

# **Federal Election Commission**

## **Annual Report 1983**



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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 1, 1984

The President of the United States  
The U.S. Senate  
The U.S. House of Representatives

Dear Sirs:

We submit for your consideration the ninth annual report for the Federal Election Commission, as required by the Federal Election Campaign Act of 1971, as amended. The Annual Report 1983 describes the activities performed by the Commission in carrying out its duties under the Act. It also includes a number of legislative recommendations adopted by the Commission in March 1984.

Respectfully,

A handwritten signature in cursive script that reads "Lee Ann Elliott".

Lee Ann Elliott  
Chairman

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# Introduction

Four years after the passage of major amendments to the election law (in late 1979), the Federal Election Commission has entered into a period of stabilization. The Commission implemented the amendments through comprehensive regulations prescribed in 1980. During the past year, the agency has further refined its regulations and operating procedures to reflect the experience of two election cycles. The Federal election law has thus become an accepted part of our political process and, in turn, the Commission is recognized as playing a necessary and continuing role in overseeing that law. During 1983, this stable climate permitted the agency to give more attention to the informational needs of the public, while placing the final touches on preparations for another Presidential election. As a result, the Commission anticipates that its administration of the 1984 elections will be the smoothest thus far. This report describes those preparations, the agency's outreach efforts and its ongoing administration of the election law in 1983.

In the area of public funding for the 1984 elections, the Commission revised its regulations and internal procedures, instituted an outreach program for Presidential campaigns, certified candidates' eligibility for primary matching funds, developed a computer index on major Presidential candidates and clarified its position on related legal matters. These are the developments reported in Chapter 1; revised public funding regulations and other new regulations are summarized in Appendix 6.

Chapter 2 examines the Commission's overall administration of the election law, including its outreach efforts, revisions to non-Presidential regulations, statistics on the 1980 Congressional elections and legal issues that arose during 1983.

Internal administration is the subject of Chapter 3. Here the report discusses budgetary matters, staffing trends, internal audits and the Equal Employment Opportunity program. Biographies of the Commissioners and statutory officers (Appendix 1), charts on the agency's budget (Appendix 4) and statistics on each division's operations (Appendix 5) supplement the material in Chapter 3.

The Commission's recommendations for legislative change are listed in Chapter 4.

# Chapter 1

## Presidential Public Funding

During 1983, the Commission completed preparations for the 1984 Presidential elections. The agency had begun to refine the public funding program in 1982, when it prepared revisions to regulations on the primary matching fund process, expanded its publications for Presidential primary candidates and approved new Presidential reporting forms.

Continuing these efforts in 1983, the agency adopted revisions to regulations on general election financing, updated rules on the funding of national nominating conventions and made other, smaller adjustments to fine-tune the 1984 public funding program.

With procedures in place, the Commission began to implement the program, approving candidates' eligibility to receive primary matching funds. At the same time, the Commission dealt with two issues which had emerged from the 1980 Presidential elections: independent expenditures and the repayment of public funds to the U.S. Treasury.

### Primary Matching Fund Program

#### Revised Regulations

On January 24, 1983, the Commission forwarded to Congress revisions to regulations governing the payment of public money in the form of matching funds to Presidential primary candidates.<sup>1</sup> The revised regulations clarified and simplified administration of the primary matching fund program. The Commission had drafted the revisions with three purposes in mind: to clarify provisions which had caused uncertainty in the past; to provide a fuller explanation of certification, audit and repayment procedures; and to cover other aspects of the Presidential primary process not previously addressed in the regulations. (Major provisions of the regulations are summarized in Appendix 6.) The proposed rules were published in the *Federal Register* on February 4, 1983 (48 *Fed. Reg.* 5224) and prescribed by the Commission on April 4, 1983.

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<sup>1</sup>Partial public funding is available to qualified Presidential primary candidates in the form of matching funds. Up to \$250 of an individual's contribution(s) may be matched with Federal funds.

### Outreach

During 1983, the Commission initiated an outreach program to assist Presidential primary candidates in complying with the election law. Similar to a program successfully conducted in 1980, the outreach effort centered around two publications developed and revised by the Commission's audit staff. The *Guideline for Presentation in Good Order* explained the entire matching fund process, providing step-by-step instructions for preparing matching fund submissions.<sup>2</sup> The *Financial Control and Compliance Manual* offered comprehensive guidelines for accounting, budgetary and reporting systems (see the *Annual Report 1982*, pages 23-24).

Supplementing these aids, the auditors — each assigned to work with a particular campaign — answered questions on the telephone, met with campaign representatives to advise them on Commission procedures and were generally available to assist campaign staff in complying with statutory requirements. By encouraging sound recordkeeping systems early in the election cycle, the agency hoped to smooth the way for Commission audits, which are statutorily required of all publicly funded campaigns.

### Certification of Matching Funds

Democrats Alan Cranston and Walter Mondale were the first Presidential candidates who established eligibility to receive matching funds for their 1984 primary campaigns. The Commission approved their eligibility in April 1983, after auditors had thoroughly reviewed the "threshold submissions" made by the candidates in January. (The Commission had decided, in February, to postpone taking action on requests for matching funds until after the revised primary regulations had become effective.) Later in the year, Reubin Askew, Gary Hart, John Glenn and Ernest Hollings also became eligible for matching funds.

Under the election law, a candidate may submit documentation to establish his or her eligibility for matching funds (i.e., a "threshold submission") the year before the primaries are held. The threshold submission shows that

the candidate has satisfied the requirements for eligibility. To be eligible to receive matching funds, a candidate must first raise in excess of \$5,000 in each of 20 States (i.e., over \$100,000 in contributions). Only contributions from individuals apply toward this threshold. Although an individual may contribute up to \$1,000 to the candidate, only a maximum of \$250 counts as a matchable contribution, applicable to the \$5,000 threshold. To be eligible for matching funds, the candidate must also agree to comply with the provisions of the election law, including the limits set on campaign spending.

Once their eligibility had been established, 1984 candidates continued making matching fund submissions for Commission review. Audit staff evaluated the submissions, using statistical sampling techniques to see if the requests contained proper documentation. Auditors found that the 1983 submissions had a very small percentage of errors, only 1.1 percent overall. The Commission attributed the low error rate to both its successful outreach program and the knowledge which campaign staffs had gained from past elections.

In December 1983, the Commission certified matching fund payments totaling \$7,771,960.41 to six eligible candidates. Because, under the election law, candidates may not receive actual payment from the U.S. Treasury until after the election year begins, the six candidates received their funds on January 3, the first working day of 1984.

The table below lists the eligible candidates and the amount of matching funds certified to each during December 1983.

Candidate	Amount Certified in 1983
Reubin Askew	\$ 773,274.96
Alan Cranston	1,161,223.55
John Glenn	1,579,344.75
Gary Hart	580,417.18
Ernest Hollings	552,159.11
Walter Mondale	3,125,540.86

<sup>2</sup>These submissions are requests for matching funds; they contain lists of contributors with accompanying documentation to demonstrate that the contributions qualify for matching payments from the U.S. Treasury.

### Repayment of 1980 Matching Funds

The election law requires the Commission to audit all publicly funded campaigns to ensure that they have complied with the law's provisions. Based on audit findings, the Commission may determine that a campaign must repay public funds. For example, a campaign must repay public funds if it exceeds a State spending limit. Insufficient documentation for expenditures and unlawful use of public funds may also cause the Commission to require repayments.

Several 1980 campaigns filed suits challenging the Commission's repayment determinations. The Carter/Mondale Presidential Committee, Inc. asked the U.S. Court of Appeals for the District of Columbia to review the Commission's decision requiring the Committee to repay funds. (Under the election law, committees seek judicial review of agency actions related to their public funding by filing a petition with the District of Columbia Court of Appeals within 30 days after the Commission's disputed action. 26 U.S.C. Section 9041(a).) The court ruled, however, that because the Carter/Mondale Committee had filed its petition late, i.e., after the 30-day period, the court had no jurisdiction over the petition. Therefore, it dismissed the case on June 24, 1983, without addressing an issue raised by the Committee. The Committee had challenged the Commission's view that 26 U.S.C. Section 9038(b)(2) requires a campaign to repay 100 percent of any funds used for nonqualified campaign expenses.

The campaign committees of President Reagan, Edward Kennedy and Lyndon LaRouche also asked the D.C. appeals court to review the Commission's decisions requiring the repayment of 1980 matching funds. Those suits, filed during 1983, had not been resolved at the year's end.

In the case of John Anderson's 1980 primary campaign, however, the Commission decided to return funds previously repaid by the campaign. Basing its decision on several repayment determinations made with respect to President Reagan's campaign, the agency concluded that it had required the Anderson campaign to repay an excessive amount. The Commission therefore certified \$44,485.65 to the campaign on September 29, 1983, bringing Mr. Anderson's total public funding for the primary campaign to \$2,320,809.48.

### Convention Funding

The Commission certified public funds for the 1984 Presidential nominating conventions of the major parties and made technical revisions to the regulations on convention financing.

In July 1983, the Republican and Democratic parties each received a public grant of \$5,871,000 for their convention committees. The payments consisted of a \$3 million entitlement adjusted to include the cost-of-living increase calculated from the base year, 1974. Because a convention committee may receive public funds in the year preceding the convention, the Commission's certifications reflected the 1982 cost-of-living adjustment. The agency planned to certify additional funds in 1984, once figures became available for the 1983 cost-of-living adjustment.

The convention committee entitlement was increased from \$2 million to \$3 million (plus cost-of-living adjustment) by the 1979 amendments to the election law. The Commission's technical revisions to its convention regulations, prescribed on July 21, 1983 (48 *Fed. Reg.* 33244), included this change as well as a recordkeeping modification stipulated in the 1979 amendments. (Appendix 6 contains a summary of these changes.)

### General Election Financing

#### Revised Regulations

Once the Commission completed work on the rules for primary election funding, it turned its attention to the area of general election funding and, in April 1983, published a Notice of Proposed Rulemaking in the *Federal Register* seeking comments on the drafted changes. In response to suggestions received from the public, the agency modified the proposed rules, which were then transmitted to Congress on July 1 and published in the *Federal Register* on July 11 (48 *Fed. Reg.* 31822).

Like the new rules governing primary matching funds, the general election regulations contained revisions prompted by the Commission's past experience in administering the 1980 public funding program. The new rules incorporated three major areas of change.

First, they clarified existing rules. For example, the revisions spelled out in detail the types of expenditures

that would be considered qualified or nonqualified campaign expenses. (Campaigns accepting Federal funds must use them exclusively for qualified campaign expenses.)

Second, the new rules contained procedures which, while not previously stipulated in the regulations, had guided Commission operations in past Presidential elections. One such example was the new section that fully explained procedures for conducting the statutorily mandated audits of publicly funded campaigns and for preparing audit reports for public release.

Third, the new rules incorporated changes made to the primary matching fund regulations in order to ensure consistent procedures under both types of public funding. For example, the general election rules stipulated that the Commission could grant an oral hearing to campaigns contesting a repayment determination — an addition based on the primary regulations.

The Commission prescribed the new general election regulations on October 27, 1983. (Major provisions are highlighted in Appendix 6.)

### Independent Expenditures

At issue in a number of 1983 court cases and advisory opinions<sup>3</sup> was the provision in the Presidential Election Campaign Fund Act — Section 9012(f) — which places a \$1,000 limit on spending by political committees to further the election of a Presidential nominee receiving public funding in the general election. The constitutionality of the \$1,000 limit, as applied to independent expenditures by political committees,<sup>4</sup> had been tested in the courts in 1980, when the consolidated cases *Common Cause v. Harrison Schmitt* and *FEC v. Americans for Change* were filed. In September 1980, the district court had ruled that Section 9012(f) was unconstitutional as applied to the activities of three committees — Americans for Change, Americans for an Effective Presidency

<sup>3</sup>For an explanation of the term "advisory opinion," see footnote 16 on page 20.

<sup>4</sup>An independent expenditure is an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made with the cooperation or prior consent of, or at the request or suggestion of, any candidate or his authorized committees or agents. Independent expenditures, except those that come under Section 9012(f), may be made in unlimited amounts.

and Fund for a Conservative Majority. The committees had planned to spend large sums making independent expenditures in support of then Presidential candidate Ronald Reagan.

The Commission appealed that decision to the Supreme Court, which, in January 1982, voted 4 to 4, thus affirming the district court decision, with Justice Sandra O'Connor not participating.<sup>5</sup> However, since a matter decided by an equally divided Court has no precedential value, the constitutionality of Section 9012(f) remained unresolved.

*1983 Advisory Opinions.* With the approach of the 1984 Presidential general election, the Fund for a Conservative Majority (FCM) and the National Conservative Political Action Committee (NCPAC) asked the Commission in advisory opinion requests whether they could spend over \$1,000 in independent expenditures to support President Reagan's general election campaign, assuming he would be the Republican nominee and would receive public funding.

In Advisory Opinions (AOs) 1983-10 and 1983-11 (identical opinions since the committees' requests were the same), the Commission ruled that the limit imposed by Section 9012(f) would apply to the proposed expenditures.

The opinions cited the actual language of the provision, which states that: "it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates [i.e., eligible to receive public funds] of a political party for President and Vice President...knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding \$1,000."

The Commission reached its conclusion by applying the terms "eligible candidate" and "qualified campaign expense" to the committees' proposed independent expenditures, as described in their requests. Because the expenditures would further the election of an eligible Presidential candidate (if President Reagan were the Re-

<sup>5</sup>26 U.S.C. Section 9011(b) provides for expedited handling of constitutional challenges to the Presidential Election Campaign Fund Act and a right of direct appeal to the Supreme Court.

publican nominee and received public funds), and because the proposed expenditures would constitute qualified campaign expenditures if made by the Reagan campaign, the expenditures would be subject to Section 9012(f) and the \$1,000 limit.

Commissioner Joan D. Aikens dissented to AOs 1983-10 and 1983-11, stating that she did not believe the provisions of 9012(f) applied to political committees making independent expenditures. She supported her opinion with references to court cases, legislative history and past Commission documents.

Commissioner Lee Ann Elliott concurred in AOs 1983-10 and 1983-11. She stated that, although in her opinion "9012(f) is an unconstitutional restriction upon the political committee's First Amendment right of free speech...I am required to defer to the plain meaning of the statute and agree with the conclusion reached by the majority of the Commission...."

In another request, NCPAC asked the Commission whether the committee could exceed the 9012(f) limit if its proposed independent expenditures were made to oppose the 1984 Democratic nominee. In its response, AO 1983-20, the Commission said that expenditures made to defeat the Democratic nominee would necessarily further the election of the Republican nominee. The proposed negative expenditures would, under Section 9012(f), be limited to \$1,000 if the Republican nominee accepted public funds.

**1983 Litigation.** The debate over Section 9012(f) was resumed in the courts as well. On May 16, 1983, the Democratic Party of the United States filed suit against NCPAC and FCM in the U.S. District Court for the Eastern District of Pennsylvania. The Democratic Party alleged that the defendant committees had made, and intended to make, expenditures in violation of Section 9012(f). The Commission then intervened, seeking dismissal of the suit on the grounds that the agency had exclusive primary jurisdiction over civil enforcement and that the Democratic Party lacked standing to bring suit.

At the same time, the Commission filed its own suit, *FEC v. NCPAC and FCM*, asking a three-judge panel of the Pennsylvania district court to declare that the independent expenditures exceeding \$1,000 which NCPAC and FCM planned to make on behalf of the Republican

nominee would be prohibited by Section 9012(f). The Commission also asked the court to rule that Section 9012(f) is constitutional. On June 22, the three-judge court consolidated the two cases.

In response to the FEC's filing, FCM filed a petition on June 16 in the U.S. District Court for the District of Columbia, asking the court to give "force and effect" to its 1980 ruling (see above) that Section 9012(f) was unconstitutional. FCM wanted the court to order the Commission to drop its suit against FCM and NCPAC in the Pennsylvania court, to withdraw AO 1983-11 (discussed above) and to issue a new opinion approving FCM's proposed independent expenditures in excess of \$1,000.

On October 19, the D.C. district court denied FCM's petition and dismissed it with prejudice. The court stated that, because the constitutional issue of Section 9012(f) remained unresolved as a result of the Supreme Court's equally divided 1982 decision, the Commission must "re-try the legal issue" until "it is finally settled by the Supreme Court."

A few months later, the three-judge district court in Pennsylvania issued a decision in the consolidated Democratic Party and FEC cases. On December 12, 1983, the court ruled that the Commission could not enforce Section 9012(f), basing its decision on the Supreme Court's 1976 opinion in *Buckley v. Valeo* (which dealt with various constitutional challenges to key provisions in the Federal election laws). The Pennsylvania court said the *Buckley* opinion allowed "restrictions on true campaign speech only to prevent corruption or its appearance." The court, however, concluded that "plaintiffs had produced virtually no evidence of actual corruption and little admissible evidence of the appearance of corruption." In the court's view, "modest expenditures by political committees [such as the defendant committee]...have almost no potential to corrupt or to create the appearance of corruption...." The Commission immediately asked the Supreme Court to review the decision.

## Disclosure

### New Presidential Computer Index

In November 1983, the Commission introduced a new computer index that provided a concise summary of the

financial activity of major Presidential campaigns. The 1984 Presidential Campaign Summary Report was designed to extract information from reports filed by Presidential campaigns and to adjust numbers to reflect actual amounts raised and spent. For example, the index listed total contributions from individuals, minus any refunds made to those contributors, and total operating expenditures, minus any refunds or rebates. Although researchers could still refer to the Presidential reports if they wanted information on specific contributors or vendors, they would no longer have to leaf through reports, calculating offsets to gross totals.

Presenting totals on a campaign-to-date, rather than a year-to-date basis, the index listed additional data, including total matching funds received, amounts spent on exempt legal and accounting services and total campaign expenditures subject to the overall spending limit.

The Commission planned to update the index after campaigns filed their 1983 year-end reports in January, and to continue revising it as campaigns filed the required monthly reports during 1984. Moreover, the agency expected to release more extensive data on Presidential candidates as part of its *Reports on Financial Activity* — the series of statistical studies issued

periodically during an election cycle. The *Presidential Reports* would be released monthly beginning early in 1984 and would not only provide cumulative totals, but would also present data by reporting period to show the progress of Presidential campaigns through the election year.

#### **Nonfilers**

The Commission amended its policy for sending mailgrams to committees which fail to file reports. The revised Directive No. 1, effective April 21, 1983, clarified existing wording and included new language to cover Presidential committees. (All political committees receive prior notices reminding them of upcoming reporting deadlines; however, only the principal campaign committees of candidates receive mailgrams if they fail to file reports.)

The Directive stipulated that, during an election year, only those Presidential principal campaign committees which are required to file on a monthly basis (i.e., those with financial activity exceeding \$100,000) would receive nonfiler mailgrams if they failed to file monthly, pre-election or post-election reports.

## Chapter 2 Administration of the Election Law

This chapter discusses new developments in the Commission's administration of the election law in areas other than public funding. Opening with a description of the agency's regional conferences and other outreach efforts, the chapter continues with details on the public disclosure program, including statistics on the 1982 Congressional elections. Next, the chapter reports on new regulations and advisory opinions, which helped to clarify the law, and proceeds with a summary of the agency's work in monitoring the law. After examining the agency's enforcement activities and legal issues arising from litigation and compliance cases, the chapter closes with an overview of activity in the Commission's Clearinghouse on Election Administration.

