

# **Federal Election Commission**

## **Annual Report 1982**



**Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463**

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**Lee Ann Elliott**, Vice Chairman

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**John Warren McGarry**

**Frank P. Reiche**

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**Benjamin J. Guthrie**, Clerk of the House

**William F. Hildenbrand**, Secretary of the Senate

## **Statutory Officers**

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During 1982, the Federal Election Commission continued to fulfill its role as administrator of the Federal Election Campaign Act. The agency released campaign finance information on the 1982 Congressional elections, monitored committees' compliance with the law and clarified and enforced the law. Heightened media coverage of FEC statistics helped inform the nation of political committee activity in 1982. Reassessing its role in previous Presidential elections, the Commission looked ahead to the 1984 Presidential elections. It clarified regulations for primary candidates, redesigned reporting forms and prepared campaign aids for public funding participants.

Chapter 1 of this Report examines innovations in the Commission's non-Presidential programs, presents campaign finance statistics for the 1982 elections and summarizes significant issues addressed in advisory opinions and litigation. Chapter 2 describes the agency's work in preparing for the 1984 Presidential elections, and Chapter 3 covers the Commission's legislative recommendations, based on the agency's experience in administering four Congressional and two Presidential elections. The final chapter discusses the election of Commission officers, budget activity and other aspects of internal administration.

Nineteen eighty-two marked the fourth time the Commission administered the Federal campaign finance law during Congressional elections. Experience gained in past elections and refinements in Commission operations helped the agency perform its duties smoothly and efficiently. This chapter opens with financial statistics on the elections and proceeds to report on new developments that improved the Commission's 1982 administration of the law.

### Disclosing Information

#### Campaign Finance Statistics

During 1982, the Commission began releasing and continually updating statistical information on the campaign finance activity of Congressional campaigns, party committees and political action committees (PACs)<sup>1</sup> active in the 1981-82 election cycle. The agency's statistical press releases, more numerous than in past years, periodically summarized computerized data taken from campaign and committee financial reports and compared 1982 election activity with that of the past two election cycles. In October, the Commission published interim *Reports on Financial Activity* covering the first 18 months of the cycle (January 1981 through June 1982). By the end of 1982, the Commission had compiled data covering the cycle through mid-October 1982 and, early in 1983, issued press releases on the statistics. Late in January 1983, the agency released data on PACs and national party committees covering the period January 1, 1981, through November 22, 1982.

The Commission anticipated publishing the final *Reports on Financial Activity* in the fall of 1983, once committees had completed filing amendments to their reports. Recognizing, however, that the public wanted more complete figures long before that time, the Commission planned to release a second set of interim *Reports* in spring 1983. While not re-

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<sup>1</sup>PAC is a popular term used to define any political committee that has not been authorized by a candidate or political party. The term includes a separate segregated fund connected to a corporation or labor organization as well as a political committee without any connected organization (i.e., without a corporate or labor sponsor).

flecting final figures, the spring interim *Reports* would give the first comprehensive view of the 1982 elections.

Much of the information below is based on statistics released in January 1983, covering Congressional committee activity through mid-October 1982 and PAC and party activity through late November 1982.

*Congressional Campaigns.*<sup>2</sup> U.S. House and Senate campaigns spent a record \$264 million from January 1981 through mid-October 1982. At the end of 1982, the Commission estimated that campaigns spent an additional \$50 million between mid-October and late November, bringing total spending to over \$300 million for the 23-month period. Spending in past election cycles for the same period reached \$229 million in 1979-80 and \$192 million in 1977-78.

From January 1981 through mid-October, Congressional candidates raised a total of \$292.5 million. Of that amount, \$70.4 million (or 24 percent) was contributed by PACs.

*National Party Committees.*<sup>3</sup> Reports filed with the Commission indicated that, during the first 23 months of the 1981-82 election cycle, Republican party committees at the national level raised and spent<sup>4</sup> more than six times as much as their Democratic counterparts. From January 1, 1981, through November 22, 1982, the national Republican organizations raised \$183.3 million and spent \$179.1 million, while national Democratic organizations raised \$27.4 million and spent \$27 million. Republican national committees spent three times as much on coordinated party expenditures<sup>5</sup> as they gave in contributions (\$13.8 million in coordinated expenditures

and \$4.6 million in contributions to primary and general election campaigns). On the other hand, Democratic national committees spent \$2.1 million in coordinated party expenditures and contributed \$1.2 million to primary and general election races.

*PACs.*<sup>6</sup> PAC contributions to U.S. House and Senate candidates (\$70.4 million) represented 43 percent of the \$163.3 million spent by PACs<sup>7</sup> between January 1981 through mid-October 1982. PAC contributions to Congressional races increased 39 percent over contributions made by PACs during the same period in the 1979-80 election cycle. Statistics through mid-October showed that incumbents received 69 percent of all PAC contributions—four times the amount given to challengers. The Commission's preliminary figures for PAC activity through late November 1982 indicated that PACs raised \$192.9 million and spent \$187.7 million.

The number of PACs continued to increase during 1982, and by the year's end there were 3,371 PACs, an increase of 16.2 percent over the 2,901 PACs in 1981. Commission figures showed that yearly increases in PAC growth since 1976 averaged 20 percent, with the exception of 1980, when PACs increased by 28 percent. However, between 1974 and 1976, the number of PACs grew by 88 percent. PACs formed by corporations without capital stock showed the greatest growth percentage in 1982—up by 51.5 percent over 1981 to a total of 103 PACs.

The graph below plots the growth of PACs between 1975 and 1982. Figures show that 608 PACs existed at the beginning of 1975. By the end of 1976, that number rose to 1,146 and by December 31, 1982, reached 3,371. The graph does not reflect the financial activity of PACs.

<sup>2</sup>Source: FEC press release of January 7, 1983.

<sup>3</sup>Source: FEC press release of January 28, 1983.

<sup>4</sup>Total spending for party committees includes coordinated party expenditures (see below footnote), party-building expenses and administrative expenses (e.g., fundraising costs).

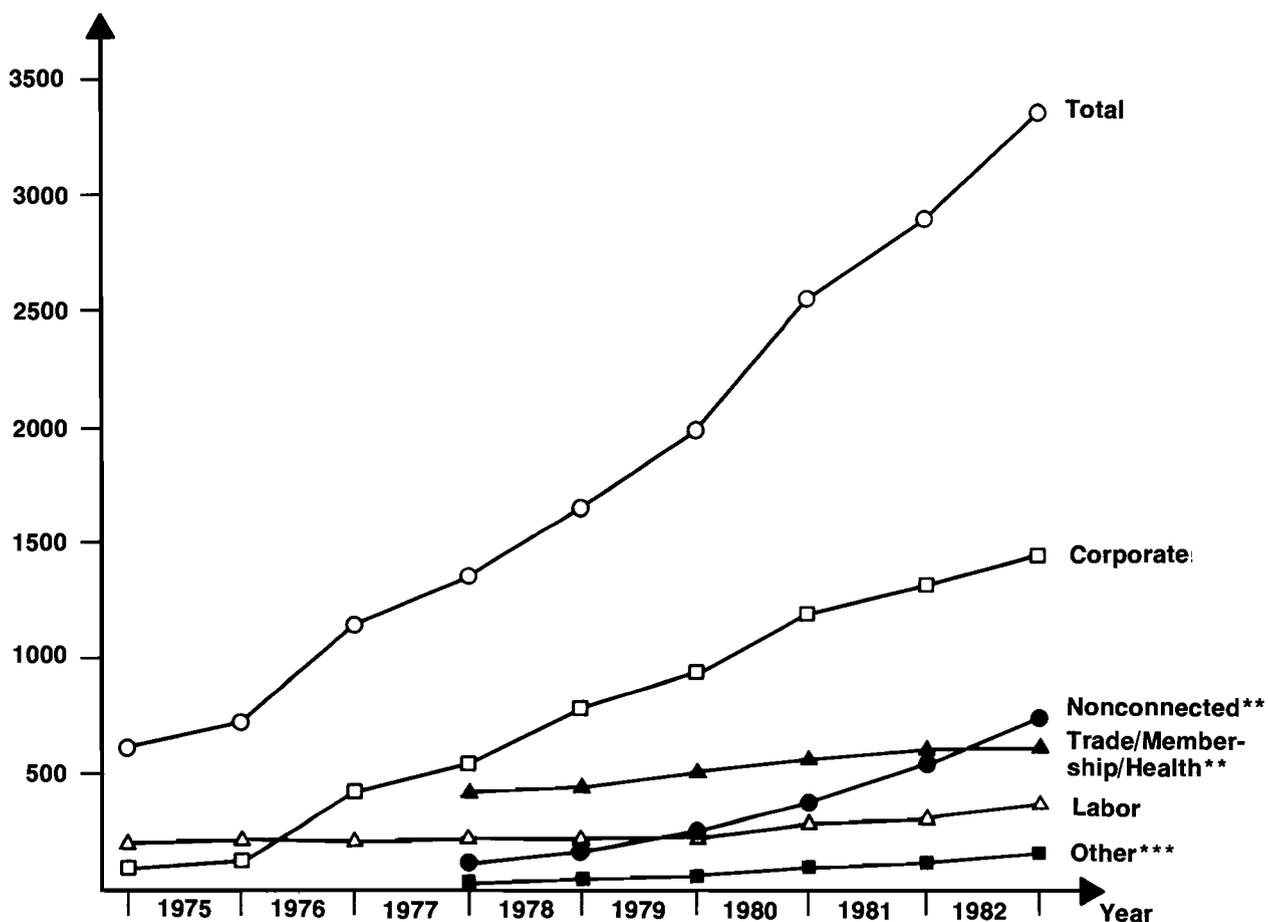
<sup>5</sup>Coordinated party expenditures are special, limited expenditures party committees may make on behalf of their candidates in the general election. (See 2 U.S.C. Section 441a(d).) Coordinated expenditures are not considered contributions.

<sup>6</sup>Sources: FEC press releases of January 6, 14 and 28, 1983.

<sup>7</sup>Total spending for PACs includes contributions to Federal candidates, contributions to party committees, independent expenditures, support of State and local candidates, miscellaneous expenses and, in the case of nonconnected PACs, administrative expenses (e.g., fundraising costs).

### PAC Growth\*

Number of PACs



\*The term PAC (political action committee) includes all political committees not authorized by a Federal candidate and not established by a political party.

\*\*For the years 1974 through 1976, the FEC did not identify subcategories of PACs other than corporate and labor PACs. Therefore, numbers are not available for Trade/Membership/Health PACs or Nonconnected PACs.

\*\*\*Includes PACs formed by corporations without capital stock and cooperatives. Numbers are not available for these categories of PACs from 1974 through 1976.

### Other Statistical Studies

In early 1982, the Commission published the final study in the *Reports on Financial Activity* series covering 1979-80 campaign finance statistics. The Commission had issued statistical press releases in mid-1981 summarizing activity for the entire cycle but had to wait until it received all amendments to reports before publishing final figures. The Commission also made available for purchase computer tapes containing the 1979-80 *Reports on Financial Activity* information.

### Facilitating Disclosure

*Press Activity.* National and local media interest in the FEC showed a marked increase in 1982. During October alone, one month before the election, the Commission received 1,573 phone inquiries from reporters, surpassing any previous month. Also during 1982, there were 9,843 media telephone inquiries, well above the previous record of 8,403 calls, set in 1980.

As another example of the heightened interest in the Commission, C-SPAN, a national cable network, televised several Commission meetings. Later, during a live program, Chairman Frank P. Reiche appeared as a guest, answering questions about the Commission from viewers across the country. C-SPAN cited the Commission's openness as an example to other government agencies.

Two major factors help explain the increased media interest in campaign finance. First, the Commission worked with more national news services—network, wire and print—which were intent on building into their election news reporting comprehensive coverage of campaign finance activity. This broadened news coverage spurred local and regional media interest in campaign finance information. Second, late in 1981, the Commission expanded its press mailing list to include some 150 newspapers throughout the country—at least one in each State—and began to regularly send press releases on campaign finance activity to reporters outside of Washington. Wider distribution of these releases stimulated nationwide press calls for more information.

To better accommodate reporters, in December the Press Office relocated to facilities on the street floor, across from the Public Records Office. The agency hoped that the move would help reporters coordinate their research in the two offices and provide easier access to FEC press spokespersons.

*Public Availability of Reports.* The Commission began full operation in 1982 of new equipment designed to expedite the release of campaign finance reports to the public. Using in-house microfilm equipment, the agency was able to quickly produce paper copies from the microfilmed reports it received from the Clerk of the House and the Secretary of the Senate. (Federal law requires that Congressional committees file their reports with the Clerk's and Secretary's offices which, in turn, forward microfilmed copies of the reports to the Commission.) During October, a heavy reporting month, the Commission supplemented its machine with additional rented machines in order to make paper copies of reports available within one day of receipt.

Reflecting the intensified activity of an election year, the agency processed 861,120 pages of disclosure documents and filled 34,994 requests for campaign finance information.

*Microfilmed Material.* In 1982, the Commission microfilmed all advisory opinion requests received from 1975 through 1981 and advisory opinions issued during that period. To provide easier public access to the material, the two microfilmed reels were made available for review and purchase in August.

The Commission also used a new technology for microfilming computer indexes of campaign finance data. In the fall of 1982, the agency contracted for a system that could microfilm material directly from a computer tape, eliminating several steps in the microfilming process. Using the new system, the Commission replaced worn-out reels of indexes on the 1977-80 election cycles and produced new reels for the 1981-82 cycle. With the new system in place, the Commission hoped to realize large savings in staff time, computer time and paper costs.

## Clarifying the Law

### Work in Progress on Regulations

In 1981, the Commission began to redraft its regulations, attempting to make them clearer, more workable and less burdensome. Continuing this effort in 1982, the agency approved proposed regulations in four areas but decided not to forward them to Congress until after the 98th Congress convened in 1983.<sup>8</sup> These proposed rules and other work on regulations during 1982 are described below. (However, the Commission's work on Presidential primary matching fund regulations is described in Chapter 2.)

*Corporate/Labor Communications.* On December 9, 1982, the Commission approved final revisions to proposed rules concerning partisan and nonpartisan communications made by corporations and labor organizations (Sections 114.3 and 114.4 of the regulations). (In 1981, the Commission had published a Notice of Proposed Rulemaking in the *Federal Register* and held a public hearing on the proposed revisions.) The proposed rules relaxed existing regulations by allowing corporations and labor organizations to make nonpartisan communications to the general public, such as advertisements urging the public to register and vote, and to publish and publicly distribute voting records of Members of Congress and voter guides setting forth candidates' positions on campaign issues.

In the area of partisan communications, the proposed revisions expanded the categories of individuals to whom a labor organization could direct partisan communications (i.e., its restricted class). While existing regulations permitted labor organizations to make partisan communications only to their members (and members' families), the proposed rules allowed labor organizations to direct partisan communications to their executive and administrative personnel (and families) as well. The proposed rules also clarified the meaning of restricted class as ap-

plied to incorporated membership organizations, trade associations, cooperatives and nonstock corporations.

*Political Advertising Notices.* On November 10, 1982, the Commission approved proposed revisions governing notices required for publicly advertised political communications (Section 110.11 of the regulations). (Under the law, if public advertising is used to expressly advocate the election or defeat of a candidate for Federal office, the communication must include a notice naming the committee or individual who paid for the ad. The notice must also state whether the ad has been authorized by any candidate, although if an ad has been paid for by a candidate's campaign, the candidate's authorization is assumed and is not required in the notice. A similar notice is required on all solicitations to the general public for funds to influence Federal elections.)

The proposed changes in this area clarified existing regulations and added new language reflecting Commission interpretations of the law set out in advisory opinions. For example, the proposed rules added language that exempted advertising displays from the notice requirements when the use of a notice would be impractical (e.g., skywriting and ads on watertowers). The proposed rules also included a specific requirement that posters display a notice. Because separate segregated funds (i.e., political action committees established by corporations and unions) are not permitted to solicit the general public for contributions (but must restrict solicitations only to certain individuals within the sponsoring organization), the Commission incorporated a new provision that specifically exempted separate segregated fund solicitations from the notice requirements, which apply only to general **public** communications. With regard to these proposed regulations, the Commission had published a Notice of Proposed Rulemaking in the *Federal Register* (47 *Fed. Reg.* 3796, January 7, 1982).

<sup>8</sup>Under the campaign finance law, the Commission must submit proposed rules to Congress. Unless the House or Senate disapproves them within 30 legislative days, the Commission may prescribe the regulations.

*Jointly Owned Property.* On July 20, 1982, the Commission published a Notice of Proposed Rulemaking (47 *Fed. Reg.* 31390) governing a candidate's use

of property jointly owned with a spouse or in which the spouse has an interest; on November 18, the Commission voted to approve the proposed changes. The suggested rules relaxed current regulations which, although allowing a candidate to make unlimited expenditures from personal funds, created barriers against using assets jointly held with a spouse as security for a campaign loan. For example, current regulations stated that an individual makes a contribution when he/she endorses or guarantees a loan. The proposed revision allowed a candidate's spouse, under certain circumstances, to cosign a bank loan without being a contributor.

*Trade Association Solicitations.* Must a trade association receive corporate approval to solicit contributions (for its separate segregated fund) from a member corporation's stockholders and executives in the same calendar year in which the solicitations are actually made? The Commission dealt with this issue in a Notice of Proposed Rulemaking published on November 26, 1982 (47 *Fed. Reg.* 53396). In the Notice, the Commission invited comments on a proposed rule permitting a trade association to request and receive corporate approval prior to the calendar year in which the solicitation is made (Section 114.8 of the regulations). The proposed change stemmed from an advisory opinion on this subject, AO 1982-54 (see page 9), and Commission discussions on proposed revisions to regulations on communications by corporations and labor organizations.

### **Technical Amendments to Honoraria Limit**

On April 1, 1982, the Commission approved technical amendments to its regulations, reflecting Congressional repeal of Section 441i(a)(2) of the campaign finance law, a provision that had placed an overall \$25,000 annual limit on honoraria that a Federal officeholder or employee could accept for speeches, appearances and articles.<sup>9</sup> The technical

amendments deleted the annual honoraria limit from the regulations (Section 110.12(a)(2)). The amendments also deleted Sections 110.12(a)(3) and (4) of the regulations, which had included guidelines for determining the calendar year in which honoraria were considered to have been accepted for purposes of the annual limit.

Since the technical amendments were not a substantive rule representing an FEC policy decision, they were not submitted for Congressional review but became effective upon publication in the *Federal Register* on April 8, 1982 (47 *Fed. Reg.* 15098).

### **Advisory Opinions**

In addition to its work on regulations, the Commission issued 65 advisory opinions (AOs)<sup>10</sup> in 1982 advising individuals on how the Commission interprets the campaign finance law. Some of the salient issues raised in these opinions are summarized below.

*Corporate Solicitations.* During 1982, a large number of advisory opinions dealt with different facets of corporate involvement in Federal elections; many of those opinions concerned the law's solicitation provisions for separate segregated funds (commonly called political action committees or PACs) established by corporations or incorporated membership organizations, such as trade associations. Because the campaign finance law permits corporate (and union) PACs to solicit contributions only from certain classes of individuals, many of the advisory opinions answered the question: Who may be solicited?

