AGENDA DOCUMENT NO. 04-29

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 18, 2004

MEMORANDUM

AGENDA ITEM
For Meeting of: 4-01-04

TO: The Commission

THROUGH: James A. Pehrkon, Staff Director
Lawrence H. Norton, General Counsel

FROM: Rosemary C. Smith, Associate General Counsel
John C. Vergelli, Acting Assistant General Counsel
Jonathan Levin, Senior Attorney
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SUBJECT: Legislative Recommendations 2004

Attached for the Commission's consideration are eight draft legislative recommendations for 2004.

Six of the draft recommendations are new, while two are updated versions of last year's recommendations. Revisions to recommendations transmitted in last year's package are noted with strikethroughs and underlining. The package does not include the following recommendations, which were transmitted last year:

- "Making Permanent the Administrative Fine Program for Reporting Violations"
- "Allowing the FEC to Restrict the Political Activities of its Employees"
- "Increasing and Indexing all Registration and Reporting Thresholds for Inflation"
- "Electronic Filing of Senate Reports"
- "Filing Reports Using Overnight Delivery, Priority or Express Mail"

Recommendation:

It is recommended that the Commission approve the attached package of legislative recommendations and cover letter for transmittal to Congress and the President. Should any recommendations included in this draft fail to garner support from a majority of Commissioners, we recommend that they be removed from the package.

Legislative Recommendations – 2004

Contributions and Expenditures

Use of Contributed Amounts For Certain Purposes (NEW)

Section: 2 U.S.C. §439a

Recommendation: The Commission recommends that Congress amend 2 U.S.C. §439a(a) to allow, as a permissible use of Federal campaign funds, donations to State and local candidates, subject to the limits and prohibitions of State law, and to allow the use of Federal campaign funds for any other lawful purpose that does not violate subsection (b) of section 439a.

Explanation: BCRA amended 2 U.S.C. §439a. In the floor debate on BCRA, Senator Feingold stated that the intent of the revised section 439a was to codify the Commission's then current regulations on the use of campaign funds. Section 439a, as amended by BCRA, lists four explicitly permitted uses of campaign funds in paragraphs (a)(1)-(4) and then, in subsection (b), states that campaign funds may not be converted to personal use. However, unlike the pre-BCRA version of section 439a and unlike the pre-BCRA regulations to which Senator Feingold referred, the use of campaign funds for "any other lawful purpose" (so long as they are not converted to personal use) is no longer listed as a statutorily permitted use. In post-BCRA rulemakings and advisory opinions, the Commission has had no choice but to interpret this statutory deletion as meaning that the list of permissible uses in section 439a(a) is exhaustive.

Given Senator Feingold's assertion that the BCRA amendments were intended to codify the pre-BCRA regulations, it appears that the narrowing of the statute may have been inadvertent. The Commission recommends that the use of campaign funds for lawful purposes that do not constitute personal use is consistent with purposes of FECA. Therefore, the Commission recommends that section 439a(a) be amended to permit explicitly the use of campaign funds for "any other lawful purpose" that does not constitute personal use of those funds.

The question of whether section 439a still permits a donation of campaign funds by an authorized committee to a non-Federal campaign has lately arisen with considerable frequency. This was a common practice before the passage of BCRA. It is not, however, clear under post-BCRA section 439a whether such a donation is an "otherwise authorized expenditure" in connection with the Federal candidate's campaign for Federal office. *See* 2 U.S.C. §439a(a)(1). The Commission believes that such use of campaign funds is fully consistent with the purposes of FECA, and thus, that section 439a(a) be amended to permit explicitly donation of campaign funds by an authorized committee to a non-Federal campaign to the extent allowed by applicable State law.

Legislative Language:

Section 312a(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. §439a(a)) is amended:

(1) by striking the "or" at the end of paragraph 312a(a)(3);

(2) by striking the period, and adding a semi-colon at the end of paragraph 312a(a)(4);

(3) by adding a new paragraph 312a(a)(5) to read as follows: "(5) for donations to State and local candidates subject to the provisions of State law; or"; and

(4) by adding a new paragraph 312a(a)(6) to read as follows: "(6) for any other lawful purpose unless prohibited by paragraph (b) of this section.".

