


# CAMPAIGNS AND ELECTIONS

## DEMOCRACY IN ACTION





**S**ome cynics contend that elections do not matter and there is little point in voting. Strong evidence to the contrary comes from the 2000 elections, in which Al Gore won the popular vote by 539,947 votes, or only slightly more than 180 votes per county! The contest was especially close in Florida and New Mexico, where the statewide margins were 537 and 366 votes, respectively. The contest for the presidency was not the only one that required recounts. In Michigan, Mike Rogers won election to the House by 88 votes. In the 2000 election, you could truthfully say that every vote counted. In 2002, the Colorado Seventh district Congressional race was decided by 121 votes and the South Dakota Senate race was won by only 524 votes. In 2004, there were again some close elections. Senate Minority Leader Tom Daschle, a Democrat, lost by 4,535 votes in South Dakota. In the presidential race, Bush carried New Mexico by only 8,000 votes. At the state and local level, there are often races decided by only a few votes.

In the United States, citizens vote more often and for more offices than citizens of any other democracy. We hold thousands of elections for everything

from community college directors to county sheriffs. About half a million persons hold elected state and local offices.<sup>1</sup> In 2004, we elected a president, 34 U.S. senators,<sup>2</sup> all 435 members of the U.S. House of Representatives, 11 state governors, about a dozen state treasurers, nine secretaries of state, and, in many states, judges.

## OUTLINE

- **ELECTIONS: THE RULES OF THE GAME**
- **RUNNING FOR CONGRESS**
- **RUNNING FOR PRESIDENT**
- **MONEY IN U.S. ELECTIONS**
- **IMPROVING ELECTIONS**

## TIME LINE

### CAMPAIGNS AND ELECTIONS

<b>1781</b>	John Hanson is elected “President of the United States in Congress Assembled”
<b>1789</b>	Constitution is ratified and George Washington is elected “President of the United States”
<b>1800</b>	House of Representatives chooses Thomas Jefferson over Thomas Pinckney
<b>1824</b>	House of Representatives chooses John Quincy Adams over Andrew Jackson when the electoral college fails to elect a president
<b>1860</b>	Southern secession following election of Abraham Lincoln
<b>1876</b>	Samuel Tilden wins the popular vote but loses the electoral college to Rutherford B. Hayes
<b>1932</b>	Realigning election creates a “New Deal” coalition behind the Democratic Party
<b>1951</b>	Constitution amended limiting president to two terms
<b>1960</b>	First televised presidential debates benefit the Kennedy campaign
<b>1974</b>	“Watergate class” creates liberal majorities in both the House and the Senate
<b>1992</b>	Carol Mosley-Braun becomes the first African American woman elected to the Senate
<b>2000</b>	George W. Bush wins the electoral college in an outcome determined by the Supreme Court
<b>2002</b>	Congress passes Bipartisan Campaign Reform Act, doubling individual contribution limits

In addition to electing people, voters in 27 states vote on laws or constitutional amendments proposed by initiative petitions or on popular referendums put on the ballot by petition. In all states except Delaware, voters must approve all changes in the state constitution.

In this chapter, we explore our election rules. We note four important problems: the lack of competition for some offices, the complexities of nominating presidential candidates, the distortions of the electoral college, and the influence of money in our elections. We also discuss proposed reforms in each of these areas.

## ELECTIONS: THE RULES OF THE GAME

The rules of the game—the electoral game—make a difference. Although the Constitution sets certain conditions and requirements, most electoral rules remain matters of state law.

### Regularly Scheduled Elections

In our system, elections are held at fixed intervals that cannot be changed by the party in power. It does not make any difference if the nation is at war, as we were during the Civil War, or in the midst of a crisis, as in the Great Depression; when the calendar calls for an election, the election is held. Elections for members of Congress occur on the first Tuesday after the first Monday in November of even-numbered years. Although there are some exceptions (for special elections or peculiar state provisions), participants know *in advance* just when the next election will be. In many parliamentary democracies, such as Great Britain and Canada, the party in power calls elections at a time of its choosing. The predetermined timing of elections is one of the defining characteristics of democracy in the United States.

### Fixed, Staggered, and Sometimes Limited Terms

Our electoral system is based on *fixed terms*, meaning that the length of a term in office is specified, not indefinite. The Constitution has set the term of office for the U.S. House of Representatives at two years, the Senate at six years, and the presidency at four years.

Our system also has *staggered terms* for some offices; not all offices are up for election at the same time. All House members are up for election every two years, but only one-third of the senators are up for election at the same time. Since presidential elections occur two or four years into a senator's six-year term, senators can run for the presidency without fear of losing their seat, as John Kerry did in 2004. But if their Senate term expires the same year as the presidential election, the laws of many states require them to give up their Senate seat to run for president or vice president or any other position. An example of a state that permits a candidate to run for election to two offices is Connecticut, where Joseph Lieberman was reelected to the U.S.

Senate in 2000 while being narrowly defeated in his race for vice president. Had he been victorious in both campaigns, he would have resigned his Senate seat.

### Term Limits

The Twenty-Second Amendment to the Constitution, adopted in 1951, limits presidents to two terms. Knowing that a president cannot run again changes the way members of Congress, the voters, and the press regard the president. A politician who cannot, or has announced he or she will not, run again is called a *lame duck*. Efforts to limit the terms of other politicians have become a major issue in several American states. The most frequent targets have been state legislators. One consequence of term limits is more lame ducks.

Term limits are popular. Voters in 15 states have enacted them for their state legislature, and in two states, the legislature imposed term limits on themselves. Even more states limit the term of governors.<sup>3</sup> Three-fourths of all voters favor term limits, including 9 out of 10 strong Republicans and 7 out of 10 strong Democrats.<sup>4</sup> Still, despite their popularity, proposals for term limits have repeatedly been defeated when they have come to a vote in Congress.



The Supreme Court, by a vote of 5 to 4, declared that a state does not have the constitutional power to impose limits on the number of terms for which its members of the U.S. Congress are eligible, either by amending its own constitution or by state law.<sup>5</sup> Congress has refused to propose a constitutional amendment to impose a limit on congressional terms.

## Winner Take All

An important feature of our electoral system is the **winner-take-all system**, or what is sometimes referred to as “first past the post” in other countries.<sup>6</sup> In most American electoral settings, the candidate with the most votes wins. The winner does not need to have a *majority* (more than half the votes cast); in a multicandidate race, the winner may have only a *plurality* (the largest number of votes). In 2000, three senators and seven House members were elected by pluralities. In 2002, again there were seven House races and three Senate races decided by a plurality. One senator and one House member were elected on pluralities in 2004. Winner-take-all electoral systems have the effect of reinforcing moderate and centrist candidates because they are more likely to secure a plurality or a majority. Candidates in a winner-take-all system often stress that a vote for a minor party candidate is a “wasted vote” and that it might have the effect of helping elect the voter’s least desired candidate.

Most American electoral districts are **single-member districts**, meaning that in any district for any given election—senator, governor, U.S. House, state legislative seat—the voters choose *one* representative or official.<sup>7</sup> When the single-member-district and winner-take-all systems are combined, minor parties find it hard to win. For example, even if a third party gets 25 percent of the vote in several districts, it still gets no seats.

The combination of single-member districts and winner-take-all is different from a **proportional representation** system, in which political parties secure legislative seats and power in proportion to the number of votes they receive in the election. Let us assume that a state has three representatives up for election. In each of the three contests, the Republican defeats the Democrat, but in one district by only a narrow margin. If you add up the statewide vote, the Republicans get 67 percent and the Democrats 33 percent. Under our single-member-district and winner-take-all system, the Republicans get all three seats. But under a system of proportional representation, in which the three seats represent the whole state, the Democrats would receive one seat because they got roughly one-third of the vote in the entire state. Proportional representation thus rewards minor parties and permits them to participate in government. Countries that practice some form of proportional representation include Germany, Israel, and Japan.

## The Electoral College

We elect our president and vice president not by a national vote but by an indirect device known as the **electoral college**. The framers of the U.S. Constitution devised this system because they did not trust the choice of president to a direct vote of the people. Under this system, each state has as many electors as it has representatives and senators. California therefore had 55 electoral votes (53 House seats and two Senate seats) and Vermont three electoral votes for the election of 2004.

Each state legislature is free to determine how its electors are selected. Each party nominates a slate of electors, usually longtime party workers. Electors are expected to cast their electoral votes for the party’s candidates for president and vice president. In our entire history, no “faithless elector”—an elector who does not vote for his or her state’s popular vote winner—has ever cast the deciding vote. There was one faithless elector in 2000 from the District of Columbia who abstained rather than cast her vote for Al Gore in order to protest the lack of congressional representation for Washington D.C.<sup>8</sup> The electoral college vote in 2004 had one faithless elector: an elector from Minnesota who voted for John Edwards instead of John Kerry. This happened in spite of both parties naming party faithful on the assumption that the election would be close.

The Twelfth Amendment requires electors to vote separately for president and vice president. To demonstrate how this works, if you voted for the Republican candidate in 2000, you actually voted for the Republican slate of electors in your state who pledged



## IMPORTANT FACTORS IN WINNING AN ELECTION

### Uncontrollable Factors

- Incumbent running
- Strength of party organization
- National tides or landslide possibility
- Socioeconomic makeup of district

### Organizational Factors

- Registration drives
- Fund-raising
- Campaign organization
- Volunteers
- Media campaign
- Direct-mail campaign efforts
- Get-out-the-vote efforts

### Candidate’s Personal Factors

- Personal appeal
- Knowledge of issues
- Speaking and debating ability
- Commitment and determination
- Ability to earn free, positive media coverage

### winner-take-all system

An election system in which the candidate with the most votes wins.

### single-member district

An electoral district in which voters choose one representative or official.

### proportional representation

An election system in which each party running receives the proportion of legislative seats corresponding to its proportion of the vote.

### electoral college

The electoral system used in electing the president and vice president, in which voters vote for electors pledged to cast their ballots for a particular party’s candidates.

### ADVANTAGES AND DISADVANTAGES OF PROPORTIONAL REPRESENTATION

The winner-take-all rule of most American elections has some advantages but also means that substantial minorities go unrepresented. In cases where there are multiple candidates and the winner only has a plurality, it means that a majority goes unrepresented.

A system of proportional representation could be applied to the allocation of electoral votes by state, or in states with more than one member of the House of Representatives, it could be applied to the allocation of seats as it is in many democracies.

Proportional representation has some advantages. It more accurately reveals the preferences of voters and gives those who do not vote for the winning candidate a sense that they have some influence as a result of their vote. In this sense, proportional representation may encourage greater turnout for people who identify with parties that rarely win elections, like Democrats in Utah or Wyoming. Proportional representation may also encourage issue-oriented campaigns and enhance the representation of women and minorities.

But there are some problems with proportional representation. It may make it harder to have a clear winner. This problem is even greater if minor parties are likely to receive representation as well. In this sense, it may encourage minor parties. Opponents of proportional representation worry that it can contribute to political instability and ideological extremism. For another example of this see the comparative perspective box on Israel in Chapter 7.

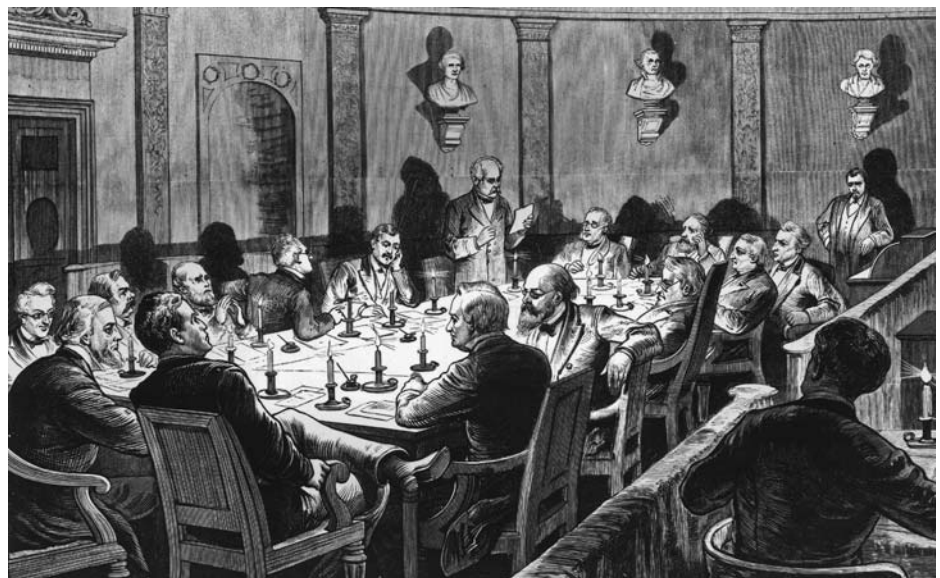
to vote for George W. Bush for president and Dick Cheney for vice president in the electoral college.

Candidates who win a plurality of the popular vote in a state secure all that state's electoral votes, except in Nebraska and Maine, which allocate electoral votes to the winner in each congressional district plus two electoral votes for the winner of the state as a whole. Winning electors go to their state capital on the first Monday after the second Wednesday in December to cast their ballots. These ballots are then sent to Congress, and early in January, Congress formally counts the ballots and declares who won the election for president and vice president.

It takes a majority of the electoral votes to win. If no candidate gets a majority of the electoral votes for president, the House chooses among the top three candidates, with each state delegation having one vote. If no candidate gets a majority of the electoral votes for vice president, the Senate chooses among the top two candidates, with each senator casting one vote.

When there are only two major candidates for the presidency, the chances of an election being thrown into the House are remote. But twice in our history the House has had to act: In 1800, before the Twelfth Amendment was written, the House had to choose in a tie vote between Thomas Jefferson and Aaron Burr; and in 1824, the House picked John Quincy Adams over Andrew Jackson and William Crawford. Henry Clay, who was forced out of the race when he came in fourth in the electoral college, threw his support behind Adams. When Adams was elected, he made Clay his secretary of state. The 1824 vote in the House was especially contentious. Jackson, winner of the popular vote, was not elected when the decision passed to the House. This outcome infuriated Jackson, who won the electoral college vote by a wide margin four years later.