### Assisting Committees

The Commission intensified its outreach efforts in 1983 in anticipation of the increased activity during a Presidential election cycle. Five regional conferences spearheaded the outreach program, supplemented with new publications and staff appearances at other functions. Supporting this effort, the Commission continued to provide immediate assistance to candidates and committees by responding to information calls on its toll-free telephone lines.

#### 1983 Regional Conferences

In cooperation with State and local election jurisdictions, the FEC cosponsored five regional conferences attended by more than 2,000 people. Held between September and December in major cities across the country, the conferences featured a wide range of workshops under two major categories — campaign finance and election administration. The conferences achieved a number of Commission goals.

First, the Commission was able to provide technical assistance and information to a significant number of people involved in campaign finance and election administration. By keeping them informed, the Commission hoped to promote voluntary compliance with the election law. Moreover, the conferences afforded the Commission an opportunity to brief participants on the extensive 1983 changes to regulations (see pages 18 and 59).

Second, recognizing that people who live outside Washington are unfamiliar with the Commission's information services, the agency used the conferences to publicize the assistance it offers to candidates, committees, researchers and those in election administration. In addition to informing conference participants about the toll-free information number, publications and other services, the conferences educated people throughout the country on the use of the Commission's public records facility and the diverse computer indexes on campaign finance information. In conjunction with the conferences, twenty Secretaries of State each received a computer printout itemizing Federal activity within their respective States.

Finally, the conferences gave Commissioners and staff the chance to learn first-hand about the needs and problems of those affected by the law. Using this experience, the Commission could reevaluate programs and provide better, more responsive services.

The 1983 conferences were a cooperative effort between the Commission and State and local election boards. Responsible for administering the conferences, State and local election officials arranged hotel accommodations, meals and entertainment; selected banquet speakers; handled registration; and individualized the workshop schedule for those attending the conferences.

The Commission, on the other hand, was primarily responsible for the conference workshops. Commission staff developed and presented 40 workshops, each supplemented by a variety of materials, including Commission publications prepared over the three years since the election law underwent major revision.

Assisting Commission staff in teaching workshops were election officials from throughout the United States as well as representatives from several Federal agencies: the Justice Department, the Census Bureau, the U.S. Postal Service and the Department of Defense Voting Assistance Task Force.

Each of the two-day conferences offered participants a host of workshops from which to choose. Since up to four workshops were held simultaneously, the Commission scheduled repeats of several sessions. In some cases, the Commission conducted a series of three or four related workshops — called tracks — to enable participants to probe one topic in depth. For example,

the Corporate/Labor Track opened with a workshop on basics for newcomers, went on to cover communications and facilities — a workshop that included information on new regulations — then continued with a third workshop on raising money for PACs, and ended with a problem-solving workshop in which the audience actively participated.

In addition to providing separate tracks of workshops for party committees, candidate committees and non-connected committees (i.e., committees not established by any candidate, party or corporate/labor group), the conferences offered single workshops, including: Developing Standards for Voting Equipment, Federal/State Campaign Finance Issues, Use of Public Records, Election Case Law, Managing the Polls on Election Day and Providing Voter Information Services. Most participants selected workshops in both the campaign finance and election administration categories.

The regional conferences were held in the following cities:

- Midwest Regional  
Itasca, Illinois (Chicago area)
- Northeast Regional  
Albany, New York
- Southern Regional  
Charleston, South Carolina
- Southwest Regional  
Tulsa, Oklahoma
- Far West Regional  
Los Angeles, California

Workshop evaluation forms completed by participants showed a decidedly favorable response to the conferences. This positive reception prompted the Commission to organize several State and local workshops for 1984. Though narrower in scope than the regional conferences, these State workshops would utilize FEC publications and programs initially developed for the regional conferences. Moreover, they would easily mesh with the agency's continuing speakers program. In 1983 alone, Commissioners and staff spoke on the campaign finance law at some 65 meetings and functions held by a variety of organizations.

### Materials and Services

The Commission introduced several publications in 1983. In *Election Results for the U.S. Senate and the U.S. House of Representatives*, the agency published State-by-State voting results for the 1982 Congressional general elections, which were based on official figures from State election officers. Looking ahead to upcoming elections, the Commission compiled a list of Presidential and Congressional primary dates for 1984, also obtained from Secretaries of State. The list included filing deadlines for primary candidates seeking ballot access.

In the area of the election law, the Commission expanded its *Campaign Guide* series with the 1983 publication of the *Campaign Guide for Nonconnected Committees*, directed toward political committees which are not affiliated with any candidate, party or corporate/labor organization. The agency also added a new title to its brochure series, *Public Funding of Presidential Elections*. Designed for students, reporters and other members of the general public, the brochure explained the basics of the public funding system. Another new brochure, *Free Publications*, described the Commission's publications and included a mail-in form to order documents.

Even while Commission regulations underwent major changes throughout the year, the agency continued to provide current regulations to all interested persons. Together with copies of published regulations,<sup>6</sup> the Commission distributed a supplement which contained the most recent regulations.

## Disclosing Information

### Facilitating Disclosure

Although 1983 was an off-election year, the public continued to show an active interest in campaign data, as evidenced by calendar-year totals for disclosure activity in 1983. For example, the agency filled 14,971 requests for campaign data, compared to 12,230 requests filled in 1981, the previous nonelection year. The Commission also processed 480,449 pages of disclosure documents during 1983. The agency's press officers answered

<sup>6</sup>Title 11 of the Code of Federal Regulations (11 CFR), published by the Federal Register, National Archives.

8,674 phone inquiries in 1983, significantly higher than the 6,161 calls received in 1981. The number of requests for information received under the Freedom of Information Act (FOIA), which are handled through the Press Office, also demonstrated a continuing public interest in election-related activity. The office received 100 FOIA requests in 1983, second only to the 116 requests received in 1981.

The number of reporters visiting the Press Office in 1983 set a new record — 1,073 newsmen, well above the previous high of 858 set in 1981. This was partly due to the relocation of the Press Office to the street level, where reporters had easy access to Commission press staff as well as to the Public Records Office located across the hall.

To provide better service to the public, the Commission purchased new equipment in 1983. The new state-of-the-art microfilm reader/printers — machines used to view and make copies of campaign finance reports and other microfilmed documents — were a considerable improvement over the old models. The agency also replaced photocopy machines used by the public and staff, and installed new computer terminals with high-quality printers that produced more legible statistical indexes than the old machines.

### **Campaign Finance Statistics**

Beginning in 1981, the Commission periodically released statistics on the financing of the 1982 elections as new information was reported by political committees.

In April 1983, only three months after committees had filed their year-end reports for 1982, the Commission issued statistics covering the entire 1981-82 election cycle in an interim *Reports on Financial Activity* (RFA). (The Commission publishes an RFA series for each two-year election cycle; the series presents detailed statistics based on computer data entered from the financial reports filed by committees.) The April publication included data taken from committees' 1982 year-end reports, due January 31, 1983, and represented the earliest release of information on a complete election cycle ever provided by the Commission. While the interim RFA did not reflect all adjustments made by committees in their amendments to 1982 reports, the publication responded to the

public's demand for a timely, comprehensive view of the 1982 elections.

After releasing the interim study, the Commission continued to revise its data base as it received committees' amendments to 1982 reports. These final changes were included in the RFA released in November 1983. (For the 1980 elections, the final RFA was not published until January 1982.) The companion computer tapes for the 1982 elections, containing the same data as the final RFA, were available for purchase in December 1983.

The statistics below are based on press releases which highlighted data taken from the final RFA for the 1981-82 cycle and from an index summarizing independent expenditure activity for the cycle.

*Congressional Campaigns.*<sup>7</sup> Following the pattern of previous elections, 1982 candidates outspent their 1980 counterparts. In particular, winners in the general election raised and spent more than the 1980 winners.

The 33 successful Senate candidates spent \$68.2 million on their primary and general election campaigns, a 70.5 percent increase over the \$40 million spent by 1980 Senate winners. The 1982 candidates gaining Senate seats raised a total of \$70.7 million for their campaigns, an increase of 69.5 percent over total funds raised by their counterparts in the 1980 races.

The House winners, 439 candidates, spent \$114.7 million on their primary and general elections, representing a 47 percent increase over the \$78 million spent by successful House candidates during the 1980 cycle. Winning 1982 House candidates raised \$123.1 million for their campaigns, 43.17 percent more than their counterparts in 1980 House races.

The 472 successful candidates for Senate and House seats received more money from PACs<sup>8</sup> than losing candidates — 70 percent (or \$58.4 million) of the \$83.6 million contributed by PACs went to the winners. Senate

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

<sup>8</sup> PAC (political action committee) is a popular term used to define any political committee that has not been authorized by a candidate or party. The term includes a separate segregated fund sponsored by a corporation or labor union as well as a committee without a corporate or labor sponsor (i.e., a nonconnected committee).

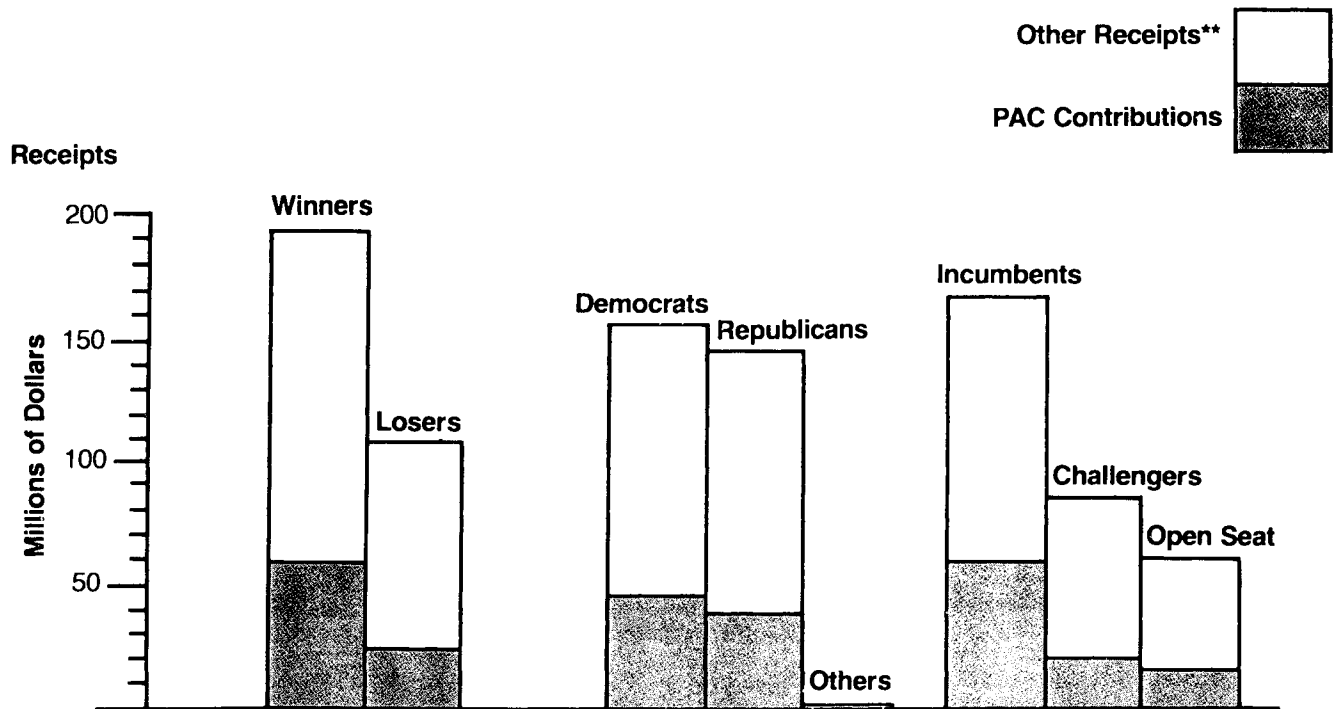
winners received \$15.6 million and House winners \$42.7 million.

Moreover, total money raised and spent by all 1982 Congressional campaigns (283 Senate candidates and 1,957 House candidates) increased significantly over the 1980 elections. Congressional campaigns raised a total of \$354.7 million during the 1981-82 election cycle; this fundraising represented a 42.6 percent increase over funds raised for the 1979-80 cycle (\$248.8 million). During 1981-82, Congressional campaigns spent \$342.4 million, an increase of 43.3 percent over the \$239 million spent by 1980 Congressional campaigns.

Total money raised by 1982 House campaigns rose 48 percent (from \$144 million to \$213.2 million), while their spending increased by 50 percent (from \$136 million to \$204 million). Senate campaigns increased their receipts by 35.1 percent (from \$104.8 million to \$141.5 million), while their spending increased by 34.5 percent (from \$102.9 million to \$138.4 million).

The graph below details receipts for the primary and general election campaigns of 1982 Congressional candidates running in general elections.

**Campaign Receipts\*  
of 1982 Congressional Candidates  
Running in General Elections  
1981-82**



Source: FEC press release of December 2, 1983.

\*Includes receipts for primary and general election campaigns of general election candidates received between January 1981 and December 1982.

\*\*Other campaign receipts include, for example, contributions from individuals, contributions from candidates to their own campaigns, contributions from other campaigns, loans, refunds and interest earned on investments.

*Party Committees.*<sup>9</sup> During the 1981-82 election cycle, Republican Party committees at the national, State and local levels raised and spent more than five times as much as Democratic Party committees and contributed three times more funds to Federal candidates.

Of the \$214 million spent by Republican committees, \$5.6 million (or 2.6 percent) went for contributions to Federal candidates and \$14.3 million (6.7 percent) was spent on coordinated party expenditures to benefit their nominees.<sup>10</sup>

By contrast, Democratic Party committees spent a total of \$40.1 million, including \$1.8 million (4.5 percent) in contributions and \$3.3 million (8.2 percent) in coordinated expenditures.

In comparing party activity over three election cycles, the Republicans showed substantially greater increases than the Democrats. The Republican Party raised \$215 million and spent \$214 million during the 1981-82 election cycle — about a 30 percent increase over their activity during the 1979-80 cycle, which included Presidential activity. Democrats, on the other hand, raised \$39.3 million, a 6 percent increase over the previous election cycle, and spent \$40.1 million, a 14.5 percent increase. Contrasting money raised and spent during the 1981-82 election cycle with 1977-78 election activity, Republican Party committees showed a 150 percent increase, whereas Democratic Party activity rose 49 percent.

Republican committees began the 1981-82 cycle (on January 1, 1981) with \$6.7 million cash on hand and ended the cycle (on December 31, 1982) showing \$7.5 million cash on hand with outstanding debts of \$5.3 million. Democratic committees started the cycle with \$2.5 million cash on hand and closed the cycle with a remaining cash balance of \$1.5 million, with debts totaling \$4.1 million.

<sup>9</sup> Source: FEC press release of December 3, 1983.

<sup>10</sup> These expenditures, although made on behalf of candidates, do not count against contribution limits. They are, however, subject to spending limits. Both national party committees and State party committees are authorized to make coordinated expenditures for their Congressional candidates in general elections.

PACs.<sup>11</sup> PACs contributed \$83.6 million to 1982 Congressional primary and general election campaigns, a 51.4 percent increase over the \$55.2 million contributed to 1980 Congressional races. FEC figures showed that 1982 Democratic Congressional candidates received a higher percentage of contributions from PACs than previously — 54.3 percent (or \$45.4 million) of total PAC contributions compared with the 52.3 percent of total PAC contributions given to 1980 Democratic campaigns (\$28.9 million).

By contrast, the percentage of PAC contributions given to the 1982 Republican candidates decreased. They received 46 percent (\$38.2 million) of PAC contributions, whereas 47.5 percent of PAC contributions went to Republican Congressional candidates in the 1980 elections (\$26.2 million).

The proportion of PAC contributions going to incumbents also increased when compared with previous elections. PACs gave incumbents campaigning for 1982 reelection almost three and one-half times more money than challengers. Incumbents received 65.8 percent (\$55 million) of total PAC contributions to 1982 Congressional races, while challengers received 19.4 percent (\$16.2 million). The remaining 14.8 percent (\$12.4 million) went to open-seat races. A comparable breakdown for the 1980 Congressional races showed that incumbents received 60.7 percent (\$33.5 million) of total PAC contributions for Congressional elections; challengers, 26.3 percent (\$14.5 million); open-seat candidates, 13 percent (\$7.2 million).

PACs raised \$199.5 million during 1981-82, a marked increase over the \$137.7 million raised during the 1979-80 election cycle, which included a Presidential election. Total PAC spending also increased, from \$131.1 million to \$190.2 million. The 1981-82 total for PAC spending included \$4 million given to Federal candidates to retire debts from previous campaigns or to defray expenses of future races and \$6 million given to political parties.

PACs opened the 1981-82 election cycle with \$22.2 million cash on hand and ended the cycle with a cash balance of \$31.5 million and outstanding debts of just

<sup>11</sup> Source: FEC press release of November 29, 1983. (The term PAC is defined in footnote 8 on page 11.)

over \$5.2 million. PACs closed the 1979-80 cycle with \$22 million cash on hand and \$2.3 million in debts.

Tables 1 and 2 below list the PACs which raised the most money and made the most contributions to Federal

**Table 1**  
**Top 10 PAC Money Raisers**  
**1981-82**

Political Action Committee*	Amount Raised 1/81-12/82
National Conservative Political Action Committee	\$10,000,931
National Congressional Club	9,742,494
Realtors Political Action Committee (National Association of Realtors)	2,991,732
Fund for a Conservative Majority American Medical Association	2,945,874
Political Action Committee (AMA)	2,466,425
National Committee for an Effective Congress	2,434,356
Citizens for the Republic	2,415,720
Committee for the Survival of a Free Congress	2,339,401
Fund for a Democratic Majority	2,307,605
Committee for the Future of America, Inc.	2,190,264

Source: FEC press release of November 29, 1983.

\*The connected organization (i.e., sponsor) of a separate segregated fund is indicated in parentheses.

candidates during the 1981-82 election cycle. The bar graph summarizes the financial activity of PACs during the period.

