

Election FOCUS 2004

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FAST FACTS:

- ✓ **In 2000, the Presidential Election Campaign Fund**, which is funded by a voluntary \$3.00 donation by U.S. taxpayers, raised \$225.3 million in partial public financing for presidential primary candidates.

Kerry Captures Five “Junior Tuesday” State Elections



Democratic presidential hopeful Sen. John Edwards (D-N.C.) celebrates with supporters at a post South Carolina Primary rally, Tuesday Feb. 3, 2004, in Columbia, S.C. © AP/WWP.

Edwards, Clark wins prevent Kerry sweep

Washington—Continuing his quest for the Democratic presidential nomination, Massachusetts Senator John Kerry captured most of the convention delegates at stake in the seven states holding primaries or caucuses February 3.

Kerry’s so-called “Junior Tuesday” wins in Arizona, Delaware, Missouri, New Mexico and North Dakota were tempered only by North Carolina Senator John Edwards’ victory in South Carolina and retired General Wesley Clark’s in Oklahoma.

(Political observers refer to February 3 as “Junior Tuesday” as compared to the upcoming March 2 “Super Tuesday,” when elections will be held in 10 states, including California and New York.)

February 3 was the first day in the election cycle in which contests were held

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Campaign Finance Reform and the 2004 Election: An Interview with Jan Baran



On December 10, 2003 the U.S. Supreme Court in *McConnell v. Federal Election Commission* (2002) upheld the Bipartisan Campaign Reform Act of 2002 (BCRA) which gave the U.S. Congress the power to ban unlimited contributions, known as “soft money,” to political campaigns.

The Act is commonly known as the McCain-Feingold law, named after the two chief Senate Sponsors, John McCain, Republican from Arizona, and Russell Feingold, Democrat from Wisconsin who sought to remove soft money as an influence on candidates running for national office.

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simultaneously in more than one state, and it also saw the field of Democratic candidates reduced by one more with the departure of Connecticut Senator Joseph Lieberman, who focused on the primary in the small state of Delaware, but who only managed 11 percent of the vote. He also had low figures in the January 19 Iowa caucuses and the January 27 New Hampshire primary, both of which were won by Kerry.

Lieberman, the party's unsuccessful vice presidential nominee in 2000, bowed out of the current race gracefully, telling supporters that while disappointed, he was "proud of what we stood for in this campaign."

Kerry's advisers say he now plans to present himself as the undisputed leader for the nomination and will fight for convention delegate support in all of the remaining states. On February 3, he gained 43 percent of the vote in Arizona, 50 percent in Delaware, 51 percent in Missouri, 42 percent in New Mexico and 51 percent in North Dakota. This gives him those proportional amounts of the states' convention delegates pledged to his nomination at the national convention in late July.

Several recent national public opinion polls show Kerry with a small lead over President George W. Bush, the presumed Republican nominee for reelection. Kerry will continue to

stress his record as a Vietnam War hero, his advisers add. Meanwhile, Republican strategists say they plan to highlight Kerry's past Senate votes to cut military spending and raise taxes.

Edwards said prior to the primary that in order to remain in the race he would have to win in South Carolina, his birth state. In accomplishing that feat, the North Carolinian captured 45 percent of the vote to 30 percent for Kerry. Edwards said that victory, plus a strong second-place showing in Oklahoma, gives him the momentum to compete strongly in other upcoming southern and border states.

Clark, who focused his "Junior Tuesday" campaigning in Oklahoma, led by 1,300 votes over Edwards. Each captured 30 percent of the vote. State officials still had about 1,000 provisional ballots to count later in the week.

Clark also won five delegates in the North Dakota caucuses, while two other Democratic candidates made small gains: seven delegates in Arizona and New Mexico for former Vermont Governor Howard Dean and one delegate in Delaware for the Reverend Al Sharpton.

Exit polls conducted in the seven states indicated that Democratic voters are dissatisfied with President Bush and defeating him in the November general election is their prime issue. The president, meanwhile, had no significant primary opposition in Republican voting on February 3.

The next set of primaries and caucuses will be held February 7 in Michigan and Washington state, February 8 in Maine and February 10 in Tennessee and Virginia.

Edwards, Clark, Dean and Sharpton, as well as Ohio Congressman Dennis Kucinich, all have pledged to stay in the presidential race, but, says Washington Post writer John Harris, "by any measure—delegates, poll ratings in key states or fund-raising potential—Kerry remains in command." ■

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Campaign Finance Reform and the 2004 Election: An Interview with Jan Baran

"Soft money" is a contribution made to political parties by individuals, corporations, unions and other entities, rather than being given directly to political candidates. Soft money can only be spent on civic activities such as voter registration drives, "party-building activities," administrative costs, and in support of state and local candidates. Prior to the passage of the McCain-Feingold law, these donations were not subject to regulation and were often viewed as a loophole to campaign finance law. In contrast, "hard money" is a term used to describe donations by individuals and political action committees that are regulated by law and



THE DEPARTMENT OF STATE
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<http://usinfo.state.gov>

The U.S. Department of State is pleased to present its election coverage newsletter, **Election Focus 2004**. The newsletter will provide non-partisan coverage of the U.S. election process, featuring articles, interviews, public opinion polls, and other information on the presidential primaries, debates, conventions and campaign activities of the major presidential candidates.