As we were reminded in 2000, our electoral college system makes it possible for a presidential candidate to receive the most popular votes, as Al Gore did, and yet not get enough electoral votes to be elected president. Al Gore won the popular vote by over 500,000 votes but lost the electoral college 271 to 266.<sup>9</sup> This also happened in 1824, when Andrew Jackson won 12 percent more of the vote than John Quincy Adams; in 1876, when Samuel Tilden received more popular votes than Rutherford B. Hayes; and in 1888, when Benjamin Harrison won in the electoral college despite Grover Cleveland's receiving more popular votes. It almost happened in 1960 and 1976, when the shift of a few votes in a few key states could have resulted in the election of a president without a popular majority. In a year with a serious minor party candidate, the result could be the



*The Electoral Commission of 1877 met in secret session to decide the controversial presidential election between Rutherford B. Hayes and Samuel Tilden. After many contested votes the presidency was eventually awarded to Hayes.*

election of a president without a plurality of the vote, as some believe happened with the Nader vote in 2000. (See Chapter 7)

In two of the four elections in which winners of the popular vote did not become president, the electoral college did not decide the winner. The 1824 election was decided by the U.S. House of Representatives. In 1876, the electoral vote in three southern states and Oregon was disputed, resulting in the appointment of an electoral commission to decide how those votes should be counted. In 1888 and 2000, the electoral college awarded the presidency to the candidate with fewer popular votes.

Concern about the electoral college is renewed every time there is a serious third-party candidate for the presidency. People began to ask, if no candidate receives a majority in the electoral college and the decision is left to Congress, which Congress casts the vote, the one serving during the election or the newly elected one? The answer is the new one, the one elected in November and taking office the first week in January. Since each state has one vote in the House, what happens if a state's delegation is tied in its vote, 2 to 2 or 3 to 3? The answer is its vote does not count. Would it be possible to have a president of one party and a vice president of another? Yes, if the election were thrown into the House and Senate and each chamber were controlled by a different party.

The electoral college sharply influences presidential politics. To win a presidential election, a candidate must appeal successfully to voters in populous states like California, Texas, Ohio, Illinois, Florida, and New York. California's electoral vote of 55 in 2004 exceeded the combined electoral votes of the 14 least populous states plus the District of Columbia. The map inside the back cover of this book provides a visual comparison of state size based on electoral votes. When the contest is close, as it was in 2000, every state's electoral votes count, and so greater emphasis is given to states in which the contest is close, even less populated states.<sup>10</sup>

Presidential candidates do not ordinarily waste time campaigning in a state unless they have at least a fighting chance of carrying that state; nor do they waste time in a state in which their party is a sure winner. Richard Nixon in 1960 was the last candidate to campaign in all 50 states, but he lost valuable time traveling to and from Alaska, while John Kennedy focused on the more populous states in which he had a chance to win. The contest usually narrows down to the medium-sized and big states, where the balance between the parties tends to be fairly even. In 2000 and 2004, all competitive contests received extraordinary attention from the candidates, parties, and allied groups (see Table 9–1).

**TABLE 9–1 2004 BATTLEGROUND STATES**

<i>State</i>	<i>Electoral Votes</i>	<i>% Difference in 2004 Popular Vote</i>
Wisconsin	10	.39% Kerry
New Mexico	5	.80% Bush
Iowa	7	.91% Bush
New Hampshire	4	1.36% Kerry
Pennsylvania	21	2.27% Kerry
Ohio	20	2.49% Bush
Nevada	5	2.62% Bush
Michigan	17	3.40% Kerry
Oregon	7	3.90% Kerry
Florida	27	5.02% Bush
Missouri	11	7.31% Bush

SOURCE: [www.cbsnews.com/htdocs/politics/campaign2004/03%20battleground.pdf](http://www.cbsnews.com/htdocs/politics/campaign2004/03%20battleground.pdf), and "2004 Battleground," at [usinfo.state.gov/dhr/democracy/elections/battleground\\_states.html](http://usinfo.state.gov/dhr/democracy/elections/battleground_states.html).

## RUNNING FOR CONGRESS

How candidates run for Congress differs, depending on the nature of their district or state, on whether candidates are incumbents or challengers, on the strength of their personal organization, on how well known they are, and on how much money they have to spend on their campaign. We can also note several similarities in House and Senate elections.

First, most congressional elections are not close. In districts where most people belong to one party or where incumbents are popular and enjoy fund-raising and other campaign advantages, there is often little competition (see Figure 9–1).<sup>11</sup> Congressional districts have become less competitive on the whole in the 2000s, in large part because of the way district boundaries have been drawn by state legislatures. Districts in the 2002 redistricting were often drawn in ways that enhanced the reelection prospects of incumbents or one party, a process called *partisan gerrymandering*. We explore this process in greater detail in Chapter 11, which deals with Congress. Those who believe that competition is essential to constitutional democracy are concerned that so many officeholders have **safe seats**. When officeholders do not have to fight to retain their seat, elections are not performing their proper role.<sup>12</sup>

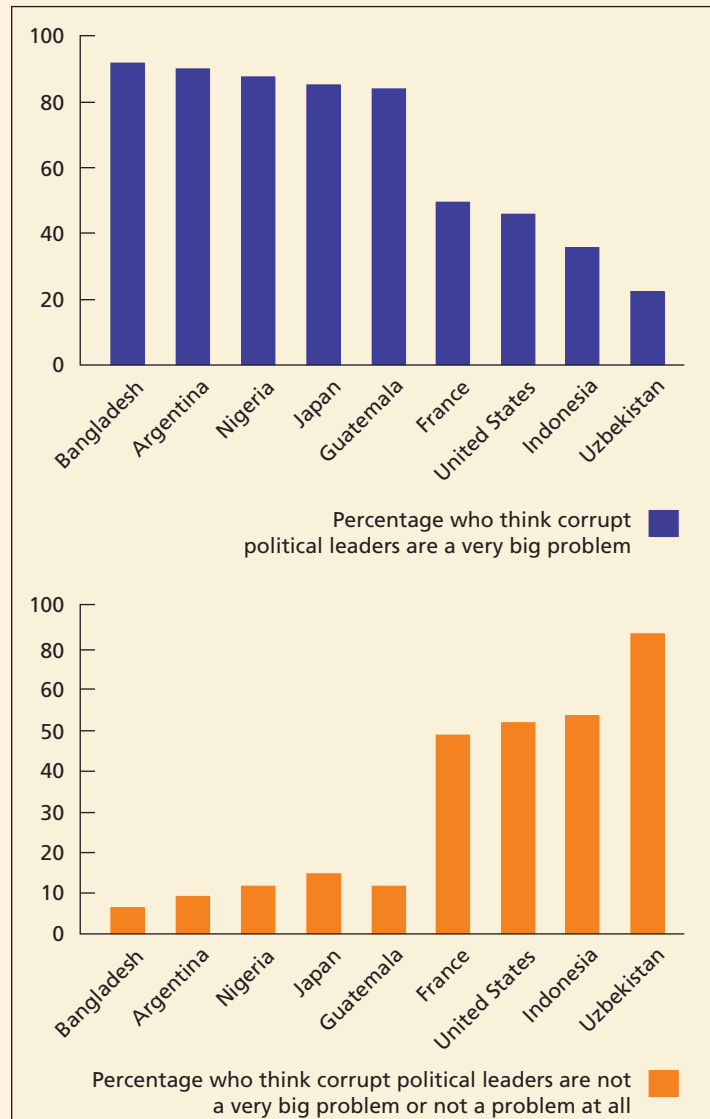
### safe seat

An elected office that is predictably won by one party or the other, so the success of that party's candidate is almost taken for granted.

## GLOBAL Perceptions

**QUESTION:** Please indicate if you think that corrupt political leaders are a very big problem, a moderately big problem, a small problem, or not a problem at all.

In the vast majority of countries where the public was surveyed as part of the Pew Global Attitudes project, a large fraction of the people feel that corrupt political leaders are a “very big problem.” In only a handful of countries did something less than a majority hold this view: the United States, Canada, Germany, Great Britain, Uzbekistan, and Jordan. The more prevailing response was for more than two-thirds of the public to report that corrupt political leaders were a large problem. In some cases, like Bangladesh and Argentina, nine-out-of-ten people said corruption was a very big problem. Even in the United States, nearly half of the respondents held this view. Places where perceived corruption is much less were once governed by monarchs and now have democracy and clean government or still have a monarchy (like Great Britain and Jordan). Countries that previously had totalitarian governments, such as Russia and Poland, have about the same distribution of opinion as countries in Africa and Asia. In short, most people in the world assume that their political leaders are corrupt.



SOURCE: Pew Global Attitudes Project, *What the World Thinks in 2002* (Washington, D.C.: The Pew Research Center for the People and the Press, 2002), p. T-20.

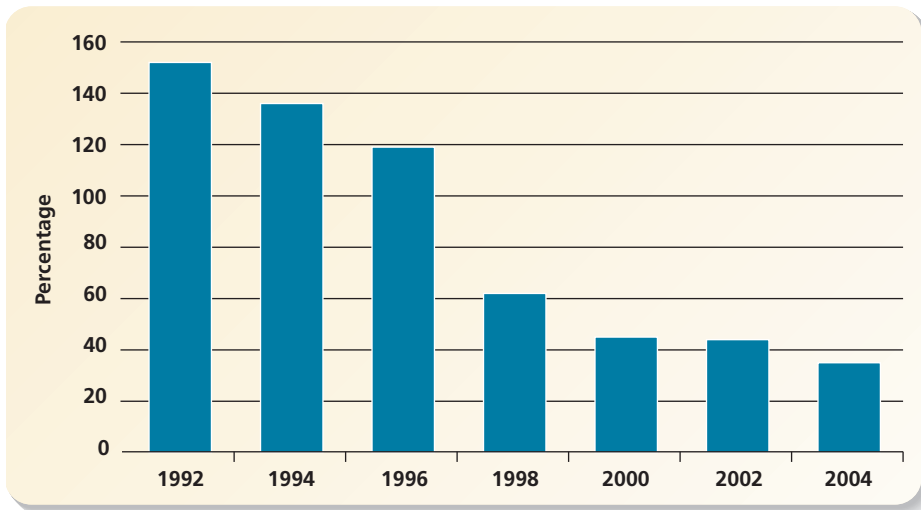
Competition is more likely when funding is adequate for both candidates, which is not often the case in U.S. House elections (see Figure 9–1). Elections for governor and for the U.S. Senate are more seriously contested and more adequately financed than those for the U.S. House of Representatives.

Presidential popularity affects both House and Senate elections during presidential election years as well as midterm elections. The impact of presidential candidate popularity in a presidential election is known as the **coattail effect**, the boost candidates from the president's party get from a popular presidential candidate running in the same election. But winning presidential candidates do not always provide such a boost. The Republicans suffered a net loss of six House seats in 1988, even though George H. W. Bush won the presidency, and the Democrats suffered a net loss of ten house seats in 1992 when Bill Clinton won the presidential election. Democrats fared better in 1996,

### coattail effect

The boost that candidates may get in an election because of the popularity of candidates above them on the ballot, especially the president.





**FIGURE 9-1 Competitive House Seats, 1992–2004.**

SOURCE: Charlie Cook, “National Overview,” *The Cook Political Report*, October 4, 2002, p. 6; “2004 Races at a Glance,” *The Cook Political Report*, July 22, 2004. [www.cookpolitical.com](http://www.cookpolitical.com).

NOTE: Competitive races are those classified by Cook as “toss ups” or leaning toward one party.

registering a net gain of nine house seats. There were no discernible coattails in the 2000 elections. In 2004, Republicans picked up U.S. Senate seats in states carried by Bush, such as South Dakota, North Carolina, and South Carolina, and held contested seats in Oklahoma and Alaska. Overall, “measurable coattail effects continue to appear,” according to congressional elections scholar Gary Jacobson, but they are “erratic and usually modest” in their impact.<sup>13</sup>

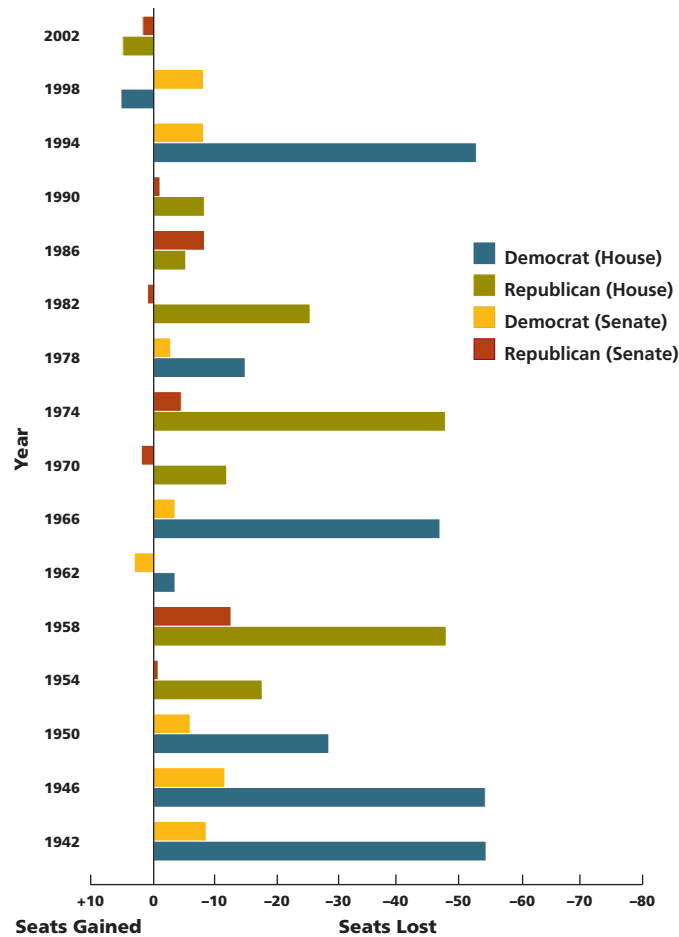
In midterm elections, presidential popularity and economic conditions have long been associated with the number of House seats a president’s party loses.<sup>14</sup> These same factors are associated with how well the president’s party does in Senate races, but the association is not as strong.<sup>15</sup> Figure 9-2 shows the number of seats in the House of Representatives and U.S. Senate gained or lost by the party controlling the White House in midterm elections since 1938. Republicans did better in 1994 than in any midterm election since 1946, picking up 53 seats. The Republican tide was not limited to the House but included a net gain of nine Senate seats.<sup>16</sup> In all of the midterm elections between 1934 and 1998, the party controlling the White House lost seats in the House. The range of losses, however, is quite wide, from a low of four seats for the Democrats in 1962 to a high of 71 seats for the Democrats in 1938. But in 2002, as in 1998, the longstanding pattern of the president’s party losing seats did not hold. Republicans picked up a net gain of 2 seats in the Senate and 6 seats in the House. As noted, there were comparatively few competitive races in 2002, the most recent midterm election, especially for a year following redistricting.