**Table 2**  
**Top 10 PAC Contributors to**  
**All Federal Candidates\***  
**1981-82**

Political Action Committee**	Amount Contributed 1/81-12/82
Realtors Political Action Committee (National Association of Realtors)	\$2,115,135
American Medical Association Political Action Committee (AMA)	1,737,090
United Auto Workers Voluntary Community Action Program (UAW)	1,628,347
Machinists Non-Partisan Political League (International Association of Machinists and Aerospace Workers)	1,445,459
National Education Association Political Action Committee (NEA)	1,183,215
Build Political Action Committee (National Association of Home Builders)	1,006,628
Committee for Thorough Agricultural Political Education (Associated Milk Producers, Inc.)	962,450
BANKPAC (American Bankers Association)	947,460
Automobile and Truck Dealers Election Action Committee (Automobile Dealers Association)	917,295
AFL-CIO COPE Political Contributions Committee (AFL-CIO)	906,425

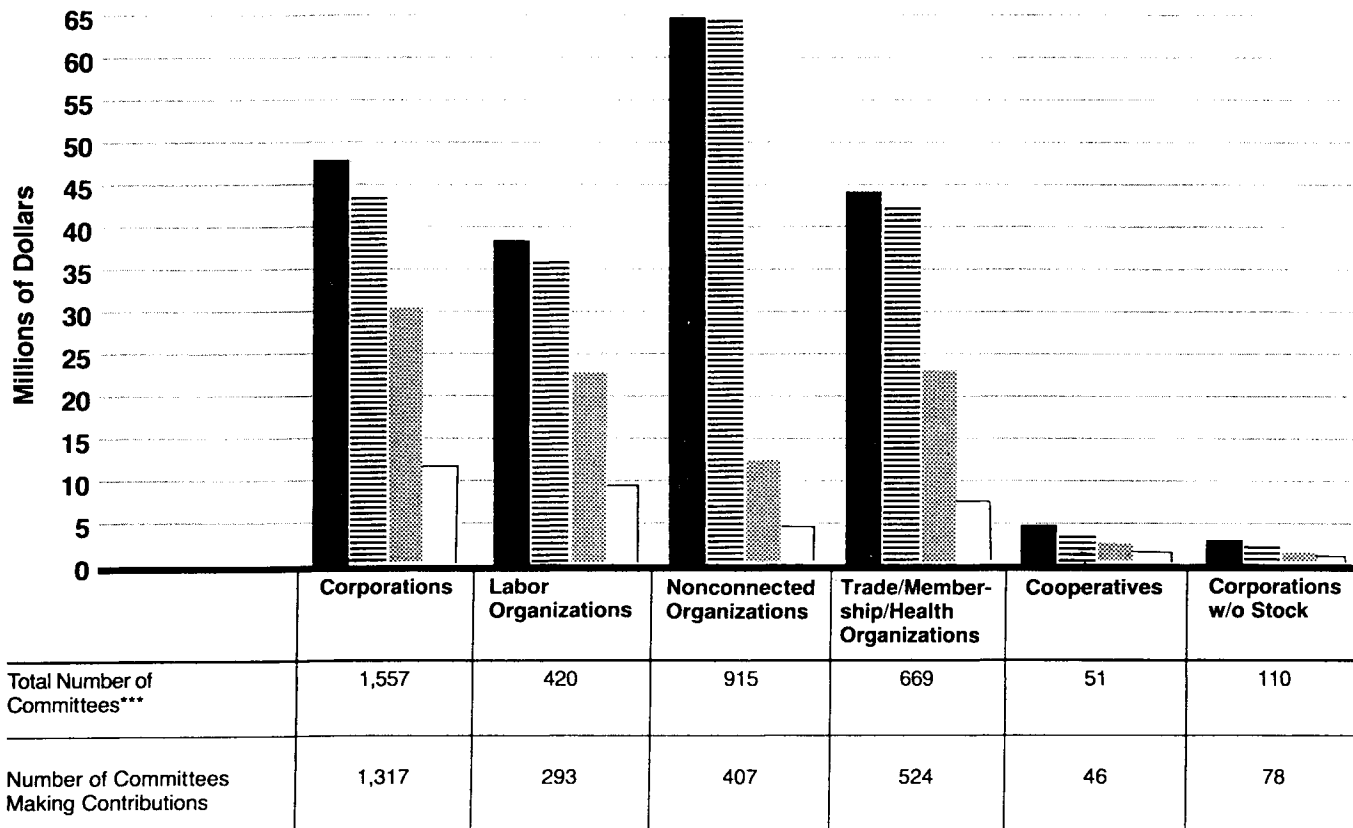
Source: FEC Press Release of November 29, 1983.

\*Contribution figures do not include totals for independent expenditures made for or against candidates. See "Independent Expenditures," below.

\*\*The connected organization (i.e., sponsor) of a separate segregated fund is indicated in parentheses.

**Financial Activity of PACs  
1981-82**

Receipts\*  
 Disbursements\*  
 Contributions\*\*  
 Cash-on-Hand



Source: FEC press release of November 29, 1983.

\*Receipts and disbursements do not include funds transferred between affiliated committees.

\*\*Includes contributions to committees of 1982 House and Senate candidates as well as all Federal candidates (for House, Senate and Presidency) campaigning in future elections or retiring debts of former campaigns.

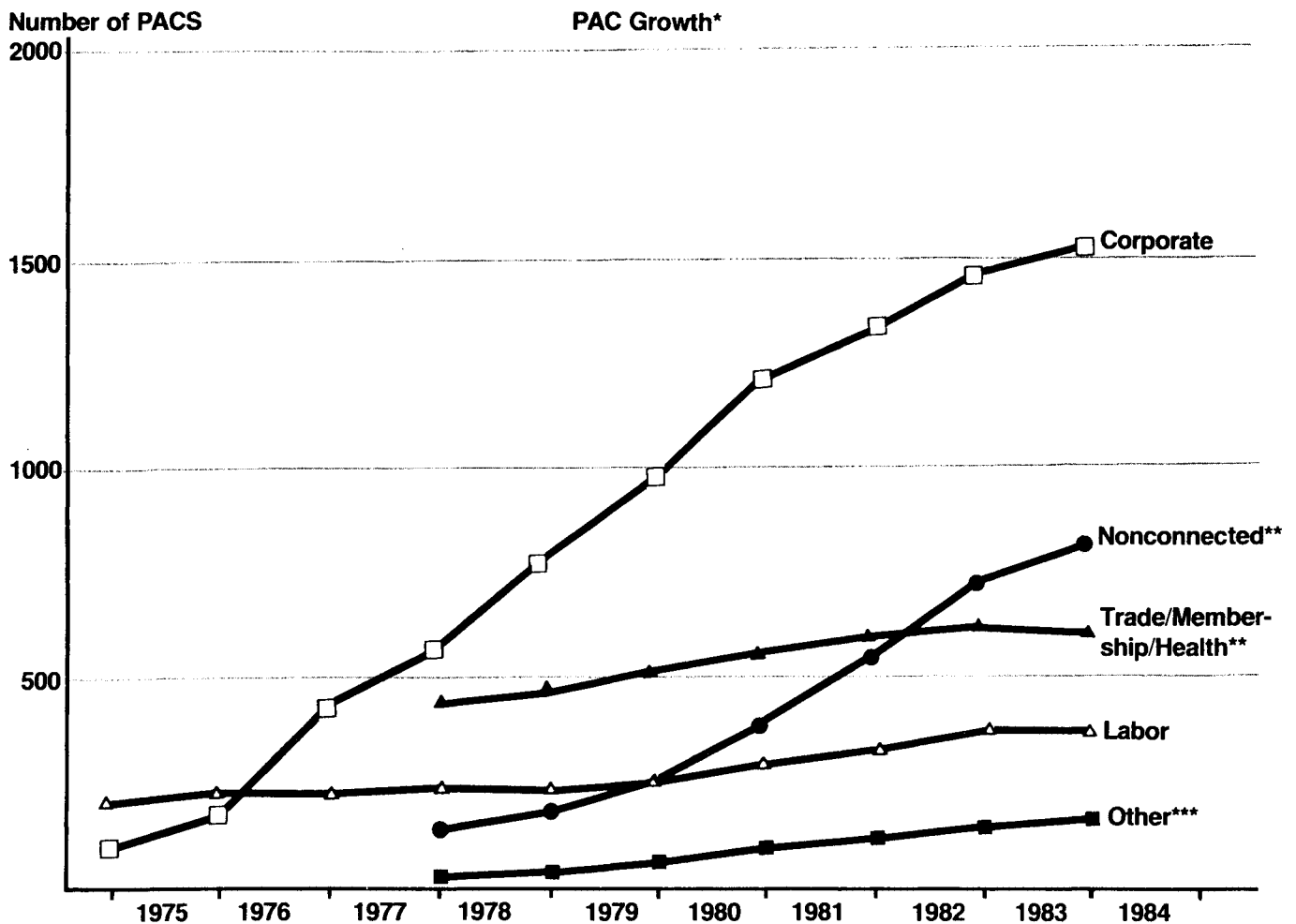
\*\*\*Includes total number of PACs active in Federal elections sometime between January 1, 1981, and December 31, 1982. Since some committees terminated during the 1981-82 cycle, this figure does not represent total committees active as of December 31, 1982.

*PAC Growth.*<sup>12</sup> Although growing at a slower rate than in past years, the number of PACs continued to increase during 1983. By January 1, 1984, there were 3,525 PACs, an increase of 4.5 percent over the 3,371 PACs existing on January 1, 1983. Commission figures

showed that yearly increases in PAC growth from January 1, 1975, through January 1, 1984, averaged 22.3 percent. However, between January 1975 and January 1977, the number of PACs grew by 88 percent (from 608 to 1,146).

The graph below plots the growth of the different types of PACs between January 1, 1975 and January 1, 1984. The graph does not reflect the financial activity of PACs.

<sup>12</sup>Source: FEC press release of January 20, 1984.



Source: FEC press release of January 20, 1984.

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

\*\*From January 1975 through December 1976, the FEC did not identify categories 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 January 1975 through December 1976.

*Independent Expenditures.*<sup>13</sup> Independent expenditures made to influence the outcome of 1982 Congressional races increased 146 percent over independent spending in 1980 Congressional races. A total of \$5.75 million was spent independently on Congressional campaigns during 1981-82,<sup>14</sup> while \$2.3 million was spent during 1979-80. (Under the Federal election law, an independent expenditure is an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate. The expenditure must be made without cooperation or consultation with the candidate or his/her campaign.)

More money was spent to defeat Congressional candidates (negative expenditures) in the 1981-82 election cycle than in the previous cycle. According to FEC data, 80 percent (or \$4.6 million) of money spent independently for 1982 Congressional elections advocated the defeat of some 90 House and Senate candidates, while 20 percent was spent to support candidates. During the 1979-80 cycle, 59 percent (or \$1.4 million) of independent spending on Congressional campaigns went for negative expenditures against candidates.

The total number of PACs, individuals and other groups making independent expenditures in the 1981-82 cycle decreased. Altogether, 70 PACs, 7 individuals and 17 groups reported independent spending. By contrast, during the 1980 elections, the breakdown for independent spending was 105 PACs, 33 individuals and 80 other groups. However, most 1980 independent spending was made to influence the Presidential elections.

Table 3 lists the political committees making the largest independent expenditures during 1981-82. Table 4 shows the candidates for or against whom most money was spent.

**Table 3**  
**Committees Reporting Largest**  
**Independent Expenditures**  
**1981-82**

Political Committee*	Spending For Candidates	Spending Against Candidates	Total Independent Spending
National Conservative Political Action Committee	\$137,724	\$3,039,490	\$3,177,214
Citizens Organized to Replace Kennedy	0	416,678	416,678
Fund for a Conservative Majority	0	388,399	388,399
Life Amendment Political Action Committee	36,455	219,055	255,510
National Rifle Association Political Victory Fund (NRA)	232,350	477	232,827
American Medical Association Political Action Committee (AMA)	211,624	0	211,624
Realtors Political Action Committee (National Association of Realtors)	188,060	0	188,060
Progressive Political Action Committee	8,090	134,795	142,885
Independent Action, Inc.	0	132,920	132,920
League of Conservative Voters	129,163	0	129,163

Sources: 1981-82 FEC Index of Independent Expenditures and FEC press release of October 14, 1983.

\*The connected organization (i.e., sponsor) of a separate segregated fund is indicated in parentheses.

<sup>13</sup>Source: FEC press release of October 14, 1983.

<sup>14</sup>A small portion of this spending was on 1980 races. These expenditures were included in the figures for 1981-82 because they were reported during that period.

**Table 4**  
**Candidates For or Against Whom Most**  
**Independent Expenditures Were Made**  
**1981-82**

Candidate	Spending For Candidate	Spending Against Candidate	Total Independent Spending
<b>Senate</b>			
Edward Kennedy (D-MA)	\$ 500	\$1,146,135	\$1,146,635
Paul Sarbanes (D-MD)	29,501	697,763	727,264
Robert Byrd (D-WV)	9,184	270,749	279,933
John Melcher (D-MT)	40,118	228,011	268,129
Lloyd Bentsen (D-TX)	0	226,662	226,662
Lowell Weicker (R-CT)	21,248	200,508	221,756
Howard Cannon (D-NV)	0	192,801	192,801
Edmond Brown (D-CA)	7,632	146,346	153,978
Orrin Hatch (R-UT)	22,081	82,772	104,853
Harrison Schmitt (R-NM)	5,682	76,575	82,257
<b>House</b>			
Thomas O'Neill (D-MA)	0	318,114	318,114
Jim Wright (D-TX)	0	217,115	217,115
Jim Jones (D-OK)	13,266	127,029	140,295
Dan Rostenkowski (D-IL)	0	57,507	57,507
Bob Edgar (D-PA)	24,762	8,943	33,705
Bill Chappell (D-FL)	30,332	0	30,332
Jim Dunn (R-MI)	24,013	5,500	29,513
John Kasich (R-OH)	27,294	0	27,294
Jim Coyne (R-PA)	25,019	1,681	26,700
Edward Weber (R-OH)	17,442	5,500	22,942

Sources: 1981-82 FEC Index of Independent Expenditures and FEC press release of October 14, 1983.

## Clarifying the Law

### Regulations

The year 1983 saw the culmination of work on Commission regulations, which began two years ago. During 1981 and 1982, the Commission had published Notices of Proposed Rulemaking, held hearings on certain regulations and, after considering suggestions from the public and Commission staff, refined and clarified drafted rules.

With this preliminary, but time-consuming work completed, the Commission voted final approval of proposed regulations at the end of 1982 and during 1983. Once the 98th Congress had convened in 1983, the Commission began to submit rules for Congressional review. By the end of the year, the Commission had prescribed most of these regulatory changes.

The first section below describes FEC procedures for prescribing regulations, as affected by a 1983 landmark decision by the Supreme Court. Subsequent paragraphs summarize regulatory changes approved or prescribed in 1983. (Rules related to public funding, however, are discussed in Chapter 1.) For a more detailed summary of the new regulations, see Appendix 6.

*Procedures for Prescribing Regulations.* In response to the Supreme Court's June 23, 1983, decision in *Immigration and Naturalization Service v. Chadha*,<sup>15</sup> the Commission adopted a recommendation by the General Counsel regarding the agency's procedures for prescribing new regulations. (The Federal election law provides that the Commission must submit proposed rules to Congress and may prescribe them 30 legislative days later if neither the House nor the Senate disapproves them by a legislative veto.) On June 30, the Commission decided to continue to submit its regulations to Congress for review and to wait 30 legislative days before prescribing them. The General Counsel pointed out that the election law's provisions for prescribing regulations survived as a "workable administrative mechanism without the one-House veto."

*Advertising Notices.* Approved in November 1982, pro-

<sup>15</sup>The Court held that the legislative veto provision in the Immigration and Naturalization Act of 1952 was unconstitutional.

posed rules governing the notices required for publicly advertised political communications (Section 110.11 of the regulations) were transmitted to Congress on February 25, 1983, and prescribed by the Commission on May 13. The revisions clarified existing language and added new language to reflect situations not addressed in the previous rules. For example, they made clear that corporate and labor PAC solicitations are exempt from the notice requirements, which apply only to general public communications. (Corporate and labor PACs are not permitted to solicit the general public; they may seek contributions only from certain classes of individuals within the sponsoring organization.) The full text of the new regulations was published in the *Federal Register* on March 2, 1983 (48 *Fed. Reg.* 8809).

*Jointly Owned Property.* In November 1982, the Commission voted to approve revised rules which addressed the issue of property and other financial assets jointly owned with a spouse or in which the spouse has some other legal interest under applicable State law. To the extent possible under the present election law, the new regulations relaxed previous rules which had created barriers against the use of assets held jointly with a spouse as security for a campaign loan. In addition, the revisions clarified rules with respect to community property States to ensure that assets are equally available for use in community property States and non-community property States. These new rules were transmitted to Congress on April 22, 1983, published in the *Federal Register* on April 27 (48 *Fed. Reg.* 19019) and prescribed on July 1.

*Transfers; Collecting Agents; Joint Fundraising.* On June 2, 1983, the Commission transmitted to Congress revised rules governing transfers of funds, collecting agents and joint fundraising (Sections 102.6 and 102.17 of Commission regulations). The revisions, prescribed on August 22, clarified the previous rules by making a distinction between two types of fundraising: joint fundraising — that is, election-related fundraising conducted by two or more committees — and fundraising by collecting agents — that is, fundraising by an organization (e.g., a corporation or union) on behalf of its affiliated separate segregated fund.

The new rules provided a complete set of procedures for both kinds of fundraising. The Commission published the full text of these rules in the *Federal Register* on June 7 (48 *Fed. Reg.* 26296).

*Corporate/Labor Communications.* In December 1982, the Commission had approved revised regulations on partisan and nonpartisan communications by corporations and labor organizations (Sections 114.3 and 114.4 of Commission rules). The revisions were transmitted to Congress in March 1983, but the agency withdrew them in April to obtain further public comment. After receiving numerous written comments, the Commission held public hearings in August, at which 17 witnesses presented testimony. (This was the second set of public hearings on the communications rules; the first were held in 1981.)

The Commission then modified portions of the revised rules to incorporate these public comments and resubmitted the regulations to Congress on October 27, 1983. The revised rules were published in the *Federal Register* on November 2, 1983 (48 *Fed. Reg.* 50502) and prescribed on March 5, 1984.

The revisions expanded previous rules by allowing corporations and labor organizations to distribute certain nonpartisan communications to the general public, including voting records of Members of Congress and voter guides describing candidates' positions on issues. The revised regulations also eased some of the requirements imposed on corporations and labor organizations when making partisan communications to their restricted class (i.e., those individuals within a corporation or labor organization who may receive partisan communications and solicitations to contribute to the organization's PAC). This was particularly true of the revised section on partisan appearances by candidates.

*Trade Association Solicitations.* Under the election law, an incorporated trade association must obtain a written authorization from a corporate member before it may solicit the member's executive and administrative personnel and stockholders. The Commission, on October 17, 1983, submitted to Congress new rules governing the solicitation authorization (Section 114.8 of the regulations). Under the previous regulations, a trade associ-

ation had to receive approval from a member corporation every year. The new rules allowed a corporate member to authorize solicitations for several years in advance; a separate approval document was required, however, for each year approved. The Commission published the new regulations in the *Federal Register* on October 20, 1983 (48 *Fed. Reg.* 48650) and prescribed them on February 9, 1984.

*Honoraria.* On July 30, 1983, President Reagan approved an amendment to the Federal Election Campaign Act (2 U.S.C. Section 441i(b)) which had been included in legislation providing fiscal year 1983 supplemental appropriations for Federal agencies. Section 441i prohibits Federal officers and employees from accepting more than \$2,000 for an honorarium. The newly amended subsection exempted an honorarium, or any portion of it, from the \$2,000 limit if the person receiving it, or the organization paying for it, donated the funds to charity. Under the former provision, the exemption applied only if the organization paying the honorarium gave it to a charitable organization selected from a list of at least five organizations submitted by the honorarium recipient.

The Commission approved a technical amendment to its regulations on honoraria (Section 110.12(b)(5)), which embodied the legislative change. Since the conforming amendment was not a rule representing a Commission policy interpretation, it was not published for public comment but became effective on November 21, 1983, when it was published in the *Federal Register* (48 *Fed. Reg.* 52567).

### **Advisory Opinions**

The Commission issued 44 advisory opinions (AOs)<sup>16</sup> during calendar year 1983 in its continuing effort to clarify the law through the advisory opinion process. Sum-

marized below are several 1983 opinions which addressed new issues.

*Definition of Stockholder.* The Commission issued two opinions in 1983 that provided guidelines for interpreting the term "stockholder" as defined in Commission regulations. Under the election law, a corporation and its PAC may solicit corporate executive and administrative personnel (and their families) and stockholders (and their families) as often as desired. Corporate employees who are not considered executive or administrative personnel may be solicited only twice a year; moreover, significant restrictions apply to these twice-yearly solicitations. The question raised by AOs 1983-17 and 1983-35 was whether employees, otherwise not solicitable as executives, could qualify as solicitable stockholders if they participated in a company stock ownership plan.