In AO 1982-18, the Commission permitted a corporate PAC to solicit contributions from its parent corporation's stockholders and executive personnel as well as the executives of the parent's other subsidiaries and their respective subsidiaries. Commis-

<sup>10</sup>Advisory opinions are issued to persons who raise questions about the application of the law or Commission regulations to a specific transaction that the requesting person proposes to undertake or continue. Any person who requests an advisory opinion and acts in accordance with the opinion is not subject to any sanctions under the law. An advisory opinion may also be relied upon by any person involved in a specific transaction "indistinguishable in all its material aspects . . . from the activity or transaction discussed in the advisory opinion." 2 U.S.C. Section 437f(c).

<sup>9</sup>Congress repealed the annual honoraria limit on October 1, 1981, as an amendment to a continuing resolution for Federal agency appropriations (Pub. L. 97-51).

sioner Thomas E. Harris dissented from this opinion because, in his view, neither the statute nor the regulations allow a subsidiary corporation to solicit its parent's stockholders.

The Commission decided in AO 1982-45 that the PAC of an incorporated organization representing landowners for whom the Federal government sponsored an irrigation project could solicit the executive personnel of another organization created to provide bond financing for the irrigation project since the two organizations were affiliated. Similarly, in AO 1981-55 (issued in 1982), the Commission allowed a trade association and its PAC to solicit members of an auxiliary organization since the two groups were affiliated.

In AO 1981-52 (also issued in 1982), the Commission said that an incorporated trade association could solicit contributions to its PAC from members that were unincorporated business trusts or associations under State laws. In another opinion issued to a trade association, AO 1982-12, the Commission ruled that the association could solicit PAC contributions from individual members of its member non-stock corporations. The Commission, in AO 1982-26, reaffirmed a 1977 opinion (AO 1977-32), holding that a member municipal corporation could not contribute to its trade association's PAC since municipal corporations are considered corporations subject to the same solicitation rules as are other kinds of corporate members of trade associations. In the opinion, the Commission said that the trade association could solicit the executive personnel of member municipal corporations but that the association had to first obtain the required written solicitation approval from the member.

Another 1982 opinion concerned the written approval which a trade association must obtain from a corporate member before soliciting PAC contributions from the corporation's executives and stockholders. In AO 1982-54, the Commission said that a trade association's PAC could **request** approval for such solicitations during the last three months of 1982, but the PAC had to receive the approval in 1983 in order to conduct the solicitations in 1983. The Commission, citing both the statute and Com-

mission regulations, decided that a corporate member's solicitation approval is valid only for the calendar year in which the approval is obtained.

Commissioners Joan D. Aikens and Lee Ann Elliott filed dissents, stating that the Commission's regulation on corporate approval of trade association solicitations misinterpreted Congressional intent and the relevant provision of the statute which, they argued, were less restrictive than the regulation. Shortly after the opinion was issued, the Commission invited comments on a draft regulation permitting trade associations to seek and receive corporate approval prior to the calendar year in which the solicitation is made (see page 8).

A few of the Commission's opinions on corporate solicitations concerned methods for collecting PAC contributions. In two opinions, AOs 1982-11 and 1982-55, the Commission said that a trade association could solicit contributions for its PAC through a combined dues payment/contribution plan. In AO 1982-29, the Commission allowed a corporation with subsidiaries in several States to solicit PAC contributions by offering a payroll deduction plan to subsidiaries willing to use it. The Commission noted that the Federal campaign finance law preempted and superseded any State law prohibiting the proposed payroll deduction plan.

AO 1982-8 concerned a unique situation. A trade association representing commercial barter firms asked if it could solicit contributions to its PAC in the form of credit units from the solicitable personnel of its members. The Commission said it could, and that its PAC could then contribute credit units directly to candidates or use the units to purchase goods and services for them.

*Earmarking.* One opinion issued in 1982 made clear that contributions may be earmarked for a political committee other than a candidate's authorized committee. In AO 1981-57, the Commission decided that a union PAC could implement a payroll deduction plan that allowed union members to earmark contributions through the PAC for candidates and political committees.

*Partnerships with Corporate Members.* In two opinions issued in 1982, AOs 1981-54 and 1981-56, the Commission decided that a partnership composed entirely of corporate members could not sponsor a separate segregated fund because, under the campaign finance law, only incorporated organizations and labor organizations may defray the administrative costs of a separate segregated fund without making a contribution. Furthermore, because a partnership's contributions are attributable to its partners, the Commission said a partnership whose members are all corporations could not make contributions in connection with a Federal election and was therefore prohibited from financially supporting any political committee.

Satellite Business Systems, which had requested AO 1981-56, filed suit against the Commission asking the court to rule that the agency's decision in the opinion was incorrect (see page 15 for a discussion of this case).

*Foreign Nationals.* May a foreign national donate volunteer services to a candidate's committee? This question was raised in AO 1981-51 (issued in 1982), in which a committee asked if an artist, who was a foreign national, could provide volunteer services by creating artwork that the committee planned to reproduce and sell as fundraising items. The Commission said that the foreign national could not volunteer his services in this case because, although volunteer services are exempt from the definition of contribution, the law explicitly prohibits foreign nationals from making "any contribution of money or anything of value" in connection with an election to any political office.

Commissioner Harris dissented, stating that volunteer services by a foreign national would not be a prohibited contribution because the activity in question "falls squarely" within the law's contribution exemption. Although he pointed out that this would allow foreign nationals limited participation in American elections, Commissioner Harris contended only Congress, not the Commission, had authority to remedy the "loophole."

*Foreign Corporations.* AOs 1982-10 and 1982-34 applied the campaign finance law to activities of foreign corporations. In AO 1982-34, a domestic corporation asked whether its foreign subsidiaries could sponsor a payroll deduction plan for their American solicitable personnel. Contributions collected from the plan would be forwarded to the PAC sponsored by the corporation's parent, another domestic corporation. The Commission approved the proposed system because 1) a parent corporation's right to solicit the eligible personnel of its subsidiaries is not affected by the status of its subsidiaries as foreign nationals, provided the personnel solicited are not foreign nationals; and 2) costs incurred by the foreign subsidiaries in administering the payroll deduction plan are not considered "contributions" under the law and are not, therefore, prohibited.

Commissioner Harris's dissent to this opinion referred to his dissent to the opinion on artwork by a foreign national (AO 1981-51). He argued that the two opinions contradicted each other. In AO 1981-51, he said, the Commission would not apply the law's Section 431(8)(B) (which lists volunteer services as one of several activities exempted from the definition of contribution) to the voluntary services of a foreign artist. However, in AO 1982-34, he argued, the Commission relied on Section 431(8)(B) (its provision exempting certain corporate expenses—such as payment for a payroll deduction plan—from the definition of contribution), "with the strange result that foreign corporations may now carry on election-related activities exempted under 431(8)(B), but foreign **individuals** are not permitted to do so." Vice Chairman Danny Lee McDonald also dissented to AO 1982-34 for the reasons stated in Commissioner Harris's dissent.

In AO 1982-10, the Commission decided that a wholly owned domestic subsidiary of a foreign corporation could contribute to non-Federal elections provided that the subsidiary's contributions complied with applicable State and local laws and that no corporate director or officer who is a foreign national participated in decisions regarding contributions. Commissioner Harris also dissented to AO 1982-10. He said that, according to the definition of foreign na-

tional in 22 U.S.C. Section 611b, the parent foreign corporation was a foreign national. Because all of the domestic subsidiary's assets were under the control of the parent, Commissioner Harris contended that the opinion permitted a foreign national to make indirect contributions in connection with American elections.

*Use of Non-Federal Funds.* A number of 1982 advisory opinions discussed whether contributions permissible for use in State or local elections could be used in Federal elections. (Some State laws allow contributions that would be prohibited under the Federal election campaign law.) In AO 1982-40, the Commission said that a non-Federal corporate PAC, which had supported State candidates, could be converted into a Federal PAC. It could use funds collected for State elections because: 1) they contained no corporate contributions; and 2) the PAC's solicitations for the funds were in substantial compliance with Commission regulations. Commissioner Harris dissented from this opinion because the non-Federal PAC's solicitations did not fully comply with one Commission regulation.

On the other hand, in AO 1982-38, the Commission did not allow the reelection campaign of Senator Daniel P. Moynihan (D-New York) to accept contributions from county party organizations (not registered as "political committees" under the Federal campaign finance law) because the funds might have contained prohibited corporate contributions, permissible under New York State law.

Commission regulations stipulate that an unregistered organization must demonstrate through a reasonable accounting method that it has sufficient funds to make a permissible contribution to a Federal candidate at the time the contribution is made. The county party organizations used unacceptable accounting methods because the organizations could only ensure that they would have sufficient lawful funds to cover Federal contributions at the close of the reporting period, not at the time the contribution was made.

In another opinion on this subject, AO 1982-52, the Commission allowed a State senator to transfer

funds from his State campaign committee to his Congressional campaign committee in order to retire debts for an unsuccessful House campaign. Because the committees were affiliated, having been established by the same candidate, unlimited funds could be transferred between them. However, the Commission stated that the Federal campaign could not accept any prohibited funds from the State campaign, and it advised the State campaign that it would have to register as a "political committee" under Federal law if it transferred over \$1,000 to the Federal campaign.

The Democratic National Committee (DNC) requested the Commission's guidance concerning the use of Federally impermissible funds for a national party conference (held in Philadelphia in June 1982). The DNC and the 1982 Democratic Conference Arrangements Committee (the Conference Committee) asked the Commission whether the Conference Committee could accept donations from corporations and labor organizations to defray conference expenses related to non-Federal conference activity. The two committees also asked the Commission to review their proposed methods for determining which conference expenses would be allocable as non-Federal expenses. In the opinion, AO 1982-5, the Commission approved several allocation methods. However, it was unable to reach a four-vote majority decision on the issue of whether any allocation was required since the Commission did not agree on whether the conference would be held in connection with, or to influence, Federal elections. The Committees had stated that the two-day conference would provide "a forum for discussion of public policy issues...and a mechanism for party-building and training of candidates and political workers," and would be supporting both Federal and non-Federal campaigns and party committees.

Commissioner Harris filed a dissent to this opinion. He took the position that no contribution of corporate or labor funds whatever is "legally justifiable in the case of a national party whose primary concern is the election of Federal candidates."

*News Story Exemption.* In a second advisory opinion request, the Democratic National Committee (DNC) along with the Republican National Committee (RNC) asked the Commission if their acceptance of free airtime from a cable television network, Turner Broadcasting System, Inc., would result in a prohibited corporate contribution. Turner had offered both major political parties free airtime to discuss issues, to demonstrate their differences and to solicit support for their parties.

In its response to the National Committees' questions, AO 1982-44, the Commission said that the free cablecast time provided for the programs would not be prohibited corporate contributions since the programs fell into the category of news commentaries specifically exempted from the law's definitions of "contribution" and "expenditure."

In his dissent to this opinion, Chairman Frank P. Reiche questioned whether the programs were actually "commentaries" since they included solicitations for contributions. He argued that the law's exemption for news stories, commentaries and editorials did not cover the type of program described in the advisory opinion and that the opinion would "effectively permit broadcasting corporations and possibly others, to facilitate and indirectly participate in fundraising activities of political parties."

*Contribution Limits.* The Commission considered questions related to contribution limits in AOs 1982-22 and 1982-49. The first opinion concerned a Congressional primary candidate who changed his candidacy from one Congressional District to another during the same election cycle as a result of a court-mandated redistricting plan. The Commission decided that he was a primary candidate for **one** Federal office and that contributions to his primary campaign were subject to a single limit.

In the second opinion, AO 1982-49, the Commission ruled that, because a primary election between Senator Lowell Weicker (R-Connecticut) and his opponent was never held, there was no separate contribution limit for the primary. Under Connecticut law, the primary would have been a separate election, held after the party nominating convention and be-

fore the general election. (The convention and general election each constituted a separate election with separate contribution limits.) The Commission said that Senator Weicker's reelection committee had to return primary contributions to individuals who had exhausted their contribution limits for the convention and general election.

*Testing the Waters.* In AO 1982-19, the Commission decided that, if Senator Alan Cranston (D-California) decided to become a 1984 Presidential candidate, funds that were received and disbursed by a committee formed on his behalf to "test the waters" for a potential candidacy would become "contributions" and "expenditures" subject to the law's reporting requirements, limits and prohibitions. The Commission also said that Commission regulations would apply to the exploratory committee, not just to Senator Cranston himself, because he had authorized the committee. In the opinion, the Commission discussed how the regulations would apply to committee activity during and after the testing-the-waters period.

*Endorsement by Candidate.* In AO 1982-56, the Commission ruled that the appearance of Congressman Andrew Jacobs (D-Indiana) in a television ad financed by a county candidate's committee did not result in an in-kind contribution from that committee to Congressman Jacobs because the ad did not endorse or seek to influence his reelection. Rather, the 30-second ad was limited to advocating the county candidate's election.

*Status of Club.* In AO 1982-50, the Commission said that a group of Floridians could sponsor a club (the Florida Breakfast and Lunch Bunch or BLB) to give members of the Florida Congressional delegation an opportunity to address individuals invited to BLB meetings. The BLB meetings would, however, qualify as election-influencing activities because attendees would be solicited, that is, they would be informed of their opportunity to contribute to the campaign of a featured speaker before attending the session. Under these circumstances, when aggregate expendi-

tures for the meetings exceeded \$1,000 per year, BLB would become a "political committee" under the law.

Commissioner Aikens filed a dissent to this opinion in which she contended that merely apprising participants of their opportunity to make a contribution does not constitute a solicitation under the statute. BLB's meetings were not campaign-related events, she said, and would not therefore trigger political committee status for BLB.

## Monitoring the Law

### Review of Reports

Early in 1982, the Commission revised an internal policy governing procedures for reviewing reports and tracking possible violations of the campaign finance law revealed in the reports. The new review policy more closely reflected Congressional intent to concentrate on committees whose reports indicated substantial noncompliance with the law. The effect of the revised procedures was to further standardize the Commission's review of reports, thereby ensuring a more efficient handling of reports and a higher quality of review.

### Nonfiler Procedures

On January 21, 1982, the Commission revised its policy for notifying committees when they failed to file required reports. Under the former policy, the Commission sent mailgrams notifying **all** nonfiling committees of their failure to file. The revisions specified that the Commission send mailgrams only to authorized committees of those candidates that failed to file pre-election reports and quarterly reports due just before the election in which the candidate was running. The Commission continued, however, to send all committees prior notices reminding them of upcoming reporting deadlines. Moreover, all committees remained responsible for filing reports and could be subject to legal action for failure to file any report. More accurately reflecting the nonfiler provision in the campaign finance law, the new policy also enabled the Commission to reduce expenses for mailgrams by an estimated \$18,000.

### Debt Settlement Procedures

The Commission also changed its procedures for reviewing debt settlement statements submitted by committees. On July 22, 1982, the Commission approved the policy revisions which more closely tracked the relevant provisions of the campaign finance law. The revised policy also clarified uncertain points in the former procedures; it more clearly defined the circumstances under which a debt settlement statement would be required (i.e., when a creditor forgives a debt for less than the amount owed) and also explained when a statement would not be required (e.g., when a creditor and committee reach agreement over a disputed debt).

## Enforcing the Law

### Processing Complaints

During 1982, the Commission reduced the time required for processing compliance cases, called matters under review or MURs. Under new procedures adopted in July, the General Counsel's Office gave the Commissioners its initial report on a case approximately one month earlier than in the past. Although the new policy affected only the first report, after which the Commissioners decide whether to dismiss the case or initiate further investigation, the agency made efforts to tighten up all phases of handling compliance cases.

To aid researchers in the compliance area, the Commission proceeded in 1982 with the development of a MUR index. In 1981, Commission staff could extract information on closed MURs through the computer system, but the data available was limited. In 1982, the Commission added categories to the index, including the names of complainants and respondents, citations to the U.S. Code and the Code of Federal Regulations, and subject terms. The Commission planned to continue to refine the subject area, or thesaurus, and make the detailed index publicly available in 1983.

### Summary of Litigation

The Supreme Court took action on four of the Commission's cases in 1982. Three of those cases, as

well as a number of other 1982 suits, arose from the campaign finance law's restrictions on corporate/labor activity in Federal elections (Section 441b of the statute). The Commission's 1982 litigation is summarized below.

*Corporate Activity.* One case involving Section 441b, *Bread PAC v. FEC*, concerned the constitutionality of the law's limitations on solicitations for contributions to separate segregated funds operated by incorporated trade associations. The appeals court had upheld the provision as constitutionally sound. On March 8, 1982, however, the Supreme Court vacated the court of appeals' decision on jurisdictional grounds and remanded the case for further proceedings. The Court held that the plaintiff corporations and political committees were not within the limited class of plaintiffs eligible to invoke the expedited procedures contained in Section 437h of the law. On December 13, 1982, the district court dismissed the case for lack of prosecution. (For a full summary of the suit, see the *1981 Annual Report*, page 26.)

On November 8, 1982, in another 441b case, *International Association of Machinists and Aerospace Workers (IAM) v. FEC*, the Supreme Court summarily affirmed a decision of the court of appeals. The *en banc* court of appeals, on April 8, 1982, had rejected three constitutional challenges to the 1976 amendments to the law, which permit corporations to solicit contributions to their separate segregated funds from their executive and administrative personnel. (For a summary of the district court ruling in this case, see the *1981 Annual Report*, page 23.)

In its first constitutional challenge, IAM claimed that the amendment permitting corporations to solicit contributions from executive and administrative personnel had resulted in a great increase in the amount of money in corporate PACs, which created an imbalance in political power between corporations and labor organizations—an imbalance not foreseen by Congress when it enacted the 1976 amendments. IAM argued that this imbalance violated the First and Fifth Amendment rights of labor unions by reducing

their political influence vis-à-vis corporations. However, the appeals court found that Congress, taking into account the structural differences between corporations and labor organizations, had attempted to treat them in a comparable manner. The court also noted that the Constitution "does not afford any guarantee against one person's or group's ability to fund more free speech than can another."

In a second challenge, IAM argued that corporate solicitations of executive and administrative personnel are inherently coercive and thus violate those individuals' First Amendment right to refrain from supporting the corporation's political activities. As evidence of coercion, IAM pointed out that executive and administrative employees contribute in greater numbers and greater amounts to their corporate PACs than donors to PACs not operated by their employers. The appeals court, however, concluded: "One could argue with equal force that career employees contribute more to their corporate PACs out of a desire to further what they perceive to be their own interests...and because they have the wherewithal to do so..." The court also held that the 1976 amendments extended the same protection against coercion to corporate employees as that provided to union members.

