

Record

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Federal Election Commission

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Reports

Electronic Filing Update: FEC Introduces FECFile Version 3.0

The Commission has taken another step forward in making campaign finance reporting more convenient and less complicated for all FEC filers. With the release of FECFile Version 3.0, generating campaign finance reports and filing them electronically have never been easier. FECFile software allows filers to prepare and send reports electronically. Saving time, money and worry, an electronic filer can upload a report to the FEC in just a few minutes, even on the day a report is due.

A number of committees have used earlier versions of FECFile successfully for more than a year. In addition, a small group of committees have been voluntarily testing the new version of the program since September.

The new version offers several improvements over earlier versions. First, the screen display is simpler. Additionally, the new interface eliminates many of the steps required to navigate Version 2.0 of the program. Several committees testing the program noted they spent less time learning Version 3.0 than they had learning Version 2.0.

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Court Cases

New Litigation

Mariani v. USA and FEC

Renato P. Mariani, a Pennsylvania corporate official under indictment for federal campaign finance violations, has filed a separate civil action and asked the court to find that the Federal Election Campaign Act's (the Act's) prohibitions on corporate contributions and contributions in the names of others are unconstitutional. 2 U.S.C. §§441b and 441f. The FEC successfully petitioned the U.S. District Court for the Middle District of Pennsylvania to intervene in this case and has filed a motion to have the matter dismissed.

Mr. Mariani, president of Empire Sanitary Landfill, Inc., filed this suit after he was charged in a criminal indictment with funneling \$80,000 in corporate funds to individuals who, in turn, made contributions to federal candidates. He is seeking dismissal of all the criminal charges filed against him related to the Act because he contends that the prohibitions against corporate contributions and contributions made in the names of others violate the First Amendment. He bases his case on the theory that the rise in the use of soft money donations by political

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Court Cases

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parties has rendered the Act ineffective, leaving no constitutional justification for continued enforcement of the two provisions in question.

The Commission contends in its motion that Mr. Mariani's claims are frivolous and asks the district court to dismiss this case without sending it to the en banc appellate court for review, which would be required under 2 U.S.C. §437h because of the constitutional questions at issue.

The Commission explains that Mr. Mariani's position is refuted by precedent. Since 1907, corporate contributions have been deemed impermissible in federal elections. The constitutionality of the prohibition on corporate contributions and corporate independent expenditures has been well established through numerous court cases. In supporting this ban, the courts have weighed the First Amendment's free speech

protections against the government's interest in preventing real or perceived corruption. The courts have held that corporations are among the entities that can be singled out in the Act for special treatment related to contributions and expenditures largely because of their ability to amass great wealth and to use it to incur political debts from legislators they support with contributions.

The Commission further argues that Mr. Mariani's claims of a collapse of the campaign finance system because of soft money are erroneous and irrelevant. In *Buckley v. Valeo*, the U.S. Supreme Court explicitly acknowledged the potential for skirting some of the Act's restrictions while repeatedly upholding the Act's limits on contributions to candidates.

The Commission also contends that Mr. Mariani's second claim—that the prohibition against contributions in the names of others is unconstitutional—is without legal basis. This section of the Act, the Commission maintains, ensures that no one evades the Act's contribution limits by making contributions through other people and ensures full and accurate disclosure to the public.

U.S. District Court for the Middle District of Pennsylvania, 98-1701, December 15, 1998. ♦

Reports

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In addition to the improved look of the program, users will discover more comprehensive HELP files. Another enhancement is a directory of committee/candidate address information. When committees are reporting contributions to candidates or other committees, the directory function will allow users to copy addresses automatically into their reports. Version 3.0 also contains

Federal Register

Federal Register notices are available from the FEC's Public Records Office.

Notice 1999-1

Filing Dates for the Georgia Special Election (64 FR 3298, January 21, 1999)

Schedule H forms for those committees that must report the allocation of federal and nonfederal expenses, and it has been refined so that it sorts information much more quickly than before.