In AO 1983-17, requested by the Idaho Power Company, the Commission said that certain employees participating in one of the company's stockholder benefit plans did meet the definition of stockholder, while other participants did not. All participating employees satisfied two of the criteria for stockholder status: they all had a vested, beneficial interest in the stock and the power to direct how the stock would be voted. However, only some employees fulfilled a third requirement: the right to receive dividends.

Under the various benefit plans, the company automatically reinvested an employee's dividends in more shares. In order to receive dividends, an employee had to withdraw stock. The Commission concluded that unless participants in the company's plans actually withdrew stock, in spite of the restrictions, or had an unrestricted option to withdraw stock after satisfying the plan's requirements, the employees did not have access to dividends and therefore could not be solicited as stockholders.

Commissioner Frank P. Reiche filed a concurring opinion to AO 1983-17 in which he stated that, while he agreed with the conclusion that employees eligible to withdraw shares were solicitable stockholders, he believed the AO should have extended the definition of stockholder to all employees participating in the plans. He argued: "Clearly, the right of these employees to receive dividends is irrevocably established as the stock

<sup>16</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 another 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).

is set aside for them under either of these Plans. The only right which is withheld from them is the right to receive dividends as they are declared. Any dividends so declared will eventually be paid over to the employee-stockholders...."

In her dissenting opinion, Commissioner Joan D. Aikens also argued that all employees who participated in the company's plans satisfied the definition of stockholder. Citing the legislative history of the 1974 amendments to the election law, Mrs. Aikens contended that Senate conferees rejected an attempt to define the term stockholder, leaving the matter to the normal concepts of corporate law. Stating that participants in stock option plans qualified as stockholders under corporate law, the Commissioner further maintained that participants were "considered stockholders by the rules and regulations of other agencies," specifically the Internal Revenue Service. She concluded that the Commission's interpretation "relegates...participants to the status of second-class stockholders," which was, in Mrs. Aikens' view, specifically contrary to Congressional intent.

The other 1983 opinion on employee stock ownership plans, AO 1983-35, was requested by the Texas-New Mexico Power Company. The Commission decided that, under this company's plan, all participating employees would qualify as solicitable stockholders since, in contrast to the plans discussed above, the plan did not significantly impair an employee's right to receive dividends.

Under the plan, although dividends were automatically reinvested, an employee could make partial withdrawals from his or her account, could continue making contributions after a withdrawal, and could withdraw all stock purchased for him or her by the company without having to terminate employment.

Commissioner Thomas E. Harris filed a dissenting opinion to AO 1983-35. He said that, although voting to approve AO 1983-17 (the Idaho Power opinion discussed above), "I now believe that to have been an erroneous course....[E]mployees who participate in an employee stock ownership plan are 'stockholders'...only if, *inter alia*, they have the right to receive dividends directly. Employees do not have that right, in my mind, if (1) the plan requires that dividends automatically be credited toward their account and reinvested in additional company stock and (2) they must withdraw stock...in

order to receive dividends." He quoted from the legislative history of the 1976 amendments to the election law to establish his point that Congress did not intend "employees who are relatively restricted in terms of their rights and benefits *vis a vis* other stockholders to be within the permissible solicitable class." In Mr. Harris' view, Congress conferred upon such employees "a benefit under federal election law — freedom from real or potential employer coercion. It did this by exempting them from the solicitable class...unless they meet certain definable criteria which place them on a par with regular stockholders."

*Bequest to Union PAC.* In AO 1983-13, the Commission decided that the PAC sponsored by the National Maritime Union could accept a bequest of approximately \$20,500 from a member who had died. Because the member's estate was considered his alter ego for the purpose of making contributions, the estate was subject to the same prohibitions and limits as the member's contributions would have been. Therefore, the Commission said that the PAC could withdraw up to \$5,000 a year (the maximum amount the member could have annually contributed) from the interest-bearing escrow account established by the PAC to hold the bequest.

In his concurring opinion, Commissioner Reiche said that he agreed with the result reached by the Commission but did not agree with the reasoning behind the conclusion. He stated that the \$20,500 gift exceeded the contribution limits of the election law: "The mere fact that the recipient of such contributions promises not to siphon off more than \$5,000 in any calendar quarter does not mean that the value of this irrevocable gift did not exceed \$5,000 at the time of the transfer."

Mr. Reiche was also concerned about "the very real risk that deceased persons...might play a significant role in future political campaigns....The potential for solicitation of bequests and other forms of testamentary gifts is frightening in terms of permitting those who no longer have the capacity for analyzing political issues and candidates to have a meaningful voice in the process."

In his last paragraph, the Commissioner reiterated his agreement with the conclusion reached in the opinion and stated that he did not think the political system would

be "greatly harmed by permitting the administration of the bequest" as described in the opinion.

Commissioner Harris filed a dissenting opinion stating: "I agree with the views set forth in the concurring opinion of Commissioner Reiche — up to the final paragraph. However, it appears to me that his argumentation leads irresistibly to the conclusion that only \$5,000 of the bequest may legally be received by the National Maritime Union's separate segregated fund."

*Disaffiliation Between PACs.* The California Savings and Loan League asked the Commission whether its PAC could revoke its affiliated status with the PAC of the U.S. League of Savings Associations. (Under the election law, political committees established by a federation of trade associations, like the National League, and by its regional, State and local affiliates are considered affiliated committees. Affiliated committees share one contribution limit on contributions received and on contributions made.)

The California League claimed that it was not an affiliated organization of the National League because its relationship with the organization was informal, its rules and policies were not affected by the National League and membership in one organization was independent of membership in the other.

The Commission, however, concluded in AO 1983-28 that the California League was one of the National League's officially recognized State affiliates and, as a result, their respective PACs were affiliated. The Commission based its decision on certain facts concerning the two organizations. The National League's constitution entitled the California League (and other recognized State leagues) to vote on issues and nominations at national meetings. Additionally, State leagues had special nomination rights to the National League's executive committee and board of directors. The Commission also pointed out that, when the criteria for affiliation exist and are applicable, affiliation between two committees is mandatory, not discretionary.

*Expenditures.* In two 1983 advisory opinion requests, the National Conservative Political Action Committee (NCPAC) asked the Commission for guidance concerning the status of its payments for proposed activities.

NCPAC first asked about the Constituent Congratulation Program it intended to produce and broadcast — a series of 30-second television messages congratulating certain incumbent Senators on their accomplishments in office. The Commission, in AO 1983-12, assumed that the featured Senators would be 1984 "candidates" under the election law. Although NCPAC contended the messages would be aired without regard to the Senators' reelection campaigns, the Commission advised that NCPAC's payments for the program would constitute expenditures made to influence elections. If coordinated with the Senators or their campaign agents, the payments would be in-kind contributions subject to the limits and other requirements of the election law.

In support of its view that the payments were election-related expenditures, the Commission noted that:

- NCPAC's status as a "political committee" under the election law and as a "political organization" for Federal income tax purposes supported the inference that the Congratulation Program was designed to influence 1984 Senate races;
- NCPAC planned to air the messages during the 18 months preceding the 1984 general election;
- The content of the messages indicated that an election-influencing purpose predominated; and
- The program did not appear to have any significant content that would distinguish it from election-influencing activity, such as content related to the duties of the officeholders.

In a later request for an advisory opinion, NCPAC asked whether its planned expenditures on behalf of a Senate candidate would be considered independent expenditures<sup>17</sup> if NCPAC and the Senate campaign both used the volunteer services of the same singer. The singer was to volunteer first for NCPAC fundraisers and later for the Senate campaign.

In AO 1983-26, the Commission decided that NCPAC's proposed expenditures for the Senate candidate could still qualify as being independent as long as 1) the singer's appearances at NCPAC fundraisers were not made in cooperation with, or with the prior consent of, the Senate candidate or his campaign; and 2) the

<sup>17</sup>The term independent expenditure is defined in footnote 4, page 6.

artist received no form of compensation from the Senate campaign and had no other involvement with it.

Commissioner Reiche filed a concurring opinion to state that his agreement with AO 1983-26 “should not be construed to reflect any change in my position on...appearances by entertainers in political campaigns. It remains my firm and unshakable belief that the volunteer services exception [contained in the election law] was not intended to cover a professional entertainer giving a performance and therefore that such a performance constitutes a contribution....” (Mr. Reiche’s previous dissents to advisory opinions concerning services volunteered by professional entertainers and artists are briefly summarized in the *Annual Report 1980*, page 35.)

*Reporting Payments Made by Contractor.* In its request for an advisory opinion, Walter Mondale’s campaign committee, Mondale for President, Inc., explained that it intended to engage in a contract with Consultants ’84, Inc. for media-related services such as production of campaign advertising and the purchase of television and radio time and newspaper space. The Mondale Committee proposed reporting payments made to Consultants ’84 as expenditures to a vendor, without further disclosing the payments made by Consultants ’84 in its performance of the contract (for example, its payments to radio and television stations, newspapers, production studios). To fulfill its recordkeeping obligations under the law, the Mondale Committee planned to retain the contractor’s invoices and the Committee’s canceled checks made in payment of the bills.

In AO 1983-25, the Commission said the Committee’s reporting and recordkeeping plan satisfied the election law’s requirements. Although the Committee did not have to report the contractor’s individual payments for services or products, the Commission noted that the Committee had to include an adequate description of the purpose of its expenditures to the contractor.

The following facts supported the Commission’s view that Consultants ’84 was a vendor:

- Consultants ’84 had a legal existence that was separate and distinct from the Committee; its principals were not members of the Mondale campaign staff.

- The Committee was conducting arms-length contract negotiations with Consultants ’84.
- Consultants ’84 expected to have three or four media contracts with other entities.

Commissioner Reiche wrote a dissenting opinion to AO 1983-25. Commissioner Harris concurred in Mr. Reiche’s dissent, which stated that: “As a consequence of the Commission’s decision, it is entirely possible that substantial sums, including public monies, will be spent by candidates and reported only as a brief entry....” Noting that the General Counsel had suggested requiring candidates to disclose the identity of the person who provides goods and services to a campaign, Mr. Reiche went on to say that he agreed with this suggestion “since the absence of such descriptive information means that disclosure is minimal at best.” Furthermore, in his view, one could not “reasonably conclude” that Consultants ’84 was the actual provider of goods and services. Mr. Reiche also contended that the advisory opinion “emphasize[d] expediency and convenience at the expense of the public’s right to know.”

In response to this dissenting opinion, the four Commissioners who voted to approve AO 1983-25 — Commissioners Aikens, Elliott, McDonald and McGarry — filed a statement in which they said that their decision was based strictly on the reporting requirements of the election law. The Commissioners maintained that only the agency’s recordkeeping regulations, as opposed to those on reporting, define the term “payee” as the person who provides the goods and services to a committee. Furthermore, “the majority of the Commission felt that based on the facts included in the advisory opinion request, Consultants ’84 Inc. was, in this case, the provider of goods and services to Mondale for President....”

In closing, the Commissioners stated: “We wholeheartedly agree that there are excellent policy arguments to consider which would favor requiring more detailed reporting for publicly funded Presidential candidates. In our opinion, however, those stricter requirements do not presently appear in either the statute or the regulations.”

*Sale of Campaign Assets.* In AO 1983-2, the Commission explained when proceeds from the sale of a campaign’s assets would be contributions to the campaign, and when they would not. The Citizens for Emery Com-

mittee requested the Commission's opinion concerning its plan to pay off campaign debts by selling computer services. The Commission concluded that the proceeds collected would be considered contributions, subject to the election law's limits and prohibitions. The Commission contrasted this opinion with several others in which the agency had allowed campaigns to sell leftover assets to retire debts without the proceeds counting as contributions. The Emery Committee, by contrast, did not view the computer equipment as a leftover asset which it intended to sell outright to retire debts. Instead, it proposed to use the equipment in a continuing venture to raise funds.

*State Tax Checkoff.* AO 1983-15 concerned funds collected by means of a voluntary checkoff designation on Virginia income tax forms. Under Virginia law, a taxpayer entitled to a refund may opt to check off \$2 of the refund for either the Democratic or Republican State party committee. The State treasurer distributes the funds to the parties. The Commission held that the checkoff funds would constitute contributions made by individual taxpayers if the party deposited the money in a Federal account used for Federal election activity.

In previous advisory opinions, the Commission had ruled that tax checkoff funds in other States were not contributions because the taxpayers did not increase their tax liability or reduce their refunds. However, by choosing to donate \$2 to a party, a Virginia taxpayer reduces his or her refund by the same amount and thus would make a \$2 contribution.

## Monitoring the Law

In 1983, the Commission's team of reports analysts continued to monitor the financial reports submitted by committees. The analyst's role, as in past years, was to make sure committees adequately disclosed information in their reports or corrected misinformation in order to maintain the accuracy and integrity of the public record. Additionally, reports analysts promoted voluntary compliance with the law by assisting committee treasurers with their reporting questions. Over the years, analysts had encouraged committees to call them for guidance and, as a result, had developed good working relation-

ships with committee personnel. During 1983, analysts met personally or spoke by phone with some 4,000 committee staff members.

## Enforcing the Law

### MURs and Litigation

The Commission enforces the election law through two legal procedures: compliance matters — Matters Under Review (MURs) — and litigation. (A MUR is a possible violation of the election law brought to the Commission's attention by agency staff, through their normal monitoring duties; by a member of the public who has filed a formal complaint with the agency; or by a referral from another government agency. By statute, a compliance matter remains confidential until the case is resolved. The MUR is then put on the public record.)

Beginning in June 1983, research on MURs benefited from the creation of the *FEC MUR Index*. Available to staff and public alike, the Index was a computerized document summarizing information on all closed MURs. Divided into four parts, the MUR Index grouped MURs according to topic, to statutory provision, and to individuals involved in compliance actions — as either complainants or respondents. (Complainants are those who file complaints; respondents are those alleged to have violated the law.) The fourth part of the Index provided summary information on each MUR. The Commission planned to update the MUR Index periodically.

While the number of the MURs closed in 1983 did not increase, as compared with previous years, the cases were of a greater complexity and generally dealt with more substantive issues. With regard to litigation, many of the suits filed by the Commission in 1983 originated as MURs. The agency brought suit when it was unable to reach a conciliation agreement with the respondent. On the other hand, a few complainants sued the Commission, seeking judicial review of the Commission's actions in compliance cases.

Apart from these compliance-related suits, the Commission also defended the constitutionality of the law. In one case closed during 1983, the Commission defended the constitutionality of the law's restrictions on corporate activity. (See summary of *Athens Lumber v. FEC*, be-

low.) In another, the Commission itself asked the courts to uphold the constitutionality of the law's restriction on committee expenditures on behalf of publicly funded Presidential nominees in the general election. (See summary of *FEC v. National Conservative Political Action Committee and Fund for a Conservative Majority*, page 7.)

### Legal Issues

Summarized below are selected compliance actions and court cases. One involved a constitutional challenge to the election law; the remaining cases concerned the agency's enforcement of the law's prohibitions and limits on contributions.

**Constitutional Issue.** In a direct challenge to the prohibitions on corporate contributions contained in the law (2 U.S.C. Section 441b(a)), Athens Lumber Co., a corporation, and its president, John P. Bondurant, filed suit in July 1981. Claiming the provision abridged the corporation's First and Fifth Amendment rights, plaintiffs asked a U.S. district court in Georgia to certify their constitutional questions on Section 441b. Although the district court dismissed the suit in February 1982, holding that Athens Lumber and Mr. Bondurant lacked standing to bring suit, a three-judge panel of the court of appeals reversed that decision and certified eight constitutional questions to the *en banc* U.S. Court of Appeals for the Eleventh Circuit. The suit was decided on October 24, 1983, when the *en banc* court upheld the constitutionality of Section 441b's corporate restrictions. In its opinion, the court said that the constitutional issues had already been resolved by the Supreme Court in another case concerning Section 441b, *FEC v. National Right to Work Committee* (summarized in the *Annual Report 1982* on pages 14-15). Therefore, for the reasons stated in the high Court's opinion, the *en banc* court found "the limitations and prohibitions of which appellants complain to be constitutional."

**Other Corporate Activity.** In addition to defending the constitutionality of corporate restrictions, the Commission also enforced them during 1983 in several compliance actions. One of the compliance cases, MUR 1445, was noteworthy in that the respondents themselves no-

tified the Commission that they had violated the law. An agent of a Canadian insurance company had obtained advice from a political "expert" about making political contributions. The expert had suggested that corporate employees could make contributions using "bonuses" from the corporation. Contributions totaling \$75,000 were made this way. The Canadian company loaned money to its incorporated U.S. agents, which used the funds to reimburse individuals who had made contributions.

Although the Canadian company satisfied the Commission that it had made the loans without knowledge of their intended use, the Commission found that the incorporated U.S. agents had violated the law by making prohibited corporate contributions and, along with the individual contributors, had also violated the provision which prohibits contributions made in the name of another. Civil penalties for these violations amounted to \$29,900.

In another compliance case closed during 1983, MUR 1363, a complainant alleged that a political committee had received support from a corporation but had not disclosed the corporation as its sponsor on the form used by committees to register with the Commission. The complainant contended that, if the committee was not the corporation's PAC, it had received prohibited corporate contributions. On the other hand, if it was a corporate PAC, then it had made illegal solicitations, according to the complainant, by seeking contributions from persons who were not corporate personnel or stockholders.

The ensuing Commission investigation revealed that the corporation had provided the committee with facilities, clerical support, the services of an officer during company time, office supplies and postage. The corporation and committee maintained that the time spent by corporate employees was "incidental" and within the limits established for this kind of volunteer activity. They also claimed that the corporation had billed the committee for the supplies. However, the Commission found that, nine months after disclosing this \$14,000 debt, the committee had paid less than half.

The Commission concluded that, because the corporation had advanced administration costs to the committee and because certain key principals of the corporation were actively involved in the committee's affairs, the corporation appeared to be the sponsoring organization of

the committee. The agency therefore determined that the corporation and its PAC had violated the law's solicitation provisions, as alleged. The conciliation agreement included a \$1,000 civil penalty.

*Contribution Limits.* Through compliance actions and litigation, the agency enforced the election law's contribution limits, prohibitions and reporting requirements.

In *FEC v. Nick Mastorelli Campaign Fund*, the U.S. District Court for the District of New Jersey entered a default judgment against the Campaign Fund and its treasurer. (The default judgment resulted from defendants' failure to appear in court.) Affirming the Commission's claims against the Campaign Fund, the court decreed that the Mastorelli Campaign and its treasurer had violated the election law by:

- Accepting excessive contributions in the form of a loan from three individuals;
- Accepting \$21,050 in excessive cash contributions;
- Accepting contributions from corporations in 1978; and
- Failing to file timely reports for the 1978 election year and failing to report at all during 1980 and thereafter.

The court enjoined the defendants from any further violation of the election law and assessed a \$5,000 civil penalty against the Mastorelli Campaign and its treasurer.