Finally, IAM claimed that the law's provisions permitting corporations to use their treasury funds to administer a PAC abridged the free speech rights of shareholders who disagree with the corporation's political activities. IAM relied primarily upon the Supreme Court's decision in *Abood v. Detroit Board of Education* that the First Amendment prohibited a union from requiring employees to contribute to a political cause they did not support as a condition of holding a job. The court of appeals rejected this argument, relying upon the Supreme Court's holding in *First National Bank of Boston v. Bellotti* that a shareholder is under no such compulsion to invest in a corporation whose political activities he opposes.

On December 13, 1982, the Supreme Court ruled on another case concerning Section 441b. In *FEC v. National Right to Work Committee (NRWC)*, the Commission claimed that NRWC, a nonstock corporation, had violated Section 441b(b)(4)(A) by solici-

iting individuals who were not its stockholders, executive or administrative personnel, or their families, for contributions to the corporation's separate segregated funds. NRWC argued that the individuals it solicited were "members" of the corporation within the meaning of Section 441b(b)(4)(C), and that the solicitations were, therefore, lawful. NRWC also argued that, if its solicitations were not permitted, the law's solicitation restriction violated its members' First Amendment rights of association and was also unconstitutionally vague. The district court ruled in the Commission's favor, finding that the law was not unconstitutional, that NRWC could not rely on the membership provision because its articles of incorporation and by-laws specifically stated that it was organized without members, and that the individuals NRWC solicited had none of the normal indicia of membership in an organization. Relying upon constitutional concerns, the court of appeals reversed that decision, holding that the term "member" in Section 441b(b)(4)(C) includes anyone who contributes to the corporation or answers a questionnaire in a manner the corporation considers to evidence a "similar political philosophy" with the corporation.

In its December ruling, the Supreme Court unanimously overturned the appeals court decision, holding that the court's "determination that NRWC's 'members' include anyone who has responded to one of the corporation's essentially random mass mailings would . . . open the door to all but unlimited solicitations and thereby render meaningless the statutory limitation to members." Moreover, the Supreme Court found that the Commission had properly treated NRWC's corporate charter as evidence that it had no members and also agreed with the Commission that a "member" must have some ongoing rights and obligations in the corporation comparable to a shareholder. Rejecting NRWC's claim that its constitutional rights would be violated by restricting its solicitations, the Court said such associational rights were "overborne" by the important purpose Section 441b was designed to serve, i.e., to prevent corporate money from corrupting Federal elections. In response to NRWC's claim that the statutory language was vague, the Court said the statute

"may leave room for uncertainty" but that NRWC's solicitations were extended "to people who would not be members under any reasonable interpretation of the statute."

Section 441b was at issue in three other cases pending in 1982. In a direct challenge to the law's prohibition on corporate contributions (Section 441b(a)), the Athens Lumber Company, a corporation, claimed that the provision abridged its First and Fifth Amendment rights. In *Athens Lumber Company v. FEC*, the corporation and its president, John P. Bondurant, asked the district court to certify constitutional questions to an *en banc* court of appeals. On February 9, 1982, the district court dismissed the case as not ripe for adjudication under Article III of the Constitution. However, on October 22, 1982, a three-judge panel of the appeals court reversed that decision, finding the case sufficiently ripe for a declaratory judgment. The panel also ruled that, although the corporation was not within the limited class of plaintiffs eligible to bring suit under the expedited procedures of Section 437h, the individual plaintiff, John P. Bondurant, was eligible to represent the corporation's claims. The appeals court panel itself certified the constitutional questions to the *en banc* court of appeals, rather than remanding the case to the district court for fact finding, as the Commission requested. On February 7, 1983, the *en banc* court of appeals vacated the decision of the three-judge panel and agreed to reconsider the issues *en banc*.

In another case involving Section 441b(a), Satellite Business Systems (SBS), a partnership composed of three corporations, claimed that the FEC had misconstrued that provision in an advisory opinion issued to SBS on March 15, 1982 (AO1981-56, summarized on page 10). In that opinion, the Commission had stated that Section 441b(a) barred SBS from either establishing a separate segregated fund or making direct contributions for Federal elections. SBS therefore asked the district court, on October 12, 1982, to declare that the Commission's decision in the opinion was erroneous and to allow SBS to participate in Federal elections. Alternatively, SBS asked the court to rule that Section 441b(a), as con-

strued in the advisory opinion, violated the plaintiff's First and Fifth Amendment rights. At the end of 1982, the case had not been heard.

In a third pending case, the Commission filed suit on March 10, 1982, asking the district court to find that the Massachusetts Citizens for Life, a nonprofit corporation, had violated Section 441b(a) by making prohibited expenditures in connection with 1978 Federal elections. The Commission claimed that the corporation incurred these expenditures by preparing, printing and distributing pamphlets that advocated the election of candidates opposed to abortion. The corporation contended that, if its activities were prohibited, the law was unconstitutional. On December 20, 1982, the district court heard oral argument on both parties' motions for summary judgment.

*1980 Public Financing.* Several 1982 cases arose from the 1980 Presidential elections. *FEC v. Americans for Change* concerned 26 U.S.C. Section 9012(f), which places limits on expenditures made on behalf of publicly funded Presidential candidates in the general election. A district court had ruled that Section 9012(f) was unconstitutional as applied to Americans for Change and two other multicandidate committees that had planned to spend large sums in support of the 1980 Republican Presidential nominee. On January 19, 1982, the Supreme Court, in a 4-to-4 vote, left the district court decision intact, but it did not rule upon the constitutionality of the provision. For a decision of the case, see page 19 of the *1980 Annual Report* and page 8 of the *1981 Annual Report*.<sup>11</sup>

In the other cases dealing with 1980 public funding, two Presidential primary campaigns filed suit against the Commission. In *Dolbeare v. FEC*, Lyndon H. LaRouche's campaign challenged FEC investigations into its activities, claiming that the statutory provision authorizing the investigations (Section 437g(a)(2)) was unconstitutional as applied because it placed no time limit on completion of the investiga-

tions. The LaRouche campaign also alleged that the Commission had undertaken the investigations to harass the campaign and that the investigations had a chilling effect on contributors' rights of free association. The campaign further claimed that the Commission had exceeded the prescribed limits on agency investigations. The Commission argued that the suit was not justiciable and that the LaRouche campaign had failed to present sufficient evidence to demonstrate the likelihood of succeeding on the merits of its case.

The district court initially issued a preliminary injunction precluding the Commission from initiating any new investigations of the LaRouche campaign until the current investigations were completed. However, after the Commission completed its discovery in the case and its pending investigations into the campaign, the district court entered a consent order dismissing the case with prejudice.

The other Presidential case was pending at the end of 1982. In *Carter/Mondale Presidential Committee, Inc. v. FEC*, the Committee, on July 6, 1982, asked the appeals court to review the Commission's determination that the Committee was required to repay to the U.S. Treasury an amount equal to the amount of its nonqualified campaign expenditures.

*Draft Committees.* *FEC v. Florida for Kennedy Committee* was one of four separate suits filed by the Commission to seek enforcement of subpoenas it had issued to several political committees that had been engaged in promoting the Presidential candidacy of Senator Edward Kennedy during 1979. (For a summary of those suits, see pages 23-24 of the *1981 Annual Report*.) The Commission had issued the subpoenas as part of its investigation into a complaint alleging that the "draft Kennedy" committees were affiliated committees and therefore subject to a **single** \$5,000 contribution limit. The complaint alleged that the draft committees had collectively accepted excessive contributions amounting to \$30,000 from the Machinists Non-Partisan Political League, the political arm of the International Association of Machinists.

<sup>11</sup>See also Commission Agenda Document 82-170, which concerned Section 9012(f) and was considered by the Commission on January 6, 1983.

On August 2, 1982, the appeals court reversed the district court decision enforcing the subpoenas the Commission had issued to the Florida for Kennedy Committee. The district court held that the subpoenas met the guidelines for enforceability and were within the FEC's authority. The appeals court, however, found that constitutional concerns mandated that the usual standard for judicial review of agency subpoenas did not apply in the Commission's case and concluded that the FEC must "prove to the satisfaction of the courts that it has statutory investigative authority" **before** the courts may order enforcement of Commission subpoenas. The appeals court then found that "committees organized to 'draft' a person for federal office" are not "political committees" within the purview of the Commission's investigative authority.

Judge Clark dissented from the majority opinion. In his dissent, he found that the statutory language and legislative history both demonstrated that "draft committees" fall within the jurisdiction of the campaign finance law since such committees accept contributions and make expenditures for the purpose of influencing the nomination of a person to Federal office. He concluded that exempting draft committees from the law would leave "a significant portion" of political activity "outside the coverage of the Act, a construction which the Supreme Court [has] rejected."

*Public Disclosure.* On May 6, 1982, the court of appeals upheld an earlier district court ruling in *FEC v. Hall-Tyner Election Campaign Committee*. (See page 27 of the *1981 Annual Report* for a summary of the district court decision.) The Commission contended that the Hall-Tyner Committee had violated the law by its failure to keep records of, or to disclose on its reports, the names and addresses of certain contributors who had elected to remain anonymous. (In 1976, Gus Hall and Jarvis Tyner were the respective Presidential and Vice Presidential candidates of the Communist Party, U.S.A.) The district court dismissed the suit, finding the Committee had established that enforcement of the recordkeeping and disclosure provisions against it would violate

First Amendment rights of its contributors. In affirming the district court decision, the appeals court found that the Committee had met the standard set forth in *Buckley v. Valeo* for exempting minor parties from the law's disclosure requirements, i.e., the Committee had demonstrated a "reasonable probability" that disclosure of the names of contributors would subject them to harassment. Moreover, the appeals court held that the governmental interest served in obtaining information on large contributors did not justify the chilling effect that disclosure would have on their First Amendment rights of free association. On January 17, 1983, the Supreme Court declined to review the decision.

*Illegal Contributions.* In *FEC v. Robert Earl Short*, the Commission claimed that two political committees and their respective treasurers had violated the campaign finance law by reporting disbursements as independent expenditures when, according to the Commission, they were actually in-kind contributions to the Short for Senate Committee of Volunteers. The FEC also alleged that these in-kind contributions exceeded the law's contribution limits. The Commission further claimed that Robert Earl Short, a 1978 Senate candidate from Minnesota, his principal campaign committee and the committee's treasurer had also violated the law by failing to report the receipt of the in-kind contributions.

On September 27, 1982, the district court entered a consent order in which the defendant committees agreed that they had violated the relevant provisions of the law. The committees further agreed to amend their reports within 30 days to reflect the disbursements as in-kind contributions. The district court imposed a \$400 civil penalty on each defendant committee and voluntarily dismissed the case against individual defendants.

## Outreach Programs

During 1982, the Commission expanded efforts to assist and educate candidates, committees and the public through a number of programs designed to reach particular audiences.

### Workshops and Conferences

In the spring of 1982, the Commission conducted three seminars in Washington, D.C., primarily for House and Senate candidates. Originally, the Commission had scheduled only one seminar, but, because of the demand, the agency presented two more. Among the estimated 100 seminar participants were campaign staff and consultants, Congressional staff and members of the press. Following Chairman Frank P. Reiche's opening remarks, FEC staff discussed the law's requirements, pertinent advisory opinions and certain legal procedures. Commissioner John Warren McGarry also participated, giving tips on how to avoid common problems with the campaign law. The seminars also included a newly developed slide presentation, "Sources of Candidate Support."

As part of a statewide seminar on election laws, the Commission conducted a one-day workshop in Ohio on the Federal campaign finance law. Approximately 280 people attended the workshop, held in Columbus, Ohio, on September 13, 1982, and sponsored by the Ohio Secretary of State. Focusing on local party activity in Federal elections, the workshop represented an effort by the Commission to reach out to local party organizations, whose involvement in Federal elections may be so limited that they do not qualify as "political committees" under Federal law. By providing information to these groups, the Commission hoped to encourage their participation in Federal elections in compliance with the law.

Additionally, Commissioners and staff spoke at several educational conferences and meetings, including the following:

- American Bar Association's Committee on Election Law
- American Bar Association's Conference on the FEC
- Aspen Institute for Humanistic Studies' 1982 Communications Policy Workshop and Seminar on Presidential Debates and Political Communications
- California Bar Association's Political Law Committee
- Council on Governmental Ethics Laws' Annual Conference
- Federal Bar Association's Program on the FEC
- National Association of Legislative and Political Specialists in Education's Conference
- National Association of Secretaries of State's Annual Conference
- National Conference of State Legislatures
- Practicing Law Institute's Seminar on the Corporation in Politics
- Texas League of Woman Voters' Election Laws and Practices Conference
- Twentieth Century Fund's Task Force on Political Committees
- Virginia Consortium of Social Studies Supervisors and College Educators' Annual Conference
- Virginia Social Studies Teachers' Annual Conference

### Materials and Services

With the publication of a new series of illustrated brochures, the Commission focused on the special concerns of particular audiences. For example, one brochure covered information for local party groups, another explained candidate registration, and two focused on different aspects of corporate/labor activity. One brochure directed to the general public, *Using FEC Campaign Finance Information*, answered common questions asked by researchers working with Commission files and computer indexes. (See Appendix 7 for a list of the brochures and other publications.)

In addition to the brochures, the Commission introduced the *Campaign Guide for Corporations and Labor Organizations*, the first Commission publication devoted exclusively to corporate/labor informational needs. The agency also republished its *Campaign Guide for Congressional Candidates and Committees* with a new section presenting samples of completed FEC forms.

During 1982, the Commission encouraged educators to use Commission resources. In response to letters and news releases describing Commission research facilities and informational materials, the

Commission received requests for its slide and tape program on candidate support and for its publications, including the Clearinghouse publication, *Voter Information and Education Programs*, which outlines curriculums on the election process.

### **Clearinghouse Activities**

The Commission's National Clearinghouse on Election Administration continued during 1982 to fulfill its mission by disseminating information on the Federal election process, assisting election officials and publishing the results of research. (Clearinghouse publications are described in Appendix 8.)

As in 1981, Clearinghouse research activity focused on a Congressionally mandated study to assess the feasibility and cost of developing standards for voting equipment used in the United States. In cooperation with the National Bureau of Standards, the Clearinghouse issued a contract to examine standards applicable to the hardware elements of electronic voting devices. Clearinghouse staff continued discussion of the effort with election officials and vendors and started work on a draft of the final report.

Additionally, the Clearinghouse conducted workshops in Massachusetts, New York and Kentucky on specific problems in the administration of Federal elections.

The Clearinghouse Advisory Panel did not meet during 1982 but planned to convene early in 1983.

# Chapter 2

## Planning for the 1984 Presidential Elections

During 1982, the Commission started laying groundwork for the 1984 Presidential public financing program. The Commission's goal was twofold: easing the burdens on Presidential campaigns requesting public funds while streamlining internal procedures for more efficient operation of the program. To this end, the Commission worked on revising the Presidential primary matching fund regulations and prepared other materials for the 1984 Presidential elections.

### Primary Matching Fund Regulations

As in the two previous Presidential election cycles, the Commission began redrafting regulations governing the payment of public money in the form of matching funds to Presidential primary candidates.<sup>1</sup> The Commission first reassessed its administration of matching funds in previous elections, reviewing comments from staff as well as relevant Commission documents, such as advisory opinions, compliance cases and audit reports. The Commission then wrote proposed regulations, based on this reevaluation, with a view toward providing workable rules to govern many of the areas which had caused uncertainty in the past. The proposed rules also included a fuller explanation of the certification and audit processes and contained new provisions to cover aspects of the Presidential primary process not previously addressed in the regulations.

On August 17, 1982, the Commission published the proposed changes in a Notice of Proposed Rule-making (47 *Fed. Reg.* 35892), seeking public comment on the revisions.

The Commission held a public hearing on the proposed regulations on December 7, 1982, at which

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<sup>1</sup>Eligible Presidential primary candidates may receive public funds to match contributions of money (e.g., checks) from private contributors. Loans, cash contributions, in-kind contributions and contributions from political committees are not matchable. To be eligible for matching payments, a candidate must first raise more than \$5,000 in each of 20 States. Although an individual may contribute more than \$250 to a candidate, only a maximum of \$250 of an individual's contribution(s) applies toward the \$5,000 threshold in each State.

the Honorable Angela M. Buchanan, former treasurer of President Reagan's 1980 Presidential campaign and current U.S. Treasurer, testified. In her testimony, Mrs. Buchanan commented on several areas of the proposed regulations that were of practical concern to the Reagan Committee. In addition to hearing oral testimony on possible revisions to the regulations, the Commission received written comments from 11 individuals as well as from the American Bar Association, the Republican National Committee and the White House.

After discussing draft regulations at a series of public meetings, the Commissioners approved the revisions on December 16, 1982, but decided not to forward them to Congress until after the 98th Congress had convened in 1983.<sup>2</sup>

Some of the significant changes incorporated into the proposed regulations are summarized below.

### **State-by-State Allocations**

Under the campaign finance law, Presidential primary campaigns receiving public funding must agree to limit spending to a national spending limit and a spending limit within each State.<sup>3</sup> The current regulations provided few guidelines for allocating expenditures under the State limits. In contrast, the suggested revision set out definite procedures for allocating particular types of expenditures. Moreover, the proposed regulations established a category of national campaign expenses which would not need to be allocated.

### **Exemptions to Spending Limit**

Another suggested provision allowed campaigns to exclude from the State spending limit up to 10 per-

cent of overhead expenditures and campaign workers' salaries in a particular State as exempt compliance costs (i.e., expenditures to ensure compliance with the campaign finance law). Another 10 percent of overhead costs and salaries could be applied toward the limited exemption for fundraising.

The Commission adopted a similar provision in the proposed rules regarding the national spending limit. Under the revision, campaigns could allocate 10 percent of overall salary and overhead expenditures as exempt compliance costs and another 10 percent as exempt fundraising costs. Under either exemption, candidates were permitted to allocate a higher percentage of expenses to compliance and/or fundraising. In such cases, however, candidates had to document the full amount claimed for such expenses.

### **Submissions and Certifications**

The proposed rules more closely reflected actual procedures used in past elections for the submission of contributions to be matched and the Commission's certification of matching fund payments. Moreover, the suggested revisions consolidated all requirements for matching fund submissions under one part of the regulations.

One new provision in that part allowed a campaign to submit requests for matching funds by letter rather than a full matching fund submission.<sup>4</sup> The letter request would specify the amount of matchable contributions a campaign received subsequent to its last submission and would be accompanied by supporting bank documentation, such as validated deposit slips. The campaign's next submission would be a fully documented submission covering the letter request and the current submission. The Commission anticipated that this proposed change would al-

<sup>2</sup>Under the campaign finance law, the Commission must submit proposed rules to Congress. Unless the House or Senate disapproves them within 30 legislative days, the Commission may prescribe the regulations.

<sup>3</sup>The national spending limit is \$10 million plus a Cost of Living Adjustment (COLA). The State limit is based on the following formula: \$200,000 plus COLA or 16 cents (plus COLA) multiplied by the State Voting Age Population, whichever is greater. In its 1980, 1981 and 1982 legislative recommendations, the Commission recommended that Congress remove the State spending limits.

