CENTER FOR POLITICAL ACCOUNTABILITY

CORPORATE UNDERWRITERS: WHERE THE RUBBER HITS THE ROAD

FOREWORD BY

Bruce Buchanan
C. W. Nichols Professor of Business Ethics, NYU Stern School of Business

FOREWORD

Bruce Buchanan

In this important report, the Center for Political Accountability has brought to light a little-noticed but politically important set of organizations that fund campaigns for governors, state legislators, and attorneys general. These big six "527 Committees" (Republican Governors Association, Democratic Governors Association, Republican Attorneys General Association, Democratic Attorneys General Association, Republican State Leadership Committee and Democratic Legislative Campaign Committee) disburse campaign funds at the state level but collect funds nationally. Through this arrangement, they focus contributions from across the country into those few states that are strategically important, bringing national scale funding to local and state elections. Their power far exceeds their media presence. The American citizenry has little awareness of their influence, and even less of their funding and methods. This is unfortunate. The intense media scrutiny leveled upon national politics has no parallel when it comes to state governments, yet so much of the law and regulations that rule our daily lives comes out of places like Montgomery, Olympia, and Lansing.

By delineating the funding sources of these Committees, CPA has made a major contribution to political transparency. The results are shocking: in the years since *Citizens United*, for-profit corporations and their trade associations have been the dominant source of funding to these 527's, with over $1 billion total contributions, or over 40% of all funds collected. This is not PAC money or individual contributions; these funds are coming straight out of corporate treasuries. These funds reflect executive decisions.

Because of *Citizens United*, corporations now are free to spend such money from their treasuries on various forms of political engagement, and to spend sums that individual citizens or groups of citizens or even unions could never match. Such spending power, no doubt, can serve their shareholders, electing candidates who will further corporate agendas on matters such as reduced pollution control and workplace safety regulations, and right-to-work laws. Such spending, however, also creates risks for the firm, because even for-profit corporations must attend to the rights and concerns of their stakeholders.

Many firms have learned the hard way that no business can flourish, especially over the long term, without the trust and support of customers, employees, and local communities. Their greatest asset is their own good name, so they must consider both shareholders and stakeholders when making political contributions.

At the state level, this balancing act is more delicate than at the national. Corporations are relatively larger and more powerful compared to states, and individual firms can hold considerable leverage. That economic power combined with political contributions can be very effective in advancing shareholder interests. And because press and media scrutiny in state capitals is low – and sometimes almost non-existent – firms might attempt behaviors in certain states that they would avoid on the national stage. And because some state governments are corporate friendly – especially when the Republican party controls - corporations might be further emboldened in advancing their agendas.

But major corporations are national or international in scale, and so have powerful stakeholders – customers, employees, civil society - in many states and countries. When furthering their agendas in any one state, they must ensure that they do not degrade their relationships in other communities where they operate.

On this point, close study of *Where the Rubber Hits the Road* will pay great dividends to the executive or analyst who invests the time. As major corporations open their checkbooks to these 527's – and especially to the Republican Attorney Generals Association (RAGA) – these funds are going to elect and re-elect state officials that are actively advancing policies antithetical to stakeholder groups across society. On issues like climate change, DEI, voting rights, LGBTQ rights, racial justice, and reproductive rights, corporations are finding that their political contributions are at odds with their stated policies to stakeholders. Alarmingly, some of these contributions go to officials who fought to overturn the results of the 2020 election, and who are threatening to attempt the same in 2024.

By publishing this well-researched, balanced, and insightful report, CPA has provided executives with a guide for thinking about how to engage with the political process and how to spend corporate treasury funds at the state level. And with its Model Code of Conduct for Corporate Political Spending, CPA has provided thoughtful, prudent guidelines designed to help each corporation find its own effective path through the political minefields of our unsettled times.

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ACKNOWLEDGMENTS

This report was written by the Center for Political Accountability research team, comprised of Jeanne Hanna, vice president for research; Bruce Freed, CPA president; and Peter Hardin, writer and editor.

Data collection, analysis, and verification were conducted by Jeanne Hanna.

Cover design, layout, and graphics by Jeanne Hanna.

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METHODOLOGY

This report follows the money. It is based on:

- A review of all contributions to six partisan political committees organized under Section 527 of the Internal Revenue Code, from the 2010 election cycle to the present;
- State and federal campaign finance records documenting how these associations spent contributions from public companies, their trade associations, and other donors;
- Legislation, official correspondence, and policy positions taken by elected state attorneys general;
- Media coverage about the impact of elected state officials on issues of national importance; and
- An examination of how these impacts align or conflict with the core values, policies and positions of contributing companies

INTRODUCTION: WHY ISSUE THIS REPORT

Where the Rubber Hits the Road, **the third in the Corporate Underwriters series, examines the scope of corporate political spending and its impact on state and national politics and policy. Since 2010, major US companies and their trade associations have donated more than an eye-popping $1 billion to six powerful but often overlooked political organizations that have funded the elections of state government officials across the country. These elections have reshaped policy and politics and, more fundamentally, have had a major impact on our democracy.**

The organizations are the Democratic and Republican governors associations; the rival parties' state legislative campaign committees; and their attorneys general associations. For the purposes of this report, these groups will be referred to as 527 committees, after the section of the Internal Revenue Code under which they are organized and operated.

This report offers the first comprehensive analysis of how companies are an influential funder of these elections and the dominant source of money for several of these committees. It examines the impact of corporate spending on some of the most controversial issues in the country. This spending poses serious risks to companies' reputations, their profitability, and to the environment companies need to succeed.

Unlike other research on campaign finance and corporate America, this report focuses on election-related spending using corporate treasury funds. This form of political spending, the impact that it has on state and national politics and policy, and the risks it creates for American companies have received little attention until now.

With the high-stakes 2024 election season fully underway, this report shines much-needed light on the weighty consequences of corporate political spending that goes well beyond the political action committee.

It also recommends a framework and policies for companies to gain greater control over their political spending and to address its risks. The framework is the CPA-Zicklin Model Code of Code for Corporate Political Spending, the first action item of the University of Michigan's Erb Principles for Corporate Political Responsibility.

527 Committees

Republican Governors Association **(RGA)**

Democratic Governors Association **(DGA)**

Republican Attorneys General Association **(RAGA)**

Democratic Attorneys General Association **(DAGA)**

Republican State Leadership Committee **(RSLC)**

Democratic Legislative Campaign Committee **(DLCC)**

To illustrate the risks and consequences, this report closely examines the corporate financing of these so-called 527 committees and the candidates and positions they advance. It focuses on these committees because of their national scope, prominence and impact. There are many organizations at both the state and national level that receive corporate funding and merit attention, but the problem and risks of corporate funding are well illustrated by the following examples. These organizations were chosen for three primary reasons:

1. Public companies and their trade associations are dominant funders of these six organizations. Of the $2.5 billion raised by these groups since the 2010 election cycle, public companies and their trade associations have accounted for close to half -- more than $1 billion. Public companies' dominance in this area of political spending creates unique risks that need to be addressed.

2. Three of these groups – RAGA, DAGA, and the RSLC – have the greatest electoral impact and receive more than half their funding from public companies and their trade associations.

   All six 527 groups contribute exclusively to state-level races but have nevertheless become increasingly influential in driving major election, judicial and policy outcomes at both the state and federal levels. The Republican groups examined here have raised a total of more than $1.5 billion while the Democratic groups have raised $1 billion since 2010.

3 While it is consequential, spending through the groups remains under-examined by the news media and has received little attention from business leaders. As a result, the risks posed, and actions to address that risk, are too often underappreciated and underutilized. This report seeks to correct both these gaps.

This report is particularly timely because of major changes to the political landscape now confronting company leaders. The U.S. Supreme Court's 2010 *Citizens United* decision opened the door to unlimited election spending from corporate treasury funds. A substantial amount of this spending is "dark," going through groups that are not required to disclose their donors. This holds true for trade associations and social welfare organizations operating under Section 501(c)(4) of the Internal Revenue Code. *Citizens United* also increased public scrutiny of corporate political spending among consumers, employees and other important stakeholders. This scrutiny was heightened after the Capitol insurrection on January 6, 2021, and related efforts to overturn the results of the 2020 presidential election. In response, many companies were forced to face the risk their political spending posed to their reputations, their profitability, and their ability to operate in a favorable societal and political environment.

In a transformed landscape, American businesses must face a new risk calculus, as the risks associated with corporate political spending have increased dramatically. As a result, companies' political donations are no longer part of simple or discrete transactions and can no longer be defended as merely intended to ensure access to elected officials. Each dollar spent on an election inextricably associates corporate donors with the candidates who are elected and the policies that are advanced or enacted with their support.