In MUR 1414, a compliance case which focused on both excessive contributions and prohibited corporate contributions, an individual formed a political committee to make independent expenditures<sup>18</sup> in the form of ads supporting the election of two Federal candidates. Using funds from his solely-owned corporation, the individual made a \$19,882 advance payment to a media firm for the ads. Later, he and four other individuals each contributed \$5,000 to the committee, which used the contributions to repay the corporate loan. The Commission found that the advance of corporate funds was a prohibited contribution. The Commission also determined that the

<sup>18</sup> The term independent expenditure is defined in footnote 4 on page 6.

contributions exceeded the law's limits. Although the committee qualified as a multicandidate committee (which could normally accept up to \$5,000 per year from a contributor), the individuals' contributions were subject to the lower limit that applies to contributions to a candidate because the contributors knew that a substantial portion of their contributions would be expended on behalf of a certain candidate. Civil penalties for these violations totaled \$2,500.

## Clearinghouse Activities

The Commission's National Clearinghouse on Election Administration continued its research on the Congressionally mandated study to assess the need for, and the feasibility and cost of, developing voluntary standards for voting equipment used in the United States. The preliminary report, sent to Congress in early 1984, supported the need to develop voluntary standards for all voting equipment. The report proposed developing standards for three components of voting equipment: computerized hardware, computerized software and management of the equipment. The Clearinghouse planned to begin work in 1984 on the first phase of a project to develop standards, using a contractor to formulate standards on hardware and drawing on the expertise of in-house staff to prepare the management standards.

The voting equipment study was one of several topics discussed at the Clearinghouse Advisory Panel meeting held in April 1983. The 17-member panel, composed of State and local election officials, also discussed future Clearinghouse research projects and the regional conferences (discussed on page 9), which opened in the fall of 1983.

The Clearinghouse also played a leading role in the development and planning of the conferences. The office selected the five conference sites, coordinated efforts between the Commission and the State and local co-sponsors, publicized the events and organized the 17 workshops on election administration, conducted at all of the conferences.

## Chapter 3

# The Commission

### Commissioners and Staff Director

On December 16, 1982, the Commission unanimously elected Danny L. McDonald as Chairman and Lee Ann Elliott as Vice Chairman.<sup>19</sup> Both served one-year terms as Commission officers beginning January 1983.

Two Commissioners also received reappointments extending their terms to April 1989. Nominated by President Reagan on June 10, 1983, Commissioners Joan D. Aikens and John Warren McGarry appeared at Senate confirmation hearings on July 14. The Senate unanimously confirmed their six-year appointments on July 29.

July also saw the appointment of a new Commission Staff Director, John C. Surina. He assumed his position, the highest management position in the agency, on July 25. Mr. Surina succeeded B. Allen Clutter, who had resigned in May to accept a position in the private sector.

The Commission elected officers for 1984 on December 15, 1983. Commissioner Elliott was elected Chairman and Commissioner Thomas E. Harris, Vice Chairman. Both began their one-year terms as Commission officers on January 1, 1984.

### Budget

#### Fiscal Year 1983

The Commission's total funding for fiscal year 1983<sup>20</sup> amounted to \$9,897,000. The funds consisted of \$9,700,000 which Congress appropriated to the agency in two continuing resolutions, and a supplemental appropriation of \$197,000 to cover a portion of the October 1982 pay raise received by agency employees.

Although the Commission did not continue the partial hiring freeze of fiscal year 1982, the staff level did not substantially increase during fiscal year 1983 partly because of the agency's uncertainty over the amount of its final funding. The Commission used the savings in personnel costs to replace certain inadequate equipment — primarily the microfilm reader/printers used by the public. It was imperative for the agency to replace these ma-

chines as they were so old the Commission could not renew a maintenance contract for them.

Although the Commission did not increase overall staff as originally planned, it filled several auditor positions to enable the Audit Division to carry the increased workload of Presidential elections. Because the division participates extensively in the public funding program, its workload fluctuates with the Presidential election cycles. Staff levels change accordingly. Once the bulk of the 1980 Presidential activity was completed, for example, the division was reduced by 16 positions. The fiscal year 1983 appointments replaced some, but not all, of these positions. Remaining staff needs were to be met in new ways. The Commission intended, in fiscal year 1984, to supplement the permanent staff with temporary personnel and with auditors on temporary assignment from the General Accounting Office. In this way, the Commission planned to match or exceed its 1980 performance in the public funding program while keeping its in-house staffing at a minimum.

The cyclical nature of Commission programing was again demonstrated in the agency's commitment of resources to the regional conference program (see page 9). Similar to the seminar program staged four years earlier, the conferences provided technical assistance to committees in anticipation of their heightened activity in a Presidential election year.

In terms of its internal operations, two areas continued to show increased productivity, as they had over the previous two fiscal years. The reports review function substantially reduced production costs in spite of an increased workload. For example, the number of reports reviewed increased 55 percent from fiscal year 1982 to fiscal year 1983, while the average cost to review a report dropped 32 percent. As in the past, this productivity was attributed to a comprehensive reports review policy and a more experienced staff.

Data coding and entry functions also showed increases in the number of documents processed with an overall decline in production costs. In the Pass I entry program,<sup>21</sup> for example, 17 percent more documents

<sup>19</sup>Biographical sketches of the Commissioners and statutory officers appear in Appendix 1.

<sup>20</sup>See also Appendix 4.

<sup>21</sup>Computer coding and entry of campaign finance information occur 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.

were processed than in the previous fiscal year, with a 41 percent decrease in the cost per document. This rise in productivity in the coding and entry of computer data could be attributed to refinements made to internal coding procedures and to the partial phase-in of a contractor to enter Pass III data. The Commission planned to turn over a major portion of Pass III entry functions to the contractor in fiscal year 1984 in an effort to stabilize the in-house data entry staff level. The contract avoided the need to increase and decrease in-house staff during peak and slack periods. At the same time, it increased productivity.

#### **Fiscal Year 1984**

*FEC Request for Funds.* During four Congressional hearings held in March and April, Commission Vice Chairman Lee Ann Elliott requested a "bare-bones, no-frills budget" of \$10,343,139 for fiscal year 1984. The Commissioner, accompanied by Chairman Danny L. McDonald and Commissioner John Warren McGarry, testified before the Subcommittee on Treasury, Postal Service and General Government of the Senate Committee on Appropriations; the Senate Committee on Rules and Administration; the House Committee on Appropriations' Subcommittee on Treasury, Postal Service and General Government; and the Task Force on Elections of the Committee on House Administration.

Commissioner Elliott explained that, in terms of real dollars, the Commission's fiscal year 1984 budget request was the third smallest appropriation request in the agency's eight-year history. When adjusted for inflation, the \$10.3 million request equated to \$5,172,500 (based on 1974 dollars). During the 1980 Presidential election year, the Commission operated on a \$6,077,000 appropriation (based on 1974 dollars).

Because the Commission instituted a number of economies, Mrs. Elliott testified, the agency would be able to carry out its responsibilities at the \$10.3 million level of funding. But she also pointed out that, since 1984 was a Presidential election year, the Commission would have additional responsibilities mandated by the election law.

*Congressional Authorization.* After hearing Commissioner Elliott's testimony, the Committee on House Administration unanimously endorsed a fiscal year 1984

authorization of \$10,849,139 — over \$500,000 more than the Commission's request. In a Report issued on April 20, the Committee explained that it recommended the higher figure because Congress had adopted new legislation imposing higher personnel costs (e.g., Medicare, Social Security) after the Commission had submitted its budget request. Secondly, the Committee recognized that the agency needed money for upgrading equipment since shrinking funds had required the agency to delay investing money in this area. Finally, as Commissioner Elliott had pointed out, the Committee realized that the Commission's request was austere compared with its 1980 budget. The Report stated: "If the Commission were requesting for fiscal 1984 the budget they had, in real terms, in the last Presidential election year, the Commission would be requesting \$12.154 million."

The Report also said that "it is to the Commission's credit that they have been able to reduce their budgetary needs rather substantially. The Committee appreciates the Commission's efforts...."

Later that April, the House of Representatives unanimously passed a bill that would authorize the full \$10.849 million in funding. The Senate Rules Committee recommended the same level of funding in a May 16 Report.

In a May letter to the subcommittees on Treasury, Postal Service and General Government of the House and Senate Committees on Appropriations, the Commission urged support for the full amount of funding, rather than its original request, stating that "these additional funds would help meet pressing equipment needs, particularly for computer services" and "would directly aid the Commission in its campaign finance disclosure activities...."

*Final Appropriation.* On October 1, 1983, the first day of fiscal year 1984, Congress provided a \$10,000,000 interim funding level for the Commission in a continuing resolution extending through November 10, 1983. In a second continuing resolution, enacted on November 14, Congress appropriated funding for the agency through the entire fiscal year at a level of \$10,649,000.

## **Internal Audits**

The Commission established a formal internal audit program on October 26, 1983. The program was designed to help the agency monitor finances in areas such as contract administration, small purchases, procurement and collection of fees. The Commission assigned the Audit Division the responsibility of developing procedures, targeting specific activities and conducting the internal reviews on an unannounced basis throughout the agency. The internal audit program provided for a continuing critical review of the agency's financial control system.

## **Personnel and Labor Relations**

During 1983, the Commission adopted formal directives setting policies and procedures for hiring, promotions and other internal personnel matters affecting nonbargaining unit staff members. In addition, preparations were under way for collective bargaining under a reopen-

er clause in the current labor contract with the National Treasury Employees Union. Other projects initiated in 1983 included the planning of a recruitment/career development program and increased emphasis on technical and managerial training.

Moreover, the Commission's Equal Employment Opportunity (EEO) program, under the direction of a new officer appointed in late 1982, underwent considerable revision in 1983. The agency developed and approved a multiyear affirmative action plan, covering 1983-85, which projected goals for full compliance with the guidelines for employment of women and minority groups established by the EEO Commission. The agency also streamlined and updated its internal procedures for filing EEO complaints and held training sessions for managers and staff on the problem of sexual harassment. Taking advantage of the 1983 regional conferences, Commission attorneys participating in the conferences held recruiting sessions at law schools, located in the conference cities, which enrolled a significant percentage of women and minority groups.

## Chapter 4 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 1, 1984. Unless otherwise noted, each of these 19 recommendations was previously submitted to the President and Congress in 1982 and 1983.

### Definitions

#### Draft Committees<sup>22</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 Undeclared but Clearly Identified 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**.”

2. *Restrict Corporate and Labor Organization Support for Undeclared but Clearly Identified 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:* These proposed amendments were prompted by the decisions 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* and the U.S. Court of Appeals for the Eleventh Circuit in *FEC v. Florida for Kennedy Committee*. The District of Columbia Circuit 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. Similarly, the Eleventh Circuit found that “committees organized to ‘draft’ a person for federal office” are not “political committees” within the Commission’s investigative authority. The Commission believes that the appeals court rulings create 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.

<sup>22</sup> Previously submitted in 1981, 1982 and 1983.

**Volunteer Activity<sup>23</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:* 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 create artwork for 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>24</sup>**

*Section:* 2 U.S.C. §432(g)

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

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

*Explanation:* 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,

<sup>23</sup> A similar recommendation was submitted in 1981, 1982 and 1983.

<sup>24</sup> Previously submitted in 1981, 1982 and 1983.

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<sup>25</sup>**

*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:* In cases where reporting requirements are excessive or unnecessary, it would be helpful if the Commission had authority to suspend the reporting require-

<sup>25</sup> Previously submitted in 1983.

ments 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.

Moreover, a Presidential primary candidate who has triggered the \$100,000 threshold but who is no longer actively seeking nomination should be able to reduce reporting from a monthly to a quarterly schedule.

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**

*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:* 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**

*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 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:* 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 con-

tributor 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>26</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, but the Act contains no such provision. If Congress intended the Commission to have a role in determining the insolvency of political committees and the liquidation of their assets, Congress should clarify the nature and scope of this authority.

*Explanation:* 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

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

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

When clarifying the nature and scope of the Commission's authority to determine the insolvency of political committees, Congress should consider the impact on the Commission's operations. An expanded role in this area might increase the Commission's workload, thus requiring additional staff and funds.

## Local Party Activity

### Separate §441a(d) Limit for Local Party Committees in Presidential Elections

*Section:* 2 U.S.C. §441a(d)

*Beneficiary of Change:* Local Party Committees

*Recommendation:*<sup>27</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:* Local party committees share the State party's §441a(d) limit for Congressional elections but have no statutory role under that section for Presidential

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<sup>27</sup>Commissioners McDonald and Harris filed the following dissent: 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 our colleagues have taken will in no way build up these local parties and will quite likely make these committees merely another

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

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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 broaden it.

process. (It is assumed that the national committee would delegate its authority with respect to spending by State party committees in Presidential elections.)

If Congress were to consider this recommendation, it would be necessary for Congress to define, with some degree of precision, "local party committee."

## Enforcement

### Modifying "Reason to Believe" Finding

*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:* 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.

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

## Public Financing

### Repeal the State Expenditure Limitations for Publicly Financed Presidential Campaigns

*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:* 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.

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 person-

nel 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**

*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>28</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:* Campaigns that have sufficient funds to spend up to the overall limit usually allocate some of their expenditures to the 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<sup>29</sup>**

*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:* 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.

<sup>28</sup> Spending limits are increased by the cost-of-living adjustment (COLA), which the Department of Labor calculates annually.

<sup>29</sup> Previously submitted in 1983.

## Contributions

### Application of Contribution Limitations to Family Members<sup>30</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:* 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.<sup>31</sup>

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

*Section:* 2 U.S.C. §441e

*Beneficiary of Change:* Foreign Nationals, Candidates

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

*Explanation:* 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

*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 candidate, per election. It does not address the issue of *accepting* cash contributions. Moreover, the current statutory language does not plainly prohibit cash contributions in excess of \$100 to political committees other than authorized committees of a candidate.

*Explanation:* 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.

<sup>30</sup> A similar recommendation was submitted in 1982 and 1983.

<sup>31</sup> While the Commission has attempted through regulations to present an equitable solution to some of these problems (see 48 *Fed. Reg.* 19019 (April 27, 1983) as prescribed by the Commission on July 1, 1983), statutory resolution is required in this area.

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.

Secondly, the statutory text seems to suggest that the prohibition contained in §441g applies only to those contributions given to candidate committees. This language is at apparent odds with the Commission's understanding of the Congressional purpose to prohibit any cash contributions which exceed \$100 in Federal elections.

## Fraudulent Misrepresentation

### Fraudulent Solicitation of Funds

*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 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 not forwarded to or used by or on behalf of the candidate or party.

*Explanation:* 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.

### Fundraising Projects Operated by Unauthorized Committees<sup>32</sup>

*Section:* 2 U.S.C. §432(e)(4)

*Beneficiary of Change:* Candidates, Public

*Recommendation:*<sup>33</sup> Congress may wish to consider amending the statute, at 2 U.S.C. §432(e)(4), to clarify that a political committee that is not an authorized committee of any candidate may not use the name of a candidate in the name of any "project" or other fundraising activity of such committee.

*Explanation:* The statute now reads that a political committee that is not an authorized committee "shall not include the name of any candidate *in its name* [emphasis added]." In certain situations presented to the Commission the political committee in question has not included the name of any candidate in its official name as registered with the Commission, but has nonetheless carried out "projects" in support of a particular candidate using the name of the candidate in the letterhead and text of its materials. The likely result has been that recipients of communications from such political committees were led to believe that the committees were in fact authorized by the candidate whose name was used. The requirement that committees include a disclaimer regarding nonauthorization (2 U.S.C. §441d) has not proven adequate under these circumstances.

<sup>32</sup> This recommendation is being submitted for the first time.

<sup>33</sup> Commissioner Elliott filed the following dissent: I support the policy underlying this legislative recommendation and recognize the seriousness of the problem necessitating such a recommendation. However, the scope of the recommendation is far too broad and inflexible given the traditional fundraising events, especially those held by political parties and some unauthorized political committees.

The Commission believes that the intent behind the current provision is circumvented by the foregoing practice. Accordingly, the statute should be revised to clarify that the use of the name of a candidate in the name of any "project" is also prohibited.

## Honoraria

### Technical Amendments

*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. Section 441i should be placed under the Ethics in Government Act.

2. As technical amendments, Sections 441i(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:* Congress eliminated the \$25,000 annual limit on the amount of honoraria that could be accepted,

(continued from page 39)

Party committees are not authorized committees and therefore would come under the general prohibitions included in the recommendation, precluding the use of a candidate's name for any activity of a party committee. Oftentimes, however, fundraising events conducted by a party committee incorporate the name of a well-known member of Congress as a fundraising tool. Typically, the fundraising contributions are made in the form of checks made payable to the name of the event, e.g., "Happy Birthday, Senator Smith"; "Mike's Annual Barbecue"; "Sail With Senator Sanford"; "Roast Roberts." I do not believe Congress intends to preclude the use of the candidates' names in such activities, especially when the candidate is not only aware that his/her name is being used but approves and is actively participating in the event.

I would propose that the candidate be entitled to authorize the use of his or her name for such an event or activity provided the authorization is written. Again, I recognize the seriousness and the need to address this issue; however, Congress should not exclude fundraising tools which have been traditionally used by political committees.

Further, the impact of this recommendation has not been evaluated in the context of our brand-new joint fundraising regulations.

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.

## Commission Information Services

### Budget Reimbursement Fund

*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:* 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 1982, in return for services and materials it offered the public, the FEC collected and transferred \$61,144 in miscellaneous receipts to the Treasury. In FY 1983, the amount was \$91,969, and during the first three months

of FY 1984, \$24,916 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.

# Appendix 1

## Biographical Data on Commissioners and Statutory Officers

### Commissioners

#### **Danny L. McDonald, Chairman**

**April 30, 1987<sup>34</sup>**

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.

#### **Lee Ann Elliott, Vice Chairman**

**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 1983, Mrs. Elliott was elected to serve as Commission Chairman during 1984.

#### **Joan D. Aikens**

**April 30, 1989**

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, Colleagueville, 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.) In 1983, President Reagan again reappointed Mrs. Aikens, this time for a six-year term.

#### **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

<sup>34</sup> Term expiration date.

reconfirmed Mr. Harris for a six-year term. In December 1983, he was elected to serve as Commission Vice Chairman during 1984.

**John Warren McGarry**  
**April 30, 1989**

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.

In 1983, President Reagan named Mr. McGarry to serve a second term as Commissioner.

**Frank P. Reiche**  
**April 30, 1985**

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. He served as Commission Chairman in 1982.

## Ex Officio Commissioners

**Benjamin J. Guthrie**

Mr. Guthrie, an Ex Officio Member of the Commission, was elected Clerk of the House of Representatives on January 3, 1983. He had previously served as Sergeant at Arms of the House, from 1980 to 1982, and as printing clerk and director in the House Legislative Processes office, from 1957 to 1980. He joined the House staff after 11 years with the U.S. Government Printing Office. A World War II veteran, Mr. Guthrie served with the U.S. Army Signal Corps from 1942 to 1946, after graduating from the Maryland State Teachers College in Salisbury, Maryland.

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

**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 at the Commission as Special Deputy to the Secretary of the Senate.

## Statutory Officers

### **John C. Surina, Staff Director<sup>35</sup>**

Before joining the Commission in July 1983, Mr. Surina was Assistant Managing Director of the Interstate Commerce Commission (ICC), where he was detailed to the "Reform 88" program at the Office of Management and Budget. In that role, he worked on projects to reform administrative management within the Federal government. From 1973 to 1980, Mr. Surina served the ICC in other capacities. During 1972 to 1973, he was an expert-consultant to the Office of Control and Operations, EOP-Cost of Living Council-Pay Board. Before that, he was on the technical staff of the Computer Sciences Corporation. Mr. Surina joined the U.S. Army in 1966, completing his service in 1970 as Executive Officer of the Special Security Office. As Executive Officer, he sup-

<sup>35</sup>The former Staff Director, B. Allen Clutter, resigned in May 1983 to accept a position in the private sector.