<sup>4</sup>A full matching fund submission contains a list of matchable contributions and includes each contributor's name and address and the amount of each contribution. The submission also includes a photocopy of each contributor check (or other written instrument) and supporting bank documentation showing that the funds were deposited. These contributions must be submitted in accordance with the Commission's *Guideline for Presentation in Good Order*.

most cut in half the number of matching fund submissions prepared by campaigns while still providing for twice-monthly matching fund payments.

### **Matchable Contributions**

The proposed rules answered a number of questions raised during the 1980 election cycle concerning whether certain contributions were eligible for matching payments. For example, one provision stated that contributions collected through joint fundraising with other candidates or committees would be matchable contributions. (Although the Commission had matched joint-fundraising proceeds in the 1980 Presidential elections, it had never codified the rule.) The provision also set out procedures for campaigns to follow when engaged in joint fundraising.

In a change from 1980 policy, the proposed regulations stipulated that the full price for admission to a fundraising event, such as a concert or dinner, would be a matchable contribution if it met the matchability requirements. Contributions received when an individual tests the waters for a potential Presidential candidacy could also be matched, according to the proposed rules, once the individual declared his/her candidacy and if the contributions met the standards for matchability. Similarly, funds disbursed during that period would count against both the State and the overall expenditure limits.

### **Sale of Assets**

The proposed regulations addressed the issue of whether campaigns could sell fundraising items either donated or purchased by the campaign, such as artwork. The provision permitted campaigns to sell such assets, though the amount paid would be a contribution subject to the law's limits and prohibitions. However, the provision included an exception for campaigns whose outstanding debts exceeded their cash on hand at the end of the matching payment period. These campaigns could sell assets acquired for fundraising purposes to wholesalers or other intermediaries who would, in turn, sell the assets to the public. The proposed rules specified that, in this case, the sale proceeds would not count as

campaign contributions from either the wholesaler or the purchaser.

### **Audits**

To clarify the statutorily mandated audits of campaigns accepting matching funds, the proposed rules fully described the audit process, including audit fieldwork and the preparation, content and public release of audit reports. Additional provisions provided candidates an earlier opportunity to respond to an initial Commission determination that the campaign repay public funds. In the revision, campaigns that submitted written statements contesting a repayment determination could also be granted an oral hearing upon an affirmative vote of four Commissioners.

## **Other Preparations Under Way**

### **Guideline**

During 1982, the Commission worked on a substantial revision to the *Guideline for Presentation in Good Order*, a publication for Presidential primary campaigns seeking Federal matching payments. Like the 1976 and 1980 editions of the *Guideline*, the new version presented step-by-step instructions on the preparation of matching fund submissions. However, the Commission greatly expanded the scope of the revised *Guideline* to include a detailed explanation of the entire matching fund process. Because the Commission, after administering two previous matching fund programs, better understood campaigns' problems and questions, the new *Guideline* addressed areas of difficulty encountered by campaigns. For example, the revised *Guideline* provided a comprehensive discussion of the error codes which the Commission assigns to nonmatchable contributions contained in a submission. The *Guideline's* section on error codes gave explicit examples so that a committee could pinpoint deficiencies and more easily correct them.

The revised *Guideline* reflected the proposed revisions to the matching fund regulations and included citations to the relevant Commission regulations. The Commission hoped that the *Guideline*, ready in

February 1983, would be a more usable tool for the preparation of submissions and would help campaigns maximize access to matching funds by ensuring that submitted contributions meet all requirements.

### **Compliance Manual**

The Commission also worked on revisions to its *Financial Control and Compliance Manual for Presidential Candidates Receiving Public Financing*, another publication to assist primary campaigns. As in the 1980 edition, the *Manual* presented a total system for compliance with the campaign finance law, including reporting requirements. Based on practical recommendations by Commission auditors and campaign staffs, the revised *Manual* incorporated controls devised by past campaigns and provided concrete illustrations.

For example, like the proposed regulations, the *Manual* expanded and clarified the section on State-by-State allocations. The *Manual* also included expanded sections on exempt fundraising activities and exempt compliance costs, more reporting examples, improved suggestions on software specifications for computerized campaign systems and more detailed procedures for winding down and terminating the campaign. The Commission planned to release the *Manual* in late February or early March 1983.

### **Reporting Forms**

In another effort to aid Presidential campaigns, the Commission, on December 16, 1982, approved a newly designed FEC Form 3P, the reporting packet used by primary and general election Presidential campaigns, including those not receiving public funds. The revised Presidential reporting forms implemented changes to the campaign finance law contained in the 1979 amendments<sup>5</sup> and made other revisions that improved disclosure. At the same time, the Commission simplified the form, where possible, and resolved areas of confusion in the previous

forms. Additionally, the Commission changed the design of the forms to enhance appearance, clarity and ease of completion.

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<sup>5</sup>Presidential campaigns in 1980 were not required to comply with the changes to the reporting provisions contained in the 1979 amendments to the Federal Election Campaign Act.

# Chapter 3

## Legislative Recommendations

The Federal Election Campaign Act requires the Commission to transmit each year to the President and Congress "any recommendations for any legislative or other action the Commission considers appropriate..." 2 U.S.C. Section 438(a)(9). The following legislative recommendations were approved by the Commission on March 24, 1983. Most of these reiterate the 18 recommendations submitted to the President and Congress in May 1982. Two other recommendations, not included in the 1982 package, concern reporting waivers and certification of the voting age population figures and cost-of-living adjustment.

### Definitions

#### Draft Committees<sup>1</sup>

*Section:* 2 U.S.C. §§431(8)(A)(i), 431(9)(A)(i), 441a(a)(1) and 441b(b)

*Beneficiary of Change:* Candidates, Commission

*Recommendation:* Congress should consider the following amendments to the Act in order to prevent a proliferation of "draft" committees and to reaffirm Congressional intent that draft committees are "political committees" subject to the Act's provisions.

1. *Bring Funds Raised and Spent for Underdeclared Candidates Within the Act's Purview.* Section 431(8)(A)(i) should be amended to include in the definition of "contribution" funds contributed by persons "for the purpose of influencing a clearly identified **individual** to seek nomination for election or election to Federal office..." Section 431(9)(A)(i) should be similarly amended to include within the definition of "expenditure" funds expended by persons on behalf of such "a clearly identified **individual**."

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<sup>1</sup>This recommendation reiterates the one made by the Commission on August 28, 1981. On that date, the Commission sent a letter to the Speaker of the House and the President of the Senate recommending immediate legislative action on amendments to the election law that would clarify the Act's coverage of the activities of "draft" committees organized to support or influence the nomination of undeclared Federal candidates. The recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

2. *Restrict Corporate and Labor Organization Support for Undeclared Candidates.* Section 441b(b) should be revised to expressly state that corporations, labor organizations and national banks are prohibited from making contributions or expenditures "for the purpose of influencing a clearly identified **individual** to seek nomination for election or election..." to Federal office.
3. *Limit Contributions to Draft Committees.* The law should include explicit language stating that no person shall make contributions to **any** committee [including a draft committee] established to influence the nomination or election of a clearly identified **individual** for any Federal office which, in the aggregate, exceed that person's contribution limit, per candidate, per election.

*Explanation and Justification:* These proposed amendments were prompted by a recent decision of the U.S. Court of Appeals for the District of Columbia Circuit in *FEC v. Machinists Non-Partisan Political League* and *FEC v. Citizens for Democratic Alternatives in 1980*. The appeals court held that the Act, as amended in 1979, regulated only the **reporting requirements** of draft committees. The Commission sought review of this decision by the Supreme Court, but the Court declined to hear the case. Although the case is binding precedent only in the District of Columbia Circuit, the Commission believes that the appeals court ruling creates a serious imbalance in the election law and the political process because any group organized to gain grass roots support for an **undeclared** candidate can operate completely outside the strictures of the Federal Election Campaign Act. However, any group organized to support a declared candidate is subject to the Act's registration and reporting requirements and contribution limitations. Therefore, the potential exists for funneling large aggregations of money, both corporate and private, into the Federal electoral process through unlimited contributions made to draft committees that support undeclared candidates. These recommendations seek to avert that possibility.

## **Volunteer Activity<sup>2</sup>**

*Section:* 2 U.S.C. §431(8)(B)

*Beneficiary of Change:* Public

*Recommendation:* Congress may wish to consider whether the exemption for volunteer activity, contained in 2 U.S.C. §431(8)(B)(i), was meant to include professional services donated primarily for fundraising purposes rather than for actual campaigning.

*Explanation and Justification:* The Act places no limit on the services that a professional may donate to a candidate. For example, a professional entertainer may participate in a concert for the benefit of a candidate without the proceeds of that concert counting toward the entertainer's contribution limitations. Similarly, an artist may donate artwork to a campaign to be used for fundraising or to be disposed of as an asset of the campaign. In both cases, the "volunteer" has thereby donated goods or services the value of which greatly exceeds the amount of the contributions which that individual could otherwise make under the law.

## **Registration and Reporting**

### **Commission As Sole Point of Entry for Disclosure Documents<sup>3</sup>**

*Section:* 2 U.S.C. §432(g)

*Beneficiary of Change:* Political Committees, Commission, Public

<sup>2</sup>This recommendation reiterates one of the legislative recommendations submitted to Congress and the President in 1981 and published in the Commission's *1980 Annual Report*. It was again included in the legislative recommendations submitted to Congress and the President on May 26, 1982. It is repeated because this area has been a continuing problem.

<sup>3</sup>This recommendation reiterates one of the legislative recommendations submitted to Congress and the President in 1981 and published in the Commission's *1980 Annual Report*. It was again included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

*Recommendation:* The Commission recommends that it be the sole point of entry for all disclosure documents filed by Federal candidates and political committees.

*Explanation and Justification:* A single point of entry for all disclosure documents filed by political committees would eliminate any confusion about where candidates and committees are to file their reports. It would assist committee treasurers by having one office where they would file reports, address correspondence and ask questions. At present, conflicts may arise when more than one office sends out materials, makes requests for additional information and answers questions relating to the interpretation of the law. A single point of entry would also reduce the costs to the Federal government of maintaining three different offices, especially in the areas of personnel, equipment and data processing.

The Commission has authority to prepare and publish lists of nonfilers. It is extremely difficult to ascertain who has and who has not filed when reports may have been filed at or are in transit between two different offices. Separate points of entry also make it difficult for the Commission to track responses to compliance notices. Many responses and/or amendments may not be received by the Commission in a timely manner, even though they were sent on time by the candidate or committee. The delay in transmittal between two offices sometimes leads the Commission to believe that candidates and committees are not in compliance. A single point of entry would eliminate this confusion. If the Commission received all documents, it would transmit on a daily basis file copies to the Secretary of the Senate and the Clerk of the House, as appropriate. The Commission notes that the report of the Institute of Politics of the John F. Kennedy School of Government at Harvard University, *An Analysis of the Impact of the Federal Election Campaign Act, 1972-78*, prepared for the House Administration Committee, recommends that all reports be filed directly with the Commission (Committee Print, 96th Cong., 1st Sess., at 122 (1979)).

### **Waiver Authority**

*Section:* 2 U.S.C. §434

*Beneficiary of Change:* Public

*Recommendation:* Congress should give the Commission authority to grant general waivers or exemptions from the reporting requirements of the Act for classifications and categories of political committees.

*Explanation and Justification:* In cases where reporting requirements are excessive or unnecessary, it would be helpful if the Commission had authority to suspend the reporting requirements of the Act. For example, during the past election cycle, the Commission encountered several problems relating to the reporting requirements of authorized committees whose respective candidates were not on the election ballot. The Commission had to consider whether the election-year reporting requirements were fully applicable to candidate committees operating under one of the following circumstances:

- The candidate withdraws from nomination prior to having his or her name placed on the ballot.
- The candidate loses the primary and therefore is not on the general election ballot.
- The candidate is unchallenged and his or her name does not appear on the election ballot.

In some instances, the reporting problems reflect the unique features of certain State election procedures. A waiver authority would enable the Commission to respond flexibly and fairly in these situations.

In the 1979 Amendments to the Act, Congress repealed 2 U.S.C. §436, which had provided the Commission with a limited waiver authority. There remains, however, a need for a waiver authority. It would enable the Commission to reduce needlessly burdensome disclosure requirements.

### **Monthly Reporting for Congressional Candidates<sup>4</sup>**

*Section:* 2 U.S.C. §434(a)(2)

*Beneficiary of Change:* House and Senate Candidates

*Recommendation:* The principal campaign committee of a Congressional candidate should have the **option** of filing monthly reports in lieu of quarterly reports.

*Explanation and Justification:* Political committees, other than principal campaign committees, may choose under the Act to file either monthly or quarterly reports during an election year. Committees choose this option when they have a high volume of activity. Under those circumstances, accounting and reporting are easier on a monthly basis because fewer transactions have taken place during that time. Consequently, the committee's reports will be more accurate.

Principal campaign committees can also have a large volume of receipts and expenditures. This is particularly true with Senatorial campaigns. These committees should be able to choose a more frequent filing schedule so that their reporting covers less activity and is easier to do.

### **Verifying Multicandidate Committee Status<sup>5</sup>**

*Section:* 2 U.S.C. §§438(a)(6)(C), 441a(a)(2) and 441a(a)(4)

*Beneficiary of Change:* Candidates, Multicandidate Political Committees, Commission

*Recommendation:* Congress should consider modifying those provisions of the Act relating to multicandidate committees in order to reduce the

<sup>4</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>5</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

problems encountered by contributor committees in reporting their multicandidate committee status, and by candidate committees and the Commission in verifying the multicandidate committee status of contributor committees. In this regard, Congress might consider requiring political committees to notify the Commission once they have satisfied the three criteria for becoming a multicandidate committee, namely, once a political committee has been registered for not less than 6 months, has received contributions from more than 50 persons and has contributed to at least 5 candidates for Federal office.

*Explanation and Justification:* Under the current statute, political committees may not contribute more than \$1,000 to each candidate, per election, until they qualify as a multicandidate committee, at which point they may contribute up to \$5,000 per candidate, per election. To qualify for this special status, a committee must meet three standards:

- support five or more Federal candidates;
- receive contributions from more than 50 contributors; and
- have been registered as a political committee for at least six months.

The Commission is statutorily responsible for maintaining an index of committees that have qualified as multicandidate committees. The index enables recipient candidate committees to determine whether a given contributor has in fact qualified as a multicandidate committee and therefore is entitled to contribute up to the higher limit. The Commission's Multicandidate Index, however, is not current because it depends upon information filed periodically by political committees. Committees inform the Commission that they have qualified as multicandidate committees by checking the appropriate box on their regularly scheduled report. If, however, they qualify shortly after they have filed their report, several months may elapse before they disclose their new status on the next report. With semiannual reporting in a nonelection year, for example, a committee may become a multicandidate committee in August, but the Commission's Index will not reveal this until after

the January 31 report has been filed, coded and entered into the Commission's computer.

Because candidate committees cannot totally rely on the Commission's Multicandidate Index for current information, they sometimes ask the contributing committee directly whether the committee is a multicandidate committee. Contributing committees, however, are not always clear as to what it means to be a multicandidate committee. Some committees erroneously believe that they qualify as a multicandidate committee merely because they have contributed to more than one Federal candidate. They are not aware that they must have contributed to five or more Federal candidates and also have more than 50 contributors and have been registered for at least six months.

### **Insolvency of Political Committees<sup>6</sup>**

*Section:* 2 U.S.C. §433(d)

*Beneficiary of Change:* Political Committees, Commission, Public

*Recommendation:* The Commission requests that Congress clarify its intention as to whether the Commission has a role in the determination of insolvency and liquidation of insolvent political committees. 2 U.S.C. §433(d) was amended in 1980 to read: "Nothing in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—(A) the determination of insolvency with respect to any political committee; (B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and (C) the termination of an insolvent political committee after such liquidation and application of assets." The phrasing of this provision ("Nothing...may be construed to...limit") suggests that the Commission has such authority in some other provision of the Act. If Congress intended the Commission to have a role in determining the insolvency of political committees

and the liquidation of their assets, the Commission is unclear as to the nature and scope of this authority.

*Explanation and Justification:* Under 2 U.S.C. §433(d)(1), a political committee may terminate only when it certifies in writing that it will no longer receive any contributions or make any disbursements and that the committee has no outstanding debts or obligations. The FECA Amendments of 1979 added a provision to the law (2 U.S.C. §433(d)(2)) possibly permitting the Commission to establish procedures for determining insolvency with respect to political committees, as well as the orderly liquidation and termination of insolvent committees. In 1980, the Commission promulgated the "administrative termination" regulations at 11 CFR 102.4 after enactment of the 1979 Amendments, in response to 2 U.S.C. §433(d)(2). However, these procedures do not concern liquidation or application of assets of insolvent political committees.

Prior to 1980, the Commission adopted "Debt Settlement Procedures" under which the Commission reviews proposed debt settlements in order to determine whether the settlement will result in a potential violation of the Act. If it does not appear that such a violation will occur, the Commission permits the committee to cease reporting that debt once the settlement and payment are reported. The Commission believes this authority derives from 2 U.S.C. §434 and from its authority to correct and prevent violations of the Act, but it does not appear as a grant of authority beyond a review of the specific debt settlement request, to order application of committee assets.

It has been suggested that approval by the Commission of the settlement of debts owed by political committees at less than face value may lead to the circumvention of the limitations on contributions specified by 2 U.S.C. §§441a and 441b. The amounts involved are frequently substantial, and the creditors are often corporate entities. Concern has also been expressed regarding the possibility that committees could incur further debts after settling some, or that a committee could pay off one creditor at less than the dollar value owed and subsequently

<sup>6</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

raise additional funds to pay off a "friendly" creditor at full value.

## Local Party Activity

### Separate §441a(d) Limit for Local Party Committees<sup>7</sup>

Section: 2 U.S.C. §441a(d)

*Beneficiary of Change:* Local Party Committees

*Recommendation:*<sup>8</sup> Congress should amend the statute to provide a separate limit, under §441a(d), on expenditures made by local party committees in the Presidential elections.

*Explanation and Justification:* Local party committees share the State party's §441a(d) limit for Congressional elections but have no statutory role under that section for Presidential elections. The 1979 Amendments to the Act did establish certain exemptions for State and local party committees, including a provision for get-out-the-vote activity during the Presidential election. The exemptions, however, are

limited to activities involving volunteers. Payments for general public political advertising do not qualify under these provisions. Therefore, under the present statute, a local party which wants to purchase a newspaper ad on behalf of the party's Presidential nominee may make such an expenditure only when authorized to do so under the national party's §441a(d) limit.

Many local committees are unaware of this restriction and make minor expenditures on behalf of the party's Presidential nominee, which are difficult for the national committee to track. It would be preferable for the local committees to have a small Presidential spending limit of their own (in addition to the Presidential spending limit given to the national party committees). This would aid national committees in administering their own §441a(d) limit for Presidential elections and avoid unnecessary compliance actions, while still ensuring that local parties do not introduce significant amounts of unreported (and possibly prohibited) funds into the Presidential election process. (It is assumed that the national committee would delegate its authority with respect to spending by State party committees in Presidential elections.)

