ONE

Change and Continuity in the Financing of Federal Elections

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The federal election of 2004 centered on the contest for the presidency. Even though races for the White House traditionally overshadow congressional contests, the extent to which parties, groups, and individuals concentrated resources on this contest was unusual. According to Bob Farmer, a veteran of five presidential campaigns and John Kerry's treasurer in the primaries, it was "much larger than anything I've seen in the past. The stakes . . . very high."[1] This heightened interest drew record levels of money and resources. By most measures, it was the longest, most expensive, and most closely followed presidential election in decades.

Part of the reason 2004 was especially focused on the presidency was the intensity of feeling for and against the incumbent president, George W. Bush. These sentiments ran deep and motivated people to contribute to candidates, party committees, and interest groups. The Bush administration's response to the terrorist attacks on September 11, 2001—its "war on terror"—was the dominant theme of the campaign and an element behind sentiment on both sides. Central to the war on terror was the deployment of American forces to Afghanistan and Iraq. President Bush, in the first presidential debate, framed the issue as follows: "In Iraq, we saw a threat, and we realized that after September the 11th, we must take threats seriously, before they fully materialize. . . . Iraq is a central part in the war on terror. That's why [Abu Musab al-Zarqawi] and his people are trying to fight us. Their hope is that we grow weary and we leave."[2]

Bush's foreign policy unleashed a flow of rhetoric. Opponents, especially of the war in Iraq, voiced a variety of complaints. Some favored the war but thought the administration had not committed enough force, others challenged its justification, and still others thought there were more important security threats. Critics such as George Soros called the neoconservatives piloting Bush's foreign policy a "bunch of extremists guided by a crude form of social Darwinism."[3] Supporters like Vice President Richard Cheney warned that if John Kerry were elected, "the danger is that we'll get hit again" by terrorists.[4]

Another unusual aspect of 2004 was the lingering effect of the disputed outcome of the 2000 presidential election. Because Democrat Al Gore had won the popular vote and Bush's Electoral College victory was the result of judicial proceedings, the Democratic Party and several key constituent groups felt the election had been stolen. One group organized itself around the mantra "Redefeat Bush" and on its website sold posters, bumper stickers, yard signs, t-shirts, and even condoms urging voters to reject Bush a second time.[5] The perception that minority and urban voters had been unfairly treated in the controversy over the Florida ballot counting fueled the anger even more. In the politics of the 2004 election, lessons learned from the disputed 2000 election not only influenced voter mobilization strategy but also fundraising.

Emotions ran equally high among those voters inclined to support President Bush. Within his own party, Bush enjoyed an unchallenged bid for renomination.[6] In mid-September 2003, 63 percent of Bush supporters were "very enthusiastic" about his candidacy for president.[7] In September 2004, 59 percent still saw in Bush the personality and leadership qualities desirable in a president.[8] An additional strength in the eyes of most voters was that he shared their moral values.

For the Democrats, winning back the White House in 2004 offered the best chance at regaining control over one of the branches of the national government. The high probability that whoever was elected president in 2004 would be able to determine the future orientation of the Supreme Court was especially important to pro-choice groups.[9]

This consideration led many interest groups to shift their electioneering more toward the presidential race and away from congressional contests. The shift also owed much to the fact that most competitive U.S. Senate races in 2004 were on Republican turf, and because of partisan gerrymandering there were relatively few competitive U.S. House contests, making the prospect of a shift in party control remote. Organized labor, the League of Conservation Voters (LCV), NARAL Pro-Choice America, the Sierra Club, and the Association of Trial Lawyers of America were among those that devoted more attention to the presidential race in 2004.[10] Such behavior was unprecedented among interest groups and reflected one of the many ways in which the 2004 election broke new ground. Mark Longabaugh, senior vice president of Political Affairs for the LCV, saw it as "a historic shift from the League's almost exclusive focus on Congress. Because of the historic hostility of this administration to environmental policy, the board made a commitment to defeat George Bush."[11]

The strong feelings for and against President Bush also drove the increase in spending by groups organized under Section 527 of the Internal Revenue Service Code. Especially important in this quarter were large contributions from individuals and labor unions, which had a magnified impact because much of the money was given early.[12] Noteworthy individual donors to 527s on the Democratic side were George Soros ($23,450,000), Peter Lewis ($22,997,220), Steven Bing ($13,852,031), and Herb and Marion Sandler ($13,008,459).[13] Unions gave pro-Democratic 527s another $94 million, or "about four times as much as billionaire George Soros did."[14] Major donors to Republican-friendly 527s included Bob J. Perry ($8,095,000) and Alex Spanos and Dawn Arnall, who each gave $5 million.[15] For the most part, corporations that had been large soft money donors were not heavily involved in funding 527s in 2004.[16] Although, as we demonstrate in this book, 527s were an important part of the story in 2004, their spending fell short of the party soft money and issue advocacy spending of past cycles (see chapter 8).

Large donors were major supporters of 527 organizations and other groups long before the Bipartisan Campaign Reform Act of 2002 (BCRA) and the 2004 election. An undisclosed donor in 2000 gave the National Association for the Advancement of Colored People (NAACP) Voter Fund more than $10 million to fund election activities, including an ad that graphically reminded viewers of the dragging death of James Byrd Jr. and attacked George W. Bush for not supporting hate crimes legislation in Texas.[17] Jane Fonda contributed $11.7 million to a 527 organization in 2000, which in turn funded issue advocacy through several progressive groups.[18] The largest beneficiary of Fonda's donation was Planned Parenthood.[19]

This ample funding enabled the 527s to hire experienced professionals in 2003 and 2004, often with past experience working for the party committees. Anti-Bush 527s were more active early in the campaign, and pro-Bush and anti-Kerry 527s played a critical role in the later stages of the contest. The 527s were also important in U.S. Senate contests, although to a lesser extent, and their efforts are a possible harbinger of what may come in 2006 and beyond as individuals and groups exploit this mechanism to target unlimited resources. Kelly Patterson and Allan Cigler examine these organizations in greater detail in their respective chapters (3 and 8) of this book.