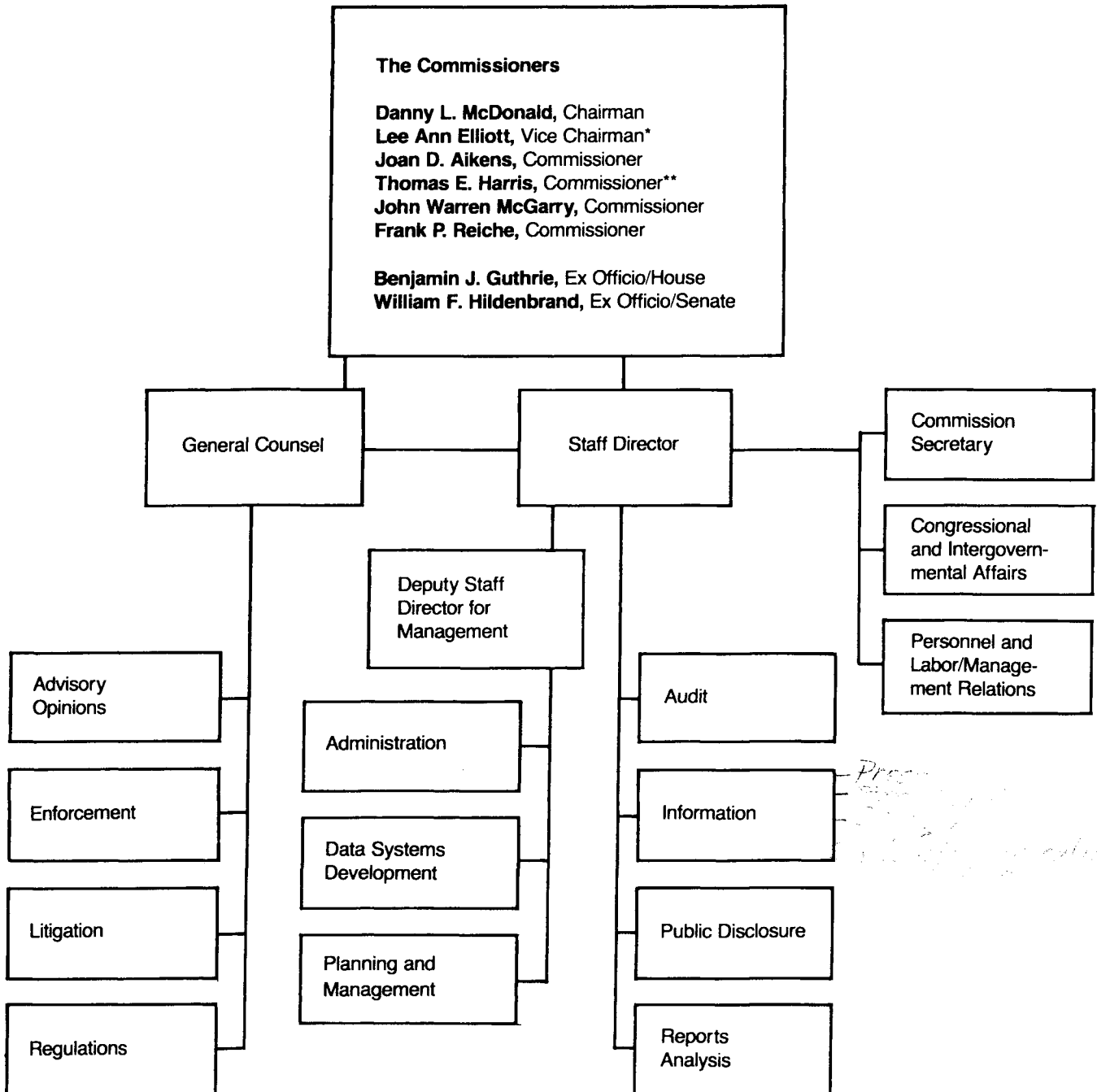
ported senior U.S. Delegates to NATO's civil headquarters in Brussels, Belgium.

A native of Alexandria, Virginia, Mr. Surina holds a Bachelor of Science in Foreign Service from Georgetown University. He also attended East Carolina University in Greenville, North Carolina, and American University in Washington, D.C.

### **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.

# Appendix 2 FEC Organization Chart



\*Commissioner Elliott was elected to serve a one-year term as Commission Chairman beginning January 1, 1984.  
 \*\*Commissioner Harris was elected to serve a one-year term as Commission Vice Chairman beginning January 1, 1984.

## Appendix 3

### Chronology of Events, 1983

#### January

- 1—Commissioners Danny L. McDonald and Lee Ann Elliott begin serving one-year terms as Commission Chairman and Vice Chairman, respectively.
- 7—Commission releases preliminary figures on financial activity of Congressional campaigns from 1981 through November 1982.
- 14—Commission releases updated figures on growth of political action committees (PACs).
- 24—Commission transmits to Congress revised primary matching fund regulations.
- 28—Commission releases preliminary figures on financial activity of national party committees and political action committees (PACs) from 1981 through November 1982.
- 31—1982 year-end report due.

#### February

- 10—Commission decides to postpone official action on contributions submitted for primary matching funds until corresponding revised regulations are prescribed.
- 12—Texas holds special election in 6th Congressional District.
- 16—Commission makes available revised Presidential reporting form (FEC Form 3P).
- 25—Commission transmits to Congress revised regulations on use of disclaimer notices on political advertisements and solicitations.

#### March

- 1—Commission transmits to Congress revised regulations on communications by corporations and labor organizations (later withdrawn; see April 22, below).
  - New York holds special election in 7th Congressional District.
- 8—Commission approves revised edition of *Financial Control and Compliance Manual for Presidential Primary Candidates Receiving Public Funds*.
- 15—U.S. District Court for the District of Columbia, in *Satellite Business Systems (SBS) v. FEC*, grants plaintiffs' motion to dismiss suit challenging Commission advisory opinion which prohibited SBS, a

partnership composed of corporate members, from either making contributions or establishing a separate segregated fund.

- Commission testifies on fiscal year 1984 budget before Senate Appropriations Committee's Subcommittee on Treasury, Postal Service and General Government.
- 22—Commission releases preliminary figures on independent expenditures made during 1981-82 election cycle.
- 28-29—Advisory Panel of Commission's National Clearinghouse on Election Administration meets in Washington, D.C.
- 29—Colorado holds special election in 6th Congressional District.
- 31—Commission submits 1983 recommendations for legislative change to the President and Congress.

#### April

- 4—Commission prescribes revised primary matching fund regulations.
- 6—Commission testifies on fiscal year 1984 budget before Senate Committee on Rules and Administration.
- 12—Commission testifies on fiscal year 1984 budget before House Appropriations Committee's Subcommittee on Treasury, Postal Service and General Government.
- 13—Commission testifies on fiscal year 1984 budget before House Administration Committee's Task Force on Elections.
- 14—Commission determines Democratic Presidential candidates Walter Mondale and Alan Cranston eligible to receive primary matching funds.
- 22—Commission transmits to Congress revised regulations on candidate's use of property in which spouse has interest.
  - Commission withdraws from Congressional review revised regulations on communications by corporations and labor organizations (later resubmitted to Congress; see August 9-10 and October 27, below).
- 26—Commission releases statistics on party committees based on interim *FEC Reports on Financial*

*Activity, 1981-1982: Party and Non-Party Political Committees.*

- 29**—Commission releases statistics on political action committees (PACs) based on interim *FEC Reports on Financial Activity, 1981-1982: Party and Non-Party Political Committees.*

#### May

- 2**—Commission releases statistics based on interim *FEC Reports on Financial Activity, 1981-1982: U.S. Senate and House Campaigns.*
- 13**—Commission prescribes revised regulations on use of disclaimer notices on political advertisements and solicitations.
- 15**—Commission Staff Director B. Allen Clutter resigns.
- 19**—Commission determines Democratic Presidential candidate Reubin Askew eligible to receive primary matching funds.

#### June

- 1**—Commission submits *Annual Report 1982* to the President and Congress.
- 2**—Commission transmits to Congress revised regulations governing transfers of funds, collecting agents and joint fundraising.
- 6**—Commission introduces computerized *FEC MUR Index*, which presents information on publicly released compliance cases.
- 10**—President Reagan nominates Commissioners Joan D. Aikens and John Warren McGarry for six-year reappointments as Commissioners.  
—U.S. District Court for the District of Columbia, in *Common Cause v. FEC*, approves plaintiff's request to dismiss suit since Commission had taken final action on complaint which had precipitated the suit.
- 21**—California holds special election in 5th Congressional District.
- 23**—Commission certifies \$5,871,000 in public funds to both the Republican and Democratic parties for their 1984 national Presidential nominating conventions.  
—Supreme Court, in *Immigration and Naturalization Service v. Chadha*, holds that legislative veto

provision in Immigration and Naturalization Act is unconstitutional (see also June 30, below).

- 24**—U.S. Court of Appeals for the District of Columbia, in *Carter/Mondale Presidential Committee v. FEC*, rules it has no jurisdiction over Committee's petition for review of Commission determination concerning repayment of 1980 public funds since petition was filed late.
- 26**—Commission testifies at oversight hearing held by House Administration Committee's Task Force on Elections.  
—Illinois holds special primary election in 1st Congressional District.
- 30**—Commission, in response to *Chadha* opinion (see June 23, above), decides to continue submitting new regulations to Congress for review.

#### July

- 1**—Commission prescribes revised regulations on candidate's use of property in which spouse has interest.  
—Commission transmits to Congress revised regulations on public funding of Presidential general elections.
- 19**—John C. Surina is appointed Commission Staff Director.
- 21**—Commission prescribes technical conforming amendments to regulations on public funding of Presidential nominating conventions.
- 28**—Commission releases updated figures on growth of political action committees (PACs).
- 29**—U.S. Senate unanimously confirms six-year reappointments of Commissioners Joan D. Aikens and John Warren McGarry.
- 30**—President Reagan approves P.L. 98-63, which includes an amendment to election law's provision on honoraria and a \$197,000 supplemental appropriation to Commission to cover a portion of October 1982 cost-of-living pay raise.
- 31**—Semiannual report due.

#### August

- 1**—Commission issues Directive 48 describing internal procedures for releasing closed compliance cases (Matters Under Review or MURs) to public.

—Commission makes available brochure, *Free Publications*.

**9-10**—Commission holds second round of public hearings on proposed revisions to regulations on communications by corporations and labor organizations.

**18**—Commission determines Democratic Presidential candidate Gary Hart eligible to receive primary matching funds.

**19**—Commission publishes new brochure, *Public Funding of Presidential Elections*.

**22**—Commission prescribes revised regulations on transfers of funds, collecting agents and joint fundraising.

**23**—Illinois holds special election in 1st Congressional District.

#### September

**6-8**—Commission cosponsors Midwest Regional Conference in Itasca, Illinois (suburb of Chicago).

**7**—Commission releases statistics based on *FEC Index of Communication Costs for 1982*.

**9**—Commission publishes *Election Results for the U.S. Senate and the U.S. House of Representatives* (1982 general elections).

**25-27**—Commission cosponsors Northeast Regional Conference in Albany, New York.

**29**—Commission certifies additional \$44,485.65 in primary matching funds to John Anderson's 1980 Presidential campaign.

#### October

**1**—President Reagan approves P.L. 98-107, which appropriates \$10,000,000 fiscal-year 1984 interim funding level for Commission in continuing resolution ending November 10, 1983.

**6**—Commission determines Democratic candidate John Glenn eligible to receive primary matching funds.

**11**—Commission publishes new *Campaign Guide for Nonconnected Political Committees*.

—Washington holds special primary election for Senate seat.

**13**—Commission determines Democratic candidate Ernest Hollings eligible to receive primary matching funds.

**14**—Commission releases statistics based on *1981-82 FEC Index of Independent Expenditures*.

**17**—Commission transmits to Congress revised regulations on corporate authorization of trade association solicitations.

**18**—Georgia holds special election in 7th Congressional District.

**19**—U.S. District Court for the District of Columbia, in *Fund for a Conservative Majority v. FEC*, dismisses with prejudice plaintiff's petition that court enjoin Commission from filing suits to enforce or construe 26 U.S.C. Section 9012(f), which limits spending by political committees on behalf of publicly funded Presidential nominees.

**23-25**—Commission cosponsors Southern Regional Conference in Charleston, South Carolina.

**24**—U.S. Court of Appeals for the Eleventh Circuit, in *Athens Lumber Company v. FEC*, upholds constitutionality of election law's prohibitions on corporate contributions.

**27**—Commission prescribes revised regulations on public funding of Presidential general elections.

—Commission resubmits to Congress revised regulations on communications by corporations and labor organizations.

#### November

**4**—Commission introduces computer index, *1984 Presidential Campaign Summary Report*.

**8**—Washington holds special general election for Senate seat.

—Georgia holds special runoff election in 7th Congressional District.

**13-15**—Commission cosponsors Southwest Regional Conference in Tulsa, Oklahoma.

**14**—President Reagan approves P.L. 98-151, which appropriates \$10,649,000 fiscal-year 1984 funding level for Commission in continuing resolution ending September 30, 1984.

**21**—Commission prescribes technical conforming amendment to regulations on honoraria (see July 30, above).

- 29**—Commission releases statistics on political action committees (PACs) based on *FEC Reports on Financial Activity, 1981-1982, Final Report: Party and Non-Party Political Committees*.

#### **December**

- 2**—Commission releases statistics based on *FEC Reports on Financial Activity, 1981-1982, Final Report: U.S. Senate and House Campaigns*.
- 3**—Commission releases statistics on party committees based on *FEC Reports on Financial Activity, 1981-1982, Final Report: Party and Non-Party Political Committees*.
- 4-6**—Commission cosponsors Far West Regional Conference in Los Angeles, California.
- 9**—Commission releases computer tapes containing final campaign finance information on 1981-82 election cycle.
- 12**—U.S. District Court for the Eastern District of Pennsylvania, in *FEC v. National Conservative Political Action Committee and Fund for a Conservative Majority*, rules that Commission may not enforce 26 U.S.C. Section 9012(f), which limits spending by political committees on behalf of publicly funded Presidential nominees.
- 15**—Commission certifies a total of \$6,776,289 in primary matching funds to six eligible candidates — the first public funds certified for 1984 Presidential candidates.  
—Commission unanimously elects Commissioners Lee Ann Elliott and Thomas E. Harris as 1984 Commission Chairman and Vice Chairman, respectively.
- 20**—Commission certifies an additional \$995,671 in primary matching funds to three 1984 Presidential candidates.

## Appendix 4 The FEC's Budget

The table and graph below compare budget allocations, by function and division, for fiscal years 1982 and 1983.

In fiscal year 1982, the Commission's funding totaled \$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 Commission received \$9.897 million in funding for fiscal year 1983. Congress appropriated \$9.700 million through two continuing resolutions and an additional \$197,000 to cover a portion of the October 1982 pay raise.

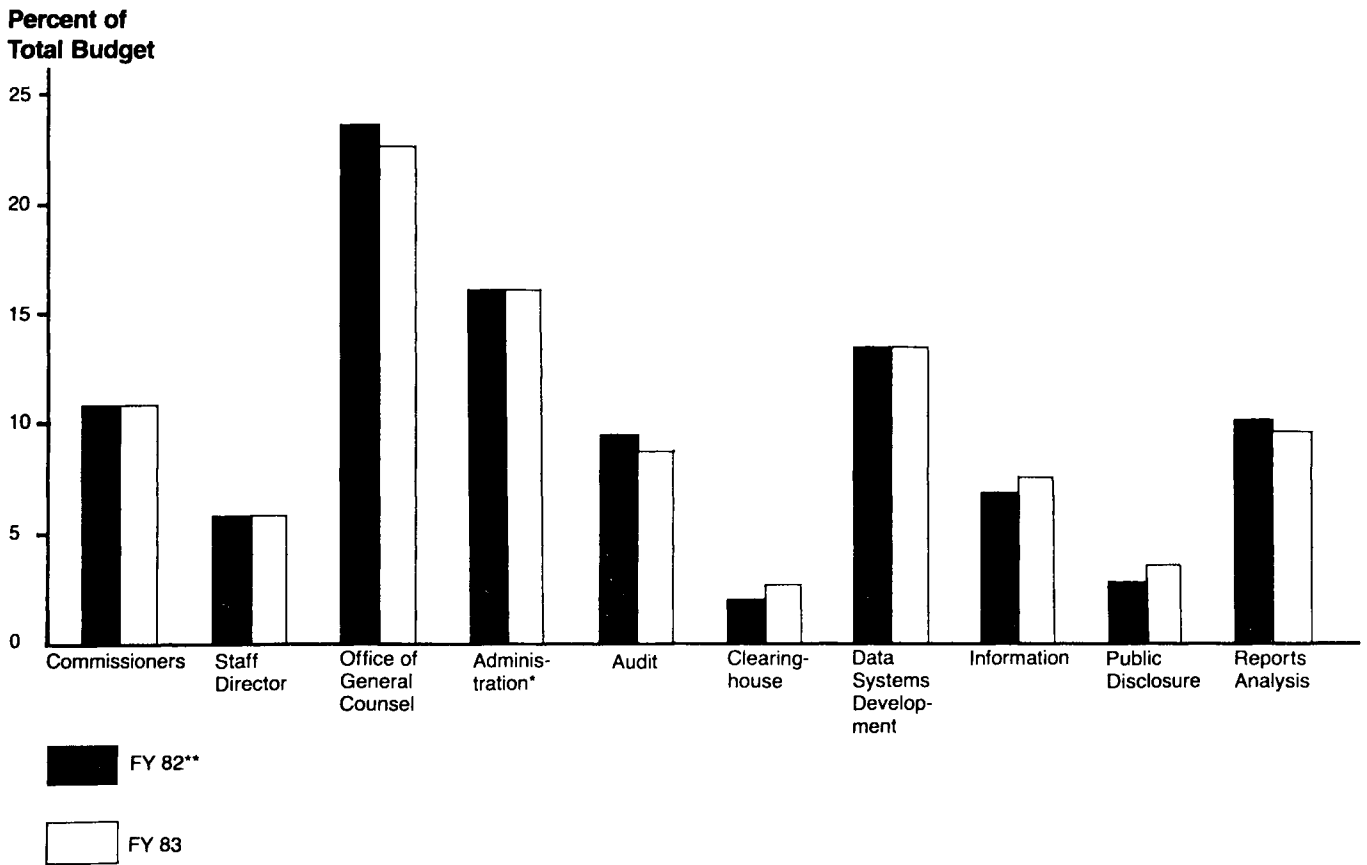
### FEC Budget Functional Allocation

	FY 82*	FY 83
Personnel Compensation, Including Benefits	\$6,884,573	\$7,194,703
Travel	43,985	112,770
Transportation and Motor Pool	4,969	7,329
Commercial Space	10,982	13,179
Equipment Rental	147,135	179,639
Printing	149,987	260,231
Contracts	633,383	727,101
Administrative Expenses	49,338	56,912
Supplies	87,364	86,954
Library Materials	31,526	41,494
Telephone, Telegraph	169,282	232,440
Postage	74,733	54,933
Space Rental	572,171	574,961
Equipment Purchases	59,964	220,456
Training	6,929	27,349
GSA, Services, Other	247,679	61,031
<b>Total</b>	<b>\$9,174,000</b>	<b>\$9,851,482**</b>

\*Fiscal year 1982 figures differ from those published in Appendix 4 of the *Annual Report 1982* because more definitive data were available in 1983.