The FEC is planning to send FECFile Version 3.0 to over 1,300 committees that have previously requested the software. Other committees may request a copy of this free software by calling the Electronic Filing Office at 202/694-1306 or by calling the FEC's toll-free number (800/424-9530) and asking for the Electronic Filing Office. ♦

Compliance

MUR 4751

Party Committee Pays Civil Penalty for Improper Transfers

The New Jersey Democratic State Committee has paid a \$15,000 civil penalty and transferred \$54,279 from its federal account to its nonfederal account after the FEC determined that the committee had improperly transferred funds during the 1996 election cycle. The committee had previously transferred \$62,216 from its federal account to its nonfederal account to remedy some of the excessive transfers it had made during the '96 cycle.

In only limited circumstances can a committee with both federal and nonfederal accounts transfer funds

Federal Election Commission 999 E Street, NW Washington, DC 20463

800/424-9530
202/694-1100
202/501-3413 (FEC Faxline)
202/219-3336 (TDD for the
hearing impaired)
800/877-8339 (FIRS)

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Angela Rucker, Editor

<http://www.fec.gov>

from its nonfederal account to its federal account. When paying shared state/federal expenses, a state party committee with federal and nonfederal accounts must pay the entire bill from its federal account and can transfer funds from its nonfederal account to its federal account only to cover the nonfederal share of the expenses. 11 CFR 106.5(g)(1)(i). The allocable activities must be itemized on committee reports. 11 CFR 104.10(b)(3) and 106.5(g)(2)(ii)(A). Apart from this narrow exception, provided in 11 CFR 106.5 and 106.6(e), committees must deposit only federally-permissible funds into their federal accounts. 102.5(a)(1)(i).

During five reporting periods between January 1, 1996, and December 31, 1996, the committee transferred funds from its nonfederal account to its federal account. The transfers represented approximately \$117,000 in excess of the allocable nonfederal amount for shared political activities.

In addition to finding that the excessive transfers were not made in compliance with FEC regulations, the Commission found that these transfers contained excessive individual and PAC contributions and impermissible corporate contributions. 2 U.S.C. §§441a(f) and 441b(a). New Jersey state law, which governs the committee's nonfederal activities, permits individuals, PACs and corporations to make contributions of up to \$25,000 annually. Federal statutes, however, limit contributions to state party committees to \$5,000 per year for individuals and PACs, and prohibit corporate contributions.

This compliance matter was initiated by the FEC. The Commission entered into a conciliation agreement with the committee prior to finding probable cause that the committee had violated the Commission's statutes and regulations. ♦

Georgia Special General Election Reporting

Committees¹ involved in the February 23 special general election and/or the March 16 special runoff election to fill the 6th Congressional District seat that was vacated by former Congressman Newt Gingrich must follow the reporting schedules below. Note that 48-hour notices are required of authorized committees that receive contributions (including loans) of \$1,000 or more between February 4 and February 20 in the special general election and between February 25 and March 13 in the special runoff election (if the runoff is required).

For Committees Involved Only in Special General When No Runoff is Held:

	Close of Books	Certified/ Registered Mail Date	Filing Date
Pre-General	February 3	February 8	February 11
Post-General	March 15	March 25	March 25

For Committees Involved in Special General and Special Runoff:

	Close of Books	Certified/ Registered Mail Date	Filing Date
Pre-General	February 3	February 8	February 11
Pre-Runoff	February 24	March 1	March 4
Post Runoff	April 5	April 15	April 15

For Committees Involved Only in Special General When Both Special General and Runoff Elections Are Held:

	Close of Books	Certified/ Registered Mail Date	Filing Date
Pre-General	February 3	February 8	February 11
Mid-Year	June 30	July 31	July 31

For Committees Involved Only in Special Runoff:

	Close of Books	Certified/ Registered Mail Date	Filing Date
Pre-Runoff	February 24	March 1	March 4
Post-Runoff	April 5	April 15	April 15

¹These committees include authorized committees of candidates running in the election and other political committees that support these candidates and do not file monthly.