The increased emphasis on the presidency in 2004, along with defining BCRA's regulatory changes, made the federal election novel in the way money was raised, spent, and regulated. Of particular interest here are the increased emphasis both parties placed on individual contributions; the ways in which corporations, unions, special interests, and other contributors sought to influence the 2004 election; and the continued and rising importance of the ground war of voter mobilization through the mail, on the telephone, and in person. As this chapter points out, the patterns of campaign finance in the 2004 federal elections reflected change as much as continuity. Elements of continuity in the 2004 election are evident in such areas as the power of incumbency in fundraising, the importance of early money, the role of interest groups in funding campaigns, and the rising costs of campaigns.

Regulating Money and Politics in 2004

The changes in campaign financing for the 2004 election were the result of BCRA, the most important piece of regulatory legislation for campaign finance enacted in nearly three decades. BCRA built upon many provisions from the prior law, the Federal Election Campaign Act (FECA, passed in 1971 and amended in 1974), and court decisions on campaign finance. BCRA was narrowly crafted in hopes of withstanding judicial scrutiny and thus left intact many FECA provisions upheld by the Supreme Court in *Buckley* v. *Valeo,* the landmark decision on the FECA's constitutionality.[20] As Anthony Corrado discusses in some detail in chapter 2, BCRA allowed political parties to make independent expenditures, something the Court had previously ruled permissible.[21] (They were required to choose between making coordinated expenditures and independent expenditures.) However, the provision was struck down by the Supreme Court.[22] In an area reformers perceived as consistent with the FECA and the *Buckley* v. *Valeo* decision, BCRA banned soft money and in so doing banned the practice among some elected officials of raising unlimited amounts of money for the political parties from corporations, labor unions, and wealthy individuals. It was hoped this would end the undue influence those donors exercised or appeared to exercise. Soft money expenditures had reached nearly $500 million in both the 2000 and 2002 election cycles and provided a rallying point for BCRA proponents.[23]

Originally, soft money was intended to fund generic party activity and infrastructure, but eventually it became an instrument for channeling more money to particular contests. Not surprisingly, the practice of raising and spending soft money created an appearance of corruption as elected officials—including congressional leadership, the president, the vice president, and congressional candidates—solicited large soft money contributions. Corporations and unions also gave general treasury funds to party committees as soft money contributions. In 2000 soft money had come to constitute 44 percent of all the money raised by the Republican National Committee (RNC) and 42 percent of the money raised by the RNC, National Republican Senatorial Committee (NRSC), and National Republican Congressional Committee (NRCC) combined. Soft money was 52 percent of all money raised by the Democratic National Committee (DNC) in 2000 and 55 percent for the DNC, Democratic Senatorial Campaign Committee (DSCC), and Democratic Congressional Campaign Committee (DCCC) combined.[24]

The FECA had clearly proved to be ineffective at limiting and regulating the use of soft money, most of which was spent through the state parties. The large amounts raised and transferred thwarted the original intent of the FECA, which included contribution limits designed to prevent wealthy individuals or groups from exercising undue influence.

The connection between donors and elected officials soliciting large contributions was a major justification for BCRA and was frequently cited by the Supreme Court in upholding the legislation in *McConnell* v. *FEC*. "The interests that underlie contribution limits," the Court argued, "are interests in preventing the actual corruption threatened by large financial contributions, and the eroding of public confidence in the electoral process through the appearance of corruption."[25]

As our interviews revealed, the BCRA's ban on soft money was welcomed by at least some donors, who expressed relief that they were no longer being asked for large soft money contributions. Bill Miller at the U.S. Chamber of Commerce, for one, felt certain that corporations were happy not to have to donate as much.[26] According to Andrew Stern, president of the Service Employees International Union, the "good news" was that "the politicians can't call anymore. . . . I'm not sure in the past whether I was a union leader or an ATM."[27] BCRA thus ended the direct connection between large donors and party leaders.

Another concern of reformers was the fact that some groups or individuals included sham issue ads in their campaign strategy. These ads circumvented the FECA's contribution and disclosure limits provisions by avoiding the "magic words" of express advocacy, such as "vote for" or "support." In recent federal election cycles, the spending by soft money and issue advocacy often exceeded the candidate and party hard money spending authorized under the FECA.[28]

To address this problem, BCRA added to the express advocacy definition a new electioneering communications standard, thereby changing the ways in which groups could advertise on television or radio for or against targeted candidates. According to this new standard, "electioneering communications [encompass any] broadcast, cable or satellite advertisements that refer to a clearly identified candidate within sixty days of a general and thirty days of a primary election and are targeted to a population of 50,000 or more people in a candidate's district or state."[29] Reformers thus hoped to reduce the influence organizations, groups, or individuals sought by advertising for or against political candidates under innocuous names such as "Citizens for Better Medicare," which masked the identity of its principal funders, members of the pharmaceutical industry.[30] The new law also required more complete and timely disclosure of electioneering communications. Nonparty entities must file a disclosure report within twenty-four hours of spending \$10,000 and must continue to file reports for each \$10,000 spent thereafter. BCRA also retained a long-standing FECA clause prohibiting unions and corporations from using general or treasury funds for electioneering ads.

Despite the earlier ban, corporations and unions had been doing just that: contributing soft money to the parties and spending these funds on issue advocacy. In response, BCRA banned the use of general or treasury funds for broadcast electioneering communications in the last sixty days before a general election and thirty days before a primary election, a period that came to be called the "window." Groups were careful not to spend prohibited money within the window. The Media Fund, for example, spent union funds outside the window and individual contributions within the window. In five states—Pennsylvania, Iowa, New Hampshire, Wisconsin, and Florida—unions with a surplus of funds they "could not otherwise use" resorted to doing mailers within the window. Since phone calls were not affected by BCRA restrictions on union treasury funds, the Media Fund also used this medium in Missouri on two occasions to highlight the Saudi-Bush family connection.[31] With the time restriction applicable to fundraising as well, the Club for Growth divided its accounts into funds raised before the window and those raised within the window. Contributions received inside the electioneering window were channeled into the "Club for Growth.net," a 527 committee that accepted large donations ($100,000, for the most part). The resulting $4.5 million accumulated in this way could be spent with fewer restrictions within the window.[32]

Among the key FECA components that BCRA expanded upon was the disclosure of who was contributing money to candidates, political parties, and interest groups engaged in electioneering communications. As mentioned, BCRA requires disclosure of electioneering communications within twenty-four hours once $10,000 is spent and each time an additional $10,000 is spent. This disclosure must also identify the spender, all persons sharing control over communication, and donors giving $1,000 or more to the general account.[33] However, only limited disclosure is required of IRS Section 501(c)(3) groups, which are tax-exempt entities organized for charitable or other similar purposes and are prohibited by law from engaging in candidate advocacy. Such groups cannot endorse a candidate, contribute to a campaign, or establish a political action committee (PAC). They may conduct nonpartisan voter registration, turnout, or voter information activities.