This report examines the broader extent and associated effect of corporate political spending in this critical election year and beyond. It first details the enormous scope of corporate electoral spending by comparing it to other categories of political spenders. Next it delves into the impact of corporate spending on American elections, detailing concrete examples of the types of risks companies have faced when they fail to adapt to the new reality of corporate political spending. Finally, the report concludes with an urgent call to action.

SCOPE OF CORPORATE POLITICAL SPENDING: MASSIVE -- YET OVERLOOKED

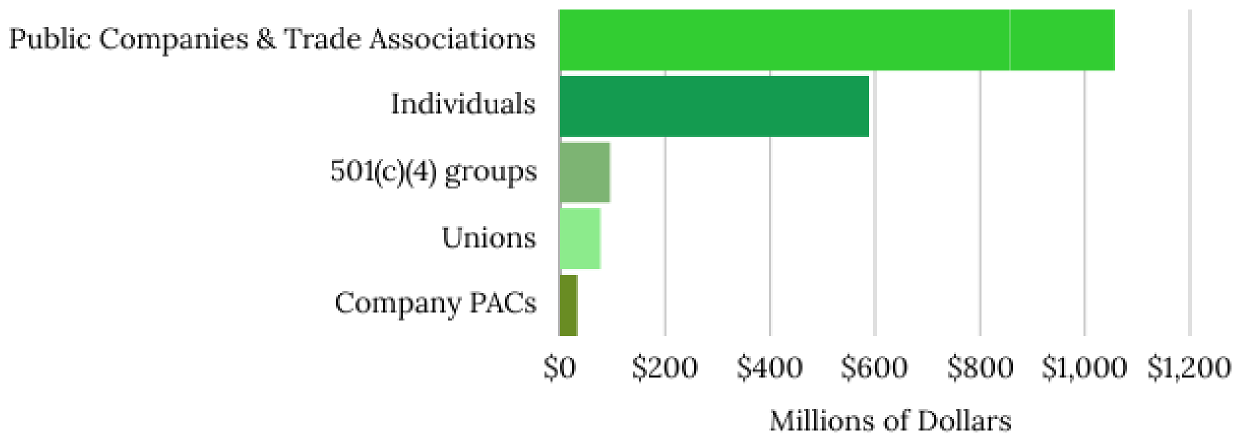
The billions spent on US elections routinely draw considerable attention. However, corporate political spending using treasury funds is often overlooked completely.

This spending matters too much to ignore. It has an enormous impact on American politics and on companies' bottom lines. This is especially true when it comes to corporate spending through third-party partisan groups like state legislative campaign committees, attorneys general associations, and governors associations. These groups fund some of the most momentous elections in American politics that have a national ripple effect.

Four types of political spending -- by corporate political action committees (PACs), by wealthy individual donors, by labor unions, and by so-called "social welfare groups" -- rightly receive attention.

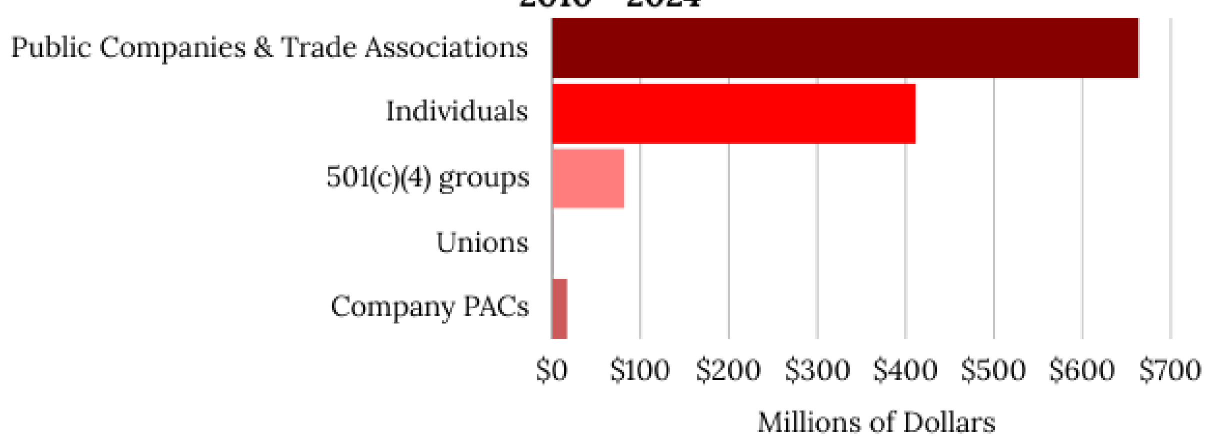
However, the scope of their impact on important state races (through support of these 527 committees) pales in comparison to that of public companies and their trade associations. As the graph and figures on the following pages illustrate, public company dollars provide far more funding to important third-party electoral groups than do any of those other types of donors.

Dominant categories of donors to all six 527 committees, 2010 - 2024



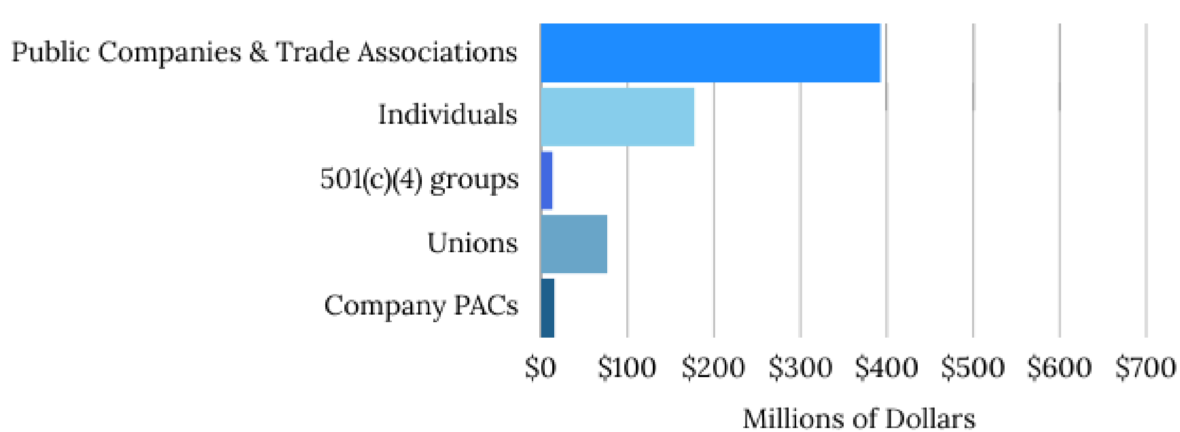
Source: US Internal Revenue Service

Dominant categories of donors to three Republican 527 committees, 2010 - 2024



Source: US Internal Revenue Service

Dominant categories of donors to three Democratic 527 committees, 2010 - 2024



Source: US Internal Revenue Service

- **The $1 billion contributed to the six influential 527 organizations discussed above dwarfs donations the groups received from corporate PACs, which total less than $34 million through June of 2024. Similarly, labor unions have donated less than $78 million to these groups since 2010.**

- **While wealthy individuals play a large role in funding American politics, not even the largest contributions from high-dollar individual donors come close to what US companies routinely give these groups.** Illinois Governor and philanthropist J. B. Pritzker has been the largest individual funder of any of the 527 groups examined here. He has donated just over $31 million to the Democratic Governors Association since 2010. Public companies and their trade associations have given several times that amount, more than $270 million to just the DGA during that same period.

- **The contributions of 501(c)(4) or "social welfare" groups get significant attention in coverage of money in politics. Yet the scope of their spending is outweighed by that of public companies when it comes to state-focused 527 groups.** Since 2010 social welfare groups have collectively given less than $96 million to these six 527 groups. This is far less than the nearly $860 million contributed to these groups by public companies or the $200 million the groups received from corporate trade associations.

As the data here show, corporate dollars materially affect the outcome of important elections, at times easily surpassing the impact of other, more high-profile categories of political donations. It is therefore critical that corporate leaders, media, and researchers more closely examine the impacts of that spending.

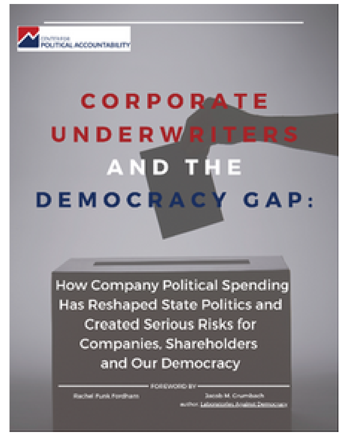
IMPACT OF CORPORATE POLITICAL SPENDING

Corporate political spending delivers great impact today because, as discussed above, these dollars play a major role in financing highly contested state political races through third-party 527 groups. These expenditures effectively have throw-weight greater than might be expected, for two chief reasons.