Increasing the Amount That Authorized Committees May Give to Authorized Committees of Other Candidates (NEW)

Section: 2 U.S.C. §432(e)(3)(B)

Recommendation: The Commission recommends that Congress amend 2 U.S.C. §432(e)(3)(B) so that the term "support" will not include a contribution by any authorized committee in amounts of $2,000 or less (rather than the current $1,000 or less) to an authorized committee of any other candidate.

Explanation: Under the Act, with certain exceptions, no political committee which supports or has supported more than one candidate may be designated as an authorized committee. 2 U.S.C. §432(e)(3)(A). "Support" is defined to exclude a contribution by any authorized committee in an amount of $1,000 or less to an authorized committee of any other candidate.

Prior to BCRA, the amount of this "support" limitation and the contribution limitation for candidates and authorized committees with respect to any election for Federal office were both $1,000. 2 U.S.C. §§432(e)(3)(B) and former 441a(a)(1)(A). In BCRA, Congress raised the section 441a(a)(1)(A) contribution limitation for candidates

and authorized committees to $2,000, but did not change the 2 U.S.C. §432(e)(3)(B) support limitation. To the extent the resulting variance between these sections of the Act may have been an oversight, the Commission recommends that the section 432(e)(3)(B) limit be increased to $2,000, consistent with 2 U.S.C. §441a(a)(1)(A).

Legislative Language:

Section 302(e)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. §432(e)(3)(B)) is amended by striking "$1,000" and inserting in its place "$2,000".

Modifying the Definition of Federal Election Activity to Simplify Compliance for State, District and Local Party Committees Where Certain Employees Spend More than 25 Percent of Their Time In Connection with a Federal Election (NEW)

Section: 2 U.S.C. §431(20)(A)(iv)

Recommendation: The Commission recommends that Congress amend 2 U.S.C. §431(20)(A)(iv) to allow State, district and local political party committees to comply with that provision of the Act in weekly, biweekly, semimonthly or monthly periods, in conformity with the period of time a party committee selects for payroll purposes. Currently, section 431(20)(A)(iv) requires compliance in monthly periods.

Explanation: Under BCRA, "services provided during any month by an employee of a State, district or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a

Federal election" are Federal election activity. 2 U.S.C. §431(20)(A)(iv). Several party committees have informed Commission staff that this provision imposes a difficult compliance burden because the committees' payroll periods frequently are different than monthly periods. The compliance burden for party committees will be lessened if such committees can elect a section 431(20)(A)(iv) compliance period that is the same as the payroll period used by the committees (e.g., weekly, biweekly, semimonthly or monthly payroll period).

For example, a party committee that conducts payroll operations on a biweekly basis can also determine on a biweekly basis whether or not an employee meets the 25 percent test, and thus whether the employee must be compensated from the committee's Federal account.

Legislative Language:

Section 301(20)(A)(iv) of the Federal Election Campaign Act of 1971 (2 U.S.C. §431(20)(A)(iv)) is amended:

(1) by striking "any month" and inserting in lieu thereof "a payroll period of a State, district or local committee of a political party";

(2) by striking "a State, district or local committee of a political party" and inserting in lieu thereof "that party committee";

(3) by striking "that month" and inserting in lieu thereof "that payroll period";

(4) by inserting at the end the following: "For purposes of this subparagraph, a payroll period may be a weekly, biweekly, semimonthly or monthly period.".

Federal Candidates Soliciting, Receiving Or Spending Funds For Non-Federal Candidates (NEW)

Sections: 2 U.S.C. §§441i(e)(1) and (e)(2)

Recommendations: The Commission recommends that Congress amend 2 U.S.C. §441i(e)(1) to clarify the circumstances in which recall elections, referenda and initiatives, recounts, redistricting, legal defense funds, and related activities fall within the scope of activities that are "in connection with a Federal election" and are thus subject to the §441i(e)(1) restrictions. The Commission also recommends that Congress clarify whether under §441i(e)(1)(A) a candidate or officeholder may solicit, direct, or transfer funds to entities not required to file reports with the Commission.

In addition, the Commission recommends that Congress amend 2 U.S.C. §441i(e)(1)(B) to make clear that that provision does not prohibit a Federal candidate or officeholder from spending his or her own personal funds in connection with an election other than an election for Federal office, and recommends that Congress amend 2 U.S.C. §441i(e)(2) to clarify that the phrase, "refers only to such State or local candidate," does not apply to non-communicative activity.