IRS Section 501(c)(4) groups are social welfare organizations that must be operated for the public social welfare and not for profit but may engage in political activities so long as those activities do not become its primary purpose. Accordingly, they may engage in such activities as rating candidates on a partisan basis, sponsoring electioneering communications, and supporting voter registration and turnout efforts. Contributions to 501(c)(4) organizations are not tax-deductible. Other sections of the IRS code relating to groups that are active in federal elections include Section 501(c)(5), which concerns unions, and Section 501(c)(6), which concerns trade associations.

A single group may organize separate legal entities under more than one section of the IRS code or FECA. For example, the Sierra Club has a

501(c)(4), a PAC, and a 527. For each of these organizational forms, different disclosure rules apply. Section501(c)(3) groups are not required to disclose all donors and need only file annual reports to the IRS, with limited reporting of receipts and expenditures. Access to these reports from the groups themselves could require personal visits or written requests. However, any unincorporated Section 501(c)(3) or Section 501(c)(4) group that engages in activities subject to federal disclosure must meet those requirements. Thus, for example, any Section 501(c)(4) that finances electioneering communications totaling at least $10,000 in a calendar year must disclose these expenditures and the donors who gave $1,000 or more. While the disclosure of interest group electioneering activity in 2004 was not complete, it was more extensive than under the FECA. Anthony Corrado examines the regulations governing these groups in greater detail in chapter 2.

BCRA also revised FECA's limitations on the amount individuals, party committees, and PACs could contribute to candidates and party committees. BCRA doubled the limits for individuals contributing to candidates from $1,000 to $2,000 per primary, general, or special election. For most candidates, this means individuals "max out" when they contribute $4,000. These limits were indexed for inflation. The aggregate individual contribution limit for money given to candidates or parties was raised from $50,000 per election cycle ($25,000 a year) to $95,000 per election cycle, with no more than $37,500 to candidates and $57,500 to parties and political committees, and with adjustments for inflation. Aggregate individual contributions to national party committees increased from $20,000 per committee to $25,000 per committee, again adjusted for inflation. Individual contributions to state parties under federal law were increased from $5,000 to $10,000 per election cycle. BCRA did not change PAC contribution limits. The court upheld the constitutionality of contribution limits in *McConnell* v. *FEC,* stating that "contributions limits are grounded in the important governmental interests in preventing 'both the actual corruption threatened by large financial contributions and the eroding of public confidence in the electoral process through the appearance of corruption'" (for further discussion, see chapter 2).[34]

Yet another legacy of the FECA and *Buckley* v. *Valeo* is the ability of individuals and groups to make unlimited expenditures for and against political candidates as long as those expenditures are genuinely independent of the candidate and party. Party committees were granted this same right in a 1996 Supreme Court decision in *Colorado Republican Federal Campaign Committee* v. *FEC*.[35] As we document in this book, independent expenditures by individuals, groups, and party committees grew in 2004, and the activity by the political parties was especially important (see chapter 7).

The new law left the Federal Election Commission (FEC) intact, a development that produced serious consequences in the midst of the 2004 presidential election season. Because of its bipartisan structure, the FEC became deadlocked on the rules defining whether 527s should be treated as federal political committees under the law and thus be subject to federal contribution limits and source prohibitions. The FEC basically allowed the 527 groups to continue unimpeded by the new law. BCRA advocates vehemently contended that the lack of rulemaking by the FEC on electioneering activity circumvented the intent of the law and challenged the result in court.[36] Subsequent legislation on this matter is again before Congress.

BCRA also left the system of partial public financing of presidential elections unchanged despite widespread concern about the state-by-state spending limits in the prenomination phase and about the viability and adequacy of public funding in the general election phase. As John Green notes in chapter 4 and Anthony Corrado in chapter 5, the problems with this system only grew in 2004 as candidates Bush, Kerry, and Howard Dean all passed up the matching funds in the nomination phase of the election.[37] Bush and Kerry later accepted public funding in the general election phase while benefiting from the ability of parties and interest groups to supplement their general election campaigns.

It is noteworthy that BCRA's new definition of electioneering and express advocacy excludes political communication through the mail, on the telephone or Internet, or in person. Political analysts accurately predicted that outside groups would "look for ways around the electioneering ban, perhaps by shifting to non-broadcast communications."[38]

How the Money Was Raised

As we explore in this book, the new rules of campaign finance enacted in BCRA altered the fundraising game in important respects, particularly through its ban on soft money. In response, political parties turned their attention to federally regulated money, which was limited as to source and amount. This source has long been called *hard money,* in part because it was thought harder to raise than the unlimited soft money individuals and PACs could previously contribute to political parties.

As noted, for soft money donors it was a relief not to be courted or "shaken down" by party leaders and officeholders any longer. Indeed, there is compelling evidence that without the prodding of party leaders, some corporations reduced their overall political spending under BCRA. Some companies, reports Michael Petro of the Committee for Economic Development, even started to see a degree of risk in giving to the party, and their executives felt uncomfortable with being advised that they had to do so.[39]

By increasing the individual contribution limit, on the other hand, BCRA provided candidates for federal office with an incentive to concentrate more on raising money from individuals. Much was made in the 2000 election cycle of individual contributions to the Bush-Cheney campaign. Its hierarchal fundraising structure, which named fundraisers who bundled $100,000 in individual contributions "Pioneers," "was not a new idea, [but] Bush used this method on an unprecedented scale."[40] Presidential and congressional candidates in both parties also experienced a surge in receipts in 2004 compared with past election cycles. Most of that surge came from individuals. President Bush raised over $271 million from individuals, up from $101 million in 2000, while John Kerry more than doubled the 2000 Bush figure, raising $224 million in 2004. Kerry surpassed Gore's 2000 figure by an even greater margin, in part because Gore had accepted federal matching funds in the primary along with the spending limitations associated with them.