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

**Divisional Allocation**



■ FY 82\*\*

□ FY 83

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

\*\*Fiscal year 1982 percentages differ from those presented in Appendix 4 of the *Annual Report 1982* because more definitive data were available in 1983.

## Appendix 5 Statistics on Commission Operations

### Summary Of Disclosure Files

	Total Filers Existing In 1983*	Filers Terminated as of 12/31/83	Filers Waived as of 12/31/83	Continuing Filers as of 12/31/83	Number of Reports and Statements in 1983	Gross Receipts in 1983	Gross Expenditures in 1983
<b>Presidential</b>					537	\$ 34,063,902	\$ 31,646,782
Candidates Committees	204 166	19 12	0 0	185 154			
<b>Senate</b>					680	\$ 55,360,458	\$ 35,533,214
Candidates Committees	600 395	39 61	25 1	536 333			
<b>House</b>					2,829	\$ 50,190,573	\$ 39,358,318
Candidates Committees	2,568 1,690	191 312	0 2	2,377 1,376			
<b>Party</b>	365	13	18	334	665	\$243,392,381	\$219,248,542
National Level Committees	30	2	1	27			
State Level Committees	139	2	4	133			
Local Level Committees	190	9	13	168			
Convention Committees	6	0	0	6			
<b>Delegates</b>	5	0	0	5	1	\$ 0	\$ 12
<b>Nonparty</b>	3,745	220	0	3,525	10,815	\$110,464,730	\$ 75,883,692
Labor Committees	403	25	0	378			
Corporate Committees	1,606	70	0	1,536			
Membership, Trade & Other Committees	1,736	125	0	1,611			
<b>Communication Cost Filers</b>	74	N/A	N/A	N/A	29	N/A	\$ 55,189
<b>Independent Expenditures By Persons Other Than Political Committees</b>	89	N/A	N/A	N/A	38	N/A	\$ 333,592

\*In this column, figures may be less than those which appeared in the "Continuing Filers" column of the *Annual Report 1982*, page 55, because of technical adjustments to the data base.

**Divisional Statistics\***

<b>Reports Analysis Division</b>	
Documents processed	43,382
Reports reviewed	38,426
Requests for additional information	4,633
Names of candidate committees published for failure to file reports	28
Compliance matters referred to the Office of General Counsel or Audit Division	178
<b>Data Systems Development Division</b>	
Documents receiving Pass I** coding	52,582
Documents receiving Pass III** coding	25,906
Documents receiving Pass I entry	52,835
Documents receiving Pass III entry	24,547
Transactions receiving Pass III entry***	213,317
<b>Audits Completed by Audit Division, 1975-1983</b>	
Presidential	44
Presidential Joint Fundraising	6
Senate	12
House	103
Party (National)	37
Party (Other)	87
Nonparty	50
Total	339

\*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 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 processed (total pages)	692,925
Responses to requests for campaign finance reports	7,355
Visitors served	7,616
Total people served	14,971
Informational calls	10,023
Total income (transmitted to U.S. Treasury)	\$60,072
Cumulative total pages of documents available for review	4,543,158
<b>Information Services Division</b>	
Telephone inquiries	50,142
General information letters	177
Distribution of FEC materials	8,229
Prior notices (sent to inform filers of reporting deadlines)	19,519
Visitors	142
Public appearances by Commissioners and FEC staff	72
Press releases	142
Telephone inquiries from press	9,378
Visitors to press office	945
Freedom of Information Act requests	109
Number of publications	22
Assistance to Secretaries of State (State election offices)	2,717
Notices of failure to file with State election offices	623
Regional conferences (in cooperation with Clearinghouse)	5
<b>Clearinghouse on Election Administration</b>	
Telephone inquiries	2,340
Information letters	495
Visitors	91
Workshops	5
Regional conferences (in cooperation with Information Services)	5

## Office of General Counsel

	Fiscal Year 1983
<b>Advisory Opinions</b>	
Requests pending at beginning of FY 83	5
Requests received in FY 83	43
Issued, closed or withdrawn in FY 83	38*
Pending at close of FY 83	10
<b>Compliance Cases**</b>	
Pending at beginning of FY 83	80
Opened during FY 83	127
Closed during FY 83	130
Pending at close of FY 83	77
<b>Litigation</b>	
Pending at beginning of FY 83	21
Opened during FY 83	17
Closed during FY 83	19
Pending at close of FY 83	19
Number of cases won	13
Number of cases lost	2
Voluntary dismissals	3
Dismissed as moot	1
<b>Law Library</b>	
Telephone inquiries	2,009
Visitors served	760

\*35 opinions were issued; 3 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 election 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 election law 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.

## Appendix 6 Summaries of New Regulations

This appendix summarizes major provisions of Commission regulations prescribed during 1983 and early 1984. Summaries of public funding regulations appear first, followed by highlights of regulations not specifically related to public funding. A technical amendment to regulations on honoraria is discussed on page 20 .

### Primary Matching Fund

#### State-by-State Allocations

Under the election law, Presidential primary campaigns receiving public funds must agree to limit spending to both a national limit and a separate limit for each State.<sup>36</sup> The previous regulations provided few guidelines for allocating expenditures under the State limits. By contrast, the new revisions set out definite procedures for allocating particular types of expenditures. For example, they include specific methods for allocating media expenditures within a State (e.g., newspaper and t.v. political ads) and overhead expenses involving campaign activity in several States (e.g., costs of telephone calls between States or opinion polls conducted in two or more States).

Moreover, the revised regulations establish "testing-the-water" disbursements as a category of allocable expenditures. Under a new provision, if an individual makes disbursements to test the waters for a potential Presidential candidacy and subsequently becomes a candidate, those payments become campaign expenditures subject to the spending limits.

#### Exemptions to State-By-State Spending Limits

Other provisions allow campaigns to automatically exclude certain expenditures from the State spending limits. For example, one provision allows campaigns to exclude from the State spending limit up to 10 percent of overhead expenditures and campaign workers' salaries in a particular State. These are considered exempt compliance costs (i.e., expenditures to ensure compliance with the election law). Another 10 percent may be automatically applied toward the limited exemption for fund-

raising. Codifying a previous Commission policy, the new rules also exclude exempt compliance and fundraising costs from the national spending limit.

As under the previous rules, expenditures for national campaign headquarter operations do not have to be allocated to the State spending limits. The revised regulations add another category of national campaign expenditures which need not be allocated, namely, expenditures for national advertising and opinion polls. The revisions also specifically identify other types of expenditures which are not subject to the campaign's State-by-State spending limits, such as the salaries of campaign staff working in a State for four consecutive days or less or disbursements for producing media ads or for providing transportation and other services to media representatives. These expenditures are, however, subject to the campaign's national spending limit.

#### Submissions and Certifications

The new rules more closely reflect actual procedures followed in past elections for the submission and resubmission of contributions to be matched and for the Commission's certification of matching fund payments. Moreover, all requirements for matching fund submissions are now consolidated under one section of the regulations.

One new provision, for example, allows a campaign to submit requests for matching funds by letter rather than a full matching fund submission.<sup>37</sup> The letter request must specify the amount of matchable contributions a campaign received subsequent to its last submission and must be accompanied by supporting bank documentation, such as validated deposit slips.

The campaign's next submission must be a fully documented submission covering the letter request and the current submission. The Commission anticipated that this change would almost halve the number of matching fund submissions prepared by campaigns while still providing for twice-monthly matching fund payments. Under

<sup>36</sup> The national spending limit is \$10 million plus a Cost of Living Adjustment (COLA). (The COLA brought the 1984 national spending limit to \$20,200,000.) The State limit is based on the following formula: \$200,000 plus COLA or 16 cents (plus COLA) x the State Voting Age Population, whichever is greater.

<sup>37</sup> A full matching fund submission contains a list of matchable contributions and includes each contributor's 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*.

another new provision, a campaign is no longer required to alphabetize the backup documentation (i.e., copies of all contributor checks) included with each submission made after its threshold submission. Instead, the checks may be presented in the order in which they are deposited with a reference on the contributor list to indicate the exact location of each check.

#### **Matchable Contributions**

The rules answer a number of questions raised during the 1980 election cycle concerning the matchability of certain types of contributions. For example, a new provision establishes procedures whereby campaigns can request matching funds for contributions collected through joint fundraising with other candidates or committees. (Although the Commission had matched joint fundraising proceeds in the 1980 Presidential election, it had never codified the rule.)

In a change from 1980 policy, the new regulations provide that the full price for admission to a fundraising event, such as a concert, may be a matchable contribution if it otherwise meets the requirements. Contributions received when an individual tests the waters for a potential Presidential candidacy may also be matched, according to the revised rules, once the individual declares his/her candidacy and if the contributions meet the standards for matchability.

#### **Sale of Assets**

The revised regulations address the issue of whether campaigns may sell fundraising items either donated to or purchased by the campaign, such as artwork. One provision permits campaigns to sell such assets, though the amount paid is considered a contribution subject to the law's limits and prohibitions. However, the provision includes an exception for campaigns whose outstanding debts exceed their cash on hand at the end of the matching payment period. These campaigns may sell assets acquired for fundraising purposes to a wholesaler or other intermediary, who may, in turn, sell the assets to the public. The rules specify that, in this case, the sale proceeds do not count as campaign contributions from either the wholesaler or the purchaser.

#### **Review and Investigative Authority**

The new rules clarify the Commission's statutorily mandated authority to conduct audits of campaigns receiving matching funds. They fully describe the audit process, including audit fieldwork and the preparation, content and public release of audit reports.

#### **Repayments**

The revised rules add a new provision to the section which explains the candidate's obligation to repay matching funds under certain circumstances. Under the new provision, campaigns that submit written statements contesting a repayment determination can also be granted an oral hearing upon an affirmative vote of four Commissioners.

### **Public Funding of Presidential Nominating Conventions**

To conform with 1979 amendments to the election law, the modified rules:

- Increase the amount of convention financing available to major and minor political parties from \$2 million to \$3 million (plus a cost-of-living adjustment); and
- Modify the convention committee's requirements for documenting expenditures so that the requirements apply only to those expenditures exceeding \$200 (formerly \$100) and not to aggregate expenditures to the same payee (as formerly required).

Moreover, the amended rules incorporate, where appropriate, the new term used by the Office of Management and Budget to define a metropolitan area, that is, "metropolitan statistical area" (formerly "standard metropolitan statistical area").

### **Public Funding of Presidential General Elections**

#### **Candidate Eligibility: Candidate Agreements and Certifications**

The revised rules consolidate under one section of the regulations all those conditions to which a candidate and his/her authorized committee(s) must agree in order to be eligible for public funds. Consistent with the revisions

to the primary matching fund regulations, the rules also add new provisions under which a candidate must agree that:

- The candidate has the burden of proving that disbursements made by his/her campaign are qualified campaign expenses;
- The candidate and his/her authorized committee(s) will comply with the documentation requirements; and
- The candidate and his/her authorized committee(s) will provide any other explanations needed to determine the connection between the campaign and disbursements made by the candidate or his/her authorized committee(s).

#### **Certification Of Payments To Minor and New Party Candidates**

Under the Presidential Election Campaign Fund Act (the Fund Act), new or minor party candidates may become eligible for partial public funding after the general election if they received between 5 and 25 percent of the total popular votes cast in the election.<sup>38</sup> In a subsequent Presidential election, they may receive partial public funding prior to the general election, provided they meet certain eligibility requirements. The revised rules clarify the eligibility requirements for minor and new party candidates who seek public funding (before or after the general election) and spell out procedures for certifying payments.

#### **Qualified vs. Nonqualified Campaign Expenses**

Under the election law, candidates who accept a public grant for their election campaigns must use the Federal funds exclusively for qualified campaign expenses. They must also limit spending to the amount of the grant (\$20 million, plus a cost-of-living adjustment).<sup>39</sup> The revisions clarify the types of winding-down expenses that are considered qualified campaign expenses and more clearly

<sup>38</sup>Note that, since minor or new party candidates may receive partial public funding, the law permits them to supplement public funds with private contributions. Those candidates, however, are otherwise subject to the same requirements, including spending limits, which apply to major party candidates.

<sup>39</sup>The cost-of-living adjustment brought the 1984 public funding grant for a major party nominee to \$40,400,000.

describe the categories of nonqualified campaign expenses.

#### **Expenses for Secret Service and Other Security Personnel**

Government regulations (other than Commission rules) govern payment of expenses incurred by Secret Service or other authorized personnel who must, for national security reasons, travel with a campaign. The revised general election rules therefore delete provisions governing the campaign's payment of these expenses and subsequent reimbursement for them.

#### **Campaign's Use of Government Transportation**

The rules modify the method of allocating travel costs incurred by candidates who use government transportation. For example, rather than paying the actual cost of using a government aircraft (e.g., Air Force 1), the candidate must instead pay the equivalent of first-class commercial fare or commercial charter fare.

#### **Legal and Accounting Compliance Fund**

Although a publicly funded major party candidate may not, under the law, use private contributions to defray qualified campaign expenses, the candidate may accept private contributions and place them in a separate fund (i.e., compliance fund) used solely to ensure that the campaign complies with the law and Commission regulations. (Disbursements from the compliance fund are exempt from the spending limit, provided they are used solely for compliance-related costs.) Under the new rules, publicly funded minor and new party candidates are not required to establish a separate compliance fund. Instead, they may combine in one account public funds and private contributions used to defray both qualified campaign expenses and compliance activities.

The regulations also stipulate the rules governing compliance funds established by publicly funded candidates of major parties. The new rules clarify the types of receipts that may be deposited in a compliance fund and the types of payments that may be made from the fund.

#### **Exempt Administrative Expenses**

Following the primary matching fund regulations, the revised rules specify that major party candidates receiving

public funds may exclude a portion of their operating expenditures from the spending limit. A campaign may allocate a portion of these operating expenditures (e.g., payroll and overhead costs) to exempt compliance costs and pay for them from the compliance fund. Similarly, publicly funded campaigns of minor or new party candidates may allocate a portion of their operating expenditures to exempt compliance costs and to the limited exemption for fundraising costs.

#### **Candidate's Withdrawal from the Campaign**

Like the previous regulations, the new rules specify that candidates who withdraw from active campaigning must file a statement of withdrawal. However, the revisions shortened the filing deadline from 60 to 30 days.

#### **Candidate's Statement of Net Outstanding Qualified Campaign Expenses**

Consistent with past Commission practice, a new provision spells out the requirements for filing statements for net outstanding qualified campaign expenses once the campaign is over. Special filing deadlines are set for candidates who withdraw from active campaigning or seek post-election public funding.

#### **Audit Authority**

Consistent with revisions to the primary matching fund regulations, the new rules for general election campaigns clarify the Commission's statutorily mandated authority to conduct audits of publicly funded campaigns. They describe the audit process, including audit fieldwork and the preparation, content and public release of audit reports.

#### **Repayments**

Again following the primary matching fund regulations, the revised rules stipulate that campaigns submitting written statements to contest a repayment determination may also be granted an oral hearing upon an affirmative vote of four Commissioners.

#### **Unauthorized Expenditures and Contributions**

Several new provisions describe transactions that are unlawful under Section 9012 of the Fund Act. For example, they stipulate that publicly funded Presidential candidates and nominating conventions may not knowingly and willfully: exceed their respective spending limits; accept private contributions (if specifically prohibited); use public funds for nonqualified expenses; falsify campaign or convention records or fail to furnish records if requested by the Commission. Finally, the new rules impose a \$1,000 limit on expenditures made by an unauthorized committee to further the election of a publicly funded Presidential nominee. However, the provision specifically exempts from the \$1,000 limit news stories and editorials produced by news media and partisan communications made by tax-exempt corporations to their members.

#### **Notices for Political Ads and Solicitations**

The new revisions clarify the disclaimer notice requirements for the following types of political communications:

- Solicitations made to the general public for contributions to a political committee which is not authorized by a candidate must include a disclaimer notice. The notice need only state the full name of the person sponsoring the solicitation. (Illustration: *Paid for by the XYZ Committee.*) On the other hand, separate segregated funds do not have to include a disclaimer notice on their solicitations since they direct their solicitations to their own personnel, not the general public.
- Posters and yard signs that carry political ads must bear a disclaimer notice. The revisions exempt, however, those communications on which it would be impracticable to include a disclaimer notice as, for example, an ad placed on a watertower or displayed through skywriting.

- Political communications printed on one side (e.g., a political ad or solicitation placed on a billboard) must include the disclaimer notice on the front side. If, however, a political ad or solicitation has more than one page, the disclaimer may be displayed clearly and conspicuously within the communication.

## Candidate's Use of Property in Which Spouse Has an Interest

### Loans Requiring Spouse's Signature

Previous regulations viewed all loan endorsers and guarantors as contributors to the campaign. Thus, if a candidate's spouse was required to cosign a loan, he or she became a contributor to the campaign. Under the new revisions, a spouse who cosigns a loan is not considered a contributor if the candidate's share of the assets used as collateral equals or exceeds the amount of the loan used for the campaign. For example, Sam Jones obtains a \$5,000 bank loan for his campaign by using, as collateral, property that is jointly owned with his wife. Jones and his wife cosign the loan. If Jones' interest in the property is \$5,000 or more, his wife would not be considered a contributor to the campaign.

### Candidate's Access to Jointly Owned Personal Assets

As under previous regulations, the new rules allow a candidate to contribute an unlimited amount of "personal funds" to his or her campaign. However, the revised regulations permit a candidate to use, as personal funds, his or her portion of assets jointly owned with a spouse. In cases where the candidate's financial interest in jointly owned assets is not specified (e.g., proceeds from the sale of jointly owned stock), the Commission assumes that the candidate's share of the assets is 50 percent of their total value. The new rules also clarify the right to the use of property in a community property State to ensure that assets are equally available for use in community property States and non-community property States.

The revised rules additionally clarify the definition of "personal funds." Under the new regulations, the term "personal funds" includes a) funds to which the candi-

date has legal title, and b) funds in which the candidate has an equitable interest. In both of these cases, as a prerequisite to claiming these assets as personal funds, the candidate must have a legal right of access to or control over the funds. A third category of personal funds includes income the candidate has earned from employment.

## Collecting Agents and Joint Fundraising

The new regulations make a distinction between two situations: joint fundraising, i.e., election-related fundraising conducted by two or more committees, and collecting agents, i.e., organizations which collect and transfer contributions to separate segregated funds. To emphasize this distinction, the Commission changed the title of 11 CFR 102.6 from "Transfers of Funds; Joint Fundraising" to "Transfers of Funds; Collecting Agents" and created a new section, "Joint Fundraising by Committees Other Than Separate Segregated Funds," at 11 CFR 102.17. The regulations provide a complete set of procedures for both situations.

### Transfers of Funds

The new regulations, following previous regulations, state that transfers between affiliated committees and between party committees of the same political party are not limited. The new rules add a provision permitting participants in joint fundraising to transfer proceeds without limit as long as no committee receives more than its allocated share. The revisions also make clear that transfers must be made from funds which are permissible under the election law.

Although, as in previous regulations, the revisions state that transfers of funds may trigger political committee status for an unregistered organization, an exception was made for transfers of contributions made by a collecting agent to a separate segregated fund (see below).