When presidential landslides occur, as they did with Lyndon Johnson in 1964, the victorious party is especially vulnerable and likely to lose seats in the next midterm election, as the Democrats did in 1966. Given the historic pattern of the president’s party’s losing seats and the close party balance resulting from the 2000 elections, Democrats believed they were well positioned in 2002 to recapture control of both houses of Congress. The Democrats’ hopes were dashed by a set of strong Republican candidates for the House and



Democratic Senator Barbara Boxer (center) from California debates Republican challenger Bill Jones (right) in her successful bid for reelection to the U.S. Senate in 2004.





**FIGURE 9-2 Seats Lost by the President's Party in Midterm Elections for the House of Representatives and the Senate, 1938–2002.**

Senate, recruited in part with the assistance of the White House. President Bush invested a great deal of time and effort in helping Republican candidates in competitive races, with early visits to their states and districts to help with fundraising and an intense series of campaign stops in the last five days that more resembled the close to a presidential election than the close to a midterm election. Despite this heavy investment by President Bush, many 2002 contests revolved around more local issues. Arkansas voters rejected Republican Tim Hutchinson for another term in the Senate in part because of his private life, and South Dakota returned Democrat Tim Johnson despite five visits to the state by Bush. Johnson closely linked himself to fellow South Dakota Democrat Tom Daschle, whose power as Senate Majority Leader was at stake in 2002. In 2004, the White House was not as successful in “clearing the field” for preferred candidates. In the Pennsylvania, Colorado, and Florida Senate races the Republicans had the kind of contested primaries they worked hard to avoid in 2002. Republicans went on to hold their seats in Pennsylvania and Florida but lost in Colorado, where the divisive primary helped the Democratic candidate.

### The House of Representatives

Every two years, as many as 1,000 candidates—including approximately 400 incumbents—campaign for Congress. Incumbents are rarely challenged for renomination from within their own party, and when they are, the challenges are seldom serious. In the 1990s, for example, on average only two House incumbents were denied renomination in each election, and in 2002, 71 percent of all U.S. Representatives and 69 percent of all U.S.

Senators had no opponent in the primaries.<sup>17</sup> Challengers from other parties running against entrenched incumbents rarely encounter opposition in their own party.<sup>18</sup>

**MOUNTING A PRIMARY CAMPAIGN** The first step for would-be challengers is to raise hundreds of thousands of dollars (or even more) to mount a serious campaign. This requires asking friends and acquaintances as well as interest groups for money. Candidates need money to hire campaign managers and technicians, buy television and other advertising, conduct polls, and pay for a variety of activities. Parties can sometimes help, but they shy away from giving money in primary contests. The party organization usually stays neutral until the nomination is decided.

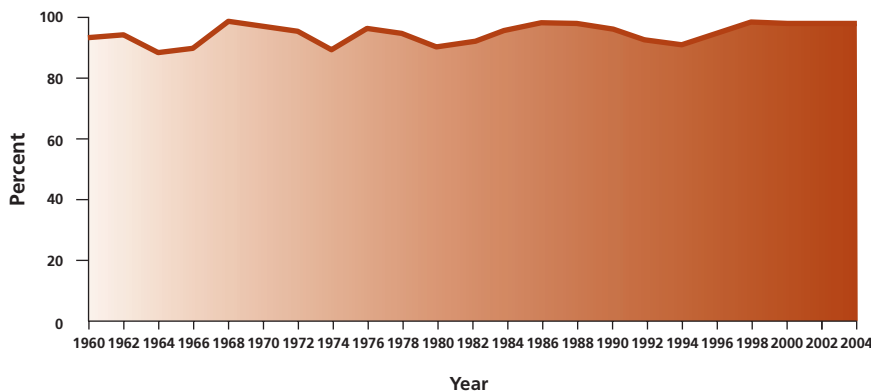
Another early step is to build a *personal organization*. A candidate can build an organization while holding another office, such as a seat in the state legislature, by serving in civic causes, helping other candidates, and being conspicuous without being controversial.

A candidate's main hurdle is gaining visibility. Candidates work hard to be mentioned by the media. In large cities with many simultaneous campaigns, congressional candidates are frequently overlooked, and in all areas, television is devoting less time to political news.<sup>19</sup> Candidates rely on personal contacts, on hand shaking and door-to-door campaigning, and on identifying likely supporters and courting their favor—the same techniques used in campaigns for lesser offices. Despite these efforts, the turnout in primaries tends to be low, except in campaigns in which large sums of money are spent on advertising.

**CAMPAIGNING FOR THE GENERAL ELECTION** As we have mentioned, most incumbent members of Congress win reelection.<sup>20</sup> Since 1970, over 95 percent of incumbent House members seeking reelection have won, and in 2000, 98 percent of incumbent House members running for reelection were successful (see Figure 9–3).<sup>21</sup> In 2002, again 98 percent of incumbents running in the general election won. In 2004, 99 percent of incumbents running in the general election were returned to office. Of the seven incumbents defeated, two ran against other incumbents.

One reason incumbents win so often is that they are able to outspend their challengers by roughly 3 to 1 in the House; in the Senate the difference is closer to 1.75 to 1.<sup>22</sup> Most challengers spend little money, run campaigns that are not significantly more visible than primary campaigns, contact few voters, and lose badly. Serious challengers in House races are hard to find. Many are scared away by the prospect of having to raise more than \$1 million in campaign funds, others realize that the district has been drawn with fewer persons from their party than the incumbent's, and some do not want to face the media scrutiny that comes with a serious race for Congress. Nonetheless, in each election, a few challengers mount serious campaigns because of the incumbent's perceived vulnerability, the challengers' own wealth, party or political action committee efforts, or other factors.

Another reason most incumbents win so frequently is that their districts are predominantly Republican or Democratic. The 2002 redistricting process largely protected



**FIGURE 9–3 U.S. House Incumbents Reelected, 1946–2004.**

SOURCE: Harold W. Stanley and Richard G. Niemi, eds., *Vital Statistics on American Politics 2001–2002* (CQ Press, 2001), pp. 53–55. 2004 update by authors.



"My former opponent is supporting me in the general election. Please disregard all the things I said about him in the primary."

Dunagin's People. Tribune Media Services.

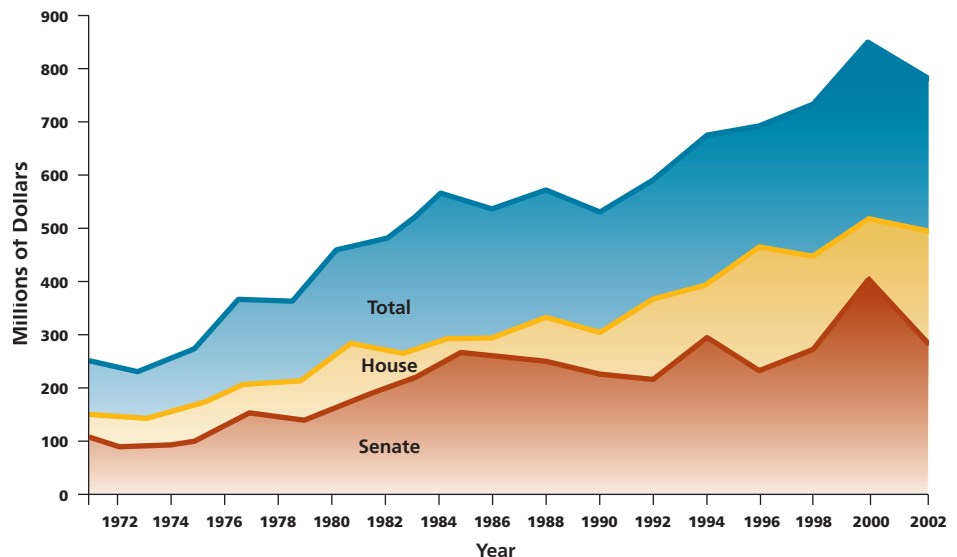
incumbents in both parties by making districts less competitive. Few incumbents were seriously challenged. Retirements and redistricting create *open seats*, which can result in more competitive elections. Potential candidates, as well as political action committees and political party committees, all watch open-seat races closely. If, however, the district is heavily partisan, the predominant party is likely to retain the seat, and once elected the incumbent then reaps the other incumbency advantages as well. But as noted, most races have incumbents and most incumbents win, lending credibility to the charge that we have a "permanent Congress." Occasionally, one party has a big victory, as the Republicans did in 1994, with a 57-seat gain in the House, securing the majority for the first time in 40 years. Large shifts like 1994 are rare in part because state legislatures through redistricting have created fewer competitive districts.

Why is keeping a House seat so much easier than gaining it? Incumbents have a host of advantages that help them win reelection. These perquisites, or "perks," come with the job of communicating with constituents and include free mailings (the *franking privilege*) and telephone calls to constituents, the free use of broadcast studios to record radio and television tapes to be sent to local media outlets, and, perhaps most important of all, a large staff to perform countless favors for constituents and send a stream of press reports and mail back to the district.<sup>23</sup> Representatives also try to win committee posts, even on minor committees, that relate to the needs of their districts and build connections with constituents.<sup>24</sup>

## The Senate

Running for the Senate is big-time politics. The six-year term and the national exposure make a Senate seat a glittering prize, so competition is usually intense. Senate campaigns generally feature state-of-the-art campaign techniques; a race normally costs millions of dollars (see Figure 9–4).<sup>25</sup> The essential tactics are to raise lots of money, get good people involved, make as many personal contacts as possible (especially in the states with smaller populations), avoid giving the opposition any positive publicity, and have a clear and consistent campaign theme. Incumbency is an advantage for senators, although not as much as for representatives.<sup>26</sup> Incumbent senators are widely known, but so are their opponents, who often raise and spend significant amounts of money.<sup>27</sup>

When one party controls the Senate by only a few seats, as has been the case in recent years, more good candidates run, and the number of competitive elections increases. Going into the 2002 elections, the Senate had 50 Democrats, 49 Republicans, and one Independent. Jim Jeffords of Vermont was reelected as a Republican in 2000



**FIGURE 9–4 Rising Campaign Costs in General Elections.**

SOURCE: Federal Election Commission, "Congressional Campaign Expenditures Total \$772 Million," January 2, 2003, at [www.fec.gov](http://www.fec.gov).



but switched parties in 2001, putting the Democrats in control of Senate leadership and all standing committees. The narrow margin of Democratic control meant that a net loss of one seat would put the Republicans back in the majority. The GOP mounted a major effort to reclaim the Senate in 2002, picking up a net gain of two seats and returning the Senate and all of the elected federal government to Republican control.<sup>28</sup> Competitive U.S. Senate races in 2004 were waged largely on Republican turf. Democrats won in Illinois and Colorado, picking up what had been Republican seats, but lost seats they had held in Florida, Georgia, North Carolina, South Carolina, and South Dakota. President Bush carried South Dakota by 60 percent to 39 percent, creating a difficult challenge for Democrats like Tom Daschle. Overall, Republicans enjoyed a net gain of four seats in the Senate, increasing their majority to 55 to 45.

The cost of Senate campaigns can vary greatly. California has nearly 70 times the number of potential voters as Wyoming; not surprisingly, running for a seat from Wyoming is much cheaper than running for a seat from California. As a result, interest groups and parties direct more money to competitive races in small states when the stakes for control of the Senate are high.<sup>29</sup>

## RUNNING FOR PRESIDENT

Presidential elections are major media events, with candidates seeking as much positive television coverage as possible and trying at the same time to avoid negative coverage. The formal campaign has three stages: winning the nomination, campaigning at the convention, and mobilizing support in the general election.

### Stage 1: The Nomination

Presidential hopefuls must make a series of critical tactical decisions. The first is when to start campaigning. For the presidential election of 2004, some candidates, like John Kerry, John Edwards, and Howard Dean, began soon after the 2000 presidential election.<sup>30</sup> Early decisions are increasingly necessary for candidates to raise the money and assemble an organization. Campaigning begins well before any actual declaration of candidacy as candidates try to line up supporters to win caucuses or primaries in key states and to raise money for their nomination effort.

One of the hardest jobs for candidates and their strategists is calculating how to deal with the complex maze of presidential primaries and caucuses that constitutes the delegate selection system. The system for electing delegates to the national party convention varies from state to state and often from one party to the other in the same state. In some parties in some states, for example, candidates must provide lists of delegates supporting them months in advance of the primary. The presidential campaign finance system provides funds to match small individual contributions during the nomination phase of the campaign for candidates who agree to remain within spending limitations. George W. Bush declined the federal funds in the 2000 and 2004 nomination phase, as did Democrats John Kerry and Howard Dean in 2004. Foregoing the public matching funds allows greater flexibility in when and where campaign money is spent and removes the overall limit for this phase of the process.

**PRESIDENTIAL PRIMARIES** State presidential primaries, unknown before 1900, have become the main method of choosing delegates to the national convention. A delegate is a person selected by local partisans to represent them in selecting nominees, party leaders, and party positions. Today, more than three-fourths of the states use presidential primaries. In 2000, some 84 percent of the Democratic delegates and 89 percent of the Republican delegates were chosen in the primaries.<sup>31</sup> The rest of the delegates were chosen by state party caucuses or conventions, or were party leaders who serve as “super delegates.” In 2004, 85 percent of Democratic delegates and 69 percent of GOP delegates were chosen in the primaries. Several states (Arizona, Colorado, Delaware, Maine, Michigan, South Carolina, Utah, Virginia, and Washington) that held GOP primaries in 2000 switched to state caucuses or other methods in 2004 (see [www.thegreenpapers.com/P04/tally.phtml](http://www.thegreenpapers.com/P04/tally.phtml)).