As another incentive for individuals to contribute to political parties, BCRA ruled that part of the aggregate individual limit, $20,000 of the $95,000 total allowance, could only go to political parties. Before, as noted earlier, individuals were allowed to donate $25,000 a year ($50,000 for the two-year election cycle), with all of that possibly going to candidates.[41] Indeed, individuals tended to give most of their contributions to candidates.[42] Under BCRA, however, individuals who want to max out in the higher aggregate limits are forced to donate at least $20,000 to parties. In 2003–04 there was a dramatic increase in the number of individuals who contributed the permitted maximum to political parties. The biggest increases were seen in the DNC and RNC. For the DNC, the maximum permitted contributions from individuals rose from more than $11 million in 2000 to more than $43 million in 2004, and for the RNC, from about $13 million in 2000 to almost $61 million in 2004.[43] The surge in individual contributions to the DNC is particularly striking as it brought "three to four times" more money than the committee's own independent expenditures director, Ellen Moran, expected.[44]

Contrary to some predictions, the soft money ban did not mean fewer overall dollars in the 2004 presidential election or spell the end of the Democratic Party: BCRA, some said, was a "suicide bill for the Democrats."[45] Others disagreed.[46] One observer predicted, almost prophetically, that under the new limits parties would actually be able to replace their lost soft money with more generous hard money contributions.[47] In court briefs for *McConnell* v. *FEC*, Donald P. Green speculated that the amount of small donations would also increase under the new rules.[48]

Individual contributions to the DNC and RNC did in fact make up for the loss of soft money in the 2004 election cycle—to a remarkable extent. Having long relied more on hard money, Republicans had an early advantage because of their established donor base. Democrats, who had been more reliant on soft money through 2002, made dramatic strides in raising hard money. The DNC raised $404 million in hard money in 2004, compared with $260 million in hard and soft money combined in 2000.[49] The RNC raised $392 million in hard money in 2004, compared with $379 million in hard and soft money combined in 2000.

The fact that the RNC and DNC were able to raise a combined $775 million without soft money indicates the parties could thrive without soft money. Clearly, both committees found new ways to raise hard money in the 2004 election cycle. For one thing, candidates and party committees put more effort into raising money from individuals in smaller increments. As table 1-1 shows, much of the improvement in individual donations to the DNC came in small (unitemized) amounts of $200 or less, as well as in larger contributions. The smaller unitemized contributions are significant because few thought that the Democratic base could be tapped for this kind of giving so quickly. In the past, the Democrats had not emphasized small donors as much as the RNC. In this cycle, however, they raised more money from small individual donors than the RNC did, turning conventional wisdom on its head. As Kelly Patterson explores in chapter 3, the surge in individual contributions in 2004 was facilitated by greater donor confidence in giving money to candidates, parties, and groups via the Internet.

As we demonstrate elsewhere in the book, individual giving to congressional candidates and congressional party committees also grew in 2004.

Table 1-1. *Sources of Receipts for National Party Committees, 2000–04*[a]
Dollars unless noted otherwise

	DNC			*RNC*		
Source	*2000*	*2002*	*2004*	*2000*	*2002*	*2004*
Total receipts	123,997,509	67,497,257	404,352,278	212,798,761	170,099,094	392,413,393
Total contributions from individuals[b]	112,157,217	55,623,021	352,550,848	193,181,420	157,825,892	350,368,907
Unitemized[c]	59,491,349	37,820,051	176,051,240	91,052,511	102,927,710	157,091,853
Unitemized as % of total from individuals	53.04	67.99	49.94	47.13	65.22	44.84
Contributions at the maximum permitted[c]	11,040,000	680,000	45,264,850	12,660,000	2,980,000	60,850,000
Maximum as % of individual total[d]	9.84	1.22	12.84	6.55	1.89	17.37
Contributions from federal candidates	1,478,662	55,113	23,916,588	56,050	160,250	26,678,514
Contributions from PACs	2,603,074	1,099,514	3,038,036	1,630,105	703,084	2,970,840
Transfers from state or other national parties	2,141,409	6,560,050	378,869	11,237,797	3,522,399	4,655,873
	DSCC			*NRSC*		
	2000	*2002*	*2004*	*2000*	*2002*	*2004*
Total receipts	40,488,666	48,391,653	88,655,573	51,475,156	59,161,387	78,980,487
Total contributions from individuals[e]	7,506,809	20,168,297	57,756,029	33,999,707	41,533,725	60,811,444
Unitemized[c]	8,408,898	9,723,282	21,179,393	19,292,125	20,231,352	29,998,982
Unitemized as % of total from individuals	48.03	48.21	36.67	56.74	48.71	49.33
Contributions at the maximum permitted[c]	1,640,000	2,020,000	12,175,000	180,000	320,000	6,125,000
Maximum as % of individual total	9.37	10.02	21.08	0.53	0.77	10.07
Contributions from federal candidates	1,133,100	1,820,984	14,637,708	2,960,305	1,621,321	3,846,670
Contributions from PACs	4,309,127	4,707,156	6,281,744	4,027,375	4,206,101	7,714,233
Transfers from state or other national parties	4,042,276	7,100,082	8,166	2,623,620	6,580,615	501,961