Statistics

Congressional Spending Declines from '96 Levels

With fewer open seats and fewer competitive races when compared to 1996, the amount of money that House candidates raised and spent in their 1998 campaigns declined. Post-general reports, covering financial activity from January 1, 1997, through November 23, 1998, revealed that spending in House races totaled \$372.9 million, an 8 percent decline from 1996. House candidates collected \$420.8 million, down from \$439.6 million in 1996.

The drop in spending in the House contributed to an overall

decrease in spending for all congressional candidates. Those running in the general election for seats in the House or Senate spent a combined \$617.1 million in 1998 races, down \$9.2 million from 1996. This total does not include more than \$12 million spent by candidates in special elections in 1997 and 1998, nor does it include the more than \$87 million spent by candidates who lost primary elections.

In the receipt category, congressional candidates raised \$665.1 million, a slight increase over the \$659.6 million raised in 1996. Candidates gave their own committees \$53.6 million and received contributions of \$374.9 million from individuals and \$200.3 million from PACs and other committees.

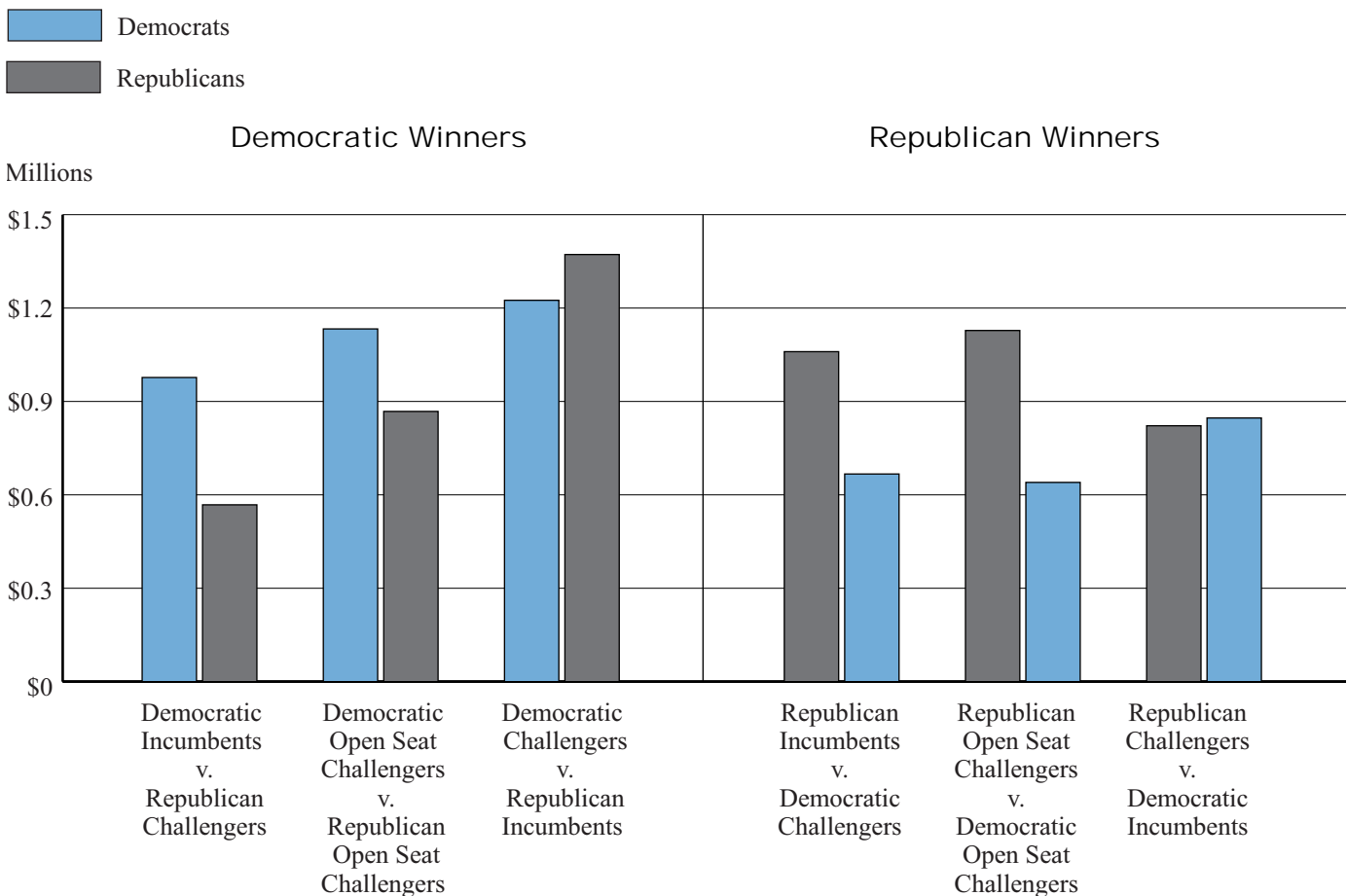
Senate candidates bucked the overall congressional spending trend with an 11 percent increase in both disbursements and receipts. Spending increased from \$220.8 million in 1996 to \$244.3 million in 1998; receipts increased from \$220 million in 1996 to \$244.4 million in 1998.