The Iowa caucuses are an important first step in terms of media exposure for candidates running for president. Here, Democrat John Kerry speaks at a caucus site in Muscatine, Iowa, on January 12, 2004.

Presidential primaries often have two features: a *beauty contest*, or popularity vote, in which voters indicate which candidate they prefer but do not actually elect delegates to the convention, and *actual voting* for delegates pledged to a candidate. Since 1996, the Democrats require primary votes to be linked to delegate election. The Republicans allow states to separate a popularity vote from delegate selection. States which use this system include Montana, Nebraska, Illinois, New Jersey, Pennsylvania, and West Virginia.<sup>32</sup>

Candidates may win the beauty contest but find their opponents doing better in actual delegates elected because they failed to put a full slate of delegates on the ballot or because local notables were listed on the ballot as delegates pledged to another candidate. Different combinations of these two features have produced the following systems<sup>33</sup>:

- **Proportional representation:** Delegates to the national convention are allocated on the basis of the percentage of votes candidates win in the beauty contest. This system has been used in most of the states, including several of the largest ones. The Democrats mandate proportional representation for all their primaries.<sup>34</sup> In some states, Republicans use this same system, but Republicans are much more varied in their delegate selection processes.<sup>35</sup>
- **Winner take all:** Whoever gets the most votes wins all that state's delegates. To win all the delegates of a state like California is an enormous bonus to a candidate. Republicans still use the winner-take-all system at the state level, and in 2004, most states used this rule at either the state or congressional district levels.<sup>36</sup>
- **Delegate selection without a commitment to a candidate.** New York Republicans allow the state committee to select 12 at-large delegates who are officially unpledged, as are the party chair and national committee representatives.<sup>37</sup>
- **Delegate selection and separate presidential poll:** In several states, voters decide twice: once to indicate their choice for president and again to choose delegates pledged, or at least favorable, to a presidential candidate.

Voters in states like Iowa and New Hampshire, which are the first states to pick delegates, bask in media attention for weeks and even months before they cast the first ballots in the presidential sweepstakes. Because these early contests have had the effect of limiting the choices of voters in states that come later in the process, there has been a tendency for states to move their primaries up. This process is called “front loading.”

California, which traditionally held its primary in June, moved it to March in 2000 so that its voters would play a more important role in selecting the nominee. Other states did the same thing. Front loading was even more prominent in 2004,<sup>38</sup> with Democratic National Committee Chair Terry McAuliffe's hope that the nominee would be chosen by March 2004, allowing time for the party to assist with fundraising and building party unity.<sup>39</sup>

In both 2000 and 2004 the nomination in both major parties was decided by March. This had the effect of compressing the nomination battle into several weeks of intense activity in the spring followed by months of much less activity before the fall general election campaign. For 2004, as in the past, states that felt overlooked in 2000 pushed for revision to the schedule, including possibly having four regional groupings (East, South, Midwest, and West).<sup>40</sup> States that gain visibility and importance through early primaries continue to want to maintain that advantage.

**CAUCUSES AND CONVENTIONS** A **caucus** is a meeting of party members and supporters of various candidates. In about a dozen states one or both parties use a caucus or convention system (or both) for choosing delegates.<sup>41</sup> Each state's parties and legislature regulate the methods used. The caucus or convention is the oldest method of choosing delegates and differs from the primary system in that it centers on party organization.

Delegates who will attend the national party conventions are chosen by delegates to state or district conventions, who themselves are chosen earlier in county, precinct, or town caucuses. The process starts at local meetings open to all party members, who discuss and take positions on candidates and issues and elect delegates to represent their views at the next level. This process is repeated until national nominating conventions delegates are chosen by conventions of delegates throughout a district or state.

The best-known example of a caucus is in Iowa, because Iowa has held the earliest caucuses in the most recent presidential nominating contests. Every January or February in a presidential election year, Iowans have the opportunity to attend Republican and Democratic precinct meetings. Large numbers of voters attend these small town meetings and have a chance to meet and exchange views on issues and candidates, rather than merely pulling a lever in a voting booth or marking a ballot.<sup>42</sup>

Presidential hopefuls face a dilemma: To get the Republican nomination, you have to appeal to the more intensely conservative Republican partisans, those who vote in primaries and support campaigns. Democratic hopefuls have to appeal to the liberal wing of their party as well as minorities, union members, and environmental activists. But to win the general election, candidates have to win support from moderates and pragmatic voters, many of whom do not vote in the primaries. If candidates position themselves too far from the moderates in their nomination campaign, they risk being labeled extreme in the general election and losing these votes to their opponent.

**STRATEGIES** Strategies for securing the nomination have changed over the years. Some candidates think it wise to skip some of the earlier contests and enter first in states where their strength lies. John McCain pursued such a strategy in 2000, ignoring Iowa and concentrating on New Hampshire. In 2004 retired General Wesley Clark also bypassed Iowa, but unlike McCain he did not win in New Hampshire and dropped out of the race only a few weeks later. Most candidates choose to run hard in Iowa and New Hampshire, hoping that early showings in these states, which receive a great deal of media attention, will move them into the spotlight for later efforts.

During this early phase, especially important is the ability of candidates to manage the media's expectations of their performance in order to generate momentum. Lyndon Johnson actually won the New Hampshire primary in 1968, yet because his challenger, Eugene McCarthy, did better than the press had predicted, McCarthy was interpreted as the "winner." Both John Kerry and John Edwards did better than expected in Iowa in 2004, giving them momentum for New Hampshire and beyond.

Winning in the primaries thus becomes a game of expectations, and candidates may intentionally downplay their expectations so that "doing better than expected" might generate momentum for their campaign. It is also important to maintain a presidential bearing even in the primaries. In 2004, the front runner going into Iowa was Vermont Governor Howard Dean. In a speech to supporters after losing the Iowa

#### **caucus**

A meeting of local party members to choose party officials or candidates for public office and to decide the platform.



# PEOPLE & POLITICS *Making a Difference* ★★

## KARL ROVE

Presidents have long had political advisors, both on their paid staff and more informally. Karl Rove has long been the chief political advisor to President George W. Bush. Rove has described his job as paying “attention to the things that affect his [Bush’s] political future.”\* Another Bush confidant has described Rove as “the Bobby Fischer of politics,” continuing that “he not only sees the [chess] board, he sees about 20 moves ahead.”† Bush himself described Rove as the “boy genius.”‡

Rove left the University of Utah before graduating to become chairman of the College Republicans. His interest in politics had started at an early age, when he helped campaign for Richard Nixon against John F. Kennedy. His political activism continued during high school, where he also developed an interest in debate and U.S. History. His involvement in the College Republicans helped him establish connections and enlarged his interest in politics. He was executive di-

rector of the College Republicans when George H.W. Bush was chair of the Republican National Committee. George H.W. Bush later hired Rove to help him run for president in 1980.

Rove formed his own consulting firm in Austin, Texas, where he did political and campaign consulting, including work on the successful campaign of Bill Clements, the first Texas Republican governor. Another Texas Governor became his most successful client, George W. Bush. Rove and Bush have a close working relationship. Rove, while heading the political affairs office in the White House, played an important role in recruiting candidates to run in 2002 and in talking others out of running. He also was the primary architect of the Bush 2004 reelection campaign.§ Rove heavily emphasized playing to Bush’s conservative base, an effective strategy in the wake of same-sex marriage initiatives in eleven states.

\*James Carney and John F. Dickerson, “The Busiest Man in the White House: As Bush Hits 100



Days in Office, His Top Strategist, Karl Rove, Is Already Eyeing 2004.” *Time*, April 22, 2001, at [www.time.com/time/magazine/article/subscriber/0,10987,1101010430-107220,00.html](http://www.time.com/time/magazine/article/subscriber/0,10987,1101010430-107220,00.html).

†Dana Milbank, “‘Background’ Checks,” *The Washington Post*, January 28, 2003, p. A19; Dan Balz, “Team Bush; The Governor’s ‘Iron Triangle’ Points the Way to Washington,” *The Washington Post*, July 23, 1999, p. C01.

‡David B. Magleby and J. Quin Monson, eds., *The Last Hurrah?: Soft Money and Issue Advocacy in the 2002 Congressional Elections* (Brookings Institute Press., 2004), p. 102.

§[www.abcnews.go.com/sections/politics/DailyNews/rove\\_profile001228.html](http://www.abcnews.go.com/sections/politics/DailyNews/rove_profile001228.html).

caucuses, placing third after Kerry and Edwards, an animated Dean, attempting to rally his followers, uttered what came to be called the “Dean scream,” or “I have a scream” speech.<sup>43</sup> As Dean learned, such a mistake, when replayed countless times on cable and broadcast news and when made the brunt of jokes elsewhere on television, becomes a defining moment and makes it difficult for the candidate to reestablish a positive campaign agenda. While Dean’s ascendancy and sudden demise were both notable features of the 2004 election, a more enduring aspect of his candidacy was his extensive use of the Internet, especially for fundraising, and his demonstrating to the other Democrats the depth of anti-Bush passion among Democratic voters.<sup>44</sup>

## Stage 2: The National Party Convention

The delegates elected in primaries, caucuses, or state conventions assemble at their **national party convention** in the summer before the election to pick the party’s presidential and vice presidential candidates. In the past, delegates arrived at national nominating conventions with differing degrees of commitment to presidential candidates; some delegates were pledged to no candidate at all, others to a specific candidate for one or two ballots, and others firmly to one candidate only. Recent conventions have merely ratified decisions already made in the primaries and caucuses, in part because delegates are required to pledge themselves to a specific presidential hopeful (in the Democratic party) or because one candidate has been able to amass a majority of delegates. And because of reforms encouraging delegates to stick with the person to whom they are pledged,

### national party convention

A national meeting of delegates elected in primaries, caucuses, or state conventions who assemble once every four years to nominate candidates for president and vice president, ratify the party platform, elect officers, and adopt rules.

there has been no room to maneuver at conventions. National party conventions used to be events of high excitement because they determined who would be the party nominee, but in every election since the Republican convention of 1948 and the Democratic convention of 1952, the party primaries have decided who would be the nominee.

As recently as 1988, Democratic and Republican national conventions were given gavel-to-gavel coverage by the major networks, meaning that from the beginning of the first night to the end of the fourth night, television covered the conventions. Now the major networks leave comprehensive coverage to C-SPAN and CNN. National nominating conventions have ceased to dominate the national news, for the very good reason that they are no longer the place where candidates are selected.<sup>45</sup> The long-term trend of declining viewership and reduced hours of coverage has altered the parties' strategies. In 2004, the parties featured their most important speakers and highlighted their most important messages in the limited time given them by the networks. There were slight increases in viewership of the conventions in 2004.

Conventions follow standard rules, routines, and rituals. Usually, the first day is devoted to a keynote address and other speeches touting the party and denouncing the opposition; the second day, to committee reports, including party and convention rules and the party platform; the third day, to presidential and vice presidential balloting; and the fourth day, to the presidential candidate's acceptance speech, although in 2004 with both parties' nominees having only limited broadcast television time the focus was on major speeches each night.<sup>46</sup> For sample coverage of the 2004 Republican convention go to [www.2004nycgop.org](http://www.2004nycgop.org), and for the Democrats see [www.dems2004.org](http://www.dems2004.org).

Because the choice of the party nominees has been decided well before the convention, there has been relatively little controversy on the floor of the conventions in recent years. The parties have turned to theatrics and celebrities in an effort to boost the audience watching the televised conventions. The networks have also shortened the proceedings on network television to only an hour or so per night of the convention.

**THE PARTY PLATFORM** Delegates to the national party conventions decide on the *platform*, a statement of party perspectives on public policy. Why does anyone care what is in the party platform? Critics have long pointed out that the party platform is binding on no one and is more likely to hurt than to help a candidate. But presidential candidates as well as delegates take the platform seriously because it defines the direction a party wants to take. Also, despite the charge that the platform is ignored, most presidents make an effort to implement it.<sup>47</sup> For example, when President George W. Bush signed an education bill into law, he pointed to his party's commitment to "leave no child behind."<sup>48</sup> Neither party had a platform fight in 2004.

**THE VICE PRESIDENTIAL NOMINEE** The choice of the vice presidential nominee garners widespread attention. Rarely does a person actually "run" for the vice presidential nomination, because only the president's vote counts. But there is a good deal of maneuvering to capture that one vote. Sometimes the choice of a running mate is made at the convention—not a time conducive to careful and deliberate thought. But usually the choice is made before the convention, and the announcement is timed to enhance media coverage and momentum going into the convention. The last time a presidential candidate left the choice of vice president to the delegates was for the Democrats in 1956.

Traditionally, the presidential nominee chooses a running mate who will "balance the ticket." Democratic presidential nominee Walter Mondale raised this tradition to a dramatic new height in 1984 by selecting a woman, New York Representative Geraldine A. Ferraro, to run with him. Mondale's bold decision was an effort to strengthen his appeal to women voters. But presidential candidates can also ignore the idea of a balanced ticket, as George W. Bush did when he chose another Texan from the oil industry to be his running mate. Dick Cheney moved his official residence to Wyoming and registered to vote there so that if the Bush-Cheney ticket won the popular vote in Texas, Republican Texas electors could vote for him, since the Constitution (Article II, Section 1) prohibits electors from voting for more than one person for president and vice president from their own state.

John Kerry's selection of John Edwards for his running mate in 2004 helped energize the Democratic campaign. Edwards was seen as appealing to young, rural, Southern, and

moderate voters.<sup>49</sup> On most issues his positions were identical to Kerry's, but the two had fought aggressively against each other in the primaries despite these similarities. During the primaries, Kerry had criticized Edwards for his inexperience, especially in defense and foreign policy. Edwards helped motivate trial lawyers to contribute even more substantially to the Democratic ticket, but some parts of the business community was activated even more against Kerry because of its desire to enact limitations on damages in law suits.