	DCCC			*NRCC*		
	2000	*2002*	*2004*	*2000*	*2002*	*2004*
Total receipts	48,394,476	46,436,093	93,168,931	97,314,513	123,615,586	185,719,489
Total contributions from individuals[e]	21,844,053	19,393,788	50,690,882	67,010,001	79,175,374	145,858,047
Unitemized[c]	9,932,524	11,201,482	25,141,719	34,703,962	39,673,242	49,789,260
Unitemized as % of total from individuals	45.47	57.76	49.60	51.79	50.11	34.14
Contributions at the maximum permitted[c]	1,040,000	800,000	6,675,000	480,000	180,000	3,775,000
Maximum as % of individual total	4.76	4.13	13.17	0.72	0.23	2.59
Contributions from federal candidates	11,036,046	12,131,368	23,958,309	14,664,152	14,077,114	24,247,276
Contributions from PACs	4,786,051	4,157,049	6,447,173	4,607,917	4,661,590	8,595,727
Transfers from state or other national parties	1,164,618	3,207,213	652,638	4,705,713	4,454,900	1,204,620

Source: Federal Election Commission, "Party Financial Activity Summarized for the 2004 Election Cycle," press release, March 2, 2005 (www.fec.gov/press/press2005/20050302party/Party2004final.html).

a. This table includes federal or "hard" money only.

b. Includes proceeds from Kerry Victory 2004 joint fundraising effort.

c. Unitemized contributions from individuals are those that aggregate $200 or less in a calendar year from a single person.

d. The maximum contribution from individuals was changed from $20,000 a year to $25,000 a year for the 2004 election cycle.

e. Includes both reported total plus what was reported from joint fundraising.

In this case, however, the growth in hard money contributions in 2004 did not make up for the loss of party soft money (see chapters 6 and 7).

BCRA also changed the way candidates, parties, and groups spent money in 2004, as detailed in chapter 3. It is important to remember that candidates, their parties, and allied interest groups all expend money trying to defeat or elect particular candidates. Yet most voters fail to distinguish these activities or to see that the players in the complex world of federal campaign finance are not always able to communicate with each other, despite having the same objective and targets. This creates strategic challenges for those making independent expenditures or operating Section 527 or 501(c) organizations. For example, the voter mobilization efforts of the Bush-Cheney campaign were coordinated with the work of the 72 Hour Task Force at the RNC. Because they were spending hard money, both the candidate and party shared their strategy, targets, timing, and other details. On the Democratic side, the Kerry-Edwards campaign and the DNC did the same thing. But a much larger share of the Democratic ground game was carried out by America Votes, a coalition of interest groups that could not legally communicate with the party or Kerry because their activity was funded independently of the candidate and party.

Groups have long made independent expenditures, which are unlimited but disclosed to the FEC, but that spending rose in 2004. Among interest groups, the MoveOn PAC spent the most in this fashion, and its $10 million in independent expenditures that year far exceeded the $2.4 million that the LCV or NARAL Pro-Choice America each had spent independently in 2002. MoveOn's expenditures also far surpassed the largest independent expenditures of 2000, when the LCV spent $2.1 million and the National Rifle Association (NRA) spent nearly $6.5 million.[50] For a more detailed analysis of independent expenditures by individuals, political party committees, and groups, see chapters 3, 7, and 8.

The Ground War and Voter Mobilization

The financing of the 2004 election, while conducted under new rules, was in many respects an extension of trends from 2000 and before. The importance of individual contributors to presidential candidates, bypassing federal matching funds in the nomination phase of the presidential election, and the influence of outside groups, often through negative attacks, can all be traced to earlier elections. Incumbents at the congressional level, for example, continue to enjoy substantial financial advantages, and PACs remain an important part of that advantage, thanks to earlier voter mobilization tactics and the ground war.

The 2000 election, for example, clearly set the stage for the next presidential election tactically. After losing the popular vote in 2000, the Bush campaign became convinced that it needed to do much better in voter registration and mobilization. The GOP campaign saw a model for what it hoped to accomplish in the activities of organized labor.[51] "What we saw across the country was that we were under performing and Democrats were over performing in the final 72 hours," said Blaise Hazelwood, political director at the RNC.[52] The RNC's efforts came to be known as the 72 Hour Task Force and built upon experiments and test marketing in gubernatorial elections in Virginia and New Jersey in 2001, in the 2002 midterm elections, and again in gubernatorial elections in Kentucky and Mississippi in 2003.[53]

The Democrats, who had relied more than Republicans on outside groups to mobilize voters, also elevated the importance of grassroots politics in 2004, but not to the same extent as Republicans. Anti-Bush interest groups such as America Coming Together (ACT), the LCV, and NARAL Pro-Choice America coordinated their efforts through an organization named America Votes and mounted a large scale get-out-the-vote (GOTV) campaign.

However, the renewed investment in the ground war actually started before 2004. As past research has shown, party committees and interest groups increased the amount of political mail, telephone contacting, and person-to-person electioneering in the 1998, 2000, and 2002 elections. Following the 1996 election cycle, which featured a strong emphasis on broadcast ads funded in part by soft money and interest group issue ads, the Democratic Party and especially its allied interest groups and labor unions placed greater emphasis on personal contact, mail, telephone, and GOTV efforts in 1998.[54] In 2000 and 2002 many interest groups and both parties followed suit with similar techniques in their ground war efforts.[55] In 2002 the Republican Party and its allied interest groups stepped up their efforts to match the Democrats' success in the ground war during the 1998 and 2000 elections.[56]

One such tactic employed by party committees was to target some of the money they could spend in concert with the candidates. These so-called coordinated expenditures were channeled into mail, phone banks, and GOTV drives. In the soft money era, party committees sometimes did not max out in coordinated expenditures, although they generally made full use of this means of supporting presidential candidates.[57] Coordinated expenditures in 2004 grew to $16 million at the DNC, while the RNC spent more than $16 million on coordinated expenditures, mostly on direct mail.[58]

Though often overlooked, one way of persuading and mobilizing voters occurs through communications issued by their corporate employers or unions in the workplace. Corporations, unions, trade associations, and membership organizations often communicate with their members and employees about politics. In 2000 the AFL-CIO found that internal communications with members were more effective than issue advocacy.[59] When the “primary focus” of the communication is the election, the group must report the related expenditure to the FEC; however, when electioneering is simply part of a more general communication, the FEC does not require disclosure.[60] Membership groups such as the National Education Association (NEA), National Association of Realtors (NAR), and Service Employees International Union (SEIU) engaged in more reported internal communications in 2004 than in 2000 or 2002.[61]

Groups on all sides also made greater use of the Internet to communicate with members and other interested parties. Their websites provided downloadable voter registration forms, absentee ballots, and information on early voting.[62]

The ground war efforts of both sides in 2004 were influenced by the research on voter mobilization by political scientists Donald P. Green and Alan S. Gerber.[63] Their work prompted both sides to invest in multiple personal contacts between their volunteers or paid staff and the voters they were attempting to mobilize. These efforts were far better funded than in 2000, with the Bush campaign spending approximately $125 million, or three times the expenditure in 2000, and the Democrats spending approximately $60 million, or twice the amount in 2000.