<sup>7</sup>A similar recommendation was included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>8</sup>Chairman McDonald filed the following dissenting opinion: The Commission's legislative recommendation of a separate §441a(d) limit for a local party committee to the Congress would further expand "party building" loopholes already carved by Congress and certain rulings of the Commission. The Commission's recommendation would provide a local party with a small limit of its own in Presidential elections. This recommendation has nothing to do with the real activities of local parties. I strongly support local parties and will work for any proposal that enhances their efforts to increase participation. This recommendation will only provide a means of circumventing the Presidential expenditure limits.

Presently a local party may make expenditures for get-out-the-vote activities involving volunteers in a Presidential campaign. The action my colleagues have taken will in no way build up these local parties and will quite likely make these committees merely another paper entity, existing only in a bank account, for their national party and its Presidential nominee. Section 441a(a)(4) of the FECA allows unlimited transfers between national, State and local committees of a political party. No definition of local party exists in the statute. Each precinct could form as many paper committees to receive national money as the national party desires. If the Commission's recommendation

is enacted, an unlimited number of local committees could be formed and the national party could transfer the local limit to each local entity. This process could provide unlimited funds to a Presidential candidate in whatever locale desired, completely undermining the delicate balance constructed by Congress to provide each major party candidate for President with an equal amount of public funds. Under the present system, each party has ample ability to participate in the Presidential campaign through get-out-the-vote and the national party §441a(d) limit (which is spent in local communities around the country selected by the national party). Local party headquarters are run on a ticket-wide basis and include the Presidential nominee in their efforts. Already corporate and labor funds are contributed to State and local parties to be used in a ratio of soft and hard money in the get-out-the-vote efforts in areas which are critical to the Federal candidates. Why do we need yet another loophole to give the Presidential campaigns unlimited spending power?

If the Congress enacts this proposal, it will not increase activity at the local level, it will only increase the ability to circumvent the process at the national level. This result will limit participation in Presidential campaigns rather than broadening it.

Commissioner Harris made the following statement: "I was not present when the Commission voted on its legislative recommendations, but am in agreement with the foregoing views of Chairman McDonald."

### **Administration of a State or Local Party Committee's Federal Account<sup>9</sup>**

*Section:* 2 U.S.C. §§431(8) and (9) and 441b

*Beneficiary of Change:* Party Organizations

*Recommendation:*<sup>10</sup> The Commission recommends that State and local party organizations which choose to establish a separate Federal account for the funding of activity in connection with Federal elections, not be required to allocate costs of administration or fundraising between the Federal accounts and other segments of the organization. Such costs could be paid from any funds available to the party.

*Explanation and Justification:* State and local party organizations are permitted to establish a separate "Federal account" for the purpose of accepting contributions and making expenditures in connection with Federal elections. A party organization that has established such an account is required to report the receipts and disbursements of the Federal account only. One of the most cumbersome regulations flowing from this organizational structure is the requirement that committees allocate their overhead and solicitation expenses between their Federal and non-Federal accounts. Specifically, committees must pay a portion of their administrative costs from the Feder-

al account and a portion from the non-Federal account.

Our audits of party organizations have frequently contained findings concerning the party's failure to make these allocations and have recommended that the non-Federal part of the organization be reimbursed from the Federal account for a reasonable share of the party's administrative costs. Failure to do so has been considered a violation of the 11 CFR 102.5 prohibition on transferring funds from the party's non-Federal accounts to the Federal account and, in those States where corporate and/or labor contributions are permitted for use in State and local elections, a possible violation of 2 U.S.C. §441(b), the ban on corporation/union funds in connection with Federal elections. To help party committees avoid these potential violations, the Commission has approved at least two allocation systems, with a provision that the committee may formulate any other reasonable method. The application of these systems is, however, burdensome since technically the allocation percentage can change from report to report necessitating frequent recalculations. Moreover, the accumulation, allocation and reporting of the administrative expenses are time consuming. Further, the resulting allocations are somewhat arbitrary and serve only to provide a recognition that a portion of the costs are indirectly connected to Federal elections.

To alleviate these problems, the Commission recommends that party committees not be required to allocate their administrative expenses between their Federal and non-Federal accounts. While this proposal might permit some corporate and labor funds to enter the Federal election process indirectly, this risk is outweighed by the substantial reduction of administrative burdens. Moreover, it is important to remember that, because of the imprecise nature of the allocation systems now in use, even under our present requirements, Federal party activity may incidentally benefit from corporate/labor funds.

Note that this recommendation would not apply to expenditures made on behalf of a clearly identified candidate, nor to registration and get-out-the-vote activities.

<sup>9</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>10</sup>Commissioners Harris and McDonald oppose this recommendation on the ground that it would allow corporations and unions to finance with general treasury funds a substantial portion of the costs associated with a party committee's Federal activity. The argument that dispensing with the need to allocate will free party committees of an administrative burden is undercut by that part of the recommendation which retains the requirement to allocate when party expenditures are made for registration and get-out-the-vote activities or when expenditures are made on behalf of a clearly identified Federal candidate. The long-time Congressional policy of banning corporate and union funds from Federal elections (except for PAC contributions) and administrative simplicity would both be better served by banning all corporate and union contributions to party committees which actively participate in Federal elections.

## Enforcement

### Modifying "Reason to Believe" Finding<sup>11</sup>

*Section:* 2 U.S.C. §437g

*Beneficiary of Change:* Respondents, Press, Public

*Recommendation:* Congress should consider modifying the language pertaining to "reason to believe," contained in 2 U.S.C. §437g, in order to reduce the confusion sometimes experienced by respondents, the press and the public. One possible approach would be to change the statutory language from "the Commission finds reason to believe a violation of the Act **has** occurred" to "the Commission finds reason to believe a violation of the Act **may have** occurred." Or Congress may wish to use some other less invidious language.

*Explanation and Justification:* Under the present statute, the Commission is required to make a finding that there is "reason to believe a violation has occurred" before it may investigate. Only then may the Commission request specific information from a respondent to determine whether, in fact, a violation has occurred. The statutory phrase "reason to believe" is misleading and does a disservice to both the Commission and the respondent. It implies that the Commission has evaluated the evidence and concluded that the respondent has violated the Act. In fact, however, a "reason to believe" finding simply means that the Commission believes a violation **may have** occurred **if** the facts as described in the complaint are true. An investigation permits the Commission to evaluate the validity of the facts as alleged.

If the problem is, in part, one of semantics, it would be helpful to substitute words that sound less accusatory and that more accurately reflect what, in fact, the Commission is doing at this early phase of enforcement.

<sup>11</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

In order to avoid perpetuating the erroneous conclusion that the Commission believes a respondent has violated the law everytime it finds "reason to believe," the statute should be amended.

## Public Financing

### Repeal the State Expenditure Limitations for Publicly Financed Presidential Campaigns<sup>12</sup>

*Section:* 2 U.S.C. §441a

*Beneficiary of Change:* Presidential Candidate Committees, Commission

*Recommendation:* The Commission recommends that the State-by-State limitations on expenditures for publicly financed Presidential primary candidates be eliminated.

*Explanation and Justification:* The Commission has now seen two Presidential elections under the State expenditure limitations. Based on our experience, we believe that the limitations could be removed with no material impact on the process.

Our experience has shown that the limitations have little impact on campaign spending in a given State, with the exception of Iowa and New Hampshire. In most other States, campaigns are unable or do not wish to expend an amount equal to the limitation. In effect, then, the administration of the entire program results in limiting disbursements in these two primaries alone.

If the limitations were removed, the level of disbursements in these States would obviously increase. With an increasing number of primaries vying for a campaign's limited resources, however, it would not be possible to spend very large amounts in these early primaries and still have adequate funds available for the later primaries. Thus, the overall national limit would serve as a constraint on State spending, even in the early primaries. At the same time, candidates would have broader discretion in the running of their campaigns.

<sup>12</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

Our experience has also shown that the limitations have been only partially successful in limiting expenditures in the early primary States. The use of the fundraising limitation, the compliance cost exemption, the volunteer service provisions, the unreimbursed personnel travel expense provisions, the use of a personal residence in volunteer activity exemption, and a complex series of allocation schemes have developed into an art which when skillfully practiced can partially circumvent the State limitations.

Finally, the allocation of expenditures to the States has proven a significant accounting burden for campaigns and an equally difficult audit and enforcement task for the Commission.

Given our experience to date, we believe that this change to the Act would be of substantial benefit to all parties concerned.

### **Fundraising Limitation for Publicly Financed Presidential Primary Campaigns<sup>13</sup>**

*Section:* 2 U.S.C. §431(9)(A)(vi) and 441a

*Beneficiary of Change:* Candidates, Commission

*Recommendation:* The Commission recommends that the separate fundraising limitation provided to publicly financed Presidential primary campaigns be combined with the overall limit. Thus, instead of a candidate's having a \$10 million (plus COLA<sup>14</sup>) limit for campaign expenditures and a \$2 million (plus COLA) limit for fundraising (20 percent of overall limit), each candidate would have one \$12 million (plus COLA) limit for all campaign expenditures.

*Explanation and Justification:* Campaigns that have sufficient funds to spend up to the overall limit usually allocate some of their expenditures to the

<sup>13</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>14</sup>Spending limits are increased by the cost-of-living adjustment (COLA), which the Department of Labor calculates annually.

fundraising category. These campaigns come close to spending the maximum permitted under both their overall limit and their special fundraising limit. Hence, by combining the two limits, Congress would not substantially alter spending amounts or patterns. For those campaigns which do not spend up to the overall expenditure limit, the separate fundraising limit is meaningless. Many smaller campaigns do not even bother to use it, except in one or two States where the expenditure limit is low, e.g., Iowa and New Hampshire. Assuming that the State limitations are eliminated or appropriately adjusted, this recommendation would have little impact on the election process.

The advantages of the recommendation, however, are substantial. They include a reduction in accounting burdens and a simplification in reporting requirements for campaigns, and a reduction in the Commission's auditing task.

### **Expenditure Limits**

#### **Certification of Voting Age Population Figures and Cost-of-Living Adjustment**

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

*Beneficiary of Change:* Secretary of Commerce, Commission, Party Committees, Candidates

*Recommendation:* Congress should consider removing the requirement that the Secretary of Commerce certify to the Commission the voting age population of each Congressional district. At the same time, Congress should establish a deadline of February 15 for supplying the Commission with the remaining information concerning the voting age population for the nation as a whole and for each State. In addition, the same deadline should apply to the Secretary of Labor, who is required under the Act to provide the Commission with figures on the annual adjustment to the cost-of-living index.

*Explanation and Justification:* In order for the Commission to compute the coordinated party expenditure limits and the State-by-State expenditure limits

for Presidential candidates, the Secretary of Commerce certifies the voting age population of the United States and of each State. 2 U.S.C. §441a(e). The certification for each Congressional district, also required under this provision, is not needed.

In addition, under 2 U.S.C. 441a(c), the Secretary of Labor is required to certify the annual adjustment in the cost-of-living index. In both instances, the timely receipt of these figures would enable the Commission to inform political committees of their spending limits early in the campaign cycle. Under present circumstances, where no deadline exists, the Commission has sometimes been unable to release the spending limit figures before June.

## Contributions

### Application of Contribution Limitations to Family Members<sup>15</sup>

*Section:* 2 U.S.C. §441a

*Beneficiary of Change:* Candidates, Commission

*Recommendation:* The Commission recommends that Congress examine the application of the contribution limitations to immediate family members.

*Explanation and Justification:* Under the current posture of the law, a family member is limited to contributing \$1,000 per election to a candidate. This limitation applies to spouses and parents, as well as other immediate family members. [See S. Conf. Rep. No. 93-1237, 93rd Cong., 2nd Sess., 58 (1974) and *Buckley v. Valeo*, 424 U.S. 1, 51 (footnote 57) (1976).] This limitation has caused the Commission substantial problems in attempting to implement and enforce the contribution limitations.

First, a disparity of treatment occurs between candidates living in community property States and those living in non-community property States. The Commission has viewed candidates living in community property States as having the right to use, for

campaign purposes, their own property, as well as the entire property of the spouse. In non-community property States, the candidate is viewed as having the right to use property held in his or her own name, but not property held solely in the name of the spouse. If the candidate and spouse own property as tenants in common or as joint tenants, the candidate may use one half of the property. However, this rule does not apply to bank accounts, held in joint tenancy, where each spouse may draw out the entire amount of the account.

Second, application of the law has caused difficulties in a situation where a candidate has obtained a campaign loan which is secured by real property owned by the candidate and spouse. For example, if a candidate takes out a \$30,000 loan secured by the family residence which the candidate and spouse own in joint tenancy, the spouse, under the law, has made a \$15,000 contribution to the candidate. This result is unfair. In this regard, the Commission believes the current regulations go as far as they can in permitting an equitable solution to the problem. A more flexible approach, the Commission believes, would require statutory change.

Third, problems have arisen in enforcing the limitations where a candidate uses assets belonging to a parent. In some cases, a parent has made a substantial gift to his or her candidate-child while cautioning the candidate that this may well decrease the amount which the candidate would otherwise inherit upon the death of the parent.

The Commission recommends that Congress consider the difficulties arising from application of the contribution limitations to immediate family members.

### Foreign Nationals<sup>16</sup>

*Section:* 2 U.S.C. §441e

*Beneficiary of Change:* Foreign Nationals, Candidates

<sup>15</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>16</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

*Recommendation:* Congress should define the extent to which foreign nationals may participate, if at all, in connection with elections to any political office.

*Explanation and Justification:* This question has presented problems for the Commission and candidates, particularly since the legislative history is unclear in this area.

Several issues have arisen during the Commission's administration of this provision. First, the law, as interpreted by Commission Advisory Opinions, permits an American subsidiary of a foreign registered corporation to form a separate segregated fund (SSF) provided foreign nationals neither contribute to the SSF nor control the SSF's expenditures. At the same time, the Commission has, in another Advisory Opinion, interpreted the Act to mean that a foreign national may not volunteer his services to a campaign. The standard under section 441e bars contributions by a foreign national that are "in connection with" (rather than "for the purpose of influencing") a Federal election. It is unclear whether this distinction is intended to create a broader prohibition in the case of foreign nationals than for other activities under the Act.

Since this is a provision which relates to State and local as well as Federal elections, its clarification would aid many candidates and political committees.

#### **Acceptance of Cash Contributions<sup>17</sup>**

*Section:* 2 U.S.C. §441g

*Beneficiary of Change:* Committees, Commission

*Recommendation:* Congress may wish to modify the statute to make the treatment of 2 U.S.C. §441g, concerning cash contributions, consistent with other provisions of the Act. As currently drafted, 2 U.S.C. §441g prohibits only the **making** of cash contributions which, in the aggregate, exceed \$100 per can-

didate, per election. It does not address the issue of **accepting** cash contributions in excess of \$100 per candidate, per election.

*Explanation and Justification:* Currently this provision focuses only on persons making the cash contributions. However, these cases generally come to light when a committee has accepted these funds. Yet the Commission has no recourse to the committee in such cases. This can be a problem, particularly where primary matching funds are received on the basis of such contributions.

While the Commission, in its regulations at 11 CFR 110.4(c)(2), has included a provision requiring a committee receiving such a cash contribution to promptly return the excess over \$100, the statute does not explicitly make acceptance of these cash contributions a violation. The other sections of the Act dealing with prohibited contributions (i.e., sections 441b on corporate and labor union contributions, 441c on contributions by government contractors, 441e on contributions by foreign nationals, and 441f on contributions in the name of another) all prohibit both the making and accepting of such contributions.

## **Fraudulent Misrepresentation**

### **Fraudulent Solicitation of Funds<sup>18</sup>**

*Section:* 2 U.S.C. §441h

*Beneficiary of Change:* Political Candidates, Parties, Contributors

*Recommendation:* The current 441h prohibits fraudulent misrepresentation such as speaking, writing or acting on behalf of a candidate or committee on a matter which is damaging to such candidate or committee. It does not, however, prohibit persons from fraudulently soliciting contributions. A provision

<sup>17</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>18</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

should be added to this section prohibiting persons from fraudulently misrepresenting themselves as representatives of candidates or political parties for the purpose of soliciting contributions which are never forwarded to or used by or on behalf of the candidate or party.

*Explanation and Justification:* The Commission has received a number of complaints charging that substantial amounts of money were raised fraudulently by persons or committees purporting to act on behalf of candidates. Candidates have complained that contributions which people believed were going for the benefit of the candidate were diverted for other purposes. Both the candidates and the contributors were harmed by such diversion. The candidates received less money because people desirous of contributing believed they had already done so, and the contributors' funds had been misused in a manner in which they did not intend. The Commission has been unable to take any action on these matters because the statute gives it no authority in this area.

## Honoraria

### Technical Amendment<sup>19</sup>

*Section:* 2 U.S.C. §431(8)(B)(xiv) and 441i

*Beneficiary of Change:* Federal Officers and Employees, Officeholders, Commission

*Recommendation:* The Commission offers two suggestions concerning honoraria.

1. The entire provision concerning honoraria should be placed under the Ethics in Government Act.

2. As technical amendments, Sections (c) and (d), which pertain to the annual limit on receiving honoraria (now repealed), should be repealed. Additionally, 2 U.S.C. §431(8)(B)(xiv), which refers to the definition of honorarium in Section 441i, should be modified to contain the definition itself.

*Explanation and Justification:* Congress eliminated the \$25,000 annual limit on the amount of honoraria that could be accepted, but it did not take out these two sections, which only apply to the \$25,000 limit. This clarification would eliminate confusion for officeholders and thereby help the Commission in its administration of the Act.

## Corporate/Labor Activity

### One-Year Limit on Corporate Approval of Trade Association Solicitations<sup>20</sup>

*Section:* 2 U.S.C. §441b(b)(4)(D)

*Beneficiary of Change:* Trade Associations

*Recommendation:* The one-year limit on corporate approval of solicitations by trade associations should be removed.

*Explanation and Justification:* Trade association political action committees must annually obtain the separate and specific approval of each member corporation to solicit their executive and administrative personnel. Some trade associations have thousands of members, and it is a considerable burden to obtain approval to solicit every year. The one-year limitation should be removed, permitting the trade association to solicit until the corporation revokes its approval.

<sup>19</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

<sup>20</sup>This recommendation reiterates one of the legislative recommendations submitted to Congress and the President in 1981 and published in the Commission's *1980 Annual Report*. It was again included in the legislative recommendations submitted to Congress and the President on May 26, 1982. It is repeated because this area is a continuing problem.

## Commission Information Services

### Budget Reimbursement Fund<sup>21</sup>

Section: 2 U.S.C. §438

*Beneficiary of Change:* Public, Commission

*Recommendation:*

1. The Commission recommends that Congress establish a reimbursement account for the Commission so that expenses incurred in preparing copies of documents, publications and computer tapes sold to the public are recovered by the Commission. Similarly, costs awarded to the Commission in litigation (e.g., printing, but not civil penalties) and payments for Commission expenses incurred in responding to Freedom of Information Act requests should be payable to the reimbursement fund. The Commission should be able to use such reimbursements to cover its costs for these services, without fiscal year limitation, and without a reduction in the Commission's appropriation.
2. The Commission recommends that costs be recovered for FEC Clearinghouse seminars, workshops, research materials and other services, and that reimbursements be used to cover some of the costs of these activities, including costs of development, production, overhead and other related expenses.