Explanation: Section 441i(e)(1)(A) prohibits a Federal candidate or officeholder and certain entities from soliciting, receiving, directing, transferring, spending, or disbursing, in connection with a Federal election funds that are outside the limitations, prohibitions, and reporting requirements of the Act. Because these prohibitions are limited in scope to specific activities conducted "in connection with an election for Federal office," the Commission requests additional guidance from Congress as to the meaning of this phrase

in this context. Specifically, Congress should consider amending the statute to clarify the circumstances in which it intends recall elections, referenda and initiatives, recounts, redistricting, candidate litigation costs and legal defense funds to be encompassed and thus subject to the restrictions in §441i(e).

In addition, because this prohibition extends to the solicitation of funds not "subject to the ... reporting requirements of the Act," Congress should consider resolving the potential ambiguity that might arise in situations where a candidate wishes to solicit funds on behalf of an entity in connection with a Federal election, including Federal election activity, when that entity is not yet (or may not ever be) required to file reports with the Commission. Even though such an organization's funds are not subject to the reporting requirements of the Act, they may be subject to the limitations and prohibitions of the Act.

Section 441i(e)(1)(B) similarly prohibits a Federal candidate or officeholder and certain entities from soliciting, receiving, directing, transferring, spending, or disbursing, in connection with a non-Federal election, funds that are outside the limitations and prohibitions of the Act. As written, the verbs "spend" and "disburse" in section 441i(e)(1)(B) arguably apply to a Federal candidate's or officeholder's donation of his or her personal funds in connection with a State or local candidate or ballot measure election. This provision is meant to prevent corruption or the appearance of corruption of Federal candidates and officeholders resulting from large soft money donations made at their behest. However, there is little or no chance of such corruption in the context of a Federal candidate or officeholder donating his or her own funds. Thus, to the extent section 441i(e)(1)(B) can be read to prevent such individual donations, the Commission recommends that Congress amend this provision to remove the ambiguity.

Section 441i(e)(2) is an exception to the general rule at 2 U.S.C. §441i(e)(1)(B); the latter provision prohibits a Federal candidate or officeholder from soliciting, receiving, or spending funds in connection with a non-Federal election that are outside the amount limitations and source prohibitions of the Act. In order to qualify for the section 441i(e)(2) exception, a Federal candidate or officeholder must meet two requirements: (1) any solicitation, receipt, or spending of funds by the Federal candidate or officeholder must be permitted under State law; (2) such solicitation, receipt, or spending must "refer only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both." The second condition is unclear insofar as how non-communicative activity, such as receiving funds, can "refer to" any candidate. The Commission recommends that Congress clarify this language to make clear that the second condition refers to public communications, as defined in 2 U.S.C. §431(22).

Legislative Language:

Section 323(e)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. §441i(e)(1)(B)) is amended by inserting "(except for the candidate's personal funds)" after "spend funds" and after "disburse funds".

Section 323(e)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. §441i(e)(2)) is amended by inserting ", in the case of a public communication," prior to the phrase "refers only to".

Multicandidate Political Committee Contribution Limitations and Non-multicandidate Political Committee Contribution Limitations (~~2003~~ Revised 2004)

Section: 2 U.S.C. §§441a(a)(2) and 441a(c)

Recommendation: The Commission recommends that Congress consider indexing for inflation the contribution limitations applicable to multicandidate political committees and adjusting the amount such committees may contribute to national party committees to harmonize these limits with the limits applicable to non-multicandidate political committees.

Explanation: A political committee qualifies for multicandidate status if it has been registered with the Commission for six months or more, has received contributions from more than 50 persons, and has contributed to five or more Federal candidates. 2 U.S.C. §441a(a)(4).

FECA, prior to BCRA, provided a significantly higher limit on contributions to candidates for political committees with multicandidate status than for those without that status ($5,000 per election versus $1,000 per election). BCRA raised and indexed for inflation the contribution limit on non-multicandidate committees (to $2,000 per election), and such limit eventually will become higher than the limit imposed on multicandidate committees. ~~Thus, this contribution limit itself one day will create a substantial disincentive to achieve multicandidate committee status.~~ It is important to note that a committee cannot opt out of multicandidate status. Instead, under section 441a(a)(4), a committee automatically triggers multicandidate status once it meets the specific requirements listed above.