Although Kerry and the DNC spent far less than Bush and the RNC, Democratic efforts were supplemented by $100 million to $125 million from ACT’s mobilization campaign. Mobilization on both sides depended on telephone contact and door-to-door canvassing, but with different participants. The Bush campaign relied heavily on volunteer workers who concentrated on contacting co-workers and friends in their respective workplaces, social circles, and exurban areas. The Kerry campaign relied more on interest groups and paid workers to bring out loyalists on election day. Both campaigns concentrated on potential voters who were strong supporters of their candidates but were infrequent voters in the past.[64]

The Republicans were more advanced in their use of voter files and targeting of individual voters, in what might be called voter profiling. With its detailed walk lists, the RNC was able to "microtarget" efforts of the ground war communications by customizing messages to voters based on demographics and their personal priorities.[65] In 2004 the committee took this strategy to a whole new level by merging numerous pieces of consumer information with voter records and mining that information so that it could be used for voter communications. Improved technology, enhanced computer storage capacity, voting history, consumer preferences, and other personal data made this possible.[66]

Evangelical Christians were among several groups targeted for increased mobilization efforts. It was said that "nobody courted the Religious Right more than Karl Rove," both on the national and the local level.[67] In the Tampa Bay area, Bush campaign officials considered churches "the largest component of the voter registration program."[68] According to Bush campaign deputy strategist Sara Taylor, "Our union is the Christian Evangelical vote."[69] The Republicans also reached conservative Christian voters through the acquisition of church directories, which they entered into their database.[70] In addition, they courted nontraditionally Republican constituencies, such as Hispanics, African Americans, women, Jews, and Catholics.[71] Most agree that the GOP did a "better job of turning out their base" in 2004.[72]

In eleven states, some conservative Christians were motivated to turn out by the appearance of initiatives banning gay marriage on the ballot. The use of controversial initiatives to activate sectors of the electorate is not a new tactic and was also used by Democratic-aligned groups in Nevada and Florida through minimum-wage initiatives on the 2004 ballot.[73] But it was the gay marriage initiatives, especially in Ohio, that apparently helped turn out conservative Christians likely to vote for the president, although it was not the most important issue for voters.[74]

In addition to mobilizing specific groups, the various campaigns targeted voters in battleground states. During the 2004 election cycle, the Center for the Study of Elections and Democracy conducted a three-wave survey of registered voters to measure the extent to which those in battleground states were exposed to more campaign communications (including personal contact, mail, telephone calls, and television or

Table 1-2. *Comparison of Political Communications Received in Battleground and Non-Battleground States*

Intensity of campaign	*Late battleground*[a]	*Late non-battleground*[b]
Voted	88.7	86.9
Voted early	9.1	7.7
Voted absentee	9.4*	14.5
Contacted about voting early[c]	36.7***	12.0
Received letter/mail from campaign	74.2***	53.5
Mean: letter or mail[d]	2.07***	1.38
Received a request to donate	23.0	21.9
Had face-to-face contact with campaign	23.0***	13.8
Received phone call from campaign	67.9***	55.3
Mean: phone calls[d]	2.04***	1.06
Received e-mail from campaign	14.6	13.6
Heard radio ad from campaign	68.7**	60.7
Saw TV ad from campaign	93.7*	90.2
N	326	1,079

Source: Brigham Young University, Center for the Study of Elections and Democracy and University of Wisconsin–Madison, Wisconsin Advertising Project, 2004 Election Panel Study, Wave 3. Electronic resources from the EPS website (http://csp.polisci.wisc.edu/BYU_UW/).

* $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$

a. Late battleground states were Florida, Iowa, Minnesota, New Hampshire, New Mexico, Nevada, Ohio, Pennsylvania, and Wisconsin.

b. Late non-battleground states were all other states, including the former battleground states of Arkansas, Arizona, Colorado, Louisiana, Maine, Michigan, Missouri, Oregon, Washington, and West Virginia.

c. Only respondents who voted early or by absentee ballot were asked this question; therefore, its *N* is 54 for battleground and 208 for non-battleground states.

d. Per day for the last week of the campaign.

radio ads) during the last week of the campaign than registered voters in other states (see table 1-2).[75]

The campaign environment in battleground states in 2004 was very different from that in other states. Voter feedback indicates more contacts about early or absentee voting in battleground states; more mail, face-to-face contact, and telephone calls; and more exposure to radio and TV ads. However, states did not differ significantly in the extent of solicitation for campaign contributions or in the receipt of e-mail from a campaign. This is not surprising as there is no reason to presume prospective donors or persons desiring e-mail contact with a campaign are concentrated in battleground states.

Both sides in the 2004 presidential election saw a substantial return on their ground war investment. Democrats and their allied groups exceeded their targets in turnout by about 8 million votes.[76] Republicans did even better, seeing an aggregate gain of 11.5 million votes.