*Explanation and Justification:* At the present time, copies of reports, microfilm, and computer tapes are sold to the public at the Commission's cost. However, instead of the funds being used to reimburse the Commission for its expenses in producing the materials, they are credited to the U.S. Treasury. The effect on the Commission of selling materials is thus the same as if the materials had been given away. The Commission absorbs the entire cost. In FY 1980, in return for services and materials it of-

fered the public, the FEC collected and transferred \$37,343.73 in miscellaneous receipts to the Treasury. In FY 1981, the amount was \$57,544.37, and for the first six months of FY 1982, \$27,100.23 was transferred to the Treasury. Establishment of a reimbursement fund, into which fees for such materials would be paid, would permit this money to be applied to further dissemination of information. Note, however, that a reimbursement fund would not be applied to the distribution of FEC informational materials to candidates and registered political committees. They would continue to receive free publications that help them comply with the Federal election laws.

There is also the possibility that the Commission could recover costs of FEC Clearinghouse workshops and seminars, research materials, and reports that are now sold by the Government Printing Office and National Technical Information Service. Approximately \$15,000 was collected in FY 1981 by GPO and NTIS on account of sales of Clearinghouse documents.

There should be no restriction on the use of reimbursed funds in a particular year to avoid the possibility of having funds lapse.

<sup>21</sup>This recommendation was also included in the legislative recommendations submitted to Congress and the President on May 26, 1982.

# Chapter 4

## The Commission

### Commissioners<sup>1</sup>

On January 7, 1982, the Commission elected Frank P. Reiche as Chairman and Danny Lee McDonald as Vice Chairman. Both served one-year terms as officers.

The election of new officers for 1982, originally scheduled for December 17, 1981, had been delayed because, that same day, President Reagan named three Commissioners to recess appointments: Joan D. Aikens, Lee Ann Elliott and Danny Lee McDonald. (Congress was in recess at the time of the appointments.) In June 1982, the Senate Rules Committee held confirmation hearings on the new appointments, and the nominations were confirmed by the full Senate in July.

On August 3, 1982, the three Commission members were sworn into office by Associate Justice Sylvia Bacon of the Superior Court of the District of Columbia.

The Commission elected officers for 1983 on December 16, 1982. Danny Lee McDonald was elected Chairman and Lee Ann Elliott Vice Chairman. Both began serving one-year terms on January 1, 1983.

### Budget

#### Fiscal Year 1982<sup>2</sup>

Through a series of continuing resolutions, Congress appropriated \$8,990,400 for the Commission in fiscal year 1982. Later, in September 1982, Congress approved a supplemental appropriation of \$184,000 to cover 50 percent of the October 1981 pay raise. Thus, total funding amounted to \$9,174,400, some \$2 million less than originally requested.

Because the Commission received its funding at intervals and received its salary supplemental appropriation at the end of the fiscal year, it could not be assured of the timing or total amount of its appropria-

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<sup>1</sup>Biographical sketches of the Commissioners appear in Appendix 1.

<sup>2</sup>See also Appendix 4.

tion in fiscal year 1982. It therefore adopted a policy of extreme fiscal restraint. The Commission postponed, for example, major acquisitions, replacements for wornout equipment and regional campaign finance seminars.

Complementing these controls on nonpersonnel costs, the Commission maintained a partial hiring freeze, with the result that it reduced staff from a total of 241 full-time equivalent positions in fiscal year 1980, the peak year for staffing, to 214 in fiscal year 1982. Another factor contributing to reduced staff costs was the cutback in the Audit Division, motivated not only by the need to conserve funds but also by the recognition that, due to legislative changes adopted in 1979, the audit program no longer required the staffing it had in earlier years. Under the 1979 amendments to the Federal Election Campaign Act (the Act), the Commission was no longer authorized to conduct random audits, as it had during previous elections. Instead, Congress legislated a system whereby the Commission would audit selected committees whose reports failed to meet threshold requirements for substantial compliance with the Act.<sup>3</sup> (See 2 U.S.C. Section 438(b).) Implementing this new system in 1981, the Commission established criteria for determining which reports were not in substantial compliance with the law. These audit selection criteria resulted in far fewer audits than had been conducted in previous election cycles, when audits were performed on a random basis. Responding to its reduced workload, the Commission decided in December 1981 to carry out a reduction in force (RIF) in the Audit Division and eliminated 16 of the existing 32 positions in April 1982.

The Commission's budget was further strained when, in September 1982, the agency discovered that an employee had diverted over \$500,000 in Commission funds for his own private use. While the Commission recovered some of these funds, it lost

<sup>3</sup>The Commission is also empowered to audit for cause, as the result of a compliance action (2 U.S.C. Section 437g(a)(2)), and to conduct mandatory audits of Presidential primary, general election and convention committees which receive public funds.

the use of approximately \$353,000, which had not yet been obligated at the time the theft was discovered. The Commission was able to withstand the loss, however, without having to furlough any staff, because it had maintained stringent controls over nonpersonnel costs and because the staff vacancy rate had remained at 5.5 percent between May 20 and September 30, 1982.

In terms of output, productivity of Commission operations increased considerably in two areas: the coding and entry of data and the review of reports. Staff costs for Pass I coding and Pass I entry<sup>4</sup> decreased by 23 percent and 39 percent, respectively. Costs for Pass III coding ran 21 percent below fiscal year 1981, while Pass III entry was 18 percent less. The Commission coded 18 percent more documents than it had in fiscal year 1981; the cost per document declined by 33 percent.

Two factors explain this improvement. First, the Commission reduced the type and amount of campaign finance information entered into the computer data base. Second, the data coding and entry function was transferred from the Reports Analysis Division to the Data Systems Development Division. (Data entry was transferred in fiscal year 1981, and data coding in fiscal year 1982.) The reorganization allowed the Data Division to oversee and integrate all the processes involved in generating data for the public record.

For the combined fiscal years 1981 and 1982, the reports review function showed almost a 100 percent increase in productivity over 1980, attributable in large measure to a comprehensive reports review policy, adopted in 1981 and revised in 1982 (see page 13).

### **Fiscal Year 1983**

During four Congressional hearings held in late April and early May 1982, the Commission requested

<sup>4</sup>Computer coding and entry of campaign finance information occurs in two phases. In the first phase, Pass I, summary information is coded and entered into the computer. During the second phase, Pass III, itemized information is coded and entered.

funding for fiscal year 1983 that would allow the agency to complete the administration of the 1982 elections and to prepare for the 1984 Presidential elections. Commission Chairman Frank P. Reiche, Vice Chairman Danny Lee McDonald and Commissioner Joan D. Aikens presented budget testimony before the House Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government; the Senate Committee on Rules and Administration; the Task Force on Elections of the Committee on House Administration; and the Senate Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government. In their testimony, the Commissioners stated that the FEC's \$9,880,000 budget request for fiscal year 1983 represented the amount the Reagan administration had requested for the Commission in the Presidential budget for that year. This amount was \$666,000 less than the request the Commission had submitted to the Office of Management and Budget on September 1, 1981.

The Commissioners testified that, when adjusted for inflation, the agency's fiscal year 1983 budget request represented approximately the same level of funding as that used to administer the election law in 1973 (\$4.7 million), the year before the Commission was established. At that time, there were no advisory opinions and enforcement and disclosure programs were more limited in scope.

### **The Budget Process**

On December 14, 1982, the Commission approved Directive No. 46, which formalized the current budgeting system used by the agency, with minor modifications. In addition to identifying the organizational structures responsible for budget preparation and management, the Directive described in detail the entire process of planning and executing the FEC budget. It discussed, for example, budget planning, budget submission to Congress and the Office of Management and Budget, the Management Plan (which allocates actual spending among programs) and the Management Information System (which reports on both the dollars and hours spent on different programs).

### **Personnel and Labor Relations**

With the assistance of a Federal mediator, negotiators for the Commission and the National Treasury Employees Union, Chapter 204, reached agreement on a new contract covering bargaining unit employees of the Commission. The new three-year contract became effective on June 21, 1982.

With union negotiations completed, the Commission focused its attention on evaluating personnel policies and procedures for nonbargaining unit staff and developing internal regulatory guidance covering such staff.

# Appendix 1

## Biographical Data on Commissioners and Statutory Officers

### Commissioners

#### **Frank P. Reiche, Chairman**

**April 30, 1985<sup>1</sup>**

Before his appointment to the Commission in July 1979, Mr. Reiche served as chairman of the first New Jersey Election Law Enforcement Commission for six years. Prior to that, Mr. Reiche served in a variety of Republican party positions, including eight years as a Republican county committeeman. As an attorney specializing in tax law, Mr. Reiche graduated from Columbia University Law School in 1959 and received a Master of Laws degree in taxation from New York University in 1966. Prior to that, he received his A.B. from Williams College in 1951 and a Masters Degree in Foreign Affairs from George Washington University in 1959. He also served as a member of New Jersey Governor William T. Cahill's blue ribbon Tax Policy Committee from 1970 to 1972. Mr. Reiche was a partner in the Princeton law firm of Smith, Stratton, Wise and Heher from 1964 until his appointment to the Commission.

#### **Danny Lee McDonald, Vice Chairman**

**April 30, 1987**

Before his appointment to the Commission in December 1981, Mr. McDonald served as general administrator of the Oklahoma Corporation Commission. In this position, assumed in 1979, he was responsible for the management of 10 regulatory divisions. He was secretary of the Tulsa County Election Board from 1974 to 1979 and served as chief clerk of the board in 1973. He has also served as a member of the Advisory Panel to the FEC's National Clearinghouse on Election Administration. A native of Sand Springs, Oklahoma, Mr. McDonald holds a B.A. from Oklahoma State University and attended the John F. Kennedy School of Government at Harvard University. In December 1982, he was elected to serve as Commission Chairman during 1983.

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<sup>1</sup>Term expiration date.

**Joan D. Aikens**  
**April 30, 1983**

Mrs. Aikens served as Commission Chairman between May 1978 and May 1979. She was formerly vice president of Lew Hodges/Communications, a public relations firm located in Valley Forge, Pennsylvania. From 1972 until 1974, she was president of the Pennsylvania Council of Republican Women and served on the board of directors of the National Federation of Republican Women. A native of Delaware County, Pennsylvania, Mrs. Aikens has been active in a variety of volunteer organizations. She received her B.A. and honorary Doctor of Laws degree from Ursinus College, Collegeville, Pennsylvania.

Commissioner Aikens' original appointment to the Commission in 1975 was for a one-year term. She was reappointed for five years when the FEC was reconstituted and, when that term expired in April 1981, continued to serve until receiving a recess appointment from President Reagan. On December 17, 1981, the President named Mrs. Aikens to complete the term of former Commissioner Max Friedersdorf, who resigned in December 1980. (During 1981, Commissioner Vernon Thomson, serving as an interim appointee, had held Mr. Friedersdorf's seat.)

**Lee Ann Elliott**  
**April 30, 1987**

Before her appointment to the Commission in December 1981, Mrs. Elliott served as vice president of Bishop, Bryant & Associates, Inc., of Washington, D.C. From 1970 to 1979, Mrs. Elliott was associate executive director of the American Medical Political Action Committee, having served as assistant director from 1961 to 1970. Mrs. Elliott also served on the board of directors of the American Association of Political Consultants and of the Chicago Area Public Affairs Group, of which she is a past president. She was a member of the Public Affairs Committee of the Chamber of Commerce of the United States. In 1979, she received the Award for Excellence in Serving Corporate Public Affairs from the National Association of Manufacturers. Mrs. Elliott, a native of St. Louis, Missouri, holds a B.A. from the University

of Illinois and completed the Medical Association Management Executives Program at Northwestern University. In December 1982, Mrs. Elliott was elected to serve as Commission Vice Chairman during 1983.

**Thomas E. Harris**  
**April 30, 1985**

Mr. Harris was Commission Chairman between May 1977 and May 1978. Before serving on the Commission, he was associate general counsel to the AFL-CIO in Washington, D.C., from 1955 to 1975. He had held the same position with the CIO from 1948 until it merged with the AFL in 1955. Prior to that, he was an attorney in private practice and with various government agencies. A native of Little Rock and a 1932 graduate of the University of Arkansas, Mr. Harris is a 1935 graduate of Columbia University Law School. After graduation, he clerked one year for Supreme Court Justice Harlan F. Stone.

Mr. Harris was originally appointed to the Commission for a four-year term and upon reconstitution received a three-year appointment. In 1979, President Carter reappointed him and, on June 19, 1979, the U.S. Senate reconfirmed Mr. Harris for a six-year term.

**John Warren McGarry**  
**April 30, 1983**

Mr. McGarry, a native of Massachusetts, graduated cum laude from Holy Cross College in 1952. He subsequently did graduate work at Boston University and obtained a Juris Doctor degree from Georgetown Law Center in 1956. Mr. McGarry served as assistant attorney general of Massachusetts from 1959 through 1962. In that capacity he served as both trial counsel and appellate advocate. Following his tenure in office, he combined private law practice with service as chief counsel for the Special Committee to Investigate Campaign Expenditures of the U.S. House of Representatives. This committee was created by special resolution every election year through 1972 in order to oversee House elections. From 1973 until his appointment to the Commission on October 25, 1978, Mr. McGarry

served as special counsel on elections to the Committee on House Administration of the U.S. Congress. In 1980, he was elected to serve as Chairman of the Commission during 1981.

## Ex Officio Commissioners

### **Edmund L. Henshaw, Jr.<sup>2</sup>**

Mr. Henshaw, an Ex Officio Member of the Commission, was elected Clerk of the House of Representatives on December 17, 1975. Prior to that, he served as executive director of the Democratic National Congressional Campaign Committee from 1972 to 1975, and as research director of the Democratic National Congressional Campaign Committee from 1955 to 1972. He received a B.S. degree from the University of Maryland in 1954 and attended George Washington University Law School from 1955 to 1956.

Douglas Patton, attorney, continued to serve as Special Deputy to the Clerk of the House at the Commission.

### **William F. Hildenbrand**

Mr. Hildenbrand, an Ex Officio Member of the Commission, was elected Secretary of the Senate in January 1981, after serving as Secretary for the Minority since 1974. A native of Pottstown, Pennsylvania, Mr. Hildenbrand began his government service in 1957 as assistant to Congressman Harry G. Haskell, Jr. From 1959 to 1960, he served as Congressional liaison officer for the former Department of Health, Education and Welfare. He then became legislative assistant to Senator J. Caleb Boggs of Delaware. From 1969 to 1974, he served as administrative assistant to Senator Hugh Scott of Pennsylvania, the former Senate Republican Minority Leader.

Thomas J. Josefiak, attorney, continued to serve as Special Deputy to the Secretary of the Senate at the Commission.

## Statutory Officers

### **B. Allen Clutter, III, Staff Director**

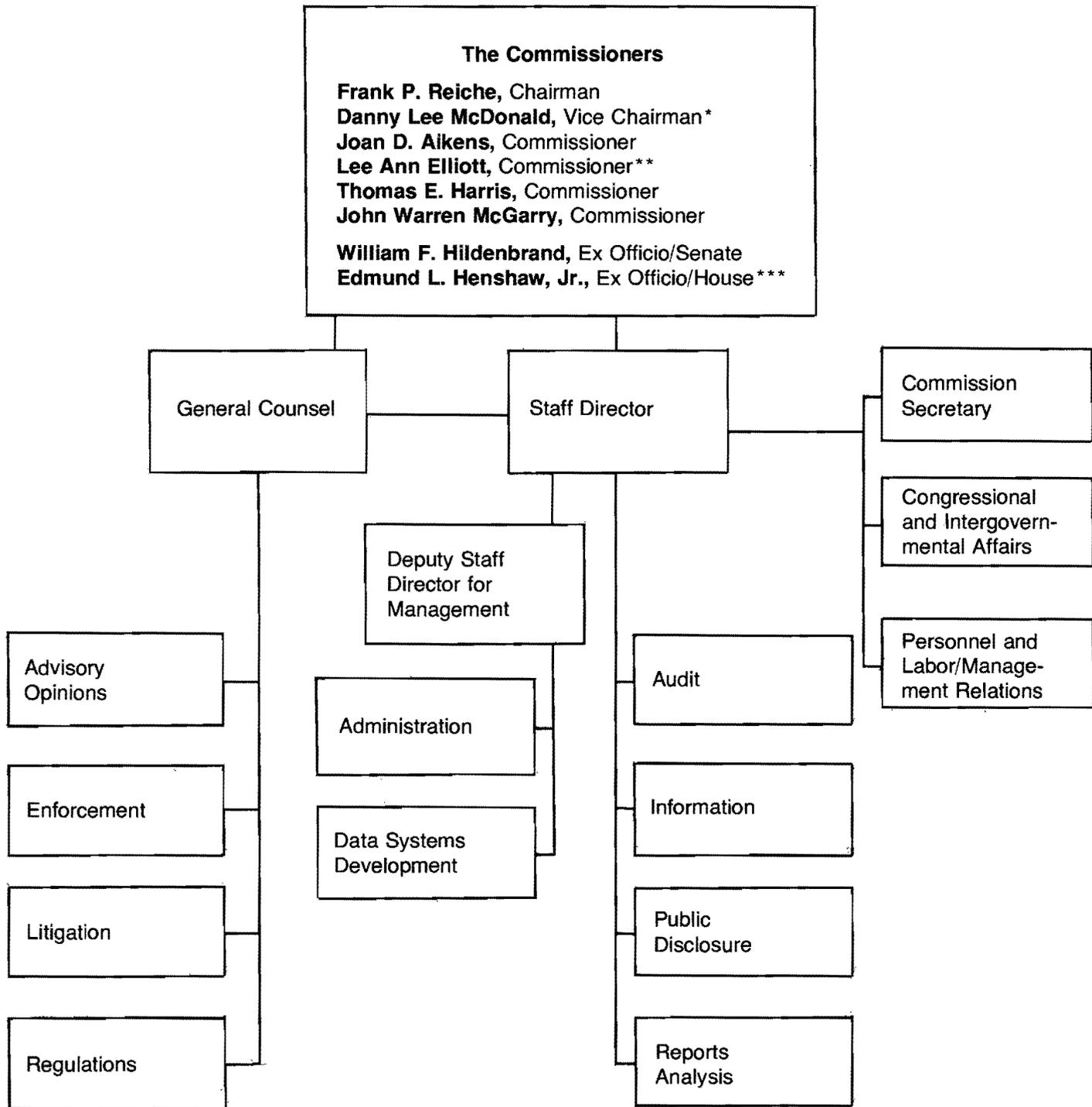
Before joining the Commission, Mr. Clutter was the executive director of the Minnesota Ethical Practices Board and also served as faculty member of the Hamline University Law School. Prior to this, Mr. Clutter was an assistant professor at the U.S. Air Force Academy and served with the Air Force administrative units in Thailand and California. He also worked with the World Press Institute of Macalester College in St. Paul, Minnesota. A native of Oskaloosa, Iowa, he received a graduate degree in geography from Eastern Michigan University and attended business administration courses at the University of Colorado. Mr. Clutter was listed among the Outstanding Young Men in America in 1978.