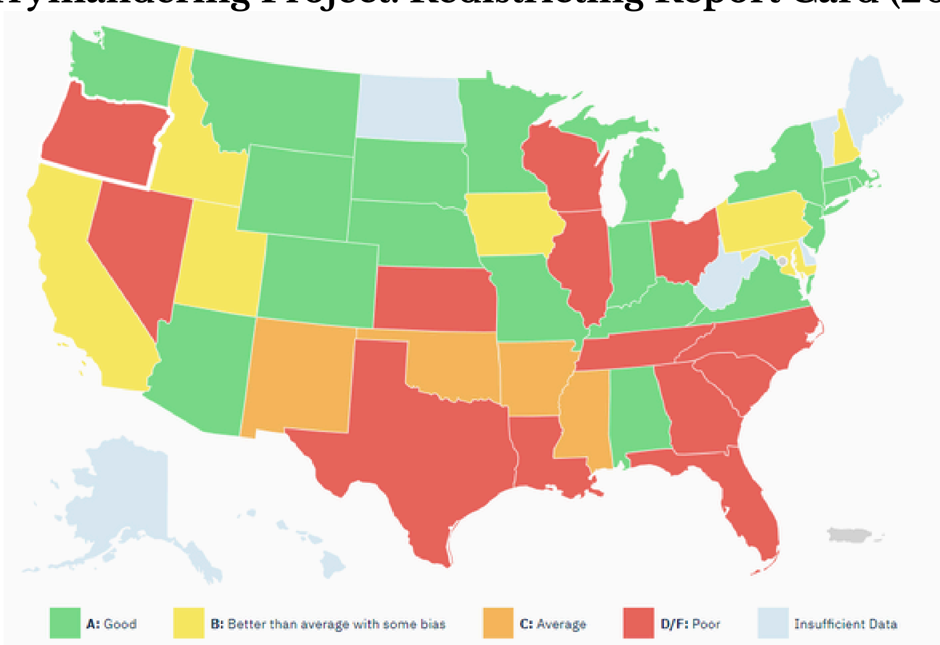
- **Corporate donations to these groups wield a greater bang for the buck because third-party contributions are spent collectively and in targeted key races, unlike direct contributions to a candidate.** Leading political scientists Jacob Hacker and Paul Pierson remarked upon this outsized impact in their foreword to a [2021 report] by CPA. Accordingly, these contributions can also expose companies to unforeseen risks and associate them with political candidates, causes and outcomes that conflict with a company's core values.

- **Secondly, the seat of power in American politics has, in many ways, shifted away from federal elected officials to state authorities including governors, state attorneys general and state legislatures.**
More and more, such key issues of the day as healthcare, reproductive rights, the environment, the economy, immigration, election integrity, and voting rights, are driven by laws not passed in Congress but in state capitals. This was in part the result of the millions of dollars contributed by companies that underwrote changes in control of state legislatures, the gerrymandering that followed in many states and the subsequent rise of minority rule despite corporate commitments to protecting democratic norms.

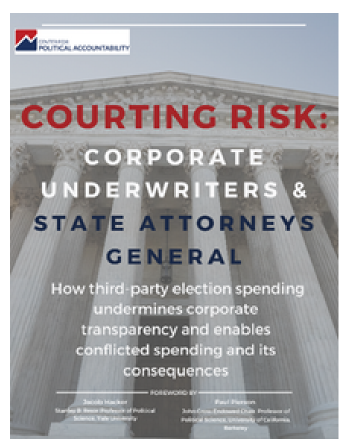
CPA's [Corporate Underwriters and the Democracy Gap] more closely examines the impact of corporate contributions on undermining democracy in state legislatures. The map below, compiled by the Gerrymandering Project at Princeton University, shows which states are gerrymandered in ways that limit or eliminate the ability of opposition parties to hold power.



Gerrymandering Project: Redistricting Report Card (2021)



In other cases, state attorneys general have used interstate lawsuits and "friend of the court" briefs to the U.S. Supreme Court to drive national policy from the state level. CPA's Courting Risk: Corporate Underwriters and State Attorneys General explores these themes and how their contributions to state attorneys general associations tie companies to these political actions even when the outcome conflicts with company values.[1]



1 Among the recent Supreme Court decisions in which state attorneys general were involved were the 2022 *Dobbs v. Jackson Women's Health* decision that ended the constitutional right to abortion; the 2022 *West Virginia v.* EPA decision that affected the EPA's ability to regulate pollution and combat climate change; and the 2023 decision in *Students for Fair Admissions v. the University of North Carolina* and *Students for Fair Admissions v. President & Fellows of Harvard College* which found affirmative action policies in college admissions to be unconstitutional. State attorneys general have used this ruling to also challenge the legality of diversity, equity, and inclusion policies within American companies.

These factors amplify the impact of corporate political spending through third-party groups. And because the political landscape has changed so fundamentally, companies, in turn, must address the evolving risks associated with what may have previously been seen as innocuous, everyday political spending.

Access to elected officials and their staffs frequently is cited as a rationale for companies continuing to give large sums to these political groups. A leaked list of membership benefits for contributors to the Republican Attorneys General Association, for example, details some of these incentives; they range from two passes to the group's annual meeting in return for a $15,000 contribution, to a list of dinners, events, and opportunities to brief sitting attorneys general for companies that give $125,000.

However, in today's hyper-partisan political climate these contributions also associate companies with concrete risks to their reputations and their bottom lines, and they expose the companies to intimidation by office holders whom they may have helped to elect.

RAGA
REPUBLICAN ATTORNEYS GENERAL ASSOCIATION

2018 MEMBERSHIP BENEFITS

2018 VICTORY FUND **($250,000+ CONTRIBUTION)**
Details available upon request

EDMUND RANDOLPH CLUB "ERC" **($125,000 ANNUAL CONTRIBUTION)**
- Invitation to annual ERC Retreat: April 19 – 22, 2018
- ***5 passes*** to RAGA National Meetings
  - Registration fees (up to 5 people)
  - Invitation to Host Committee Dinner
  - Invitation to ERC and Capital Club events
  - Invitation to ERC, Capital Club, Roundtable & Sponsors Dinner
  - Opportunity to submit issue panel topics, and to be a panelist
  - Recognition as a platinum sponsor (optional)
  - Annual opportunity to lead issue briefings with Republican Attorneys General
- ***3 passes*** to the following RAGA events (and complimentary entry to all RLDF Events):
  - Senior Staff Retreat
  - Issue Symposia
  - Tech Summit
  - General Counsel Summit
- Posting access to online RAGA Briefing Room
- Monthly Political Briefing hosted by Scott Will, *RAGA Executive Director*

ATTORNEYS GENERAL CAPITAL CLUB **($50,000 ANNUAL CONTRIBUTION)**
- ***4 passes*** to all RAGA National Meetings
  - Registration fees waived (up to 4 people)
  - Invitation to Capital Club events
  - Invitation to ERC, Capital Club, Roundtable & Sponsors Dinner
  - Opportunity to submit issue panel topics, and to be a panelist
  - Annual opportunity to lead issue briefings with Republican Attorneys General
- ***2 passes*** to the following RAGA events (and complimentary entry to all RLDF Events):
  - Senior Staff Retreat
  - Issue Symposia
  - Tech Summit
- Posting access to online RAGA Briefing Room

ATTORNEYS GENERAL ROUNDTABLE **($25,000 ANNUAL CONTRIBUTION)**
- ***3 passes*** to all RAGA National Meetings
  - Registration fees waived (up to 3 people)
  - Invitation to ERC, Capital Club, Roundtable & Sponsors Dinner
- Posting access to online RAGA Briefing Room

ATTORNEYS GENERAL COMMITTEE **($15,000 ANNUAL CONTRIBUTION)**
- ***2 passes*** to all RAGA National Meetings

Contributions to RAGA are not deductible as charitable contributions for federal income tax purposes. Contributions will not be used for federal electioneering communications. Contributions may be placed in one of RAGA's affiliated PACs. Contributions from foreign nationals are prohibited.

RISKY BUSINESS: EXAMPLES OF THE RISKS OF CORPORATE POLITICAL SPENDING

These risks are varied. They include reputational risks, which can harm a company's relationships with its employees, customers, and other important stakeholders. They include business risks that damage company assets or profitability. Another kind of risk involves an emerging pattern of political intimidation against company policies and positions. Elected officials have shown an increased willingness to use lawsuits and legislative processes to retaliate against companies that promote positions with which politicians disagree. In some cases, companies have been sued or threatened by politicians they supported through direct or indirect financial contributions.

Reputational Risks

Companies' reputations may be jeopardized when their political spending undermines their values or contradicts commitments the company has made to key stakeholders.