Mathew Dowd, a pollster for the Bush team, estimated that the Bush campaign and the RNC were able to quadruple the number of Republican voters that could be targeted through GOTV efforts.[77] Contrary to some predictions that voter mobilization would be far more difficult to mount under BCRA, the parties achieved their largest voter registration and GOTV success ever in 2004.[78]

The greater reliance on ground war techniques in 2004 was in part the result of BCRA, which limited the kinds of money that could be spent on broadcast electioneering in the thirty days before a primary or sixty days before a general election but applied no such restriction on non-broadcast political activity. Thus some groups found themselves with funds that could not be spent on broadcast ads but could be spent on personal contact, direct mail, or telephone contact. The Media Fund, for example, spent its extra money on mail pieces in Pennsylvania, Florida, Wisconsin, Iowa, and New Hampshire, and on phone calls in Missouri.[79] Although BCRA permits state and local parties to raise limited amounts of soft money for voter registration and GOTV efforts, these funds—sometimes called Levin funds after Senator Carl Levin (Democrat of Michigan), the sponsor of the BCRA amendment concerning these funds—saw only limited use in 2004.[80]

Elections in 2004 were also affected by changes in election administration resulting from the Help America Vote Act (HAVA). Following the disputed 2000 election, Congress enacted HAVA to help update voting technology and to establish an Election Assistance Commission as a "clearinghouse and resource" for the administration of federal elections.[81] Although some states, notably Florida, were already using updated technology, the implementation of new voting equipment became a concern. In Florida, Ohio, and other states, questions also arose about voter purges, whether felons could regain the right to vote, and whether some voters had been fraudulently registered. With greater emphasis on voter mobilization by candidates, parties, and outside groups, the voting process in competitive states came under increasing scrutiny.

An Undiminished Air War

The competitive presidential race, with its early start (since Kerry in effect won the nomination in March), saw a substantial expansion of the air war as well. From extensive data on television advertising, it is clear that "the volume of advertising has not shown any noticeable decrease," and that "television advertising in 2004 clearly surpassed 2000 in overall volume of presidential ads."[82]

BCRA's new definitions of electioneering communications and limitation on how those ads could be financed within sixty days before the general election spurred some major groups to do more advertising before the sixty-day window. In 2004, ads of this kind totaled 97,554 before and 45,344 after the window, or double the number, whereas in 2000, with no time or source-of-funding constraints, issue ad totals were much the same in both periods. Furthermore, ads from interest groups as a proportion of ads from candidates and parties run within the sixty-day window dropped from 16.4 percent in 2000 to 13 percent in 2004.[83]

Overall, however, BCRA did not reduce the number of interest groups' ads run in 2004. According to Wisconsin Advertising Project scholars, interest group ads in the seventy-five largest media markets doubled between 2000 (77,607 ads) and 2004 (142,898).[84] As already noted, part of this growth came early in the cycle as groups such as the Media Fund, MoveOn.org, and the AFL-CIO ran ads against President Bush. "In fact, St. Patrick's Day [seemed] to have replaced Labor Day as the unofficial start of the general election campaign. By Labor Day 2004, more than 600,000 presidential spots had already aired in 94 of the nation's 210 media markets."[85] The number of groups running ads before the last sixty days rose from eleven in 2000 to twenty-eight in 2004. Even so, interest groups advertising in the last sixty days, such as Progress for America, provided critical support for President Bush through their effective TV advertisement.[86]

This intense interest group air war was noticeably absent in U.S. House races, where the number of ads declined from 30,411 in 2000 to 2,471 in 2004.[87] Interest group ads were more prevalent in competitive Senate races, but not as important as they had been in 1998–2002.[88]

While the presidential election took center stage in the 2004 cycle, congressional contests, especially for several U.S. Senate seats, were highly competitive and provide important insights into BCRA's broader impact. The most competitive Senate races coincided with presidential battlegrounds only in Florida, Colorado, and Pennsylvania and typically took place in "red" states such as Alaska, North Carolina, Oklahoma, and South Dakota. Senate candidates in these competitive contests exploited the higher BCRA individual contribution limits. For example, Republican John Thune, who ran for the U.S. Senate in South Dakota in both 2002 and 2004, increased his individual contributions from $3.5 million in 2002 to over $14 million in 2004. His 2002 Democratic opponent, Tim Johnson, raised $3.3 million in individual contributions, while Senate Democratic leader Tom Daschle raised slightly more than $16 million from individuals in 2004. More generally, the proportion of candidate receipts coming from individuals in the House and Senate rose by nearly 7 percent in 2004 compared with 2002.[89]

Individual contributions to the party congressional campaign committees also increased in 2004. As previously noted, the DNC and RNC more than made up for the BCRA soft money ban with a surge in individual contributions. Although the DSCC, DCCC, NRSC, and NRCC reported substantial growth in individual contributions as well, it was not enough to make up for the loss of soft money. Total funds available to the DSCC and NRSC dropped by about 40 percent in 2004 compared with 2002 and 2000. This meant that with the exception of the race in South Dakota, party committees expended less per voter in independent expenditures in 2004 than they had in soft money transfers to state parties in the 1998–2002 period. The amount spent was still substantial, reaching an aggregate of more than $8 per voter in the 2004 Colorado Senate race, for example.[90]

Overview of the Book

To describe and assess campaign finance in the 2004 federal elections, we draw largely on data from the FEC, the Internal Revenue Service, and other agencies, as well as from various independent research projects by our authors, all experts in the subjects of their chapters. Their participation in this volume was not based on a shared view of BCRA or campaign finance reform.

In chapter 2, Anthony Corrado reviews the provisions of BCRA and how they have been applied through the rulemaking process at the FEC. In many ways, the battle over campaign finance reform was not resolved by the Supreme Court in *McConnell* v. *FEC*. Instead, the debate simply shifted from Congress and the courts to the administrative process at the FEC, where advocates and opponents of BCRA's reforms continued to wrangle over the implementation of the new law. The FEC's decisions on the meaning and application of the statutory language were highly controversial and led to new legal challenges on both sides of the BCRA debate. As a result, all parties remained uncertain about the ways the law would be put into practice and the scope of the BCRA regulations throughout this first election under the new rules. This chapter lays an important foundation for understanding what BCRA did and did not do, as well as for analyzing areas in the law most likely to be controversial.