In addition, the limit for contributions to national party committees from multicandidate committees is $15,000 per year (as it was prior to BCRA), yet BCRA increased the limit on contributions to the same national party committees from non-multicandidate committees from $20,000 to $25,000 per year. 2 U.S.C. §441a(a)(2)(B), (1)(B). Moreover, only the contribution limit for non-multicandidate committees is indexed for inflation, which means that over time the current $10,000 difference will only increase.

Congress should consider revising the statute to give multicandidate committees allowances at least as generous as those given to non-multicandidate committees.

Legislative Language:

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. §441a) is amended—

(1) in subparagraph (a)(2)(B), by striking "$15,000" and inserting in lieu thereof "$25,000";

(2) in clause (i) of subparagraph (c)(1)(B), by inserting "(a)(2)(A), (a)(2)(B)," after "(a)(1)(B),";

(3) in subparagraph (c)(1)(C), by inserting "(a)(2)(A), (a)(2)(B)," after "(a)(1)(B),";

(4) in clause (ii) of subparagraph (c)(2)(B), by inserting "(a)(2)(A), (a)(2)(B)," after "(a)(1)(B),".

Compliance

Fraudulent Misrepresentation of Campaign Authority (NEW)

Section: 2 U.S.C. §441h

Recommendation: The Commission recommends that Congress revise the prohibitions on fraudulent misrepresentation of campaign authority to encompass all persons purporting to act on behalf of candidates and real or fictitious political committees and political organizations. In addition, the Commission recommends that Congress remove the requirement that the fraudulent misrepresentation must pertain to a matter that is "damaging" to another candidate or political party.

Explanation: 2 U.S.C. §441h(a) prohibits a Federal candidate or his or her agent or employee from fraudulent misrepresentation such as speaking, writing, or otherwise acting on behalf of a candidate or political party committee on a "matter which is damaging to such other candidate or political party" or an employee or agent of either. The Commission recommends that this prohibition be extended to any person who would disrupt a campaign by such unlawful means, rather than being limited to candidates and their agents and employees. Proving damages as a threshold matter is often difficult and unnecessarily impedes the Commission's ability to pursue persons who employ fraud and deceit to undermine campaigns. Fraudulent solicitations of funds on behalf a candidate or political party committee were recently prohibited in BCRA without any required showing of damage to the misrepresented candidate or political party committee. *See* §441h(b).

In addition, while both §§441h(a) and (b) directly address fraudulent actions "on behalf of any other candidate or political party," they do not address situations where a person falsely claims to represent another type of political committee or claims to be acting on behalf of a fictitious political organization, rather than an actual political party or a candidate. For example, the narrow scope of the existing language does not bar fraudulent misrepresentation or solicitation on behalf of a corporate or union separate segregated fund or a non-connected political committee.

Congress should consider revising the statute to strengthen these important prohibitions on fraudulent activity.

Legislative Language:

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. §441h) is amended:

(1) in subsection (a), by striking "who is a candidate for Federal office or an employee or agent of such a candidate";

(2) in paragraph (a)(1), by striking "or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof" and inserting in lieu thereof ", political party, other real or fictitious political committee or organization, or employee or agent of any of the foregoing,";

(3) in paragraph (b)(1), by striking "or political party" and inserting in lieu thereof ", political party, other real or fictitious political committee or organization, or employee or agent of any of the foregoing,".

Public Financing

~~Averting Impending Shortfall in~~ Stabilizing the Presidential Public Funding Program (revised ~~2003~~ 2004)

Section: 26 U.S.C. §§6096, 9008(a) and 9037(a)

Recommendation: The Commission strongly recommends that Congress take immediate action to ~~avert a projected impending shortfall in~~ stabilize the Presidential public funding program ~~in the 2004~~ for upcoming election years.

Explanation: The Presidential public funding program has experienced ~~temporary funding shortfalls~~ ~~for the election of 2000~~ during each of the last three Presidential election. The shortfalls result from ~~because~~ declining participation in the check-off program ~~is declining~~ and the fact that the checkoff is not indexed to inflation while payouts are indexed. ~~This~~ The shortfalls ~~impacted foremost upon~~ to date have prinicipally affected primary candidates, whose funding is given lowest priority under the law. In ~~January 2000~~February 2004, when the U.S. Treasury made its ~~first~~ second payment for the ~~2000~~ 2004 elections, it was only able to provide approximately ~~50~~ 46 percent of the public funds that qualified Presidential candidates were entitled to receive.