This article and the accompanying graphs are based on data taken from a December 29, 1998, news release. The release is available at the following places.

- FEC home page (<http://www.fec.gov>; select "News Releases and Media Advisories")
- FEC Public Records and Press offices (800/424-9530)
- FEC Faxline (202/501-3413, document 610) ♦

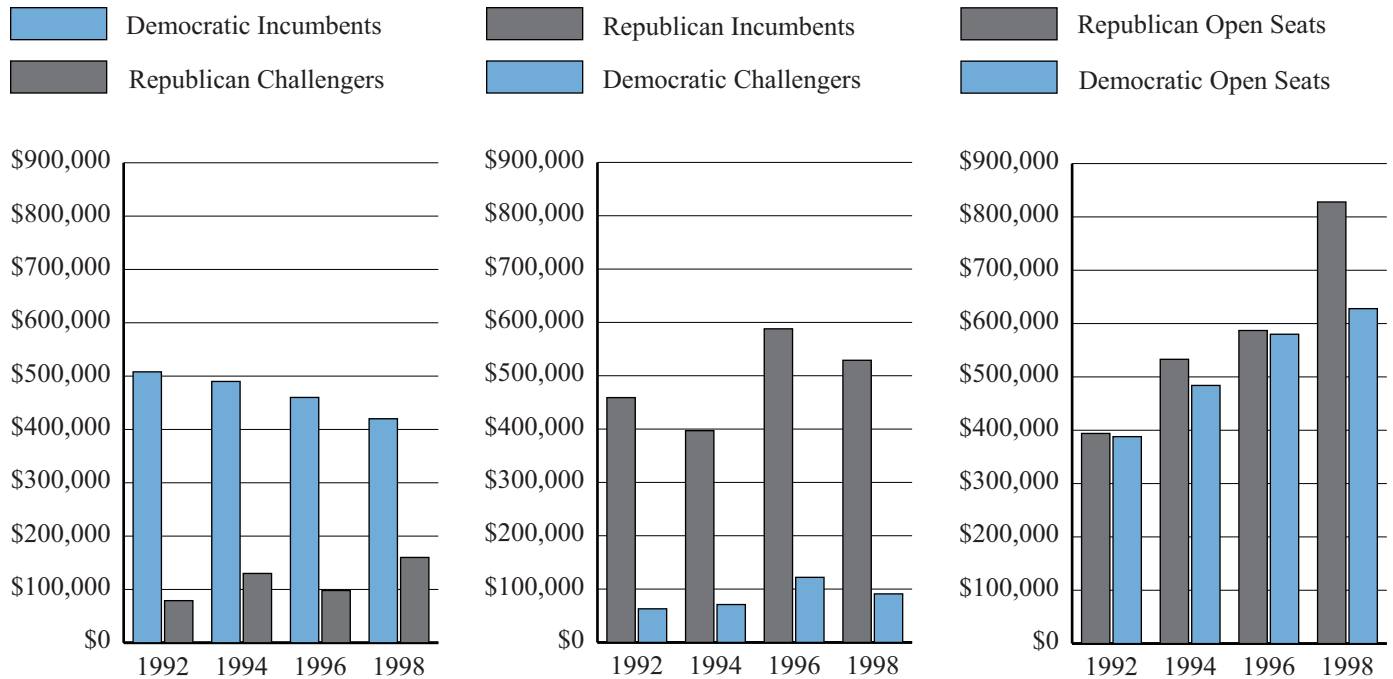
Close Elections: Median Disbursements of 1998 House Candidates Who Won Elections with 55 Percent or Less of the Vote