In chapter 3, Kelly D. Patterson compares fundraising and spending in the federal elections in 2004 with recent presidential election cycles. He comments on the differences in the flow of money for presidential and congressional elections in 2004 and their long-term implications. Other topics discussed are the surge in individual donations to federal campaigns, some of the important advances in the disclosure of spending in federal elections in 2004, and the gaps that remain, particularly in the reporting of spending by Section 501(c)(3) organizations and in the money spent by corporations, groups, and trade associations on internal communications. Relying on interviews, longitudinal data, and published sources, Patterson estimates these modes of spending as well.

As in past studies, we have divided our assessment of the financing of the presidential election into the nomination and general election phases. John C. Green examines the nomination phase of 2004 in chapter 4, with important insights into the way major party candidates raised and spent money. He distinguishes between "insider" and "outsider" candidates and their fundraising strategies. Green sees the status quo as "in crisis," and he aptly conveys the extent of BRCA's failings, particularly its neglect of the public financing system for presidential elections, including the much-criticized state-by-state spending limitations. But the problems with the current campaign finance rules go well beyond these limitations, and, as Green discusses, more and more candidates are opting out of the system. He also places the 2004 experience in the context of past presidential nomination campaigns, examining the costs of the primary season, what he calls the "bridge period" between the end of the primaries and the national conventions, and then the pause between the two major party conventions. The 527s allied with the Democrats were especially important during this period.

In chapter 5, Anthony Corrado focuses on the financing of the 2004 presidential general election, that is, the ways in which candidates, party committees, and interest groups raised and spent money in the period after the nominees are determined. One factor that affected the financing was the timing of the Democratic convention, five weeks before the Republican convention, which meant that Bush could continue to raise and spend unlimited amounts during this period, while Kerry had to conserve his resources since he was already campaigning under the general election spending limit. As Corrado points out, heavy investment by the party committees and outside groups were important to both candidates, but especially to Kerry in the period after the convention. Corrado also describes the creative method the RNC devised to spend party funds in ways that were coordinated with the candidate but not limited in amount. In addition, he highlights the declining role of public money as a source of general election funding and the challenges now facing the public funding system.

In chapter 6, Paul S. Herrnson turns to the congressional elections in 2004. Before BCRA, parties and interest groups had targeted soft money and issue advocacy money on relatively few congressional races. To determine the effects of BCRA on congressional elections, Herrnson asks whether the party committees were successful in substituting hard money for soft money. How did interest groups adjust to the new restrictions on soft money? Did candidates exploit the new higher individual contribution limits? Where did the parties make independent expenditures and to what effect? Herrnson demonstrates that in many ways congressional campaign finance was business as usual. Competition continued to be concentrated in a few contests, meaning that the unprecedented hard money raised by the parties had only a few promising targets. While the activity of Section 527 organizations was more a presidential than congressional election phenomenon, there were important 527 group activities in congressional elections.

As Robin Kolodny and Diana Dwyre discuss in chapter 7, BCRA's "new rules" for financing elections affected parties even more than candidates or interest groups. Because soft money had become so central to the parties, especially in competitive states and races, they had to find ways to adapt to a world without soft money. Dwyre and Kolodny ask how well the six campaign committees that focus primarily on federal elections did so and how BCRA affected the federal campaign activities of state parties. Three other questions of interest are how parties raised money, how parties spent money, and whether BCRA diminished parties, as its opponents often argued. The analysis covers not only the post-BCRA patterns but also those of the preceding FECA-governed elections. Because the story for the party committees was different in the congressional committees, they examine the causes and implications of those differences as well.

Interest groups play multiple roles in financing American federal elections. They contribute to candidates, parties, and other interest groups; they spend money independently; and they communicate to their membership and shareholders. In chapter 8, Allan Cigler, a respected scholar of interest groups, reviews their activity before BCRA, the intent of BCRA regarding these groups, and the way they spent money on federal elections in 2004. Unions and corporations, as noted earlier, had been allowed to spend general treasury funds on issue advocacy and donate it to political parties as soft money. That practice was banned by BCRA. Cigler considers the extent to which unions or corporations found other ways of spending money to influence the 2004 election, particularly their expanded use of Section 527 and 501(c) organizations. He also discusses alliances that interest groups, 527s, and 501(c)s formed with the Democratic or Republican parties, their strategies for raising and spending money, and the extent to which they focused on the presidential election.

To conclude our analysis, Thomas E. Mann assesses how BCRA measured up against the expectations of the legislation's advocates and opponents. Mann covers the 2004 presidential and congressional elections, evaluating the central elements of BCRA such as the party soft money ban, limitations on the use of union and corporate treasury funds in broadcast electioneering, and greater disclosure requirements for 527 organizations. He also briefly discusses the impact of the Internet on campaign finance in 2004. Mann also evaluates the likely effect of legislation introduced in both houses to amend BCRA. With an eye to future elections, Mann explores what the 2004 experience taught reformers, candidates, parties, and interest groups.

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80. La Raja, "State and Local Political Parties," p. 4.

81. FEC, "Election Assistance Commission: Duties and Responsibilities" (www.fec.gov/hava/eac.htm [September 14, 2005]).

82. Michael M. Franz, Joel Rivlin, and Kenneth Goldstein, "Much More of the Same: Television Advertising Pre- and Post-BCRA," in *The Election after Reform,* edited by Malbin, p. 13; and Joel Rivlin, deputy director, Wisconsin Advertising Project, telephone interview by David B. Magleby, J. Quin Monson, and Nisha Riggs, Provo, Utah, September 19, 2005.

83. Franz and others, "Much More of the Same," p. 10.

84. Ibid.

85. Ibid., p. 13.

86. Swift Boat Veterans for Truth's first ad aired outside the sixty-day window, between the Democratic and Republican Conventions, but their other three ads ran within the window.

87. Franz and others, "Much More of the Same," p. 11.

88. David B. Magleby and others, *Electing Congress: New Rules for an Old Game* (Saddle River, N.J.: Prentice-Hall, 2006, forthcoming); also Magleby, *Outside Money*; Magleby, *The Other Campaign*; Magleby and Monson, *The Last Hurrah?*

89. David B. Magleby, Kelly D. Patterson, and J. Quin Monson, "Introduction," in *Electing Congress: New Rules for an Old Game*.

90. Ibid.