FORTUNE

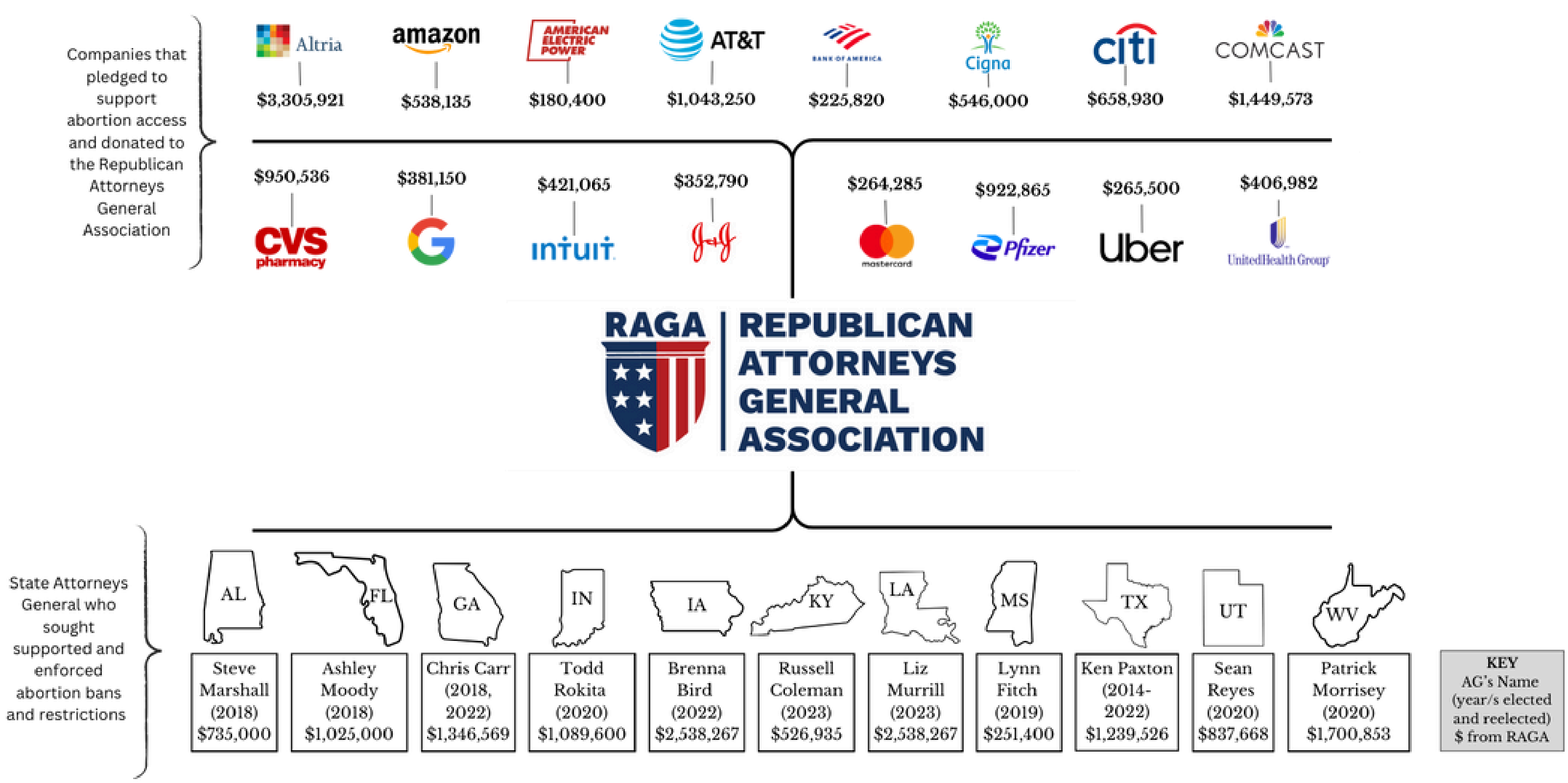
The FirstEnergy Scandal Shows Everything That Could Go Wrong With Companies' Political Spending in 2024

By Allison Herron Lee and Bruce Freed

July 31, 2023

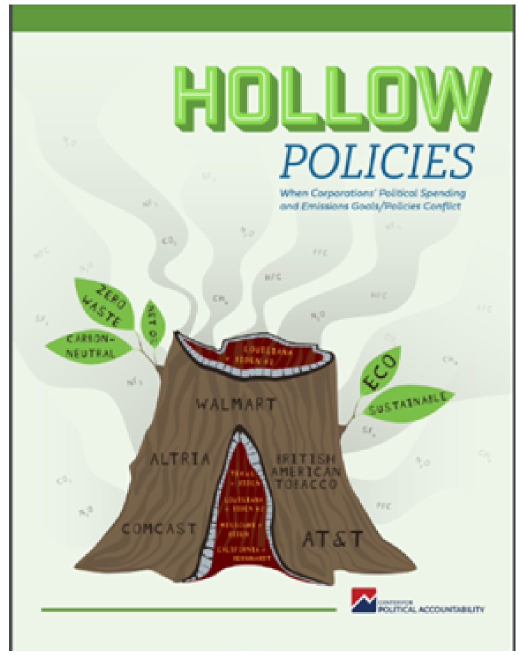
Employees are one important stakeholder group with whom companies frequently make commitments. Employee recruitment, retention and commitment are increasingly linked to shared values between the company and the employee.

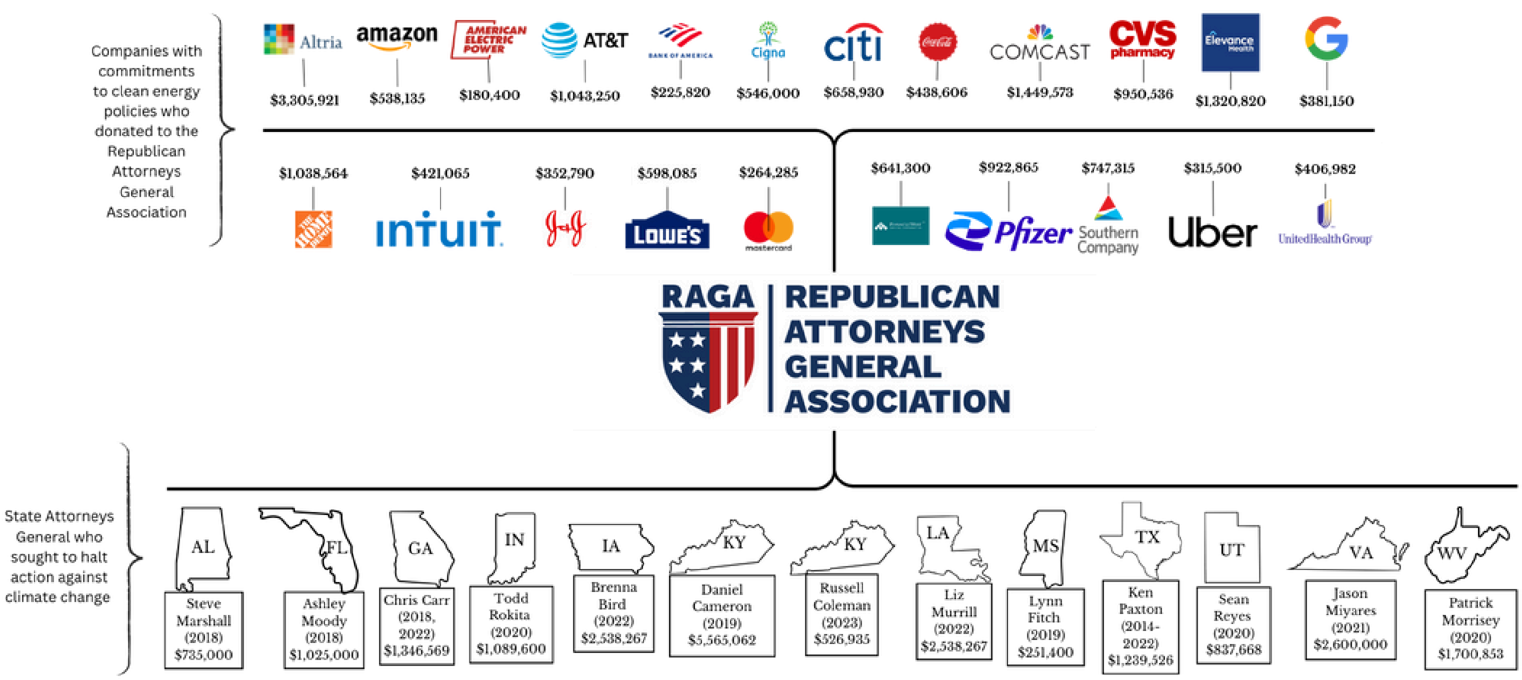
Reproductive rights. In the wake of the 2022 U.S. Supreme Court decision that overturned *Roe v. Wade* and led to abortion restriction in many states, dozens of US companies pledged to protect employees' access to abortion care through travel reimbursements for employees forced to seek out-of-state medical care. Companies offering these commitments saw an uptick in recruitment. However, it tarnished these companies' reputations with employees that the companies had contributed to groups funding the campaigns of state officials who actually enacted abortion bans.