Data in this graph are taken from reports covering financial activity from January 1, 1997, through November 23, 1998.



What They Spent: Median Disbursements by House Candidates

Data in these graphs are taken from reports covering financial activity from the start of the election cycle (January 1) through the post-general reporting period. Only statistics from candidate committees that filed post-general reports are included in these graphs.



Information

FEC Conducts Monthly Roundtable Sessions

The FEC has begun conducting monthly roundtable sessions for the regulated community at its offices in Washington. The roundtable sessions, limited to 10 participants per session, focus on a range of topics. See the chart at right for dates and topics.

Registration is \$25 and will be accepted on a first-come, first-served basis. Please call the FEC before registering to ensure that participants are still being accepted for the sessions. Prepayment is required. The registration form is available at the FEC's web site (<http://www.fec.gov>) and from Faxline, the FEC's automated fax

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Date	Subject	Intended Audience
March 3 9:30-11 a.m.	Candidate Preparations for the Next Election Cycle (Code #399)	<ul style="list-style-type: none"> • Candidates & Congressional Staff • Political Party Staff
April 7 9:30-11 a.m.	Use of the Internet to Raise Funds (Code #499)	<ul style="list-style-type: none"> • Candidates • Political Party Staff • Nonconnected PACs
May 5 9:30-11 a.m.	Collecting Agent Activity (Code #599)	<ul style="list-style-type: none"> • Corporate/Labor/Trade PAC staff • Lawyers, Accountants and Consultants to above PACs

Information

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system (call 202/501-3413 and request document 590). For more information, call 800/424-9530 (press 1) or 202/694-1100. ♦

FEC Faxline Menu

FEC Faxline documents may be ordered 24 hours a day, 7 days a week, by calling **202/501-3413** on a touch tone phone. You will be asked for the numbers of the documents you want, your fax number and your telephone number. The documents will be faxed shortly thereafter.

Federal Election Commission

- 411. Complete Menu of All Material Available
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- 707. Primary Functions of an Election System

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- 806. Form 6, 48-Hour Notice of Contributions/Loans Received
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- 102. Part 102, Registration, Organization and Recordkeeping by Political Committees
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- 1101. Part 110.1, Contributions by Persons Other Than Multicandidate Political Committees
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Advisory Opinions

Advisory Opinion Requests

Advisory opinion requests are available for review and comment in the Public Records Office.

AOR 1998-27

Status as state committee of political party (Hawaii Green Party, December 15, 1998; 4 pages plus 26-page attachment) ♦

Back Issues of the Record Available on the Internet

This issue of the *Record* and all other issues of the *Record* starting with January 1996 are available through the Internet as PDF files. Visit the FEC's World Wide Web site at <http://www.fec.gov> and click on "What's New" for this issue. Click "Help for Candidates, Parties and PACs" to see back issues. Future *Record* issues will be posted on the web as well. You will need Adobe® Acrobat® Reader software to view the publication. The FEC's web site has a link that will take you to Adobe's web site, where you can download the latest version of the software for free.

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