**THE VALUE OF CONVENTIONS** Why do the parties continue to have conventions if the nominee is known in advance and the vice presidential nominee is the choice of one person? What role do conventions play in our system? For the parties, they are a time of "coming together" to endorse a party program and to build unity and enthusiasm for the fall campaign. For candidates as well as other party leaders, conventions are a chance to capture the national spotlight and further their political ambitions. For nominees, they are an opportunity to define themselves in positive ways. The potential exists to heal wounds festering from the primary campaign and move into the general election united, but the potential is not always achieved. Conventions can be potentially divisive, as the Republicans learned in 1964 when conservative Goldwater delegates loudly booed New York Governor Nelson Rockefeller and as the Democrats learned in 1968 when the convention spotlighted divisions within the party over Vietnam as well as ugly battles between police and protesters near the convention hotels.

**NOMINATION BY PETITION** There is a way to run for president of the United States that avoids the grueling process of primary elections and conventions—if you are rich enough or well known enough. John Anderson in 1980 and H. Ross Perot in 1992 met the various state requirements and made it onto the ballot in all 50 states. In 2000, Patrick Buchanan, candidate of the Reform party, was able to get his name on the ballot in all but one state and the District of Columbia, and Ralph Nader, candidate of the Green party, in all but seven states.<sup>52</sup> In 2004, the petition process was as simple as submitting the signatures of 1,000 registered voters in Washington State,<sup>50</sup> or by paying \$500 in Colorado or Louisiana,<sup>51</sup> or as difficult as getting the signatures of currently registered voters equal to 2 percent of total votes cast in the last election in North Carolina (100,532 signatures).<sup>53</sup> In 2004, independent candidate Ralph Nader made the ballot in 34 states and the District of Columbia. He was excluded from 16 states, including Ohio and Pennsylvania.

### Stage 3: The General Election

The national party convention adjourns immediately after the presidential and vice presidential candidates deliver their acceptance speeches to the delegates and the national television audience. Traditionally, the time between the conventions and Labor Day was a time for resting, binding up wounds from the fight for the nomination, gearing up for action, and planning campaign strategy. In recent elections, however, the candidates have not paused after the convention but launched directly into all-out campaigning. In 2004, both major party candidates campaigned aggressively from March through the general election. The intensity of the early campaign was noteworthy, with Bush spending in excess of \$80 million on advertising between March and June and Kerry over \$60 million.<sup>54</sup> Anti-Bush interest groups spent an estimated \$32 million during this critical early period,<sup>55</sup> meaning that the Anti-Bush/Pro-Kerry spending exceeded the Bush spending during this time period. The early going in battleground states was unusually intense.

**PRESIDENTIAL DEBATES** Televised presidential debates are a major feature of presidential elections. The 1960 debate between John Kennedy and Richard Nixon boosted Kennedy's campaign and elevated the role of television in national politics.<sup>56</sup> In 1976, President Gerald Ford debated Jimmy Carter and mistakenly said that each country in eastern Europe "is independent, autonomous, it has its own territorial integrity, and the United States does not conceive that those countries are under the domination of the Soviet Union."<sup>57</sup> That mistake damaged his credibility. Ronald Reagan's performance in the 1980 and 1984 debates confirmed the public view of him as decent, warm, and dignified. Bill Clinton's skirmishes with George Bush in 1992 and Bob Dole in 1996 showed him to be a skilled performer.



The 2004 presidential debates were widely watched and largely reinforced the candidate preferences of the viewers. Neither candidate made a major mistake and both candidates were able to state their positions and draw contrasts with their opponent. Challengers generally benefit more from debates and in 2004, Kerry was seen as the “winner” in public opinion surveys following all three debates. The vice presidential debate followed the same pattern as the presidential debates, with no major mistake and few surprises. During both the presidential and vice presidential debates, mention was made by the Democrats of Vice President Cheney’s daughter being a lesbian. The Republicans, and especially Mrs. Cheney, criticized the Democrats after the debate for drawing the daughter’s sexual orientation into the campaign.

Since 1988, the nonpartisan Commission on Presidential Debates has sponsored and produced the presidential and vice presidential debates. The commission includes representatives from such neutral groups as the League of Women Voters. Before the commission became involved, there was often a protracted debate about debates. No detail seemed too small to the candidate managers—whether the candidates would sit or stand, whether they would be able to ask each other questions, whether they would be allowed to bring notes, and whether the questions would be posed by a single journalist, a panel of reporters, or a sample of citizens. By negotiating in advance many of the contentious details and arranging for debate locations, the commission now facilitates the presidential and vice presidential debates. In 2000, George W. Bush proposed alternative formats and locations, only to back down as it appeared he was avoiding debates.<sup>58</sup> The 2004 debates were again run by the Commission on Presidential Debates. The candidates again negotiated such things as whether they would be standing or sitting. An important departure from the presumed format was the use of split screens by the networks where one candidate was seen reacting while the other was speaking. President Bush, especially during the first debate, reacted with what was widely described as a “scowl” to some of the criticisms leveled by Senator Kerry. In a later debate, Bush made mention of his “scowl.” The president seemed more comfortable in the format where questions came from the audience.

Minor party candidates often charge that the commission is biased in favor of the two major parties. To be included such candidates must have an average of 15 percent or higher in the five major polls used by the commission for this purpose and be legally eligible and be on the ballot in enough states to be able to win at least 270 electoral votes.<sup>59</sup> In 2004 Ralph Nader failed to meet these criteria for inclusion as did both he and Patrick Buchanan in 2000. In 1992, Ross Perot and his running mate, James Stockdale, had been included in the presidential and vice presidential debates, which generated large viewing audiences, averaging more than 80 million for each debate. The issue of excluding minor party candidates remains contentious. Including them takes time away from the major party candidates, especially if two or more minor party candidates are invited. Including them may also reduce the likelihood of both major parties’ candidates’ participating. But excluding them raises issues of fairness and free speech.

Although some critics are quick to express their dissatisfaction with presidential candidates for being so concerned with makeup and rehearsed answers, and although the debates have not significantly affected the election outcomes, they have provided important opportunities for candidates to distinguish themselves and for the public to weigh their qualifications. Candidates who do well in these debates are at a great advantage. They have to be quick on their feet, seem knowledgeable but not overly rehearsed, and project a positive image. Most presidential candidates are adept at all of these skills.

**THE OUTCOME** Though each election is unique, politicians, pollsters, and political scientists have collected enough information to agree broadly on a number of basic factors that they believe affect election outcomes. Whether the nation is prospering probably has the most to do with who wins a presidential election, but as we have noted, most voters vote on the basis of party and candidate appeal.<sup>60</sup> Who wins depends on voter turnout. The Democrats’ advantage in the number of people who identify themselves as Democrats is



*Presidential debates give candidates an opportunity to show how quickly and accurately they can respond to questions and outline their goals. In the debates of the 2004 elections, the consensus was that John Kerry outperformed George W. Bush in all three presidential debates; however his performance did not propel Kerry to victory in the election.*



*The vice presidential debate tends to be a more contentious exchange than presidential debates, providing each running mate with an opportunity to assail the opposition on various issues without the constraints that govern the presidential debates. The Iraq war, terrorism, and the economy all figured prominently in the 2004 vice presidential debate between John Edwards and Dick Cheney.*

mitigated by higher voter turnout among Republicans. Republicans also usually have better access to money, which means they can run more television ads in more places and more often.

After the votes are cast, as we saw in the last chapter, they must be counted. And the way they are counted can be a critical factor in close races. Even before the votes were counted in 2004, both parties had deployed thousands of lawyers to observe the voting and ballot counting and to launch legal challenges if necessary. The Bush victory was large enough that these challenges did not materialize. As we have been reminded, the popular vote is not necessarily the deciding vote in presidential elections. The electoral college has an important role to play and courts may have to determine if state and federal laws have been fairly applied. The peaceful transfer of power from one individual or party to another, especially after such contested elections, is the culminating event in electoral democracy.

## MONEY IN U.S. ELECTIONS

Election campaigns cost money, and the methods of obtaining the money have long been controversial. Campaign money can come from a candidate's own wealth, political parties, interested individuals, or interest groups. Money is contributed to candidates for a variety of reasons, ranging from altruism to self-interest. Individuals or groups, in hopes of influencing the outcome of an election and subsequently influencing policy, give **interested money**. Concern about campaign finance stems from the possibility that candidates or parties, in their pursuit of campaign funds, will decide that it is more important to represent their contributors than their conscience or the voters. The potential corruption that results from politicians' dependence on interested money concerns many observers of American politics.

Scandals involving money's influence on policy are not new. In 1925, responding to the Teapot Dome scandal, in which a cabinet member was convicted of accepting bribes, Congress passed the Corrupt Practices Act, which required disclosure of campaign funds but was "written in such a way as to exempt virtually all [members of Congress] from its provisions."<sup>61</sup>

The 1972 Watergate scandal—an illegal break-in at Democratic party headquarters by persons associated with the Nixon campaign to steal campaign documents and plant listening devices—led to discoveries by news reporters and congressional investigators that large amounts of money from corporations and individuals were "laundered" in secret bank accounts outside the country for political and campaign purposes. Nixon's 1972 campaign spent more than \$60 million, more than twice what it had expended in 1968. Investigators discovered that wealthy individuals and corporations made large contributions to influence the outcome of the election or secure ambassadorships and administrative appointments.

In the early 1990s, Charles Keating and his failed Lincoln Savings and Loan spotlighted the possibility that undue influence comes with large contributions. Keating had asked five U.S. senators, all of whom had received substantial campaign contributions or other perks from him, to intervene on his behalf with federal bank regulators looking into his savings and loan business. These senators came to be called the Keating Five. One of the senators was John McCain, who later became a strong advocate of campaign finance reform. The 1996 election saw aggressive fundraising by the Clinton/Gore campaign, including opportunities for donors to have meetings with the President, to fly with him on Air Force One, and to spend the night in the White House Lincoln Bedroom. A congressional investigation into these and related concerns about campaign finance in the 1996 cycle reinforced the case for reform.<sup>62</sup>

### interested money

Financial contributions by individuals or groups in the hope of influencing the outcome of an election and subsequently influencing policy.

### Efforts at Reform

Reformers have tried three basic strategies to prevent abuse in political contributions: (1) imposing limitations on giving, receiving, and spending political money; (2) requiring public disclosure of the sources and uses of political money; and (3) giving governmental

## IN COMPARATIVE PERSPECTIVE

### THE SOFT MONEY LOOPHOLE IN JAPAN

The Japanese strategy to combat corruption and money politics has been to create some of the most stringent campaign regulations in the world:

- Door-to-door campaigning is banned.
- Candidates may not run campaign advertisements in the media, although parties may.
- Candidates may produce only two versions of their campaign brochure, and only a limited number may be distributed; the number varies according to the number of registered voters in a district.
- Campaign posters are allowed only on government-provided poster boards that are set up in several locations across a district during the campaign.
- Direct mailing of campaign literature that mentions a specific candidate is not allowed except for a specified number of government-provided campaign postcards.

- The number of campaign offices, employees, and vehicles is restricted by law.

These regulations should make it impossible for candidates to raise and spend large sums of money in a campaign, but Japanese candidates have found a giant loophole in these restrictions by avoiding “official” campaign activities. A candidate will go door to door or mail out literature to voters or put up posters advertising a speech to be given before the official campaign period. In these precampaign activities, the candidates will be very careful never to mention the upcoming election, so their efforts are not covered by law.

Attempts to limit these activities have run into constitutional concerns. If a campaign has not begun and a person has not declared his or her candidacy, how can the Japanese government restrict the right of a citizen to speak at a meeting, discuss issues with people, mail information to people, or put up posters advertising such activities?

subsidies to presidential candidates, campaigns, and parties. Recent campaign finance laws have tended to use all three strategies.

**THE FEDERAL ELECTION CAMPAIGN ACT** In 1971, Congress passed the Federal Election Campaign Act (FECA), which limited amounts that candidates for federal office could spend on advertising, required disclosure of the sources of campaign funds as well as how they are spent, and required political action committees to register with the government and report all major contributions and expenditures. This law also provided a checkoff that allowed taxpayers to contribute \$1 to a fund to subsidize presidential campaigns by checking a box on their income tax form. The checkoff option is now \$3.

In 1974, Congress passed and President Gerald Ford signed the most sweeping campaign reform measure in U.S. history. These amendments to the Federal Election Campaign Act established somewhat more realistic limits on contributions and spending, tightened disclosure, and provided for public financing of presidential campaigns.

The 1974 law was again extensively amended after the Supreme Court’s 1976 *Buckley v. Valeo* decision, which overturned several of its provisions on grounds that they violated the First Amendment.<sup>63</sup> The *Buckley* decision emphasized limitations on contributions and full and open disclosure of all fund-raising activities by candidates for federal office, as well as the system of public financing for presidential elections.<sup>64</sup> The Supreme Court made a distinction between campaign spending and campaign contributions, holding that the First Amendment protects spending; therefore, legislatures may not limit how much of their own money people spend on elections, but Congress may limit how much people contribute to somebody else’s campaign. Later modifications of the law and interpretations by the Federal Election Commission sought to encourage volunteer activities and party building by permitting national political parties, corporations, labor unions, and individuals to give unlimited amounts, called **soft money**, to state parties, provided that the funds were used for party-building purposes.

One of the success stories of FECA was that presidential candidates of both parties for 20 years accepted the limitations on fundraising and campaign spending that were part of the public financing provisions. In recent presidential elections the public subsidy of presidential candidates has broken down. Until 2000, presidential candidates

#### **soft money**

Contributions to a state or local party for party-building purposes.

## ★ YOU DECIDE

### WHEN IS AN AD ABOUT AN ELECTION?

Political ads have many different purposes. Some are about issues, attempting to persuade the audience to a point of view; others are about a candidate's qualifications; and still others are about both issues and candidates. Groups in past elections spent many millions of dollars on election ads that fell outside the disclosure and other limitations of federal law. How would you define an election ad?

Assume you are watching an ad on TV or listening to one on the radio. Ask yourself if what you are seeing or hearing is only about issues, or if it is about electing or defeating a candidate.