### **Charles N. Steele, General Counsel**

Mr. Steele became General Counsel in December 1979, after serving as acting General Counsel during November 1979. Before this, he was Associate General Counsel for Enforcement and Litigation from April 1977 through October 1979. Mr. Steele received an A.B. from Harvard College in 1960 and an LL.B. from Harvard Law School in 1965. Prior to joining the Commission in January 1976, Mr. Steele was a staff attorney with the appellate court branch of the National Labor Relations Board.

<sup>2</sup>Benjamin J. Guthrie succeeded Mr. Henshaw on January 3, 1983.

# Appendix 2 FEC Organization Chart



\*Commissioner McDonald was elected to serve a one-year term as Commission Chairman beginning January 1, 1983.

\*\*Commissioner Elliott was elected to serve a one-year term as Commission Vice Chairman beginning January 1, 1983.

\*\*\*Benjamin J. Guthrie succeeded Mr. Henshaw on January 3, 1983.

# Appendix 3

## Chronology of Events, 1982

### January

- 4—Commission makes available microfilmed cartridges containing all agenda items discussed in open meeting from 1975-1980.
- 7—Commission elects Frank P. Reiche as its new Chairman and Danny Lee McDonald as its new Vice Chairman.
- 17—Commission releases updated figures on the growth of political action committees (PACs).
- 19—Supreme Court, in a 4-to-4 vote, leaves standing a district court ruling in *FEC v. Americans for Change*, a case concerning limits on independent expenditures made on behalf of publicly funded Presidential candidates in the general election.
- 21—Commission approves revisions to its policy for notifying committees of their reporting obligations (nonfiler policy).
- 31—1981 year-end report due.

### February

- 1—Commission issues updated edition of its cumulative *Index to Advisory Opinions*.
- 10—District Court for the Southern District of Illinois issues consent order in *FEC v. Committee for Better Government and Densmore Sales and Service, Inc.*, in which the defendant committee and its connected organization acknowledged that they had respectively made and accepted prohibited contributions.
- 21—Commission releases *FEC 1979-80 Reports on Financial Activity, Final Report, Party and Non-Party Political Committees*.

### March

- 7—Commission releases *FEC 1979-80 Reports on Financial Activity, Final Report, U.S. Senate and House Campaigns*.
- 8—Supreme Court rules that plaintiffs in *Bread PAC v. FEC* lacked standing to bring suit and remands the case to the appeals court without ruling on the constitutional issues involved.
- 11—District Court for the Southern District of New York grants preliminary injunction to plaintiffs

in *Dolbeare v. FEC*, in which plaintiffs challenged FEC investigations of the 1980 Presidential primary campaign of Lyndon LaRouche.

- 16—Commission makes available computer tapes covering 1979-80 campaign finance information corresponding to printed volumes in the *1979-80 Reports on Financial Activity* series.

#### April

- 2—Commission holds first all-day campaign finance seminar in Washington, D.C., for House and Senate candidates.
- 8—Commission prescribes technical amendments to its regulations on honoraria, conforming with Congress' repeal of the annual honoraria limit.
- 15—First quarterly report due.
- 23—Commission holds second all-day campaign finance seminar in Washington, D.C., for House and Senate candidates.
- 26—Commission holds third all-day campaign finance seminar in Washington, D.C., for House and Senate candidates.

#### May

- 1—Commission publishes its new *Campaign Guide for Corporations and Labor Organizations*.
- 5—Commission approves Agenda Document 82-72, clarifying the law's requirements for expenditures by party committees.
- 6—Court of Appeals for the Second Circuit upholds earlier ruling in *FEC v. Hall-Tyner Campaign Committee* that the law's recordkeeping and reporting requirements, as applied to the Committee, would abridge First Amendment constitutional rights of Committee supporters. (The Committee was the principal campaign committee for the 1976 Presidential nominees of the Communist Party, U.S.A.)
- 28—Commission submits its 1981 recommendations for legislative change to the President and Congress.

#### June

- 1—Commission submits its *1981 Annual Report* to the President and Congress.
- Commission makes available *The 1971 Legislative History of the Federal Election Campaign Act*.
- Commission issues updated edition of its cumulative *Index to Advisory Opinions*.
- 21—Contract between Chapter 204 of the National Treasury Employees Union and FEC management becomes effective.
- 23—Commission releases preliminary figures on independent expenditures for the 1981-82 election cycle.
- 25—Commission releases preliminary figures on the 1981-82 financial activity of national party committees.
- 30—Commission releases preliminary figures on the 1981-82 financial activity of political action committees (PACs).

#### July

- 1—Commission issues updated edition of the *Campaign Finance and Federal Elections Bibliography*.
- 12—Commission releases updated figures on the growth of political action committees (PACs).
- 15—Second quarterly report due.
- 22—Commission approves revisions to its procedures for reviewing debt settlement statements.
- 31—Semiannual report due for committees not active in the election year.

#### August

- 2—Court of Appeals for the Eleventh Circuit overrules district court decision in *FEC v. Florida for Kennedy Committee* and holds that the FEC lacks subject matter jurisdiction over "draft committees."
- 3—Commissioners Joan D. Aikens, Lee Ann Elliott and Danny Lee McDonald are sworn into office as Senate-confirmed Commissioners after having served six months as recess appointees.

- 5—Commission releases updated figures on the 1981-82 financial activity of political action committees (PACs).
- 30—Commission releases updated figures on the 1981-82 financial activity of national party committees.
  - Commission makes available microfilm reels containing 1975-1981 advisory opinion requests and advisory opinions.

### September

- 27—District Court for the District of Minnesota resolves claims brought by the Commission against defendants in *FEC v. Robert Earl Short*.

### October

- 3—Commission releases *FEC 1981-82 Reports on Financial Activity, Interim Report No. 2: Party and Non-Party Political Committees*.
- 6—Commission releases *FEC 1981-82 Reports on Financial Activity, Interim Report No. 1: U.S. Senate and House Campaigns*.
- 15—Third quarterly report due.
- 21—Pre-general election report due.

### November

- 2—Election day.
- 8—Supreme Court affirms appeals court decision in *IAM v. FEC* that had rejected constitutional challenges to the law's corporate solicitation provisions brought by the International Association of Machinists and Aerospace Workers.

### December

- 1—Commission publishes new brochure series, covering ten different topics, and the revised *Campaign Guide for Congressional Candidates and Committees*.
- 2—Post-general election report due.
- 7—Commission holds hearings on possible revisions to the Presidential primary matching fund regulations.
- 13—Supreme Court overturns appeals court decision in *FEC v. NRWC* and rules that the National Right to Work Committee violated the law by soliciting contributions from nonmembers.
- 16—Commission elects Danny Lee McDonald as its new Chairman and Lee Ann Elliott as its new Vice Chairman, effective January 1983.

# Appendix 4

## The FEC's Budget

The table and graph below compare budget allocations, by function and division, for fiscal years 1981 and 1982. In fiscal year 1981, the Commission's funding totaled \$9.662 million. The Commission operated during the entire fiscal year under a continuing resolution of \$9.283 million and received a supplemental appropriation of \$379,000 to compensate for the October 1980 cost-of-living salary increase. In fiscal year 1982, the Commission's total funding amounted to \$9.174 million, provided through a series of continuing resolutions totaling \$8.990 million plus a supplemental appropriation of \$184,000 to cover 50 percent of the October 1981 cost-of-living salary increase. The table below compares functional categories of expenditures for fiscal years 1981 and 1982. The graph below compares the budget allocations among Commission divisions for fiscal years 1981 and 1982.

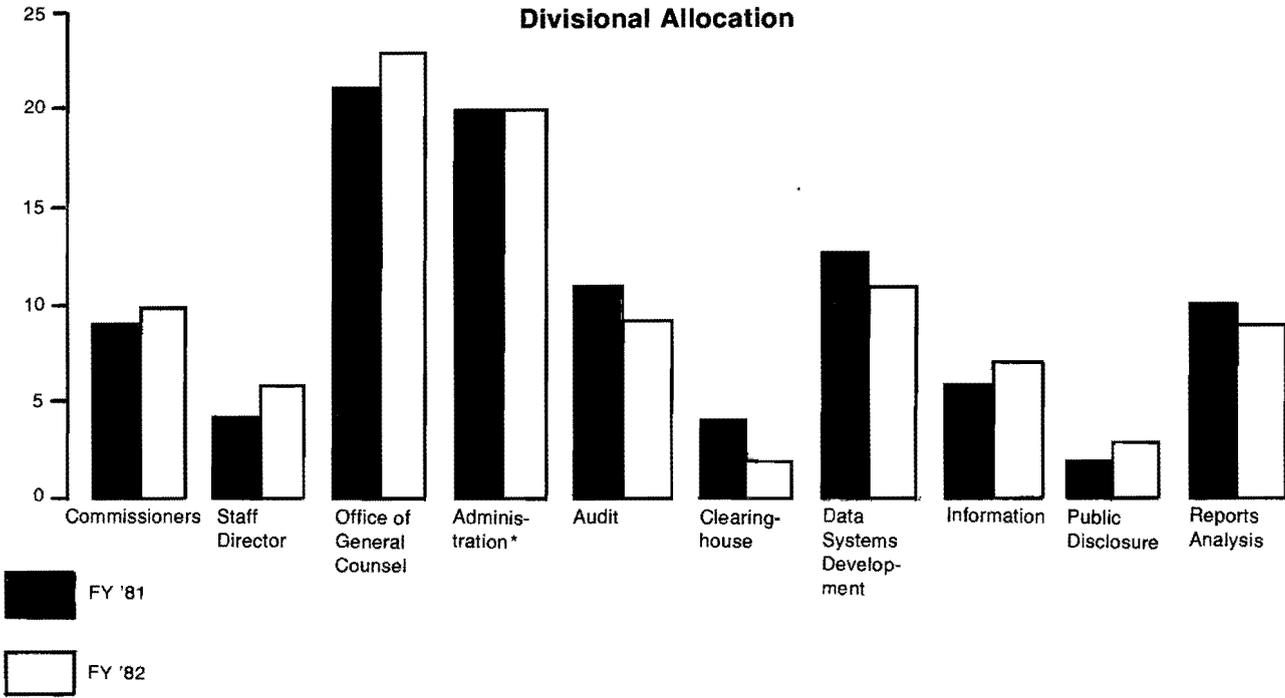
### FEC Budget Functional Allocation

	FY 81	FY 82
Personnel Compensation, Including Benefits	\$ 6,983,704	\$ 6,845,222
Travel	94,462	44,021
Transportation and Motor Pool	10,036	5,459
Commercial Space	13,710	10,982
Equipment Rental	175,534	156,579
Printing	314,964	180,441
Contracts	910,513	438,199
Administrative Expenses	55,281	53,538
Supplies	129,253	94,928
Library Materials	40,464	32,312
Telephone, Telegraph	166,819	161,148
Postage	81,999	76,360
Space rental	366,806	572,171
Equipment purchases	233,816	51,452
Training	38,881	4,829
GSA, Services, Other	38,001	446,759
<b>Total</b>	<b>\$ 9,654,243*</b>	<b>\$ 9,174,400</b>

\*Unexpended funds were returned to the U.S. Treasury.

Percent of  
Total Budget

**Divisional Allocation**



\*Administration budget includes rent, supplies, reproduction services, etc., for the entire Commission.

# Appendix 5 Statistics on Commission Operations

## Summary of Disclosure Files

	Total Filers Existing In 1982	Filers Terminated as of 12/31/82	Filers Waived as of 12/31/82	Continuing Filers as of 12/31/82	Number of Reports and Statements In 1982	Gross Receipts In 1982	Gross Expenditures In 1982
<b>Presidential</b>					597	\$ 1,809,437	\$ 2,391,338
Candidates	161	136	1	24			
Committees	195	56	0	139			
<b>Senate</b>					4,007	\$120,290,426	\$130,469,686
Candidates	660	385	2	273			
Committees	667	246	0	421			
<b>House</b>					22,858	\$183,088,870	\$186,399,164
Candidates	3,092	1,847	3	1,242			
Committees	2,823	1,031	0	1,792			
<b>Party</b>	613	292	0	321	3,533	\$243,562,397	\$289,878,523
National Level Committees	53	21	0	32			
State Level Committees	215	93	0	122			
Local Level Committees	339	175	0	164			
Convention Committees	6	3	0	3			
<b>Delegates</b>	24	19	5	36	33	\$ 0	\$ 0
<b>Nonparty</b>	3,705	333	0	3,371	34,464	\$119,980,855	\$138,692,243
Labor Committees	419	39	0	380			
Corporate Committees	1,554	87	0	1,467			
Membership, Trade & Other Committees	1,732	208	0	1,524			
<b>Communication Cost Filers</b>	68	N/A	N/A	N/A	111	N/A	\$ 1,215,449
<b>Independent Expenditures by Persons Other Than Political Committees</b>	128	N/A	N/A	N/A	238	N/A	\$ 287,008

**Divisional Statistics\***

<b>Reports Analysis Division</b>	
Documents processed	35,969
Reports reviewed	24,826
Requests for additional information	3,542
Names of candidate committees published for failure to file reports	30
Compliance matters referred to the Office of General Counsel or Audit Division	71
<b>Data Systems Development Division</b>	
Documents receiving Pass I** coding	43,218
Documents receiving Pass III** coding	19,771
Documents receiving Pass I entry	45,133
Documents receiving Pass III entry	14,467
Transactions receiving Pass III entry***	231,747
<b>Audits Completed by Audit Division, 1975-1982</b>	
Presidential	44
Presidential Joint Fundraising	6
Senate	11
House	99
Party (National)	36
Party (Other)	83
Nonparty	47
Total	326

\*Figures represent fiscal year, rather than calendar year, totals.

\*\*Computer coding and entry of campaign finance information occurs in two phases. In the first phase, Pass I, summary information, including microfilm location, total receipts and total disbursements, is coded and entered into the computer within 48 hours of the Commission's receipt of the report. During the second phase, Pass III, itemized information is coded and entered.

\*\*\*Pass III transactions are itemized transactions including contributions of \$500 or more by individuals, as well as contributions, transfers and expenditures of any amount by various committees and other filers.

<b>Public Records Office</b>	
Campaign finance material made available to the public (total pages)	400,000
Responses to requests for campaign finance reports	8,149
Responses to other requests for information	10,138
Visitors served	7,874
Total people served	26,162
Total income (transmitted to U.S. Treasurer)	\$51,363
Cumulative total pages of documents available for review	4,100,000
<b>Information Services Division</b>	
Telephone inquiries	47,654
General information letters	179
Distribution of FEC materials	13,454
Prior notices (sent to inform filers of reporting deadlines)	30,224
Visitors	184
Public appearances by Commissioners and FEC staff	55
Press releases	136
Telephone inquiries from press	8,618
Visitors to press office	787
Freedom of Information Act requests	102
Number of publications	28
Assistance to Secretaries of State (State election offices)	2,332
Notices of failure to file with State election offices	451
<b>Clearinghouse on Election Administration</b>	
Telephone inquiries	1,690
Information letters	562
Visitors	53
Workshops	9

**Office of General Counsel\***

	Fiscal Year 1982
<b>Advisory Opinions</b>	
Requests pending at beginning of FY 82	14
Requests received in FY 82	69
Issued, closed or withdrawn in FY 82	78**
Pending at end of FY 82	5
<b>Compliance Cases***</b>	
Pending at beginning of FY 82	96
Opened during FY 82	95
Closed during FY 82	111
Pending at close of FY 82	80
<b>Litigation</b>	
Pending at beginning of FY 82	36****
Opened during FY 82	8
Closed during FY 82	23
Pending at close of FY 82	21
Number of cases won	15
Number of cases lost	3
Voluntary dismissals	5
Dismissed as moot	0
<b>Law Library</b>	
Telephone inquiries	1,982
Visitors served	740

\*Figures represent fiscal year, rather than calendar year, totals.

\*\*73 opinions were issued; 5 opinion requests were withdrawn or closed without issuance of an opinion.

\*\*\*Compliance cases, referred to as MURs (matters under review), stem from possible violations of the campaign finance law which come to the Commission's attention either through formal complaints filed with the Commission or as a result of the Commission's own internal monitoring procedures. The Federal Election Campaign Act requires that investigations remain confidential until the Commission makes a final determination and the case is closed. At that point, the case file (including the complaint, the findings of the General Counsel's Office and the Commission's action) is made available to the public.

\*\*\*\*This includes one case opened in FY 81 but not reflected in the corresponding appendix of the *1981 Annual Report*.

# Appendix 6

## Computer Indexes

The Public Records Office, using the Commission's computer system, produces printouts of the following major disclosure indexes:

### **Committee Names and Addresses**

The B Index includes the name and address of each committee, the name of the treasurer, the committee ID number, the name of the connected organization (if any) and a notation if the committee is a "qualified" multicandidate committee. There is a separate list for PACs<sup>1</sup> and party committees. Another listing arranges these committees in order by their State address.

### **Candidate Names and Addresses**

The A Index is sorted by type of office sought (President, U.S. Senator, U.S. Representative) and lists alphabetically each candidate who has something on file relating to him/her in the current election cycle. The printout includes the candidate ID number, candidate name and address, year of election and party affiliation.

### **Current Election Candidate Names and Addresses**

The 415 Index is similar to the A Index (above), but lists only those candidates who have filed statements of candidacy for the current election cycle.

### **Candidate Committees**

The Report 93 is a printout of Presidential, Senate and House candidates, which lists the candidates in alphabetical order and includes, for each candidate, the ID number, address and party designation. Also listed is the name, address, ID number and treasurer's name of the candidate's principal campaign committee and other authorized committees.

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<sup>1</sup>PAC is a popular term used to define any political committee that has not been authorized by a candidate or political party. The term includes a separate segregated fund connected to a corporation or labor organization as well as a political committee without any connected organization (i.e., without a corporate or labor sponsor).

**Key Word in Committee Name**

The *TEXT* capability permits the computer to search and list all committee titles that include a word or phrase designated by the user.

**Treasurer's Name**

The computer searches and lists all committee treasurers with the same last name (designated by the user), the names of their committees and the committee ID numbers.

**Multicandidate Committee Index**

This index lists those political committees which have qualified as multicandidate committees and are thus permitted to contribute higher amounts to Federal candidates. Arranged in alphabetical order by name of committee, the list includes each committee's ID number, the date it qualified as a multicandidate committee and the name of its connected organization, if any.

**Chronology of New Committee Registrations**

The 3Y Index lists in chronological order the names of committees which have registered in the current election cycle. It includes the date of registration, the committee name, ID number, address and the committee's connected organization, if any.

**Recently Registered Committees**

The *NULIST*, printed weekly, lists the name, ID number, address and connected organization, if any, of committees which have registered during the previous week.

**Names of PACs and Their Sponsors**

The 35c Committee/Sponsor Index lists in alphabetical order the names of committees along with their ID numbers and the names of their sponsoring or connected organizations.

