificial intelligence is going to be really important because the groups most likely to rely on those are the ones that have gone out of their way to obscure the identity of their donors in the first place. So those are the two things that I would watch.

**REYNOLDS:** Thank you, Robin. I think it's fitting that we have left our conversation about a book for which we are celebrating the 60th anniversary with a brief mention of artificial intelligence, and more generally, a discussion of kind of where we all perhaps see additional developments coming in the future. I think we will leave it there for today. Thank you to, to John, to Robin, to Jay, and to Rob for being with us today. Thank you to all of you for listening, and there will be much more for us to continue engaging on in this space in 2024 and beyond. So thank you.