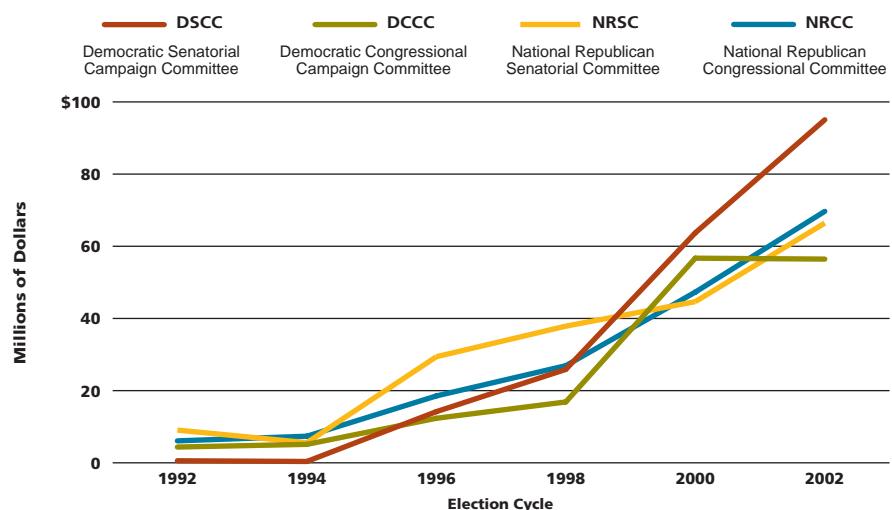
- Does it feature the image or likeness of a candidate?
- Does it mention a candidate by name?
- Does it mention an election?
- Does it use words like "vote for," "vote against," or "support"?
- Is it shown in the weeks before an election?

The answers to questions like these can determine whether this is a campaign communication and therefore subject to the disclosure and other requirements of federal law.

(except wealthy, self-financed candidates) accepted the voluntary limitations that come with partial public financing of presidential nomination campaigns. George W. Bush, who raised more than \$125 million for his campaign, declined federal matching funds in the 2000 primaries. In 2004, having raised over \$366 million, he again turned down the matching funds in the primaries as did two of the Democrats, Howard Dean and John Kerry (Kerry raised over \$322 million). In 2000 and 2004, Bush accepted the federal general election grant of roughly \$75 million, along with the general election spending limit. John Kerry also accepted the public funding and spending limit in the 2004 presidential general election. Whether future candidates will also pass up some federal funds depends on how well funded their opponents are and their own ability to raise money. Beyond the problem of candidates' passing up federal funds, the number of taxpayers checking the campaign subsidy on their income tax forms has been declining, although enough did so to cover all the costs of the 2000 and 2004 elections.<sup>65</sup>

**THE BIPARTISAN CAMPAIGN REFORM ACT (BCRA)** One of the most serious problems with the campaign finance system was soft money—funds given to national parties by individuals or political action committees ostensibly for party-building registration drives, mailings, and advertising. No limits were set on the amount of such contributions. The money was called "soft" because federal law did not limit how much individuals or groups could contribute or how much parties could spend. Although soft money was supposed to benefit only parties, it was used by the parties to influence the election of federal candidates. Both parties made raising soft money a high priority, and soft money spending rose dramatically. All national party committees combined raised over \$509 million of soft money in the 1999–2000 election cycle, up from \$110 million adjusted for inflation in 1991–1992<sup>66</sup> (see Figure 9–5). In 2001–2002, all party committees combined raised over \$495 million in soft money.

Soft money brought back the large donors as major players in campaign finance. It also strengthened the power of the national party committees, which allocate the money to state parties and indirectly to candidates. To the Supreme Court, which upheld the BCRA soft money ban, one of the major problems with soft money was that it



**FIGURE 9–5 Congressional Campaign Committee Soft Money Spending, 1994–2002.**

SOURCE: Federal Election Commission, "Party Committees Raise more than \$1 Billion in 2002–2003," press release, March 20, 2002, at [www.fec.gov](http://www.fec.gov), April 29, 2003. Adjusted by CPI, at <http://ftp.bls.gov/pub/special.requests/cpi/cpiait.txt>, January 15, 2003.

NOTE: The totals for each party do not equal the sum of the party committee receipts because the numbers provided by the FEC have been adjusted to account for transfers between party committees so as not to double count money in the total receipts.



purchased access to elected officials and with that access came influence and the possibility or appearance of corruption.<sup>67</sup>

In the past, soft money had been more important in presidential than in congressional contests, but that changed in a dramatic way with the 1998 and 2000 congressional elections. The most dramatic growth in 2000 and 2002 came among Senate Democrats. Figure 9–5 plots the surge in soft money funds for the four congressional campaign committees. The 2002 election cycle also saw extraordinary soft money activity by all party committees. Overall, the parties raised nearly as much soft money in 2001–2002 as they raised in 1999–2000, which was a presidential election year. When we compare 2002 with the last midterm year, 1998, we see soft money more than doubling in four years. With President Bush leading the way, the Republican National Committee raised nearly \$114 million, up from \$74 million in 1998. Again in 2002, the Democratic Senatorial Campaign Committee outpaced all other committees, raising more than \$95 million.

BCRA banned most forms of soft money. All soft money contributions to national party committees were banned, as was soft money spending by state parties for or against federal candidates. However, BCRA permits state and local party committees to raise and spend limited amounts of soft money for voter registration and get-out-the-vote efforts. Such activities may be funded with soft money contributions of no more than \$10,000 per individual or group as permitted by state law. This provision in BCRA is called “Levin Funds,” so named after Michigan Senator Carl Levin, who sponsored this as an amendment.

**ISSUE ADVOCACY ADVERTISING** The 1996 election saw a surge in **issue advocacy**. Money spent on issue advocacy ads is unlimited and undisclosed because it presumably deals with issues, not candidates. Issue ad spending in some U.S. House races exceeded \$1 million in recent elections; for example, in 2000, one group, the Alliance for Quality Nursing Home Care, spent more than \$1 million on issue ads in the Delaware U.S. Senate race.<sup>68</sup> In the 1998, 2000, and 2002 elections, businesses, labor unions, health maintenance organizations, environmental groups, the Business Roundtable, pro- and anti-gun groups, pro- and anti-abortion groups, and the pharmaceutical industry ran issue ads (see Table 9–2).

**TABLE 9–2 SOME FREQUENT ISSUE ADVERTISERS**

<i>Advertiser</i>	<i>Amount Spent*</i>
Citizens for Better Medicare	\$64
AFL-CIO	45
Coalition to Protect America's Health Care	30
National Rifle Association	25
U.S. Chamber of Commerce	15
Planned Parenthood Action Fund	14
Business Roundtable	13
Federation for American Immigration Reform	12
NAACP National Voter Fund	11
Americans for Job Security	10

SOURCE: Data from David B. Magleby, ed., *Election Advocacy: Soft Money and Issue Advocacy in the 2000 Congressional Elections* (Center for the Study of Elections and Democracy, Brigham Young University, 2001); Erika Falk, “Issue Advocacy Advertising Through the Presidential Primary, 1999–2000 Election Cycle,” Annenberg Public Policy Center, press release, September 20, 2000.

\*The numbers estimate total spending on issue advocacy and express advocacy; however, a large proportion went to issue advocacy.

## ★ ★ THINKING IT THROUGH

Until BCRA, groups relied on a distinction in the *Buckley v. Valeo* Supreme Court decision, which defined communications that use words such as “vote for” or “vote against” as election ads and those that did not use such words as “issue ads.” This distinction was not meaningful in actual campaigns, however.\* BCRA defines an electioneering communication as “a communication that refers to a clearly identified candidate, is publicly distributed shortly before an election for the office that candidate is seeking, and is targeted to the relevant electorate (U.S. House and Senate Candidates only).”†

BCRA's new electioneering definition had only a limited impact in 2004 because the campaign started so early, well before the 60 days before the general election. Some groups simply shifted to a strategy of doing independent expenditures which are unlimited but fully disclosed. Finally, BCRA's new definition did not apply to mail, phone, or personal contact, which was a major part of the process in 2004.

Critics of the new BCRA definition point out that Congress is often in session until a few days before an election, and interest groups need to be able to inform the public about important issues that are being considered. To limit issue ads during this period may stifle the free speech of groups with a more legislative than electoral agenda. Critics also see any restriction or limitation on electioneering as a restriction on First Amendment rights, and this includes limits on corporations and unions using their general funds for these purposes.

\*David B. Magleby, “Dictum Without Data: The Myth of Issue Advocacy and Party Building,” at [csed.byu.edu/publications/dictum.doc](http://csed.byu.edu/publications/dictum.doc).

†Federal Elections Commission, “Electioneering Communications,” June 2004, at [www.fec.gov](http://www.fec.gov).

### issue advocacy

Promoting a particular position or an issue paid for by interest groups or individuals but not candidates. Much issue advocacy is often electioneering for or against a candidate, and until 2004 had not been subject to any regulation.



### WHAT BCRA DOES

Federal campaign finance legislation passed in 2002 does all of the following:

- Keeps the Federal Election Commission, appointed by the president with the advice and consent of the Senate, to regulate the campaign financing of candidates for president, senator, and representative
- Retains the public financing of presidential general election campaigns with funds from the income tax checkoff
- Retains partial public financing of presidential nominating campaigns on a matching basis
- Retains subsidies to the two national parties for their convention expenses and to any minor party that polled 5 percent of the total vote in the previous presidential election
- Keeps limits on spending by candidates for presidential nominations (on a state-by-state basis and in total) and in the presidential general elections for those candidates who accept public funding
- Keeps limits on the amounts that national parties may spend on presidential campaigns and on individual congressional and senatorial campaigns
- Sets a limit of \$2,000 on the amount that any individual can give to a candidate for the U.S. Senate or for the U.S. House of Representatives in the primary election; a limit of \$2,000 per candidate in the general election; and a limit of \$5,000 per candidate in the primary and \$5,000 in the general election for political action committees
- Sets an overall limitation of \$95,000 for individuals over a two-year election cycle
- Sets no limit on the amount of their own money candidates can spend on their campaign
- Sets no limit on the amount that individuals or groups can spend independently
- Bans soft money except for \$10,000 per state and local party committee for voter registration and activation
- Bans the use of corporate and union treasury funds for all electioneering, including issue advocacy
- Redefines such “issue advocacy” as electioneering and makes its disclosure more consistent with independent expenditure disclosure.

The 2002 election saw an expansion of seniors' groups doing issue advocacy. Among those involved were 60 Plus, Seniors Coalition, United Seniors Association, and the American Association for Retired People (AARP). The AARP, by far the largest and best known of seniors' groups, urged voters to study the issues. The seniors' group that spent the most money was United Seniors, a group largely funded by the pharmaceutical industry. By masking its identity, the pharmaceutical industry could present its message without a stigma. Voters have an unfavorable impression of the pharmaceutical industry but know very little about United Seniors.<sup>69</sup> Other groups that engaged in substantial issue advocacy in 2002 included the Sierra Club, Planned Parenthood, and Club for Growth. These ads not only help the candidate that interest groups prefer or punish the candidate they oppose but also force candidates to discuss the interest group's agenda. Although these ads do not specifically say to vote for or against a candidate, they may contain candidates' images and names, and for voters they are indistinguishable from candidate or party ads.<sup>70</sup>

BCRA bans broadcast ads that show the image or likeness of a candidate, mention a candidate's name, and occur in the 60 days before a general election or 30 days before a primary election not paid for with disclosed money. This act also bans unions and corporations from using treasury funds for electioneering ads.

The use of issue ads and the growth in soft money meant that competitive congressional elections shifted from candidate-centered elections to party-centered and interest-group-centered campaigns. Soft money spending combined with interest group

**Vote! It's Your Business**

**Vote for Pro-Business Candidates**

**Election Day is November 5, 2002**

For more information about registration, voting and absentee ballots, contact your local registrar's office or visit [www.vote4business.com](http://www.vote4business.com).

**¡Vote! Es tu negocio**

**Vote para los candidatos pro-comercio**

**El día de las elecciones será el 5 de noviembre, 2002.**

Para más información sobre la inscripción, votación, y voto por correo, favor de contactar a su oficina de inscripción local o visite nuestra página web: [www.vote4business.com](http://www.vote4business.com).

**ABC** Associated Builders and Contractors, Inc.

**ABC** Associated Builders and Contractors, Inc.

**VOTE!**  
*It's Your Business*  
U.S. Chamber of Commerce

**VOTE!**  
*Es tu Negocio*  
U.S. Chamber of Commerce

Issue ads, such as this one placed by the U.S. Chamber of Commerce to promote pro-business candidates, try to influence voters to support candidates with favorable positions on the issues that are important to their sponsors.

issue advocacy spending exceeded the candidate campaigns in radio and television advertising by a margin of 2 to 1 in many of the most competitive congressional races of 2000 and 2004.<sup>71</sup> Parties and interest groups also spent large sums of money on mailings and telephone calls. For example, in some congressional races in 2000, targeted voters received as many as 12 pieces of political mail per day as election day approached. The intensity of issue advocacy and soft-money-funded communications in competitive races in 2002 was again extraordinary. In contests like the South Dakota Senate race, an hour of programming often had only political commercials. Because television time was sold out, some groups purchased radio time. Others turned to mail. Many groups with membership lists used these for personal contact and get-out-the-vote efforts.<sup>72</sup>

One of the problems with issue ads is accountability. Since interest groups using this form of electioneering are not required to disclose how much they spend or how they raise their money, voters have a hard time knowing the source of the funds. Ads by these groups also tend to be more negative.<sup>73</sup> Often candidates get blamed for the attacks made by these groups because voters assume that the ads are run by the candidates.

One predictable consequence of BCRA's ban on soft money was increased interest group electioneering via issue advocacy in 2004. The most visible of these new electioneering groups, sometimes called **527 groups**, is America Coming Together (ACT) which raised and spent an estimated \$76 million in presidential battleground states in 2004. Much of the early money for ACT came from the wealthy investor George Soros. The advent of groups like ACT, while benefiting John Kerry and the Democrats, constitutes a shift in power toward groups and away from candidates and parties.

Republicans, in part because they were in power and had the fundraising skills of President Bush, did not see as many allied 527 groups as did the Democrats. Some examples of Republican 527 groups in 2004 included Progress for America, Leadership Forum, and the Republican Governors Association. The 527 group that may have had the greatest impact on the campaign was the Swift Boat Veterans for Truth, who attacked Senator Kerry's war record. The modest initial budget for ads generated news coverage. The message of the ads cut to the core of the persona that Kerry had presented at the Democratic National Convention. President Bush was not drawn into the controversy but former Senator Bob Dole's assertion that there may be something to the charges added to the attention the group received. Some Republican allied groups did not organize as 527 organizations but instead operated under a different section of the tax code (Section 501-C), which requires even less disclosure.<sup>74</sup> But it was on the Democratic side that 527 groups were most important. ACT, for example, helped organize many other interest groups in its voter registration and mobilization efforts. A related group, The Media Fund, spent \$54 million in ads against President Bush up until 60 days before the election.