Election Focus 2004 is produced by the Democracy and Human Rights team in the Bureau of International Information Programs.

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made directly to political candidates running for federal office. The law specifies certain dollar amount limits on contributions made by various groups.

The major question that the Supreme Court deliberated on was whether or not soft money has a potentially corrupting influence on elections. "The idea that large contributions to a national party can corrupt or create the appearance of corruption of federal candidates or officeholders is neither novel or implausible," the court ruled. "Both common sense and the ample record in these cases confirm Congress' belief that they do."

In a January 23 interview, Jan W. Baran, a private sector lawyer and expert in election law and campaign finance, as well as an author of several books on the subject, spoke with Washington File writer Alexandra Abboud about campaign finance and its effect on the 2004 presidential election.

Q: The Supreme Court in *McCannell v. FEC* has upheld the tenets of the Bipartisan Campaign Reform Act (BCRA), commonly known as the McCain-Feingold law, that restricts the use of soft money in campaigns. How will the Supreme Court's findings affect the 2004 presidential election?

Baran: The most immediate effect of restricting the use of soft money is that the political parties will not be able to raise or spend it. During 1999-2000, the two major parties raised approximately \$500 million in soft money, almost evenly divided between the Democratic and Republican parties. That's half a billion dollars that they will not have this year, and the question is, will they be able to raise more "hard money" this year to make up for the loss?

Q: You've just mentioned "hard money." What exactly is hard money?

Baran: Hard money is money within certain dollar limits from individuals or from political action committees who are registered with the Federal Election Commission.

Q: The *McCannell* decision covered a wide range of campaign fundraising issues. One such issue was the role of political action committees or PACs. What role do PACs play during an election year, and also, how have these organizations been affected by the *McCannell* decision?

Baran: Political action committees are committees that are registered with the Federal Election Commission who raise voluntary contributions from individuals. Usually these PACs are associated with either corporations or unions or trade associations or various national groups like the National Rifle Association or the Sierra Club, for example.

These organizations are permitted to have these committees, but they must be funded with individual voluntary contributions, and no individual can contribute more than \$5,000 a year to a PAC. The PAC, in turn, is allowed to make contributions to candidates for the U.S. House or U.S. Senate or president in amounts not to exceed \$5,000 per election.

Q: The Supreme Court has also limited the use of "issue ads" in a federal campaign. What is the role of issue ads in elections and in campaign finance reform?

Baran: Issue ads are a controversial practice that increased over the last decade, and the McCain-Feingold law

"We are going to experience a somewhat different campaign this time in 2004 than we did in the previous five or six campaigns, and the candidates are obviously adapting to the new system."

— Jan Baran,
Foreign Press Center Briefing
December 10, 2003

regulates a certain type of advertising in a new way. First, it defines a certain type of issue ad as an ad that's run on television, radio or cable, which mentions a candidate and does so either within 30 days of a primary election or 60 days of a general election. If an ad satisfies that description, then there are two things that occur.

First, a corporation or a union may not sponsor or pay for that type of an ad. Second, if an individual or a group of individuals wish to sponsor or pay for such an ad, they must file reports with the Federal Election Commission if they spend more than \$10,000, and these reports must disclose how they spent the money and which individuals donated more than \$1,000 to pay for these ads. And these reports must be made within 24 hours of the advertising.

The Supreme Court upheld both the prohibition on corporate and labor union issue ads of this sort and the requirement that individuals file reports with the government.

Q: It's estimated that \$3.9 billion was spent on elections in the U.S. in 2000 compared with \$540 million in 1976. What role do you think such numbers played in the movement towards campaign finance reform? And do you think McCain-Feingold will result in less spending in the 2004 election?

Baran: It is undeniable that election campaigns are increasingly expensive. There are several reasons for that, perhaps first and foremost, the means of campaigning in a modern society tend to be primarily television, which is expensive. But the same would be true if one were in a metropolitan area running for Congress and would not be able to afford television. The candidate

would have to use mail, perhaps billboard advertising and other alternatives that also might be expensive in order to reach and hopefully gain the attention of growing numbers of citizens. The average congressional district has approximately 600,000 citizens, and of course states are generally much larger.