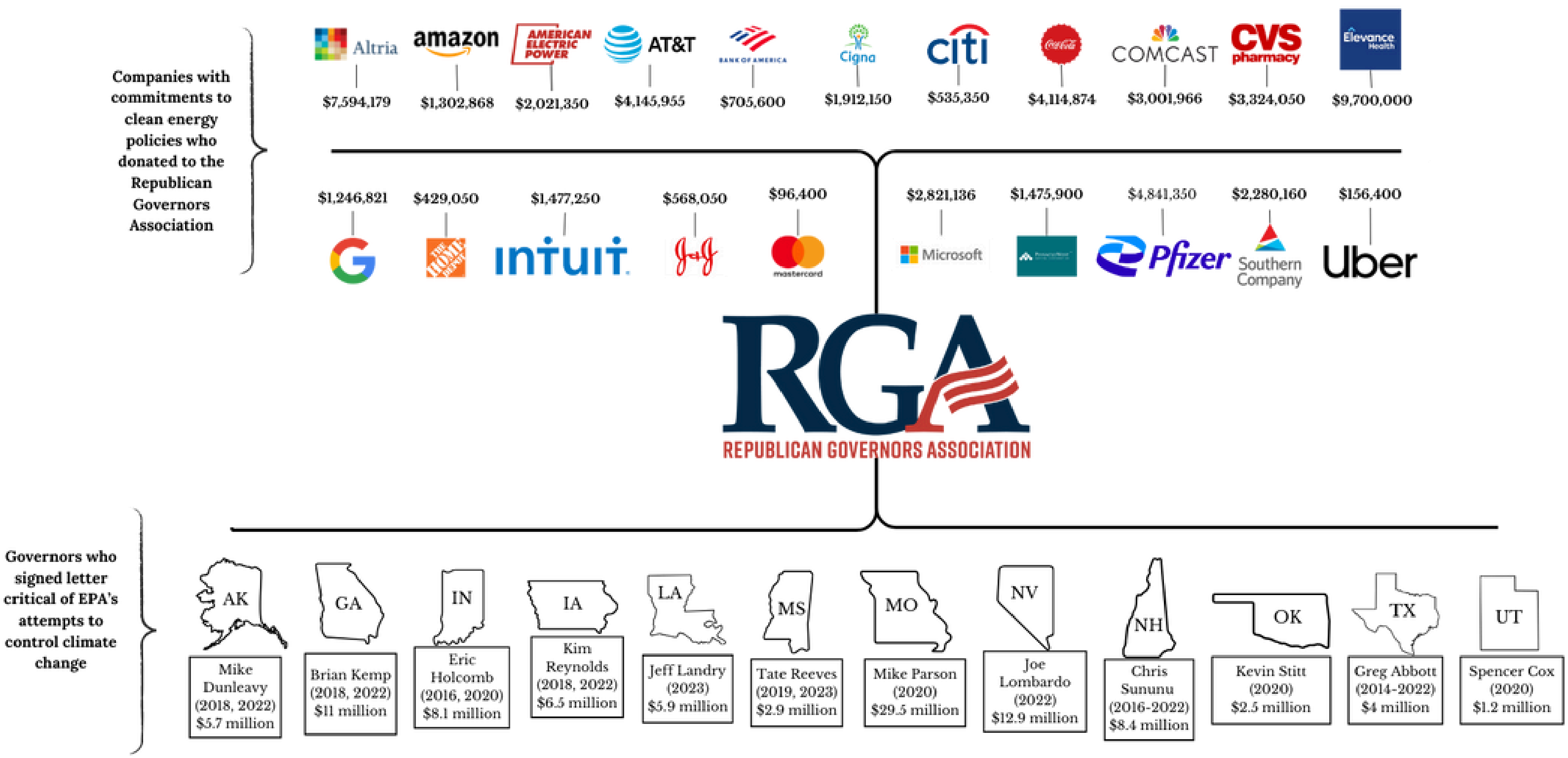
Climate change. Companies frequently tout their commitments to addressing climate change, to reducing or eliminating their carbon emissions and to supporting policies to mitigate the risks climate change poses to their profitability. However, for many of these companies, their political spending actually undermines these goals.

For example, dozens of companies, including household brands like Amazon, Comcast, Lowe's and Uber have documented their robust commitments to addressing climate change. However, these companies have simultaneously given hundreds of thousands of dollars to groups including the Republican Attorneys General Association. RAGA has funded the election and reelection of more than a dozen state attorneys general actively involved in efforts to halt action against climate change. This clear contradiction damages companies' reputations with both employees and customers.





A similar list of companies with clean energy commitments has funded the Republican Governors Association. It, in turn, has funded the election and reelection of several state governors who recently wrote a letter to President Biden criticizing the EPA's attempts to control climate change and demanding a cessation of many major efforts to combat climate change.



LGBTQ rights and racial justice. Companies' reputations are also in jeopardy when their political spending undermines their commitments to minority groups. Pledges to support anti-racist values and to LGBTQ rights ring hollow when the companies that make them are also giving to political groups that help elect state officials who pass laws discriminating against Black and Queer communities.


theguardian

DeSantis's Corporate Donors Under Fire for 'hypocrisy' Over Black History Month

By David Smith

February 13, 2023

Voting and democracy. In the wake of the Capitol insurrection on January 6, 2021, many companies affirmed their commitments to democracy and to safeguarding US elections. However, several companies' contributions not only helped elect some of the officials who challenged the results of the 2020 presidential election; their contributions to the Republican Attorneys General Association also linked them to a related 501(c)(4) group, the Rule of Law Defense Fund, that sent robocalls urging participants to join the January 6th march to the US Capitol.


NBC NEWS
Republican AGs Group Sent Robocalls Urging March to the Capitol
By Laura Strickler and Lisa Cavazuti
January 8, 2021


POLITICO
Corporations Gave $10M to Election Objectors After Pledging to Cut Them Off
By Jessica Piper and Zach Montellaro
January 6, 2023

Business Risks

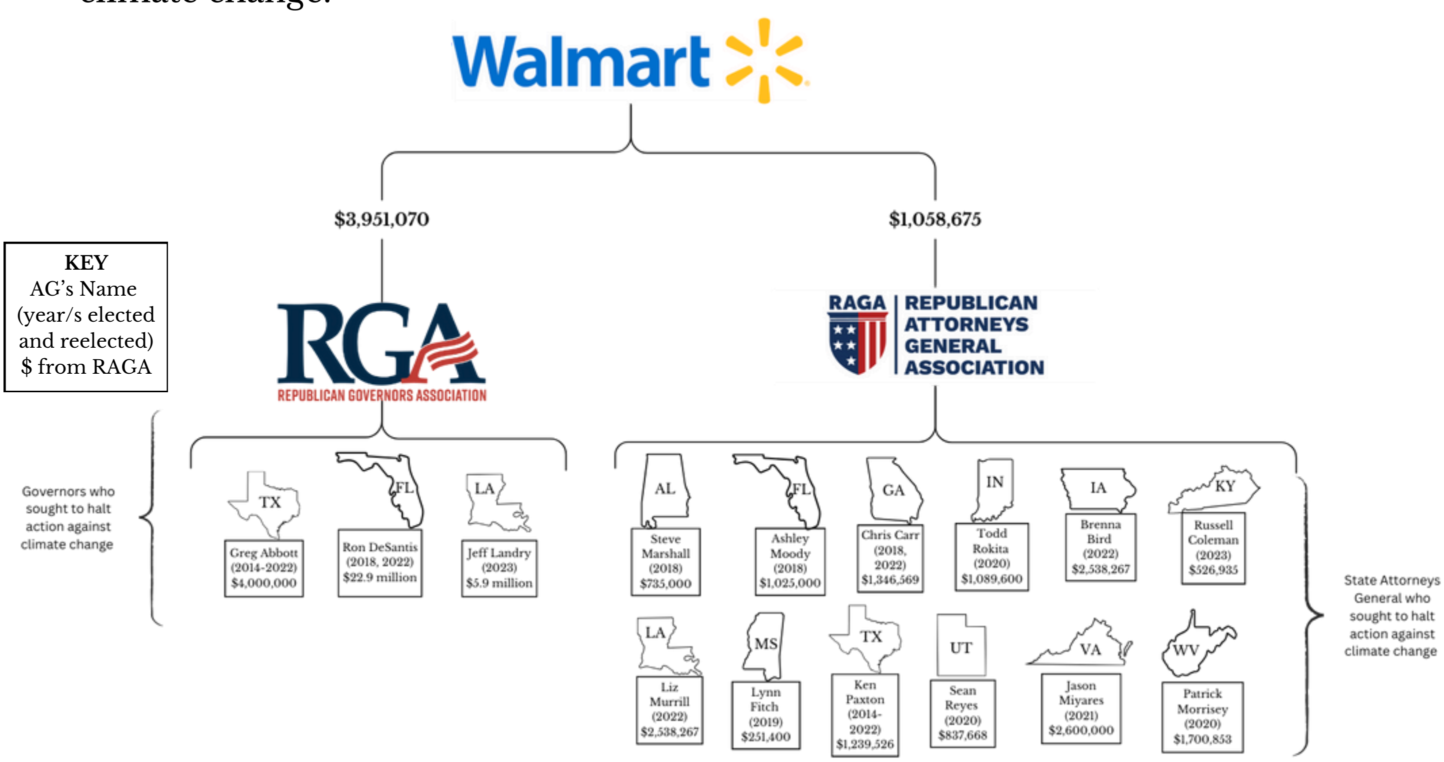
When political spending damages a company's reputation, it can also have negative and quantifiable effects on the company's bottom line.