There are several important campaign finance-related issues that BCRA does not address. For example, it leaves intact the fund-raising advantages enjoyed by incumbents. It is not only the source of campaign money that is a problem but the pattern of unequal distribution as well. The high costs of television advertising diminish the ability of challengers to mount visible campaigns, resulting in declining competition. Only months after passage of the 2002 reforms, John McCain announced his support and sponsorship of legislation creating a "broadcast bank" where political parties would be given vouchers for free advertising time, with one-third of the time to go to challengers. Television stations, under McCain's proposal, are required to devote at least two hours per week to political coverage in which the candidates are on camera during the last month of the general election campaign.<sup>75</sup> For more information on broadcast time proposals, see The Alliance for Better Campaigns at [www.bettercampaigns.org](http://www.bettercampaigns.org).

**CANDIDATES' PERSONAL WEALTH** Campaign finance legislation cannot constitutionally restrict rich candidates—the Rockefellers, the Kennedys, the Perots—from spending heavily on their own campaigns. Big money can make a big difference, and wealthy candidates can afford to spend big money. In presidential politics, this advantage can be most meaningful in the period before the primaries begin. There may be no constitutional way to limit how much money people can spend on their own campaigns. The 2000 New Jersey U.S. Senate race, for example, set new records for a candidate's personal spending in an



*Candidates willing to spend personal wealth on their campaign enjoy important advantages. They are not subject to the contribution limitations imposed on other individuals. New Jersey Senator Jon Corzine spent \$60 million of his own money on his 2000 race. Corzine was selected by the Democratic leadership to head the Democratic Senatorial Campaign Committee for 2003–2004.*

### 527 Groups

Interest groups organized under Section 527 of the Internal Revenue Code may advertise for or against candidates. If their source of funding is corporations or unions, they have some restrictions on broadcast advertising. 527 organizations were important in recent elections.



## IN COMPARATIVE PERSPECTIVE

### CAMPAIGN FINANCING IN BRITAIN AND CANADA

United States election campaigns go on for months or even years and are very expensive. In contrast, Canadian general election campaigns are limited by law to about five weeks. Public opinion polls cannot be published during the last three days of a campaign, and the media are prohibited by law from reporting results from earlier time zones on the evening of the election in any district where voting is still taking place.

Expenditures are strictly limited for Canadian political parties and individual candidates. During the 1997 general election campaign to fill the 301 seats in the House of Commons, political parties that fielded candidates in all districts were limited by law to spending no more than approximately \$8 million each for the entire election, and individual candidates could spend about \$35,000 to \$45,000, depending on the number of voters per district. In return, media outlets were required to sell a certain amount of airtime to the parties, and national and regional television and radio networks had to donate some free airtime to these parties. If individual candidates received more than 15 percent of the vote in their districts, the government reimbursed 50 percent of their election-related expenses. Political parties receiving at least 2 percent of the national vote or at least 5 percent of the votes cast in electoral districts where they ran candidates were reimbursed 22.5 percent of their expenses.

In the June 1997 Canadian elections, 1,672 candidates ran for office, and ten political parties received registered status. Total spending by the parliamentary candidates and political parties was approximately \$70 million—less than half the \$157 million spent by candidates in the United States during the 1996 election campaign (\$29 million on seats in the House of Representatives and \$128 million on seats in the Senate).

British general elections also offer an interesting contrast to elections in the United States. The election campaign lasts only three weeks. Candidates for the House of Commons, the most critical election in Britain, are allowed to raise and spend only \$15,000. If they spend more, they are disqualified. Each candidate gets the same amount of free airtime, and each candidate is allowed one free election leaflet mailed to each voter in the constituency. About 75 percent of voters turn out, and about 95 percent of eligible voters are registered to vote. At the voting booth, the voter is handed a slip of paper with the names of three or four candidates for the House of Commons. No other offices or ballot questions are presented at the same time.

SOURCE: Adapted from Dudley Fishburn, "British Campaigning—How Civilized!" *The New York Times*, April 14, 1992, p. 25. See also, Alexander Macleod, "Britain Leads in Campaign Finance Reform," *Christian Science Monitor*, July 30, 1999, Section: World; p. 6.

election. Wall Street investment banker Jon Corzine, a newcomer to elections, spent a total of \$60 million, \$35 million of it on the primary alone.<sup>76</sup> Corzine was elected. BCRA includes a millionaire's provision that was upheld by the Supreme Court in *McConnell v. FEC*. The provision allows candidates running against self-financed opponents who expend large amounts of their own wealth to have higher contribution limits for their donors.

**INDEPENDENT EXPENDITURES** BCRA does not constrain **independent expenditures** by groups, political parties, or individuals, as long as the expenditures by those individuals, parties, or groups are independent of the candidate and fully disclosed to the Federal Election Commission (FEC). A group or party that does independent expenditures within a month of a primary or two months of a general election must use hard money, that is, disclosed and limited contributions to the party or group. Any 527 organization wishing to broadcast an electioneering communication within one month of a primary or two months of a general election must not use corporate or union treasury funds, it must report the expenditures associated with the broadcast, and it must disclose all funding sources since the first day of the preceeding calendar year. While contribution sources are restricted in this case, contribution amounts are not. Individuals spending their own money and not coordinating with others are also not limited. This exemption was permitted by the Supreme Court on free speech grounds. In the 1999–2000 election cycle, interest groups spent a total of \$22 million on independent expenditures. The National Rifle Association (NRA) led all other interest groups with \$4.2 million, mostly for Republicans, but the League of Conservation Voters (\$3.2 million), the National Education Association (NEA) (\$2.4 million), and the National Abortion and Reproductive Rights Action League (\$2.2 million) all combined to spend \$7.8 million, mostly on behalf of Democrats. Individuals can also engage in

#### independent expenditures

Money spent by individuals or groups not associated with candidates to elect or defeat candidates for office.



independent expenditures. In the 2000 presidential election, Stephen Adams, owner of an outdoor advertising firm, spent \$2 million in support of Governor George W. Bush.<sup>77</sup> In 2004, billionaire George Soros, who gave millions to 527 organizations opposed to the reelection of George Bush, also spent 2.3 million in independent expenditures against the president. He used the money to run full-page newspaper ads against Bush and to fund a speaking tour during which he expressed his opposition to Bush's reelection. In addition, he maintained a Web site and sent mailings to voters in key states.

### Continuing Problems with Campaign Finance

The continuing problems with federal election fund raising are easy to identify: dramatically escalating costs, a growing dependence on PAC money, decreasing visibility and competitiveness of challengers (especially in the House), and the ability of wealthy individuals to fund their own campaigns. The danger of large contributions influencing lawmakers directly or indirectly through political parties was reduced by BCRA. Large contributions, however, can still influence the outcome of elections, as the 527 and other groups [since there were groups organized under other rules, too] demonstrated in the 2004 election.

**RIISING COSTS OF CAMPAIGNS** The American ideal that anyone—even a person of modest wealth—can run for public office and hope to win has become more a myth than a reality.<sup>78</sup> And rising costs also mean that incumbents spend more time raising funds and therefore less time legislating and representing their districts. Since the Federal Election Campaign Act (FECA) became law in 1972, total expenditures by candidates for the House of Representatives have more than doubled after controlling for inflation, and they have risen even more in Senate elections (see Table 9–3). One reason

**TABLE 9–3 AVERAGE CAMPAIGN EXPENDITURES OF CANDIDATES FOR THE HOUSE OF REPRESENTATIVES, 1988–2002 GENERAL ELECTION (IN THOUSANDS OF 2004 DOLLARS)**

	<i>Incumbent</i>	<i>Challenger</i>	<i>Open Seat</i>
<b>Republican</b>			
1988	\$603.1	\$148.0	\$1,201.8
1990	531.1	147.8	1,109.1
1992	660.7	234.6	778.2
1994	541.7	281.4	1,189.3
1996	820.3	234.9	699.0
1998	715.5	262.2	758.6
2000	944.5	331.7	1,283.6
2002	860.9	188.3	1,080.0
<b>Democrat</b>			
1988	\$528.0	\$211.9	\$658.9
1990	536.2	147.4	714.3
1992	751.6	199.8	599.2
1994	711.3	186.3	684.2
1996	635.1	329.4	698.0
1998	577.1	249.1	759.3
2000	787.0	485.6	1,176.7
2002	785.1	313.4	1,020.6

SOURCE: Federal Election Commission, "Congressional Fundraising and Spending Up Again in 1996," press release, April 14, 1997, p. 13; Federal Election Commission, "1998 Congressional Financial Activity Declines," press release, December 29, 1998, p. 5; Federal Election Commission, at [www.fec.gov/fec](http://www.fec.gov/fec).

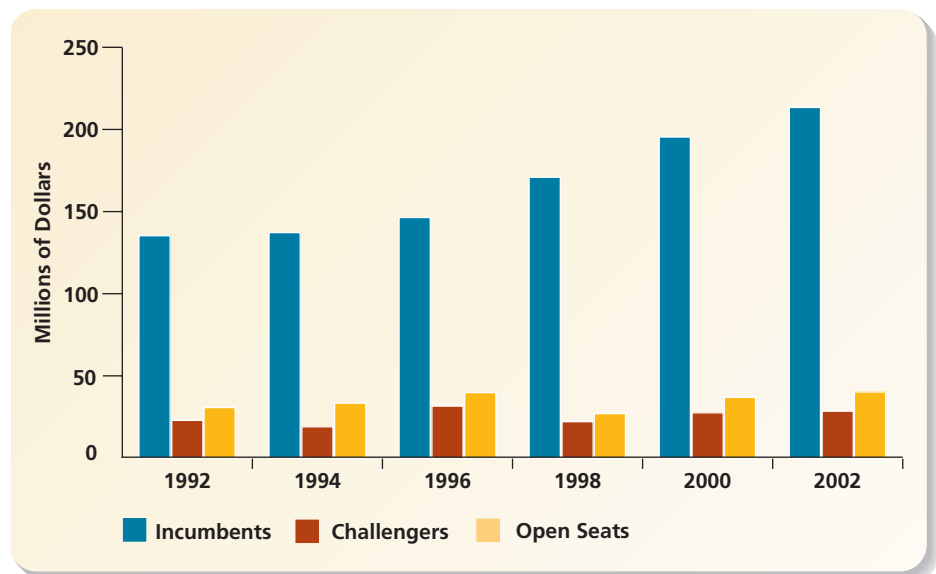
for escalating costs is television. Organizing and running a campaign is expensive, limiting the field of challengers to those who have resources of their own or are willing to spend more than a year raising money from interest groups and individuals.

**DECLINING COMPETITION** Unless something is done to help finance challengers, incumbents will continue to have the advantage in seeking reelection. Nothing in BCRA addresses this problem. Challengers in both parties are typically underfunded. House Democratic challengers averaged \$198,330 in spending in 2004. In 2000 and 2002 the average for House Democratic challengers was around \$350,000, while Republican challengers averaged between around \$200,000 in 2002 and \$250,000 in 2000.<sup>79</sup> In today's expensive campaigns, candidates are invisible if they only have this amount to spend.

The high cost of campaigns dampens competition by discouraging individuals from running for office. Potential challengers look at the fund-raising advantages enjoyed by incumbents—at incumbents' campaign war chests carried over from previous campaigns, which can reach \$1 million or more, and at the time it will take for them to raise enough money to launch a minimal campaign—and they decide to direct their energies elsewhere. Moreover, unlike incumbents, who are being paid while campaigning and raising money, most challengers have to support themselves and their families throughout the campaign, which for a seat in Congress lasts roughly two years.

**INCREASING DEPENDENCE ON PACS AND WEALTHY DONORS** Where does the money come from to finance these expensive election campaigns? For most House incumbents, it comes from political action committees (PACs), which we discussed in Chapter 6. In recent years more than two-out-of-five incumbents seeking reelection raised more money from PACs than from individuals (see Figure 9–6).<sup>80</sup> Senators get a smaller percentage of their campaign funds from PACs, but because they spend so much more, they need to raise even more money from PACs than House incumbents do. PACs are pragmatic, giving largely to incumbents. Challengers receive little from PACs because PACs do not want to offend politicians in power. BCRA raised the individual contribution limit to a candidate in the two-year campaign cycle to \$4,000, still well below the PAC contribution limit for an election cycle of \$10,000. Some individuals who formerly gave \$2,000 will now double their contribution to particular candidates, but politicians will continue to rely on PACs because relatively few individuals have the means to give this much money. It also often takes less time to raise money from PACs than from individuals.

To be sure, PACs and individuals spend money on campaigns for many reasons. Most of them want certain laws to be passed or repealed, certain funds to be



**FIGURE 9–6 PAC Money Favors Incumbents.**

SOURCE: FEC, "PAC Activity Increases for 2002 Elections," March 27, 2003, at [www.fec.gov](http://www.fec.gov).

appropriated, or certain administrative decisions to be rendered. At a minimum, they want access to officeholders, a chance to talk with members before key votes.