**Names of Organizations and Their PACs**

The 35o Sponsor/Committee Index lists in alphabetical order the names of organizations along with the names and ID numbers of their PACs.

**Categories of PACs**

The Report 140 lists PACs by the category they selected on their registration statement. Categories include Corporation, Labor Organization, Membership Organization, Trade Association, Cooperative and Corporation Without Capital Stock. The listing includes the name of the PAC, its ID number and the name of its connected organization.

**Committee Disclosure Documents**

The C Index includes, for each committee, its name, ID number, list of each document filed (name of report, period receipts, period disbursements, coverage dates, number of pages and microfilm location), total gross receipts and disbursements and number of pages.

**Committee Ranking by Gross Receipts or Expenditures**

The Report 933 provides a listing of the names of committees ranked in order of the highest gross receipts total. Note, however, that some committees report monthly and some quarterly, so totals may represent different time periods.

**Candidate Campaign Documents**

The E Index includes for a candidate the following:

1. Candidate name, State/district, party affiliation and candidate ID number.
2. Listing of all documents filed by the candidate (statement of candidacy, etc.).
3. Listing of all documents filed by the principal campaign committee (report type, coverage dates, period receipts and disbursements, number of pages and microfilm location).
4. Listing of all documents filed by other authorized committees of the candidate.

5. Listing of all PACs and party committees forwarding contributions to the candidate's principal campaign committee and other authorized committees, and the aggregate total of all such contributions given to date. The listing includes the name of the connected or sponsoring organization of a contributing PAC. This listing also identifies committees making expenditures on behalf of the candidate or party committees making coordinated party expenditures (Section 441a(d)), including the aggregate total spent to date.
6. Listing of all persons and unauthorized single candidate committees filing reports indicating they made independent expenditures on behalf of the candidate.
7. Listing of all persons and committees filing unauthorized delegate reports.
8. Listing of all corporations and labor organizations filing reports of communication costs on behalf of the candidate.
9. Listing of all unauthorized single candidate committees supporting or opposing a candidate. The listing also identifies the committee's receipts and disbursements for the report period covered.

### **Presidential Candidates**

The H Index for Presidential campaigns is similar to the E Index (above), but lists party and PAC contributions as reported by the Presidential candidates' authorized campaign committees.

### **Itemized Receipts and Disbursements**

The G Index identifies certain itemized receipt and disbursement transactions made by a committee, the report on which the transactions were disclosed and the microfilm location of the transactions. Three categories are represented:

1. Individual contributions of \$500 or more.
2. Selected loan transactions.
3. Transfers, contributions and disbursements among registered committees and other filers.

### **Individual Contributors**

The Name Search capability permits a person to request a computer search for a specific last name in the national alphabetical listing of contributors. The printout lists all persons with that same last name, including full name, address, occupation, date of contribution, amount of contribution, to whom it was given and the microfilm location of the reported entry. There is a substantial charge for this type of index. However, the national listing of contributors is periodically made available on microfilm in the Public Records Office. It is available for review at no charge.

### **Committee Contributions to Candidates**

The D Index includes, for each committee, its name, ID number, name of connected organization, notation if it is "qualified" as a multicandidate committee, and a listing of all Federal candidates supported, together with total aggregate contributions to, or expenditures on behalf of or against, each candidate during a particular election cycle. In the case of party committees, coordinated party expenditures (Section 441a(d)) are listed in place of independent expenditures.

### **Dates of Specific Contributions/Expenditures**

The Detailed D Index itemizes the information on the D Index (above). It lists in chronological order each contribution and expenditure made on behalf of a Federal candidate, along with the date, amount and microfilm location of each reported transaction. It can also search for specific candidates.

### **Total Contributions to Candidates by Selected Committees**

The Combined D Index permits a person to select a group of committees for research. The computer will add together all of their contributions to candidates and print them out in one list identifying the total amount contributed to each candidate by the group of committees.

**Other Indexes**

In addition to the above indexes, the Commission produces other types of computer indexes on a periodic basis (e.g., an index of communication costs). These periodic indexes are available in the Public Records Office for inspection and copying.

### Public Records Office

- How much did Federal candidates spend in the last election?
- How can I find out which individuals and committees contributed to a candidate?
- How much money did a political committee (e.g., a PAC) give to a candidate?

These are the types of questions fielded by the FEC's Public Records Office, which provides information on the campaign finance activities of political committees and candidates involved in Federal elections. Located on the street floor of the Federal Election Commission, the Public Records Office is open for public use weekdays from 9 a.m. to 5 p.m., and evenings and weekends during heavy reporting periods. The office is a library facility with ample work space and a knowledgeable staff to help locate documents. The FEC encourages the public to review the many documents which are available:

- Reports and statements filed by Federal candidates and committees (1972-present)<sup>1</sup>
- *FEC Reports on Financial Activity and Disclosure Series* (published indexes that consolidate and summarize data taken from financial disclosure reports)
- Daily updated computer printouts of various FEC indexes, as available (see Appendix 6)
- Advisory opinion requests and advisory opinions
- *Index to Advisory Opinions*
- *Campaign Finance and Federal Elections Bibliography*
- MURs (closed compliance actions and index)
- Audits (GAO 1972-74, FEC 1975-present)
- Court cases
- Information on contributions submitted by Presidential candidates to establish eligibility for primary matching funds
- Presidential matching fund certifications

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<sup>1</sup>Anyone using such documents is reminded, however, of the election law's requirement that any information copied from reports and statements may not be sold or used for any commercial purpose, other than using the name and address of any political committee to solicit contributions from such a committee. 2 U.S.C. Section 438(a)(4).

- Presidential and Vice Presidential personal financial disclosure statements filed under the Ethics in Government Act
- General information (newspaper articles, studies on campaign finance by other organizations, informational handouts)
- Commission information (Commission memoranda, Commission meeting agendas and agenda items, minutes of meetings, directives, bulletins, certifications of closed meetings, general distribution memoranda)

Those outside the Washington area may request documents by phone or mail. When identifying the documents you want, indicate the full name of the political committee reporting, the date or type of report or document desired, and your address and telephone number. The Commission charges 5 cents per page for copies from paper files and 10 cents per page for copies made from microfilm.

Sometimes a preliminary phone call can help you pinpoint your request and thereby expedite the Commission's response. Call the Public Records Office at 202/523-4181, or call toll free 800/424-9530. When calling the toll free number, please ask specifically for the Public Records Office.

### Public Communications

- How much money may a PAC contribute to a Federal candidate?
- Should a political committee, authorized by a Congressional candidate, file its termination report with the Clerk of the House of Representatives or with the candidate's principal campaign committee?
- When does our committee have to file its next report?
- May an employee's immediate supervisor solicit the employee for political contributions to the company's PAC?

These questions are among the many the Commission receives daily on its toll free (800) phone line. Five information specialists, located in the Public

Communications Office, respond to such questions immediately. The information specialists are not attorneys and cannot, by law, give opinions of an advisory nature.<sup>2</sup> They can, however, help candidates and political committees understand, and voluntarily comply with, the Federal election law. They also assist others who are interested or involved in Federal elections. For example, information specialists will:

- Explain and clarify FEC advisory opinions, regulations and procedures (e.g., procedures for filing a complaint with the FEC or for registering a political committee);
- Recommend appropriate publications and reporting forms;
- Research advisory opinions and statutory and regulatory provisions relevant to a specific question; and
- Refer callers to the appropriate agency when the requests pertain to topics outside the Commission's jurisdiction (e.g., tax issues, ballot questions or vote issues).

Information specialists also supply this same kind of information in letters responding to written inquiries. In addition, they accept public speaking engagements; participate in seminars on campaign finance and the election law that are sponsored by the FEC and other organizations; and speak informally to groups visiting the Commission.

The Public Communications Office is open to the public weekdays from 8 a.m. until 6 p.m. The office may be contacted by writing the FEC at 1325 K Street, N.W., Washington, D.C. 20463; or by calling 202/523-4068 or toll free 800/424-9530.

### Advisory Opinions

For questions relating to the application of the law to a specific, factual situation, any person may request an advisory opinion in writing. The Commission issues an advisory opinion once it has been approved

<sup>2</sup>Commission staff may **not** grant approval or disapproval of a specific campaign activity. Individuals seeking FEC sanction for a specific activity must request an advisory opinion from the Commission. See 11 CFR Part 112.

by at least four Commissioners. Every advisory opinion is summarized in the Commission's newsletter, the *Record*, and copies of the request and opinions are available from the Public Records Office. When the person who requested the opinion acts in good faith in accordance with the advisory opinion, he or she is not subject to any penalties with regard to the activity in question. 2 U.S.C. Section 437f(c)(2).

### **Publications**

The FEC's Publications Office produces materials to help candidates, political committees and other interested individuals understand and comply with the election law. Free copies of the publications listed below may be obtained by contacting the Public Communications Office at 202/523-4068 or toll free 800/424-9530.

- Federal Election Campaign Act
- FEC Regulations
- Registration Forms
- Reporting Forms
- *Record*, a monthly newsletter
- *Annual Report*
- *Campaign Guide for Congressional Candidates and Committees*
- *Campaign Guide for Corporations and Labor Organizations*
- *Campaign Guide for Party Committees*
- *House and Senate Bookkeeping Manual*
- Brochure Series:
  - Advisory Opinions*
  - Candidate Registration*
  - Contributions*
  - Corporate/Labor Communications*
  - Corporate/Labor Facilities*
  - Independent Expenditures*
  - Local Party Activity*
  - Political Ads and Solicitations*
  - The FEC and the Federal Campaign Finance Law*
  - Using FEC Campaign Finance Information*
  - Volunteer Activity*

### **Reports Analysis Division**

The Reports Analysis Division (RAD) reviews the campaign finance reports filed by political committees and assists filers in complying with the election law's disclosure requirements.

Each political committee registered with the FEC is assigned to one of approximately 30 reports analysts, who review committee reports and statements in order to detect reporting problems, monitor individual contribution limits and track those committees which fail to file reports. In reviewing a committee's reports, the reports analyst becomes familiar with reporting problems the committee may be having. An analyst notifies a committee of a reporting error or omission (or of an apparent violation of the election law detected in the report) by sending the committee a request for additional information (RAFI). A committee receiving such a request should contact the analyst identified in the letter by calling 202/523-4048 or toll free 800/424-9530. Callers should ask to speak to a specific reports analyst or to RAD.

### **Press Office**

Staff of the Press Office are the Commission's official media spokespersons. In addition to publicizing Commission decisions, policies and actions, they respond to all inquiries from representatives of the print and broadcast media. More specifically, a staff of three:

- Answers questions on all aspects of the Federal election law and Commission actions;
- Answers questions about campaign finances, providing data taken from reports filed with the FEC by political committees;
- Prepares statistics on campaign finance activity for public release;
- Generates press releases on FEC-related activities;
- Arranges interviews between the media and the Commissioners; and
- Handles all requests under the Freedom of Information Act.

Media representatives should direct their inquiries to the Press Office. The office, located on the street

floor of the Commission, is open weekdays from 9 a.m. to 5:30 p.m. Press may contact the office at 202/523-4065 or toll free 800/424-9530. When calling the toll free number, please ask specifically for the Press Office.

### **Clearinghouse**

The FEC's National Clearinghouse on Election Administration provides information to the public on the electoral process. The Clearinghouse also conducts regional seminars and publishes studies on election administration. Clearinghouse reports on election administration are available to the public at cost. See Appendix 8 for a list of Clearinghouse publications. For further information, contact the Clearinghouse at 202/523-4183 or toll free 800/424-9530. When calling the toll free number, please ask specifically for the Clearinghouse.

### **Commission Library**

The Commission law library, part of the Office of General Counsel, is open to the public. The collection includes basic legal research tools plus materials dealing with political campaign finance, corporate and labor political activity and campaign finance reform. The library staff prepares an *Index to Advisory Opinions* and a *Campaign Finance and Federal Elections Bibliography*, both available for purchase from the Public Records Office (see above).

In addition to a general reference section that includes the *Martindale-Hubbell Law Directory*, the Commission's library contains the resources outlined below.

**Book Collection.** The book collection contains election-related monographs and legal treatises with an emphasis on Federal civil procedures and administrative law and also includes legal research sets such as *American Jurisprudence 2d* and *American Law Reports 2d, 3d* and *4th*.

**Periodical Collection.** The collection includes: *Congressional Quarterly Weekly Reports*, *National Journal Reports*, *Harvard Law Review* and *Congressional Record*.

**Journal Article File.** The journal article file contains photocopies of pertinent law review articles and Library of Congress Congressional Research Service reports.

**Looseleaf Service.** The two most important looseleaf services housed in the library are: 1) *United States Law Week*, which is published by the Bureau of National Affairs (BNA) and includes recent Supreme Court and lower court decisions and 2) the *Federal Election Campaign Finance Guide*, published by Commerce Clearing House (CCH). The library also subscribes to the *United States Federal Election Law* (published by Oceana), *Federal Regulation of Campaign Finance and Political Activity* (published by Matthew Bender), *Standard Federal Tax Reporter* (CCH), *Fair Employment Practice Service* (BNA) and *Corporation Law Guide* (CCH).

**Code Section.** This section contains major code materials required by the legal staff, including the *United States Code*; *United States Code Annotated*; *United States Code Service*; *United States Congressional and Administrative News*; *Code of Federal Regulations*; and *Daily Federal Register*.

**Reporter Section.** The collection of law reporters includes the *U.S. Supreme Court Reports* (Official, West and Lawyers' Edition copies); *Federal Reporter 2d*; *Supreme Court Digest* (Lawyers' Edition); *Federal Rules Decisions*; *Federal Supplement*, *U.S. App. D.C.*; and the slip opinions of the U.S. Court of Appeals for the D.C. Circuit.

**Federal Election Commission Documents.** This section includes administrative material generated by the Commission and legislative material bearing on the establishment and metamorphosis of the Federal Election Campaign Act (FECA). For example, the section includes legislative histories of the FECA and its amendments, transcripts of Commission hearings on regulations, and *Federal Register* notices.

# Appendix 8

## Clearinghouse Studies

Listed below are Clearinghouse research projects; the publications—available at cost to the public—include both recent studies and the final products of past projects.

### Periodic Reports

Because of budgetary constraints, the Commission discontinued publication of the following periodic reports: *Election Law Updates* and *Election Case Law*.

The periodic report entitled *Campaign Finance Law*, although suspended for one year, is scheduled to resume in 1983. This report summarizes campaign finance laws in each of the States and provides a convenient chart summary of State requirements.

The *Election Directory*, suspended during 1981, resumed publication in 1982 as an in-house project. The *Directory* lists names, addresses and telephone numbers of Federal and State election officials.

### Reports Issued in 1982

In addition to the *Election Directory*, the Clearinghouse issued *Education Programs in the Schools*, the second volume of a series entitled *Voter Information and Education Programs*. The new publication suggests various ways in which election officials can develop, in cooperation with educators, good voter education programs in the schools.

### Reports Under Way in 1982

*Designing Effective Voter Information Programs*, the first volume of the *Voter Information and Education Programs* series, suggests inexpensive but effective ways whereby election officials can convey essential registration and election information to the public.

*Maintaining Registration Files* suggests techniques and procedures for maintaining a clean and accurate registration file of voters.

*Training Election Officials* discusses effective, inexpensive methods for training all election workers as well as temporary office staff.

### **Previously Completed Reports**

The following publications, listed in previous annual reports, remain available.

*Statewide Registration Systems 1 & 2* is a report on computerized statewide voter registration systems. Volume I examines problems involved in implementing a statewide system and offers suggestions for overcoming them. Volume II describes in detail the forms, procedures, outputs and variations on the basic statewide computerized system.

*Contested Elections and Recounts* is a three-volume analysis of the laws and procedures governing contested elections and recounts for Federal offices. Volume I examines those issues and functions within the Federal government's purview and makes recommendations for improving the handling of contested elections at the Federal level. Volume II examines State issues and options and makes recommendations for improving the State handling of such cases. Volume III summarizes laws related to contested elections in each of the States and at the Federal level.

*Ballot Access* is a four-volume report on how candidates gain access to the ballot for Federal office in each of the States. Volume I identifies central administrative issues and problems and makes recommendations for improving the process. Volume II describes the administrative process in each State. Volume III details State legal memoranda and makes recommendations for improving the legal process. Volume IV briefly summarizes ballot access requirements for Federal office in each State.

*Mail Registration Systems* discusses problems involved in implementing a mail registration system. In addition to a general description of how mail registration systems operate, the report offers practical suggestions for overcoming difficulties.

*Bilingual Election Services* is a three-volume report on providing election services in languages other than English. Volume I summarizes such services since 1975. Volume II provides a glossary of common election terms in English along with their Spanish and dialectal equivalents. Volume III is a manual for local election officials. It offers practical advice on ways to identify the language problems in

a jurisdiction and provide bilingual registration and balloting services.

*Election Administration* is a four-volume set introducing program planning, management and financial control concepts into local election administration. Volume I provides an overview of election functions and tasks and introduces the notion of a management cycle. Volume II focuses on planning, provides detailed task/activity checklists and flow diagrams, and demonstrates how tasks can be assigned. Volume III introduces a chart of accounts and demonstrates how budgets can be prepared and costs monitored by applying the chart to each election function. Volume IV is a set of legal memoranda summarizing State code processes with regard to administrative and budgeting responsibilities.

# Appendix 9 FEC Federal Register Notices, 1982

Notice*	Title	Federal Register Publication Date	Citation
1982-1	11 CFR Part 110; Communications, Advertising; Notice of Proposed Rulemaking	1/27/82	47 Fed. Reg. 3796
1982-2	11 CFR Part 110; Honoraria; Removal of Limitation	4/8/82	47 Fed. Reg. 15098
1982-3	Filing Dates for California Special Primary and General Elections	4/13/82	47 Fed. Reg. 15898
1982-4	Filing Dates for Special Primary and Special General Elections, 17th Congressional District, Ohio	5/17/82	47 Fed. Reg. 21142
1982-5	Candidate's Use of Property in Which Spouse Has Interest; Notice of Proposed Rulemaking	7/20/82	47 Fed. Reg. 31390

Notice*	Title	Federal Register Publication Date	Citation
1982-6	11 CFR Parts 106 and 9031-9039; Presidential Primary Matching Fund; Notice of Proposed Rulemaking	8/17/82	47 Fed. Reg. 35892
1982-7	Filing Dates for Special General Election, 1st Congressional District, Indiana	9/22/82	47 Fed. Reg. 41861
1982-8	11 CFR Parts 106 and 9031-9039; Presidential Primary Matching Fund; Extension of Deadline for Comments on Notice of Proposed Rulemaking	10/1/82	47 Fed. Reg. 43392
1982-9	11 CFR Part 114; Trade Association Solicitation Authorization; Notice of Proposed Rulemaking	11/26/82	47 Fed. Reg. 53396
1982-10	11 CFR Parts 106 and 9031-9039; Presidential Primary Matching Fund; Announcement of Public Hearing Date	11/24/82	47 Fed. Reg. 53030

\*This appendix does not include *Federal Register* notices of Commission meetings published under the Government in the Sunshine Act.