Climate change. Along with many other companies, Walmart vows robust commitments to address climate change explicitly because of the business risks that environmental instability poses to the company's supply chains.


Forbes
New Data Reveals Climate Change Risks to Corporate Assets in The United States
By Michael Sheldrick
July 16, 2023

> "Climate change is one of the greatest challenges of our time. If we don't take more aggressive action now, the damage will only worsen, and the consequences will be disastrous for this and future generations.
>
> "As a retailer with operations in more than two dozen countries and sourcing that spans the globe, Walmart is deeply committed to addressing climate change. We're focused on strengthening business resilience, advocating for climate action and targeting zero emissions across our global operations by 2040."

However, despite its commitment to mitigate the risks that climate change poses to its profitability, Walmart's political contributions have supported groups that help to elect candidates who oppose key remedies to address climate change.



Reproductive rights. Similarly, many companies have recognized that reproductive healthcare access creates major business costs for companies operating in states with bans on abortion and other reproductive health care. Regardless of where they are located, workers increasingly want to work for companies that support abortion access. Eli Lily and Company acknowledged that the strict abortion ban passed in the company's home state of Indiana would likely harm its ability to attract talented employees within the state. However, Eli Lily continues to make regular contributions to the Republican Attorneys General Association, totaling more than $400,000 since 2014. RAGA was a major funder in the election of Indiana Attorney General Todd Rokita in 2020. Rokita made national headlines for repeatedly targeting an Indiana doctor who performed an abortion on a 10-year-old rape victim in June 2022. In November 2023, the Indiana Supreme Court reprimanded Rokita for violating state rules of office in this case. Given the money trail connecting RAGA donors to Rokita, Eli Lily has created a serious risk to its own ability to recruit employees.


Newsweek

Eli Lilly Says Indiana Abortion Ban Will Spur It to Hire Outside Home State

By Thomas Kika

August 2, 2022

kxan

Texas Businesses Say Abortion Ban Costs State Nearly $15 Billion a Year

By Ryan Chandler

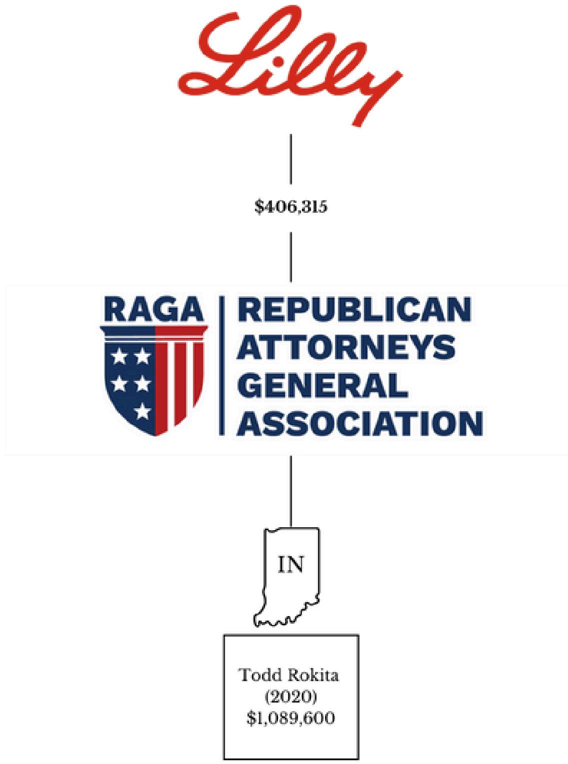
November 10, 2023

Forbes

More Than 75% Of Employees Want To Work For Companies That Support Abortion Access

By Kim Elsesser

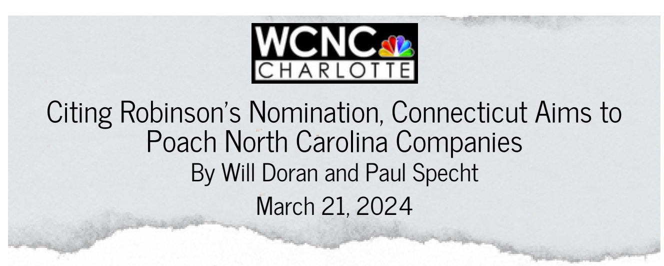
August 2, 2022



LGBTQ rights. Companies in North Carolina have expressed similar concerns about business risks that could stem from the state's forthcoming gubernatorial election. Lt. Gov. Mark Robinson, the 2024 Republican nominee for governor, has espoused several extremely controversial policy positions. Many of these positions, including legislation to undermine the rights of gay and transgender people, have posed problems for businesses in North Carolina in the past. A 2016 law that targeted LGBTQ community members' ability to use public bathrooms led directly to PayPal and other major companies divesting from the state.

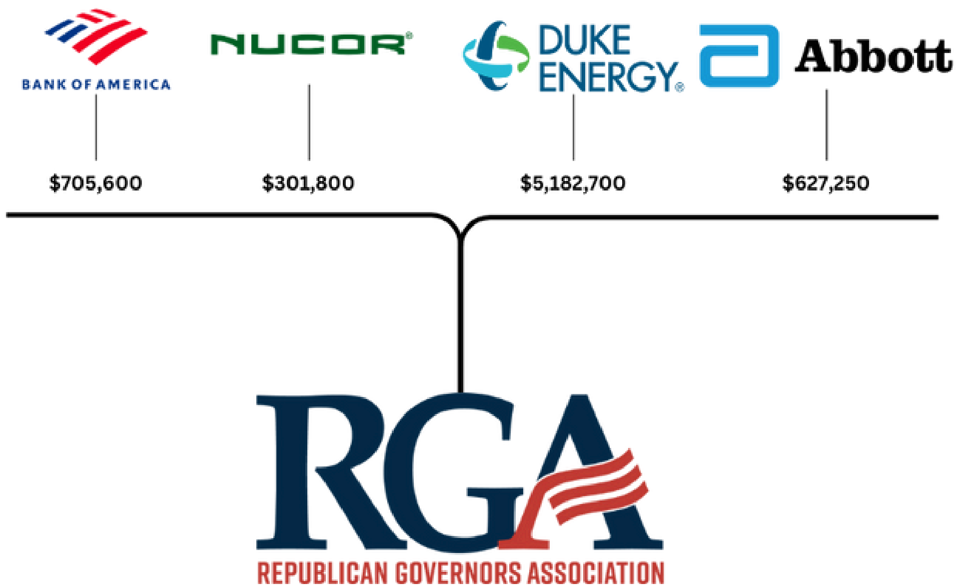

The Washington Post

Far-Right Politics Could Hurt Business In North Carolina, Some Fear. Again.
By Danielle Paquette
April 5, 2024

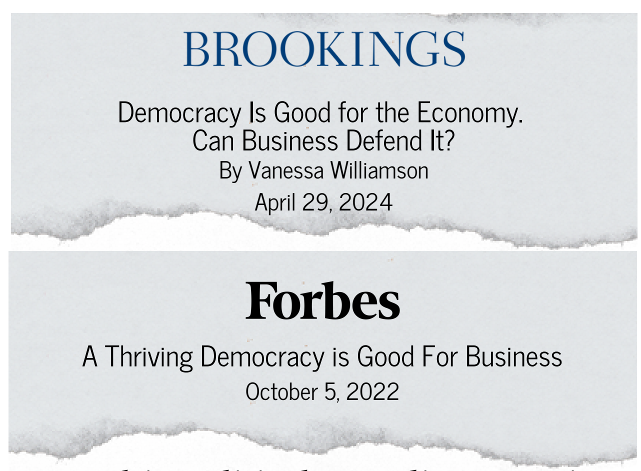

WCNC CHARLOTTE

Citing Robinson's Nomination, Connecticut Aims to Poach North Carolina Companies
By Will Doran and Paul Specht
March 21, 2024

The Republican Governors Association has pledged to support Robinson in 2024 and recently announced [a seven-figure ad campaign] to support his campaign. Several North Carolina companies, including Bank of America, Duke Energy, and Nucor, are major contributors to the RGA and could be supporting a political climate that is harmful to their businesses' interests.