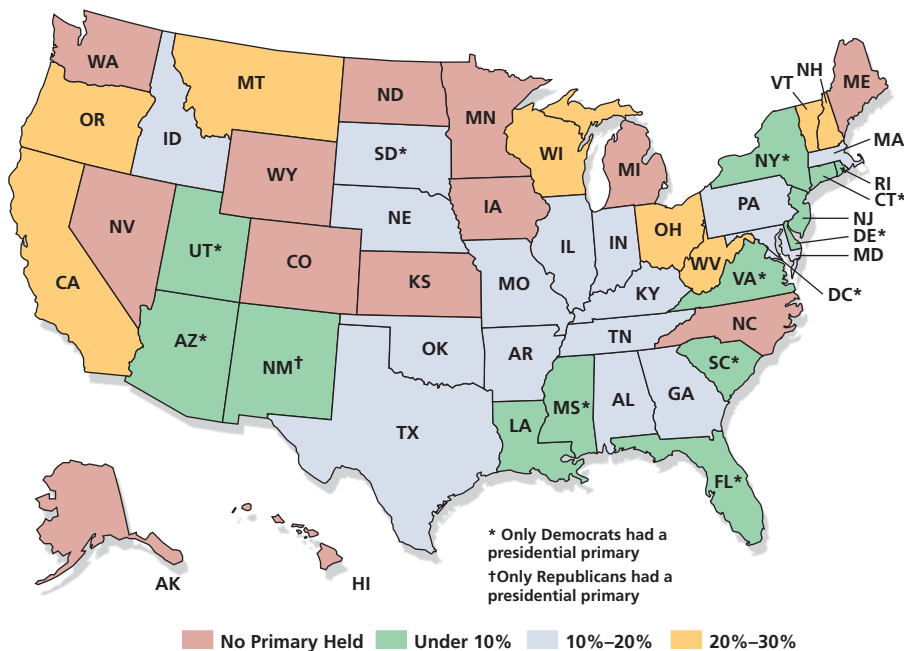
Defenders of PACs point out that there is no demonstrable relationship between contributions and legislators' votes. But influence in the legislative process depends on access to staff and members of Congress, and most analysts agree that campaign contributions give donors extraordinary access. PACs influence the legislative process in other ways as well. Their access helps them structure the legislative agenda with friendly legislators and influence the drafting of legislation or amendments to existing bills. These are all advantages that others do not have.

## IMPROVING ELECTIONS

A combination of party rules and state laws determines how we choose nominees for president. Reformers agree that the current process is flawed but disagree over which aspects require change. Concern over how we choose presidents now centers on four issues<sup>81</sup>: (1) the number, timing, and representativeness of presidential primaries; (2) the role of the electoral college, including the possibility that a presidential election might be thrown into the House of Representatives; (3) how we vote; and (4) how we fund presidential elections.

### Reforming The Nominating Process

As noted, in 2004 once again the choice of presidential nominees was most influenced by the voters in early primary or caucus states like Iowa and New Hampshire. The fact is that most citizens do not have a say in who the nominees are. Moreover, these early states are not broadly representative of the country or of their respective parties. Participation in primaries has been low in recent years (see Figure 9–7). In the 2004 primaries, turnout was generally under 17 percent of the voting-age population, and it declined as the primary season progressed and the field of candidates narrowed.<sup>82</sup> Voters in primaries also tend to be more ideological than voters generally, a further bias in the current nominating process.



**FIGURE 9–7 Voter Turnout in the 2004 Presidential Primaries.**

SOURCE: Curtis B. Gans, Director, Committee for the Study of the American Electorate, facsimile to author, September 22, 2004.

None of these concerns are new. What would the critics substitute for state presidential primaries? Some argue in favor of a *national presidential primary* that would take the form of a single nationwide election, probably held in May or September, or separate state primaries held in all the states on the same day.<sup>83</sup> Supporters contend that a one-shot national presidential primary (though a runoff might be necessary) would be simple, direct, and representative. It would cut down the wear-and-tear on candidates, and it would attract a large turnout because of media coverage. Opponents argue that such a reform would make the present system even worse. It would enhance the role of showmanship and gamesmanship, and being enormously expensive, it would hurt the chances of candidates who lack strong financial backing.

A more modest proposal is to hold *regional primaries*, possibly at two- or three-week intervals across the country. Regional primaries might bring more coherence to the process and encourage more emphasis on issues of regional concern. But such primaries would retain most of the disadvantages of the present system—especially the emphasis on money and media. Clearly, they would give an advantage to candidates from whatever region held the first primary, and this advantage would encourage regional candidates and might increase polarization among sections of the country.

A different proposal is to drastically reduce the number of presidential primaries and make more use of the caucus system. The turnout of voters in the Iowa caucuses in recent elections shows that participation can be high, and the time participants spent discussing candidates and issues shows that such participation can be thoughtful and informed. In caucus states, candidates are less dependent on the media and more dependent on convincing political activists. By centering delegate selection in party meetings, the caucus system would also, some say, enhance the role of the party.<sup>84</sup>

Still another idea—used by Colorado for nominations to state offices and by Utah for nominations to federal and state offices—would turn the process around. Beginning in May, local caucuses and then state conventions would be held in every state. They would then send delegates—a certain percentage of whom would be unpledged to any presidential candidate—to the national party conventions, which would be held in the summer. The national conventions would select two or three candidates to compete in a national primary to be held in September. In this plan, voters registered by party would be allowed to vote for their party nominee in the September primaries.<sup>85</sup> Such a plan would likely add voter engagement in the party process but also be more expensive since candidates would mount two national campaigns, one in September and another in November.

Given the problems with the current nomination process, why has it not been reformed? Part of the answer is strong resistance from the states that benefit from the current system. In our federal system, imposing a national or regional primary is difficult.

While many voters are effectively denied a vote in determining their party's nominee, news coverage of the primaries allows them to evaluate the candidates' political qualities and their abilities to organize campaigns; communicate through the media; stand up under pressure; avoid making mistakes (or recover if they do make them); adjust their appeals to shifting events and to different regions of the country; control their staffs as well as make good use of them, and be decisive; articulate, resilient, humorous, informed, and ultimately successful in winning votes. In short, supporters of the current system claim, primaries test candidates on the very qualities they must exhibit in the presidency.<sup>86</sup>

## Reforming the Electoral College

The Florida ballot counting and recounting after the 2000 election and the fact that the popular vote winner did not become president prompted a national debate on the electoral college. The most frequently proposed reform is *direct popular election* of the president. Presidents would be elected directly by the voters, just as governors are, and the electoral college and individual electors would be abolished. Such proposals usually provide that if no candidate receives at least 40 percent of the total popular vote, a *runoff election* would be held between the two contenders with the most votes. Supporters



argue that direct election would give every voter the same weight in the presidential balloting in accordance with the one-person, one-vote doctrine. Winners would take on more legitimacy because their victories would reflect the will of the voters.

Opponents contend that the plan would further undermine federalism, encourage unrestrained majority rule and hence political extremism, and hurt the most populous and competitive states, which would lose some of their present influence. Others fear that the plan would make presidential campaigns more remote from the voters; candidates might stress television and give up their forays into shopping centers and city malls.<sup>87</sup>

From time to time, Congress considers proposals for a constitutional amendment to elect presidents directly. Such proposals, however, seldom get far because of the strong opposition of various interests that believe they may be disadvantaged by such a change, especially small states and minority groups whose role is enlarged by the electoral college. Groups such as African Americans and farmers, for example, fear they might lose their swing vote power—their ability to make a difference in key states that may tip the electoral college balance.

Another alternative to the electoral college is sometimes called the National Bonus Plan. This plan adds to the current 538 electoral college members another 102 electoral votes, to be awarded on a winner-take-all basis to the candidate with the most votes, so long as that candidate received more than 40 percent of the popular vote. This system would avoid elections' being thrown into the House of Representatives and would help the popular vote winner take over the White House. The most serious liabilities of the plan are that it is complicated and that it requires a runoff election if there is no winner.

Finally, two states, Maine and Nebraska, have already modified the electoral college, adopting a district system in which the candidate who carries each congressional district gets that electoral vote and the candidate who carries the state gets the state's two additional electoral votes. This quasi-proportional representation system has the advantage of not shutting out a candidate who is strong in some areas of a state but not others, but otherwise it does not address the larger concerns with the electoral college.

The failure of attempts to change the system of elections points to an important conclusion about procedural reform: Americans normally do not focus on procedures. Even after the intense focus on the outcome of the 2000 election, including the role of the electoral college, reform was not seriously considered.

## Reforming How We Vote

The 2000 presidential election ended with a monthlong controversy over ballots and how to count them. While Florida became the focal point of attention with its problems with punch-card ballots, dangling chads, voter confusion over ballot formats, and when to count or not count absentee ballots, such problems are common to all 50 states. As we noted earlier, election administration is a state and local matter.

Following the 2000 election, Florida enacted legislation modernizing its election process and establishing minimum standards for polling places and voting machines. These standards include certification of electronic voting machines and requirements for the use and storage of these machines. Despite this legislation and the purchase of more than \$30 million worth of new electronic machines, their first use in the 2002 primary reminded many of the problems with punch-card ballots in 2000. Some new machines failed to record votes, others had too many votes, and precinct workers were not adequately prepared to help voters with the new technology.

At the national level, both houses of Congress passed the Help America Vote Act (HAVA) providing \$3.9 billion in federal funds to modernize American voting procedures, mandating that states maintain accurate statewide voter registration lists.<sup>88</sup> The legislation also permits voters to cast provisional ballots if there is uncertainty about their registration. Advocates of the new voting technology hope that it will improve accuracy and make voting more accessible for persons who have disabilities or who do not speak English.<sup>89</sup> Opponents of the changes see the funding as inadequate to the need and worry about the accuracy and security of the new systems.<sup>90</sup> In the days just before the 2004



*The touch-screen voting machine is an example of a new way for voters to register their choice. This computerized machine prevents voters from choosing more than one candidate, as many did erroneously during the 2000 election in Florida; however, there is considerable controversy over the fact that these machines are not required to produce a paper receipt for each vote cast, making recounts impossible should they become necessary.*



### ELECTION IN ACTION: 2004 PRESIDENTIAL ELECTION

Try your hand as the campaign manager for either major party candidate in the 2004 presidential campaign. You will make the strategic decisions that guide your candidate to victory. As you travel through the virtual process of coordinating campaign advertisements, budgeting the available funds through election day, and deciding which states to travel to, you will better understand the impact of the electoral college and the work that goes into electing a president of the United States.

Go to Make It Real, "Election in Action: 2004 Presidential Election."

election, both parties were preparing for legal challenges to the voting process. Issues included whether or not felons could vote and whether the parties could challenge the registration of new voters at the polls. The implementation of HAVA provisional ballots was also a source of likely litigation. States like Florida and Ohio were the likely battlegrounds for this legal battle, which did not materialize because of Bush's victory margin.

The HAVA is just the start of a broader effort to modernize democracy. It is likely that state legislatures and Congress will eventually debate permitting people to vote via the Internet. The argument will be that if people can make purchases over the Internet, why not let them vote electronically as well? Some states experimented with "e-voting" on a small scale in presidential primaries in 2000 and some counties in California have also experimented with it since then. A shift to e-voting is in some respects an extension of the Oregon vote-by-mail experience since 1996. Oregon elections are now largely conducted using mail ballots, a process which reduces costs and to date has increased participation. Yet critics worry that important elements of community and democracy are lost when people do not vote collectively at the local schoolhouse or fire station. Another concern with e-voting is that it may encourage a proliferation of elections and direct democracy. If we can vote from home, why not vote on more things and more often? E-voting could also foster a political culture of more and more ballot referendums.

### Reforming Campaign Finance

The incremental reforms of BCRA and the Supreme Court decision in *McConnell v. FEC* upholding them have not resolved the issues of campaign finance. Among the unresolved issues are how presidential campaigns will be financed, the role of interest groups campaigning as Section 527 and 501-C groups, the adequacy of disclosure, and the strength and viability of the political parties. More broadly, the inability of the Federal Election Commission to reach decisions because of its partisan deadlock, as demonstrated by its inaction on Section 527 groups, has helped generate growing pressure to reform that agency.

The 2004 election cycle, with its substantial interest group activity through Section 527 and 501-C organizations, will be seen by those who favor deregulation of campaign finance as another example of the impossibility of limiting money in elections. This school of thought will continue to push for disclosure as the regulatory aim of government in this area.

Another group of reformers will press for more aggressive reforms than those found in BCRA. Included in this agenda will be reining in the 527 and 501-C groups, restructuring the public financing of presidential elections to sustain this element of FECA, and possibly extending public financing of congressional elections. Both sides are likely to agree that change is needed at the FEC but will not agree on how to change it.

## S U M M A R Y

1. American elections, even presidential elections, are largely governed by state law and administered by local election officials. Following the 2000 elections, governments at all levels began to look for ways to improve the system.
2. Our electoral system is based on winner-take-all rules, with typically single-member-district or single-officeholder arrangements. These rules encourage a moderate, two-party system. That we have fixed and staggered terms of office adds predictability to our electoral system.
3. The electoral college is the means by which presidents are actually elected. To win a state's electoral votes, a candidate must have a plurality of votes in that state. Except in two states, the winner takes all. Thus candidates cannot afford to lose the popular vote in the most populous states. The electoral college also gives disproportionate power to the largest and smallest states, especially if they are competitive. It also has the potential to defeat the popular vote winner.
4. Many congressional, state, and local races are not seriously contested. The extent to which a campaign is likely to be hotly contested varies with the importance of the office and the chance a challenger has of winning. Senate races are more likely to be contested, though most incumbents win.
5. The race for the presidency actually takes place in three stages: winning enough delegate support in presidential primaries and caucuses to secure the nomination, campaigning at the national party convention, and mobilizing voters in enough states for a win in the electoral college.
6. Even though presidential nominations today are usually decided weeks or months before the national party conventions, these conventions still have an important role in setting the parties' direction, unifying their ranks, and firing up enthusiasm.
7. Because large campaign contributors are suspected of improperly influencing

public officials, Congress has long sought to regulate political contributions. The main approaches to reform have been (1) imposing limitations on giving, receiving, and spending political money; (2) requiring public disclosure of the sources and uses of political money; and (3) giving governmental subsidies to presidential candidates, campaigns, and parties, including incentive arrangements. Present regulation includes all three approaches.

8. Loopholes in federal law—including soft money and issue advocacy—led to the passage of BCRA. These loopholes grew in size and importance with the 1996 election cycle and have persisted since.
9. The rising costs of campaigns have led to declining competition for congressional seats and increasing dependence on PACs and wealthy donors.
10. The present presidential selection system is under criticism because of its length and expense, because of uncertainties

and biases in the electoral college, and because it seems to test candidates for media skills less needed in the White House than the ability to govern, including the capacity to form coalitions and make hard decisions.

11. Reform efforts center on presidential primaries and the electoral college as well as on voting methods and campaign finance.

## KEY TERMS

winner-take-all system  
single-member district  
proportional representation  
electoral college

safe seat  
coattail effect  
caucus

national party convention  
interested money  
soft money

issue advocacy  
527 groups  
independent expenditures

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