So that's one reason for the increased expense. The reason for McCain-Feingold was more focused on the relationship between money that is given to candidates and to political parties and not necessarily on the total amount of money that's spent either by the campaigns or by the parties themselves.

And in that regard, while, for example, political parties may wind up having less money to spend because of the ban on soft money, the expectation is that the 2004 election is going to be more expensive than the 2000 election, because the candidates have raised more money. For example, President Bush has already raised more money than he did for his 2000 campaign. In 2000 he raised approximately \$105 million. At the end of 2003, he had already raised over \$130 million.

But the expectation is also that other groups may participate and spend money outside of the campaigns and outside of the political parties. There are several groups, including political action committees, that are already organized for that purpose. There's already been significant publicity about substantial contributions to some of these groups, either from major organizations like organized labor or from wealthy individuals, and the numbers that have been reported are in the tens of millions.

So, clearly, that so-called soft money is going elsewhere besides to the political parties who no longer may legally accept it.

Q: Finally, former Vermont

Governor Howard Dean, Massachusetts Senator John Kerry, and President Bush have opted out of public financing. What does that mean, and how does that affect their fundraising efforts?

Baran: When a candidate opts out of the public funding system for presidential campaigns, the campaign is not subject to a spending limit. That means that the candidates may continue raising and spending private contributions, subject to contribution limits, until they either drop out of the race or until the party's convention, at which time a nominee is formally nominated.

If the candidate accepts public funding, then he or she also accepts a limit of how much money can be spent. And that would mean that they couldn't spend money after that limit is reached, which was a problem for Republican Senator Bob Dole in the 1996 campaign. His campaign basically ran up against the spending limit by March of that year, and the convention was not until August.

So it's a strategic decision that these campaigns have to make. Ultimately, I think the decision for the campaigns depends on whether the candidate believes that he or she can raise all the money necessary and basically give up the public money that he or she would earn by participating in the public financing system.

Senator Kerry, Governor Dean and President Bush made these decisions because they believed they could raise more than the approximately \$40 million spending limit that would accompany public funding. ■

READ MORE ABOUT IT:

- ★ Supreme Court Upholds Ban on Soft Money
<http://usinfo.state.gov/dhr/Archive/2003/Dec/12-968083.html>
- ★ Federal Election Commission
http://www.fec.gov/finance_law.html

Campaign★Highlight

“Hard Money” Contribution Limits

Campaign finance law encompasses a broad range of limitations on how candidates for federal office may fund their election campaigns. The law not only regulates “hard money” contributions, that is contributions made directly to candidates, parties or political action committees, but also how such contributions may be spent by individual campaigns.

In *McConnell v. Federal Election*

Commission (2002), the U.S. Supreme Court upheld the campaign finance reform measures outlined in the Bipartisan Campaign Reform Act of 2002 (also known as the BCRA or McCain-Feingold law) which adds additional restrictions to current campaign finance law and places greater new limitations on formerly non-regulated “soft money” contributions to candidates running for federal office.

The Federal Election Commission was established by Congress in 1975 and administers and enforces the Federal Election Campaign Act of 1975 (FECA), the law that governs the financing of federal elections, as well as the BCRA, which is an amendment to the original campaign finance laws.

FECA places limits on contributions by individuals and groups to candidates, party committees and political action committees. The following is a chart from the Federal Election Commission that outlines these limitations¹:

Hard Money	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year ²	Special Limits
Individual	\$2,000*	\$25,000*	\$10,000 (combined limit)	\$5,000	\$95,000* overall biennial limit: • \$37,500* to all candidates • \$57,500* to all PACs and parties ³
National Party Committee	\$5,000	No limit	No limit	\$5,000	\$35,000* to Senate candidate per campaign ⁴
State, District & Local Party Committee	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit
PAC (multicandidate) ⁵	\$5,000	\$15,000	\$5,000 (combined limit)	\$5,000	No limit
PAC (not multicandidate)	\$2,000*	\$25,000*	\$10,000 (combined limit)	\$5,000	No limit

* These contribution limits will be increased for inflation in odd-numbered years, beginning in 2005.

¹ The chart can be found at <http://www.fec.gov/pages/brochures/fecfec.htm>

² A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC. 11 CFR 110.6. See also 11 CFR 110.1(h).

³ No more than \$37,500 of this amount may be contributed to state and local party committees and PACs.