### Collecting Agents

This new section in the rules clarifies the application of the election law to fundraising on behalf of separate segregated funds. Under these rules, an unregistered orga-

nization acting as a collecting agent does not have to register as a political committee or file reports.

*Definition of Collecting Agent.* The new regulations define a collecting agent as an organization or committee which collects and transmits contributions to a separate segregated fund (SSF). A collecting agent must be connected to or affiliated with the separate segregated fund and may be:

- The SSF's connected organization (i.e., the corporation or labor organization which established the SSF);
- A parent, subsidiary, branch or local unit of the SSF's connected organization;
- A local, national or international union collecting contributions on behalf of the SSF of any federation with which the union is affiliated; or
- An affiliate of the SSF — either a registered political committee or an unregistered organization, such as a non-Federal PAC.

*Soliciting Contributions.* Under the new rules, a collecting agent may only solicit those individuals eligible for solicitation under 11 CFR Part 114 (i.e., the SSF's "restricted class") and must comply with the other requirements for soliciting voluntary contributions to an SSF.

The revised regulations allow a collecting agent to pay for all the costs of soliciting and transmitting contributions to the SSF. These payments are not considered contributions or expenditures and do not trigger political committee status for an unregistered collecting agent, such as a non-Federal PAC. If the SSF pays solicitation or other administrative costs which the collecting agent could have paid, as an administrative expense, the collecting agent may reimburse the SSF, but it must do so within 30 days.

The new rules also permit a collecting agent to include solicitations for SSF contributions in bills for membership dues or other fees. Similarly, a contributor may write one check representing both a contribution to the SSF and a payment to the collecting agent, provided the check is written on an account containing only funds permissible under the election law.

*Transmitting Contributions.* Collecting agents must forward contributions to the SSF within the time periods specified in 11 CFR 102.8 (contributions of \$50 or less within 30 days, larger contributions within 10 days). Although checks made out to the SSF must be forwarded directly to the SSF, the revised regulations provide the collecting agent with several options for depositing and transmitting other forms of contributions (including checks combined with payments to the collecting agent). Special rules are set forth for transmitting cash contributions.

*Forwarding Contributor Information.* Under the revised rules, the collecting agent must forward to the SSF the information on contributors specified in 11 CFR 102.8. However, if contributions of \$50 or less are received at a mass collection, the collecting agent need only forward a record of the name of the function, the date and the total amount collected.

*Recordkeeping and Reporting.* The collecting agent, under the revised regulations, must keep records of all contribution deposits and transmittals for 3 years and must make the records available to the Commission upon request. The SSF must also keep records of all transmittals of contributions received from the collecting agent for 3 years.

Only the SSF — not the collecting agent — reports contributions collected through the agent. The funds are reported as contributions from the original donors rather than as a transfer-in from the collecting agent.

### **Joint Fundraising**

The revised regulations create a new section setting forth the basic rules for conducting joint fundraising activities.

*Who Must Observe Joint Fundraising Rules.*<sup>40</sup> The revised rules apply to political committees engaged in joint fundraising with other political committees and with unregistered committees and organizations. However, the rules do not pertain to collecting agents and separate segregated funds.

*Fundraising Representative.* Joint fundraising participants must either establish a separate political committee or select a participating political committee to act as the fundraising representative. This committee is responsible for collecting proceeds, paying the expenses of the fundraiser and distributing proceeds to participants. The regulations make clear that, although participants may hire a commercial firm or agent to assist in the joint fundraiser, they are still required to select or establish a political committee, as defined in 11 CFR 100.5, as the fundraising representative.

*Start-Up Costs.* Participants may advance money for the start-up costs of the fundraiser in proportion to the allocation formula, i.e., the formula by which participants agree to allocate joint fundraising proceeds and expenses. The regulations state that if a committee advances more than its proportionate share, the excess amount is an in-kind contribution to the other participants.

If, however, all the participants are affiliated committees or if all are party committees of the same political party, unlimited amounts may be advanced since there are no limits on transfers between affiliated committees and between party committees.

*Written Agreement.* All joint fundraising participants must enter into a written agreement which identifies the fundraising representative and states the allocation formula.

<sup>40</sup>The Explanation and Justification accompanying the regulations states that, if all fundraising participants are party committees of the same political party, they do not have to adhere to the joint fundraising requirements. Party committees do, however, have to follow the notice requirements of 11 CFR 102.5 if the activity is conducted in connection with both Federal and non-Federal elections. If the party committees do not give public notice of an allocation formula, contributions received at the fundraiser count toward the contributor's limit for the particular party committee sponsoring the event.

*Joint Fundraising Notice.* In addition to the disclaimer notice required in 11 CFR 110.11, the rules require each solicitation to contain a notice providing specific details about the joint fundraising activity:

- The names of all participants;
- The allocation formula;
- A statement informing contributors that they may designate contributions for a particular participant; and
- A statement that the allocation formula may change if any contributor makes a contribution which exceeds the amount he or she may lawfully give to a participant.

The joint fundraising notice requires additional information if any participant is paying off debts and if an unregistered participant is permitted, under State law, to receive prohibited contributions.

*Separate Depository.* The revised regulations require participants to establish a separate depository account used solely for the receipt and disbursement of joint fundraising proceeds. The fundraising representative must deposit contributions into the account within 10 days, although it may delay distributing proceeds to the participants until the joint fundraiser is over and all expenses are paid.

Prohibited contributions acceptable by unregistered organizations under State law must be either deposited in a second account or transferred directly to the unregistered participants.

*Recordkeeping.* The fundraising representative and participating committees must screen contributions to ensure that they are neither prohibited under the election law nor in excess of contribution limits. The fundraising representative must also collect the contributor information specified in 11 CFR 102.8, later forwarding the records to the participants for reporting purposes.

*Allocating Gross Proceeds.* Under the new rules, gross proceeds are allocated according to the formula stated in the fundraising agreement. A change in the formula and a reallocation of proceeds may occur, however, if allocation under the original formula results in:

- An excessive contribution from a contributor to any participating political committee; or
- A surplus of proceeds for a committee that participates in the fundraiser solely to retire debts.

*Allocating Expenses and Distributing Net Proceeds.* The revised regulations require the fundraising representative to calculate each participant's share of expenses based on its allocated share of gross proceeds. To determine the amount of net proceeds each participant receives, the fundraising representative subtracts the participant's share of expenses from the amount it was allocated in gross proceeds.

*Reporting.* The fundraising representative reports all contributions in the reporting period in which they are received. The representative is also responsible for reporting disbursements for the fundraiser in the reporting period in which they are made.

After the distribution of net proceeds, each participant reports its net proceeds as a transfer-in from the fundraising representative. At the same time, the participating committee files a memo Schedule A itemizing, as necessary, its share of gross receipts as contributions from the original donors.

## Corporate/Labor Communications

### Parties Affected

The revised regulations make clear that incorporated membership organizations, incorporated trade associations, incorporated cooperatives and corporations without capital stock are among the types of corporations that are subject to the rules governing partisan and nonpartisan communications. Moreover, the revisions expand the restricted class of personnel who may receive partisan communications (or nonpartisan communications if the organization so chooses). Under the amendments:

- An incorporated membership organization, a cooperative and a corporation without stock may address partisan communications to the families of its members, in addition to its members.
- A labor organization may make partisan communications to its executive and administrative personnel

and their families, as well as to its members and their families.

### Partisan Printed Materials

As under the previous regulations, the revised rules permit a corporation or labor organization to produce and distribute printed materials of a partisan nature only to its restricted class.<sup>41</sup> The material must convey the views of the organization and may not simply be a republication of candidate-prepared material. Under the new rules, however, a corporation or labor organization, in expressing its own views, may use brief quotations from candidates' speeches and other candidate-prepared materials.

### Partisan Candidate and Party Appearances

The revised regulations allow a corporation or labor organization to schedule appearances by candidates, their representatives and representatives of a political party at any meeting, convention or other function of the organization attended by the organization's restricted class. (Under previous regulations, partisan candidate and party appearances were limited to a regularly scheduled event that the organization held for primarily nonpolitical purposes.) Moreover, under the revisions, certain individuals outside the restricted class may also be present — specifically, employees who are necessary to administer the meeting, news media representatives and limited invited guests and observers. Incidental solicitation of these individuals would not be a violation of the law's solicitation provisions.

### Nonpartisan Communications

The new revisions expand the categories of nonpartisan publications which a corporation or labor organization may distribute to the general public. They also permit the organization to include its logo on the publications or otherwise identify itself as the sponsor.

*Voter Ads.* Under the revisions, a corporation or labor organization may make nonpartisan voter registration and get-out-the-vote communications to the general pub-

<sup>41</sup> Those individuals within an organization who may be solicited at any time for contributions to the organization's separate segregated fund and who may receive partisan communications from the organization.

lic such as the message, "Please register to vote." The organization may communicate the message through posters, billboards, broadcasting media, newspapers, newsletters, brochures and similar means of communication. (Under previous regulations, such communications were limited to the employees of the corporation or labor organization.) Moreover, the revised regulations state that a nonpartisan communication must, among several factors, either name all candidates for a particular office, without favoritism, or make no mention of any candidate.

*Voter Materials Prepared by Election Officials.* A corporation or labor organization may set up a table or rack on its own premises for distributing official voter information to the public, and the organization's employees or members may help in the distribution. The distribution must, however, be carried out in a nonpartisan manner, and the organization may not endorse or support a candidate or party in connection with the distribution. Alternatively, a corporation or labor organization may donate funds to State or local election administrators to help defray their costs in printing and distributing official registration and voting information and forms.

*Voting Records.* Under one new provision, a corporation or labor organization may prepare and publicly distribute nonpartisan voting records of Members of Congress, provided this activity is not undertaken to influence Federal elections. Furthermore, the explanation and justification accompanying the rules make clear that, in the voting record, an organization may score or index an incumbent's votes on specific issues rather than publishing the incumbent's actual votes. The indexes or scores must, however, be based on the incumbent's votes on bills or other legislative measures.

*Voter Guides.* Under another new provision, a corporation or labor organization may prepare and publicly distribute voter guides describing candidates' positions on issues. (A voter guide consists of questions posed to candidates concerning their positions on campaign issues and the candidates' responses to those questions.) The revised rules identify specific criteria the Commis-

sion may consider when evaluating whether a guide is nonpartisan.

As under the previous rules, a corporation or labor organization may also distribute voter guides obtained from tax-exempt organizations, provided the tax-exempt organization does not support, endorse or oppose any candidate or political party. Voter guides obtained from tax-exempt organizations may not favor one candidate or political party over another.

#### **Nonpartisan Candidate and Party Appearances**

Under the revised regulations, a corporation or labor organization may permit candidates, their representatives and party representatives to address the organization's employees and their families at a meeting, convention or other function of the organization held on the organization's premises or anywhere else. (Under previous regulations, such appearances could only take place on the organization's premises.)

In addition, to reduce the burden on the sponsoring organization, the rules for ensuring that such activities are nonpartisan were modified to limit the category of Presidential candidates who may request to appear at the meeting.

#### **Nonpartisan Voter Drives and Education**

The new regulations expand the scope of permissible activities which a corporation or labor organization may undertake in connection with voter drives and voter education programs directed to the general public. The new regulations also allow an organization to include its logo on such communications or otherwise identify itself as the sponsor.

*Voter Drives by Corporations and Labor Organizations.* Under the previous rules, a corporation or labor organization could jointly sponsor a nonpartisan voter registration or get-out-the-vote drive only with a nonpartisan, nonprofit organization. The new rules also allow a State or local agency responsible for administering elections to act as cosponsor. While preserving the requirements for this activity specified in the previous regulations, the new rules also require that all voter drive materials prepared for distribution to the general public include the full name of all sponsors.

*Voter Drives by Nonprofit Corporation.* The revised regulations permit incorporated nonprofit tax-exempt organizations that do not support or oppose any candidate or party to conduct nonpartisan voter registration and get-out-the-vote drives on their own, without a cosponsor.

## **Trade Association Authorizations**

The Commission revised these regulations in response to difficulties encountered by trade associations, under previous agency rules, in obtaining solicitation approvals from their corporate members.

Under the revisions, a corporate member may grant its approval of a trade association solicitation, and a trade association may receive that approval, prior to the cal-

endar year in which the trade association conducts the solicitation(s). Further, the revisions permit trade associations to obtain corporate approval for several years at a time. However, the corporate member must submit a separate document for each year approved for solicitations. Under previous rules, a corporate member's approval had to be received by the trade association during the calendar year in which the trade association actually conducted the solicitation. This meant that trade associations had to renew their requests for corporate approvals each year.

The new rules also specify that a trade association must keep an authorization for three years after it conducts the solicitation, rather than three years after the corporation approves the authorization.

## Appendix 7 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>42</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.

### **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.

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<sup>42</sup>PAC (political action committee) 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).

### **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**

The G Index identifies individual contributions of \$500 or more received by a committee, the report on which the transactions were disclosed and the microfilm location of the transactions.

#### **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.

## Appendix 8

### FEC Information Services

#### 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>43</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 7)
- 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

<sup>43</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?
- Has the Commission issued an advisory opinion on topic x during the last six months?

These questions about the election law's requirements 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>44</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 by at least four Commissioners. Every advisory opinion is summarized in the Commission's newsletter, the *Record*, and copies of the requests and opinions are available from the Public Records Office. When the person who re-

<sup>44</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.

quested 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 Nonconnected Committees*
- *Campaign Guide for Party Committees*
- *House and Senate Bookkeeping Manual*
- Brochure Series:
  - Advisory Opinions*
  - Candidate Registration*
  - Contributions*
  - Corporate/Labor Communications*
  - Corporate/Labor Facilities*
  - Free Publications*
  - Independent Expenditures*
  - Local Party Activity*
  - Political Ads and Solicitations*
  - Public Funding of Presidential Elections*
  - 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 20 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 analyst becomes familiar with reporting problems the committee may be having. An analyst notifies a committee of a reporting error or omission (or an apparent violation of the election law detected in the report) by sending the committee a request for additional information (RFAI). 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.

#### **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 concerning the Federal election law, Commission actions and the campaign finance data filed with the FEC by political committees. The office also handles 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 9 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).

## Appendix 9 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 two years, will be published in the spring of 1984. 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 a biennial in-house project. The *Directory* lists names, addresses and telephone numbers of Federal and State election officials.

### Reports Underway in 1983

*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.

*Education Programs in the Schools*, the second volume of a series entitled *Voter Information and Education Programs*, suggests various ways in which election officials can develop, in cooperation with educators, good voter education programs in the schools.

*Statewide Registration Systems I and II* 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, proce-

dures, 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 10 FEC Federal Register Notices, 1983

Notice*	Title	Federal Register Publication Date	Citation
1983-1	Filing Dates for Texas Special Election	1/17/83	48 Fed. Reg. 2067
1983-2	Filing Dates for Colorado Special Election	1/24/83	48 Fed. Reg. 3047
1983-3	11 CFR Parts 106 and 9031-9039; Presidential Primary Matching Fund; Transmittal of Regulations to Congress	2/4/83	48 Fed. Reg. 5224
1983-4	Filing Dates for New York Special Election	1/31/83	48 Fed. Reg. 4320
1983-5	11 CFR 110.11; Disclaimer Notices; Transmittal of Regulations to Congress	3/2/83	48 Fed. Reg. 8809
1983-6	11 CFR Part 114; Communications by Corporations and Labor Organizations; Transmittal of Regulations to Congress	3/4/83	48 Fed. Reg. 9236
1983-7	Notice of Availability; Rulemaking Petition Requested by National Council of Farmers Cooperatives	3/30/83	48 Fed. Reg. 13265

Notice	Title	Federal Register Publication Date	Citation
1983-8	11 CFR Parts 106 and 9031-9039; Presidential Primary Matching Fund; Final Rules; Announcement of Effective Date	4/4/83	48 Fed. Reg. 14347
1983-9	11 CFR Parts 9001-9007 and 9012; Presidential Election Campaign Fund; Notice of Proposed Rulemaking	4/4/83	48 Fed. Reg. 14532
1983-10	11 CFR Part 114; Communications by Corporations and Labor Organizations; Withdrawal of Regulations from Congress	4/22/83	48 Fed. Reg. 17566
1983-11	11 CFR Part 114; Communications by Corporations and Labor Organizations; Second Notice of Proposed Rulemaking	4/22/83	48 Fed. Reg. 17567
1983-12	11 CFR Parts 100, 110 and 9003; Candidate's Use of Property in Which Spouse Has an Interest; Transmittal of Regulations to Congress	4/27/83	48 Fed. Reg. 19019

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

Notice	Title	Federal Register Publication Date	Citation
1983-13	Filing Dates for California Special Election	5/4/83	48 Fed. Reg. 20136
1983-14	11 CFR 110.11; Disclaimer Notices; Final Rules; Announcement of Effective Date	5/13/83	48 Fed. Reg. 21553
1983-15	Filing Dates for Illinois Special Election	5/23/83	48 Fed. Reg. 22991
1983-16	11 CFR Part 102; Transfers of Funds, Collecting Agents, Joint Fundraising; Transmittal of Regulations to Congress	6/7/83	48 Fed. Reg. 26296
1983-17	11 CFR Parts 100, 110 and 9003; Candidate's Use of Property in Which Spouse Has an Interest; Final Rules; Announcement of Effective Date	7/1/83	48 Fed. Reg. 30351
1983-18	11 CFR Parts 9001-9007 and 9012; Presidential Election Campaign Fund; Transmittal of Regulations to Congress	7/11/83	48 Fed. Reg. 31822
1983-19	11 CFR Part 114; Communications by Corporations and Labor Organizations; Announcement of Second Hearing	7/14/83	48 Fed. Reg. 32321

Notice	Title	Federal Register Publication Date	Citation
1983-20	11 CFR Part 9008; Presidential Election Campaign Fund; Financing of Nominating Conventions; Final Rules; Technical Amendments	7/21/83	48 Fed. Reg. 33244
1983-21	11 CFR Part 102; Transfers of Funds, Collecting Agents, Joint Fundraising; Final Rules; Announcement of Effective Date	8/22/83	48 Fed. Reg. 37921
1983-22	Notice of Availability; Rulemaking Petition Requested by National Taxpayer's Legal Fund	8/30/83	48 Fed. Reg. 39295
1983-23	11 CFR Part 102; Transfers of Funds, Collecting Agents, Joint Fundraising; Final Rules; Announcement of Effective Date; Correction	9/23/83	48 Fed. Reg. 43292
1983-24	Filing Dates for Washington Special Primary and General Elections	9/23/83	48 Fed. Reg. 43405
1983-25	Filing Dates for Georgia Special Election and Special Runoff Election	9/23/83	48 Fed. Reg. 43404

Notice	Title	Federal Register Publication Date	Citation
1983-26	11 CFR Part 114; Trade Association Solicitation Authorizations; Transmittal of Regulations to Congress	10/20/83	48 <i>Fed. Reg.</i> 48650
1983-27	11 CFR Parts 9001-9007 and 9012; Presidential Election Campaign Fund; Final Rules; Announcement of Effective Date	10/27/83	48 <i>Fed. Reg.</i> 49653
1983-28	11 CFR Part 114; Communications by Corporations and Labor Organizations; Transmittal of Regulations to Congress	11/2/83	48 <i>Fed. Reg.</i> 50502
1983-29	11 CFR Part 110; Honoraria; Final Rule; Technical Amendment	11/21/83	48 <i>Fed. Reg.</i> 52567