Specifically, only ~~$16.9~~ a little over $2.3 million was available for distribution to qualified primary candidates on ~~January 1, 2000~~February 1, 2004, after the Treasury paid the convention grants and set aside the general election grants.[1] However, the entitlement (i.e., the amount that the qualified candidates were entitled to receive) on that date was ~~$34~~ 5 million, twice as much as the amount of available public funds. By ~~January 2001,~~ February 2004, total payments made to primary candidates ~~was in excess of $61~~

[1] The Commission certified a total of ~~$28.9~~ $29.18 million in convention grants, and ~~$147.2~~ $149.2 million was set aside for use by general election candidates.

exceeded $20.4 million.

~~The Commission projects the temporary shortfall in matching funds that has occurred in the past two presidential elections may recur in 2004. Under the most realistic assumptions, it appears that the January 2004 payout may be only about 53 cents on the dollar. The funds considered 'available' by the Department of Treasury will be about $19.3 million, the funds to which candidates will be entitled will be about $36.6 million, and the payouts therefore will have to be reduced accordingly. February and March payouts also will be less than 100%, but by the April 2004 payouts, the temporary shortfall will have been cured under this projection. This is because the check-off proceeds flowing into Treasury Department accounts will be adequate to make up the earlier deficiencies.~~

The 2004 shortfall could have been considerably more severe had three major party candidates not opted out of public funding for the primary. While this left more money for candidates who chose to participate in the program, the candidates who opted out appeared to do so out of a desire to spend beyond the spending limits. Their ability to operate outside the restrictions of the public funding program may encourage more candidates to opt out in future election years.

The Commission recommends several specific legislative changes. First, to alleviate future shortfalls, the statute should be revised so that Treasury will be able to rely on *expected* ~~available~~ proceeds from the voluntary checkoff, rather than relying solely on actual proceeds *on hand* as of the dates of the matching fund payments. Since large infusions of voluntary checkoff proceeds predictably occur in the first few months of the election year, including such estimated proceeds in the calculation of funds available for matching fund payouts would virtually eliminate the shortfall in the near

future. Because estimates for expected payouts are an acceptable part of the calculations (e.g., setting aside sufficient funds to cover general election payouts), estimates of the checkoff proceeds could be incorporated, as well. A very simple change in the wording of 26 U.S.C. §9037 would accomplish this: changing "are available" to "will be available." Expected payments should be based on sound statistical methods to produce a cautious, conservative estimate of the funds that will be available to cover convention and general election payments.

A second revision in the statute would further the long-term stability of the presidential public funding program: indexing the voluntary checkoff amount to inflation. Although the checkoff amount was increased from $1 to $3 beginning with 1993 returns, there was no indexing built in to account for further inflation thereafter. Although other factors influence the fund's balance, including the number of candidates participating, the number of contributions they can have matched, the taxpayer participation rate and deposits of repayments, ~~Since the payments are indexed to inflation, the statute all but assures a permanent shortfall.~~ an indexing of the checkoff amount for inflation would help guarantee some money coming in to replenish the public funding program.

Miscellaneous

Pay Level for the General Counsel and Creation of Senior Executive Service Positions (NEW)

Sections: 2 U.S.C. §437c(f)(1); 5 U.S.C. §3132(a)(1)

Recommendation: The Commission recommends that Congress revise section 437c(f)(1) to state that the General Counsel shall be paid at a rate not to exceed the rate of basic pay

in effect for level IV of the Executive Schedule (5 U.S.C. §5315), and that Congress amend 5 U.S.C. §3132(a)(1) by deleting subsection (C), which specifically excludes the Federal Election Commission from eligibility for the creation of Senior Executive Service positions.

Explanation: The Commission believes that two statutory changes are needed to bring the Commission's personnel structure in line with that of other comparable federal agencies. This would ensure that the Commission is able to compete with other government agencies and the private sector in recruiting and retaining key management personnel, including the General Counsel. These changes would also enable the Commission, like other agencies, to move to merit-based pay systems for top executives.