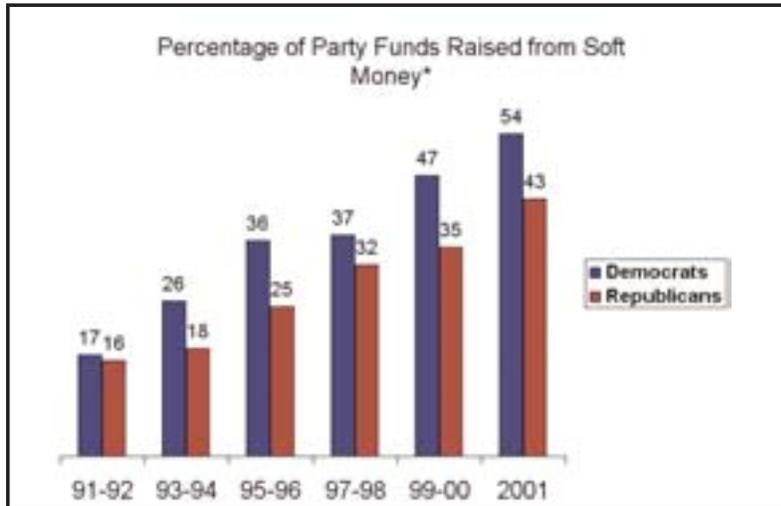
⁴ This limit is shared by the national committee and the Senate campaign committee.

⁵ A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to five or more candidates for federal office. 11 CFR 100.5(e)(3).

The “Soft Money” Ban and the 2004 Election

“Soft money” is a contribution made to political parties by individuals, corporations, unions and other entities, rather than being given directly to political candidates. The funds were raised outside the limitations and prohibitions of the Federal Election Campaign Act of 1975 and could not be used in connection with federal elections. Due to the lack of accountability for soft money, campaign-finance reform focused for the most part on this type of contribution, and it was a main component in the McCain-Feingold law.

The U.S. Supreme Court in *McConnell v. Federal Election Commission* (2002) upheld the McCain-Feingold law’s restriction on soft money contributions banning



* Chart based on figures obtained from the Federal Election Commission.

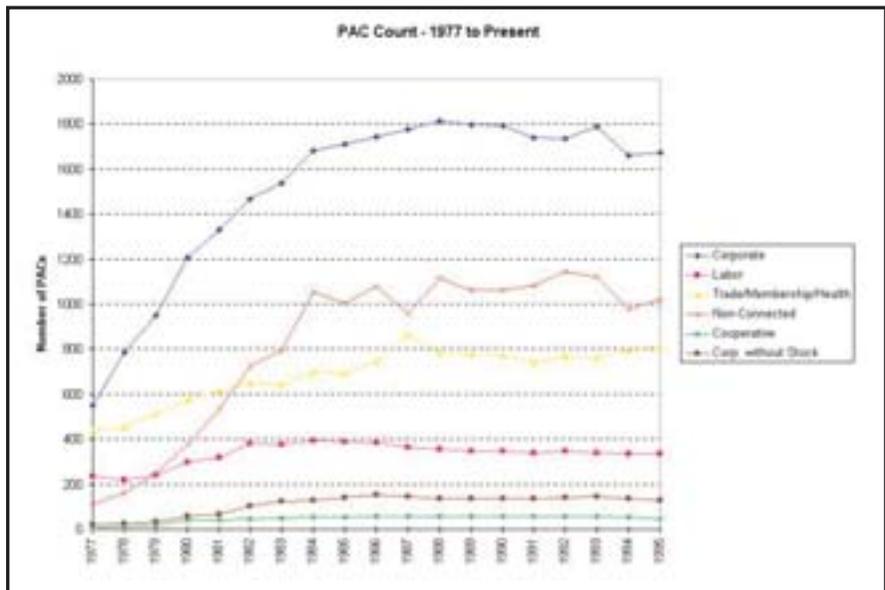
unlimited and undisclosed corporate and union contributions to political parties. Political parties and candidates will now have to rely on hard money contributions to fund their election campaigns. The above chart demon-

strates the increasing reliance on soft money by political parties in elections from 1991 to 2001, prior to the ban, and also demonstrates the dramatic loss of funding to election campaigns resulting from the McCain-Feingold law.

Political Action Committees and the 2004 Election

Political Action Committees (PACs) are not directly affiliated with any candidate or political party. They represent corporations, labor unions, or other organizations and contribute money to candidates in accordance with hard money limitations. Most have specific legislative or issue agendas. PACs have increased significantly in influence and numbers in recent years: in 1976, there were 608 PACs, and in 2003, there were more than 4,000.

PACs are regulated by the Federal Election Commission, and have become a major source of funding for the candidates. The following chart shows the growing importance of PACs from 1977 to 1998, noting the various types.



The chart can be found at <http://www.fec.gov/pages/brochures/fecfec.htm>

Chart provided by the Federal Election Commission and can be found at <http://www.fec.gov/press/pacnum.jpg>

Non-connected PACs are composed of members who are not connected to a common organization but share public policy interests.

Cooperatives are companies owned jointly by those who use their services.

Corporations without stock are companies that are privately owned.