Democracy and voting. US companies have a business stake in maintaining the country's democratic institutions, including fair elections and voting rights. Researchers have repeatedly found that a strong democracy leads to economic growth and fosters the most favorable conditions – predictability, stability and rule of law – for companies to prosper. Conversely, when democratic norms are eroded, business interests can suffer. Many companies have published value statements that acknowledge these risks and benefits. However, many of these companies have also contributed to political groups that have undermined voting rights and contributed to gerrymandering that led to minority rule in states around the country. This political spending associates companies with politicians and policies that threaten the economic and political stability and the rule of law they need to succeed.


BROOKINGS

Democracy Is Good for the Economy. Can Business Defend It?
By Vanessa Williamson
April 29, 2024

Forbes

A Thriving Democracy is Good For Business
October 5, 2022

Intimidation Risks

Some business risks that companies can incur through their political spending stem directly from the politicians they help to elect. There is a growing trend of elected officials threatening, intimidating, and punishing companies for business decisions. This new reality compels companies to reconsider the broader consequences of their political giving.

Diversity, equity, and inclusion. In July 2023, 13 state attorneys general wrote letters to the country's 100 largest companies, threatening legal action if the companies continued their use of diversity, equity and inclusion (DEI) programs and policies.

DEI policies have been shown to have numerous benefits for businesses, including profitability, innovation, and employee retention. However, there are already reports that threats like the one filed by state attorneys general are leading some companies to curb these policies.

REUTERS

Republican State Officials Threaten Legal Action Over Company Diversity Policies
By Daniel Wiessner
July 14, 2023

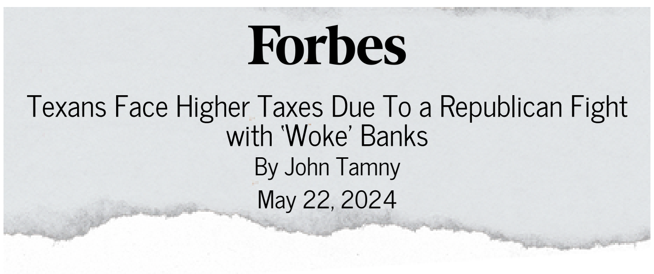
Bloomberg

Job Cuts, Fleeing Investors: How Anti-DEI Lawsuits Take a Toll on Targets
By Kelsey Butler
February 29, 2024

REUTERS

Some Companies Alter Diversity Policies After Conservatives' Lawsuit Threat
By Jody Godoy and Disha Raychaudhuri
December 18, 2023

Climate change. Texas Attorney General Ken Paxton has led a years-long effort alongside the state legislature and regulatory bodies to prohibit banks with policies to counter the negative effects of climate change from doing business with any state or local government entity. A similar law has also passed in West Virginia. Citigroup and Wells Fargo are both affected by the bans, while each bank has donated generously to 527 groups that funded the election and reelection of state officials who helped institute the ban policies.


Forbes

Texans Face Higher Taxes Due To a Republican Fight with 'Woke' Banks

By John Tamny

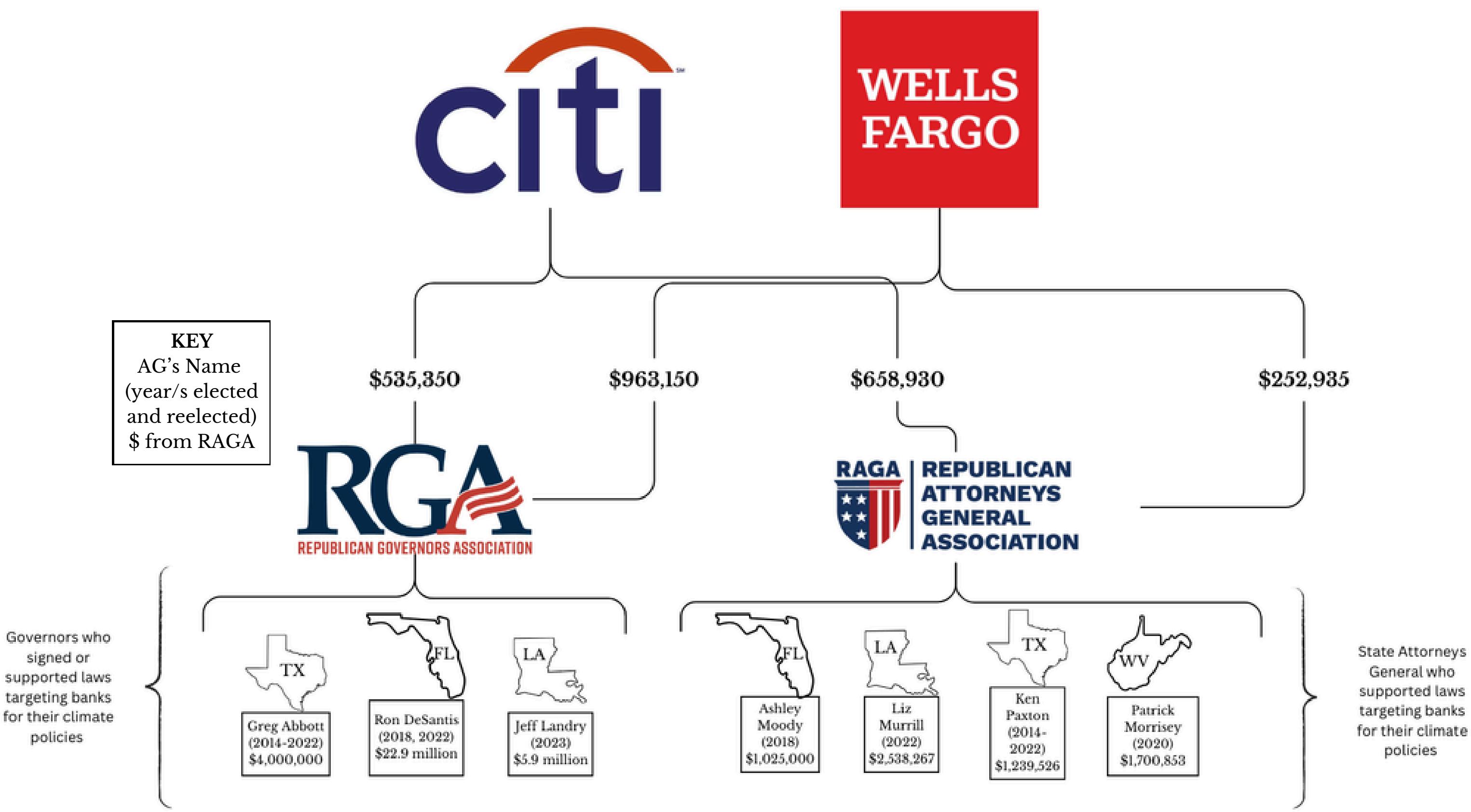
May 22, 2024


MARKETPLACE

Banks Are Weighing Environmental, Social Issues When Investing. Some States Punish Them for It

By Nancy Marshall-Genzer

March 3, 2023



LGBTQ rights. Companies have reportedly faced threats and intimidation from governors they helped to elect. The Walt Disney Company was a major contributor to Ron DeSantis's first campaign for Florida governor in 2018. However, in 2022, Disney employees expressed concern about recent state legislation that limited discussions about sexual orientation and gender identity in public school classrooms. In response, Disney then-CEO Bob Chapek expressed opposition to the law on behalf of the company. Shortly afterwards, Gov. DeSantis asked the state legislature to revoke several tax and business privileges that the state had long granted to Disney and its Florida theme parks. This ignited a legal battle between Disney and the DeSantis administration that lasted more than two years. The parties reached a settlement in March 2024.