First, the FECA creates the statutory office of General Counsel and provides that the compensation of the General Counsel shall not exceed the rate of basic pay in effect for level V of the Executive Schedule (currently $128,200). The Commission believes that this rate of pay is too low in light of the significant responsibilities entrusted to this statutory officer and in comparison to the salary rates of General Counsels of other agencies who have equivalent responsibilities. The FEC's General Counsel manages and directs a law office of approximately 125 persons. The General Counsel is also responsible for overseeing the Commission's enforcement program, federal litigation in district and appellate courts, public financing matters, conducting rulemakings, drafting advisory opinions, and providing general guidance on other legal matters.

Under the present compensation structure, the General Counsel is paid *less than the highest paid GS-15* in the Washington, D.C. area, and less than the overwhelming majority of SES employees. Congress recently restructured the SES compensation

system into a performance-based, payband system. National Defense Authorization Act for Fiscal Year 2004 (Pub. L 108-136, Nov. 24, 2003). For 2004, individuals serving in SES positions are compensated in a payband between $104,927 and $145,600 (or $158,100 in agencies with a certified SES performance appraisal system). Increasing the General Counsel's pay will ensure that the Commission can retain highly qualified individuals to serve as General Counsel as well as enable it to remain competitive in the marketplace for federal executives when a vacancy arises.

Second, the current pay and benefits structure hinders the Commission's ability to recruit talented executives from other agencies and retain high-performing senior managers, while conversion to SES would enhance this ability. The Commission is prohibited by law from creating Senior Executive Service positions within the agency. 5 U.S.C. § 3132(a)(1)(C). Consequently, unlike other agencies, the Commission's senior managers are employed in Senior Level positions. These executives, consisting of two Deputy Staff Directors, a Deputy General Counsel, and four Associate General Counsels, oversee major programmatic areas and supervise not only staff, but other managers as well. However, OPM's Guide to the Senior Executive Service indicates that the Senior Level system is for non-executive positions. In fact, the OPM Guide provides that supervisory duties should occupy less than 25% of a Senior Level employee's time. At the Commission, by contrast, supervisory and executive responsibilities occupy 100% of the time of SL employees.

In terms of total compensation and benefits, individuals serving in Senior Level positions are under-compensated for the responsibilities and duties required by these positions, and under-compensated when compared to individuals serving in similar capacities at virtually all other Federal agencies. Conversion to SES would also allow

higher pay ranges for these positions and enable the Commission's senior managers to receive performance awards and other benefits not available to Senior Level employees. Perhaps most significantly, this includes the ability to carry over many more days of annual leave than Senior Level employees. Given that high-level managers frequently work extended periods in which they cannot use much leave, especially in the aftermath of BCRA, an executive's ability to accumulate and defer leave is not only an important benefit to him or her, but is also a valuable tool for the agency to ensure that executives are available to accomplish agency priorities.

Accordingly, the Commission believes that current Senior Level positions within the agency should be converted to SES positions and that any future Senior Level positions be created in the SES. There is a trend toward performance-based pay for executives throughout the government; converting the current Senior Level positions into SES positions would ensure performance-based pay is similarly emphasized for the Commission's senior executive positions. The Commission is confident that conversion of Senior Level positions to SES positions will assist in retaining highly qualified individuals and will attract superior candidates when vacancies arise, thus permitting the Commission to remain competitive in the marketplace for federal executives.

Legislative Language:

Section 310(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. §437c(f)(1)) is amended by striking "V" and inserting in lieu thereof "IV".

Section 3132(a)(1)(C) of Title 5 of the United States Code is amended by striking "Federal Election Commission, or".

[insert date], 2004

The Honorable George W. Bush
President
The White House
Washington, D.C. 20500

Dear Mr. President:

In accordance with 2 U.S.C. § 438(a)(9), the Federal Election Commission is pleased to submit for your consideration [insert number] recommendations for legislative action.

The Commission is including only high priority recommendations with broad Commission support. Each recommendation is followed by an explanation of the need for and expected benefits from the recommended change and proposed statutory language to implement the change.

We hope these recommendations can assist Congress in bringing to fruition some necessary changes in campaign finance law. With almost 30 years of experience and accomplishments in these areas, the FEC stands ready to work with the President and Congress to implement the legislative package.

Sincerely,

Bradley A. Smith
Chairman

Enclosure