POLITICO

DeSantis Is Fighting Disney. Here Are Some of His Other Feuds with Big Business

By David Kihara

May 19, 2023

Democracy and voting rights. In 2021, several US corporations criticized a new law in Georgia that the companies argued unjustly restricted voting rights, particularly for Black voters. Atlanta-based Delta Airlines was among the law's critics. In retaliation, the Republican-controlled Georgia House passed legislation to end a state tax credit on jet fuel. While the bill failed to advance in the State Senate, the attempt demonstrated state officials' willingness to punish companies over their stances on voting issues.

Importantly, researchers have shown that standing up for voting rights and democratic norms benefits companies' bottom lines. Major corporations and business groups also have criticized recent proposals to tighten voting restrictions in other states.

THE CONVERSATION

Risky Business: Why Executives Keep Finding Themselves in Political Firestorms

By R. Michael Holmes Jr. and Jackson Nickerson

May 28, 2024

THE HILL

GOP Georgia State Legislators Try to Punish Delta After Elections Bill Criticism

By Reid Wilson

April 1, 2021

THE TEXAS TRIBUNE

Major corporations come out against proposed voting restrictions in Texas

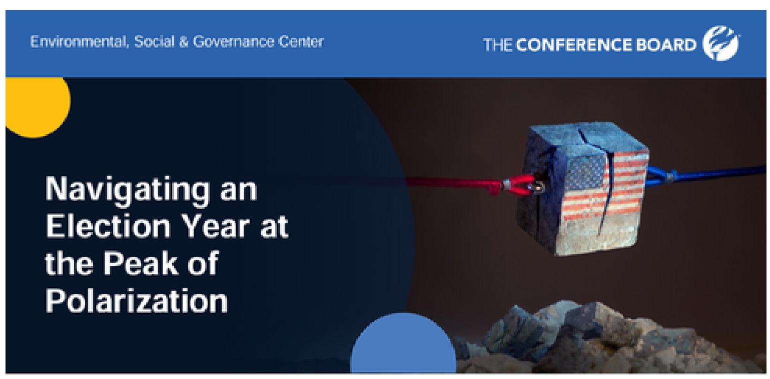
By Alexa Ura

May 4, 2021

FOCUS ON 2024: UNLIKE ANY OTHER ELECTION IN RECENT TIMES

“This is going to be the most important election since 1860, because it is going to be about the future of this country as a democracy,” Duke political scientist Herbert Kitschelt told the The New York Times about the 2024 election. He is far from alone among analysts fearing that the nation’s bold experiment in democratic governance could be extinguished once votes for the White House are tallied.

This election will be particularly consequential for American corporations and their leaders. Some of the political rhetoric coming from the campaign trail promises a future that could destabilize core aspects of the American economy and the broader environment companies need to thrive, and these concerns are escalated above the level of four years ago.



A recent report from The Conference Board, a leading business group, found that more than half of companies consider the legal and regulatory environment in 2024 to be more challenging than it was in 2020. It cited polarization among elected policymakers as the most significant challenge companies currently face in navigating the political environment. This has led more companies to be more selective and cautious in the political and social issues they choose to address. There are compelling reasons for companies to extend this caution to their approach to corporate political spending as well.

Challenging the election: state attorneys general

Many of the state attorneys general who filed unsuccessful lawsuits to challenge the results of the 2020 presidential election are still in office and potentially poised to take similar action if they are unhappy with the results of elections this November. The Associated Press has reported that Republican officials in three states have already attempted to interfere with the certification process of local election results in 2024 primary races.

AP Associated Press

Election Certification Disputes in A Handful of States Spark Concerns Over 2024 Presidential Contest
By Nicholas Riccardi and Joey Cappelletti
June 6, 2024

The Republican Attorneys General Association and candidates it helped to elect were involved in many of the efforts to overturn the presidential election in 2020. Ken Paxton, attorney general of Texas, has received more than $1.2 million in support from RAGA since he was first elected in 2014. Paxton spearheaded unsuccessful suits challenging the election results in several other states. The Texas state bar association is still pursuing sanctions against Paxton for these actions, which he continues to defend.

AP Associated Press

Hundreds of GOP Members Sign onto Texas-Led Election Lawsuit
By Nomaan Merchant and Alanna Durkin Richer
December 10, 2020

Major elections always bring a level of uncertainty for business leaders. However, the apparent willingness of some elected officials to undermine the norms of our electoral system magnifies that uncertainty. Contributing to candidates and political groups that have demonstrated a repeated willingness to undermine democracy magnifies the risks to which companies are exposed. Not only do these candidates' actions threaten some fundamental norms of the US economic and political system; contributions to election deniers associate company brands with one of the most controversial issues of our tumultuous times.

Populism and the business community

Business success relies on predictability, stability, and the rule of law. Researchers have noted that many promises of candidates reflect a shift away from these long-held principles of democracy and towards a more extreme form of populism. This shift poses real risks for businesses. A recent report by the Carnegie Endowment found that more populist governments have led to more volatile economies, more unpredictability in policy making and enforcement, and an overall degradation in the rule of law. Populist governance also inhibits overall economic growth, leading to stagnant markets and more frequent economic crises that can harm businesses. Given this uncertainty, companies are obliged to consider the policies their spending may enable in the near future. This is a particular problem at the state level where, as the Corporate Underwriters reports have detailed, company political spending via 527s has been critical in the election of state legislatures and attorneys general.

REUTERS

Republicans Have Taken Sharp Populist Turn in The Trump Era

By Jason Lange and James Oliphant

March 21, 2024

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

How Does Business Fare Under Populism?

By Rachel Kleinfeld

June 13, 2023

CONCLUSION: PULLING BACK THE CURTAIN ON POLITICAL SPENDING, MANAGING THE RISK

What responsibility do corporate leaders have to recognize the impact of their companies' political spending? How can these leaders manage the risks outlined here? What is the role and responsibility of the media for covering corporate political spending and its impact?

Companies and their leaders

This report has shown how public companies have become the dominant source of funding for some of the nation's most influential partisan political groups. These contributions place companies at the heart of some of today's most contentious political issues. Political spending by wealthy individuals, labor unions, social welfare groups, and corporate PACs may often receive more attention; however, its actual impact, particularly through the partisan state-focused political groups called 527s, is easily outweighed by donations flowing from corporate treasury funds.

Thus, the critical first step for management and directors is acknowledging the scope and impact of corporate political spending and the real risks it poses to companies. Executives within US companies must consider these features of the transformed political landscape:

- **Major scope and impact.** Corporate political spending plays a major role in the financing of US elections.
- **No longer just a way to gain access.** Corporate political spending associates company brands with all outcomes of elections, political causes, and candidates that the spending advances.
- **Stakeholders are watching.** Employees, consumers, and investors increasingly care about a brand's political values and reputation.
- **The new risk management.** The risk calculus that governs decision-making around corporate political spending must be adapted to these new realities.
- **Find a framework.** Companies need a robust framework that guides them in fully assessing the impact, risks and benefits of each political contribution.

> *"Among the biggest risks that today's managers of corporate DC offices must be aware of are their corporate treasury contributions to political entities that turn around and pass the money on to others and candidates. Companies must do their best to know in whose pocket their money is ultimately ending up or face the consequences. These contributions speak for the business's position on various matters associated with the ultimate recipient, and companies don't want to be in a position of saying one thing publicly while donating to groups/candidates who advocate for the opposite."*
>
> Rex Wackerle, former senior executive at Northrop Grumman, Bank of America and Prudential Financial

The news media

Even in an election year likened to 1860 for its historic ramifications, political spending with corporate treasury funds is totally evading the radar of the news media. This observation is not intended to scold or indict the media, an industry diminished by technology and social change, but to renew an appeal for the in-depth coverage that is so crucial for helping the public understand the true scope and impact of company political spending in 2024. This coverage also benefits companies through the accountability it instills.

Without the in-depth coverage, citizens may go the polls uninformed about the money trail placing candidates on the ballot, and investors may be unaware of the policy outcomes their companies help fund in state capitals nationwide. It is not enough for the news media to report on easily accessible political action committee reports, but it must go further to provide regular coverage of company political spending with corporate funds.

The Model Code

In a time of uncertain outcomes and near-certain risks, companies need a framework that provides an objective yardstick for weighing the benefits and the holistic risks of each political contribution they make. If controversies arise over a company's political spending, the CPA-Zicklin Model Code of Conduct for Corporate Political Spending, the first action item of the Erb Principles of Corporate Political Responsibility, offers an approved rationale behind a company's decision-making. The 12 provisions of the Model Code help companies navigate today's more complex risk environment by broadly examining the full consequences of their spending. The Code helps companies to consider where their political contributions ultimately end up and to reconcile the benefits of those contributions with the broader impact their spending has on their reputations, their bottom lines, their legal exposure and on the environment they need to flourish.

Companies' values and integrity may be tested during this historic election cycle. Corporate political spending is where the rubber hits the road -- and companies need to appreciate the pitfalls and risks before it is too late.