



# THE FEDERAL ELECTION COMMISSION

# RECORD

1325 K Street N.W., Washington, D.C. 20463

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## STATISTICS

### MIDYEAR FEC REPORTS ON FINANCIAL ACTIVITY OF PARTY AND NONPARTY POLITICAL COMMITTEES

On September 7, 1978, the Commission released the latest update of its study of 1977-1978 financial data of political committees. The study covers the financial activity from January 1, 1977, through June 30, 1978, of the following types of committees: nonparty committees; National and Congressional committees of the Republican and Democratic political parties; State and local Democratic and Republican party committees (if filing Federal campaign finance reports).

The current study updates two previous studies which were summarized in the following issues of the *Record*: March 1978, p. 8, April 1978, p. 6 and June 1978, p. 7.

Highlights of the current study include:

- The 1,709 nonparty committees raised \$54 million and spent \$38.7 million (including contributions to Federal candidates totaling \$10.9 million), and had mid-1978 cash-on-hand of approximately \$27 million.
- The 40 National and Congressional Republican and Democratic party committees and the 591 State and local committees raised \$82.6 million, spent \$73.6 million including \$1.8 million in contributions to Federal candidates. Their mid-1978 cash-on-hand was approximately \$13 million. (Note: The receipt and disbursement figures above have been adjusted to subtract transfers between affiliated committees.)
- Nonparty committees contributed \$7.8 million (71 percent) to incumbents, \$1.3 million (12 percent) to challengers, and \$1.8 million (16 percent) to open-seat candidates (no incumbent).
- Democratic party committees contributed \$62,000 to incumbents (60 percent); \$9,000 to challengers (87 percent); and \$33,000 to open-seat candidates (32 percent).
- Republican party committees contributed \$.9 million to incumbents (56 percent); \$.4 million to challengers (26 percent); and \$.2 million to open-seat candidates (18 percent).

Published in four volumes, the study is available from the Commission's Office of Public Records for \$5.00 per volume, payable in advance. The four volumes are:

- I. Summary Data (see description above)
- II. Individual State and Local Party Political Committees
- III. Individual Nonparty Political Committees (Corporate and Labor)
- IV. Individual Nonparty Political Committees (No Connected Organization; Trade/Membership/Health; Cooperatives; Corporations Without Stock).

For further information, call 800/424-9530 or 202/523-4181.

### INTERIM FEC REPORTS ON FINANCIAL ACTIVITY OF U.S. SENATE AND HOUSE CAMPAIGNS — 1977-1978

On September 28, 1978, the Commission released its first interim study on the financial activity of candidates for the Senate and the House of Representatives in 1977 and 1978. The study summarizes information contained on the reports of 1,812 candidates who have registered with the FEC and who have been certified by appropriate State officials as official candidates in a 1977 or 1978 primary, run-off, convention/caucus or general election. The study is based on reports filed by the candidates and their authorized committees from January 1, 1977 through August 25, 1978. Certain itemized information in the study is complete for those reports filed through July 13, 1978.

Figures in the study are presented separately for Senate and House candidates. Each category is further broken down by party affiliation (Democrat/Republican/Minor) and by candidate status (Incumbent/Challenger/Open-Seat).

Highlights of the study include:

- Adjusted receipts and expenditures for all candidates during the 18-month period covered by the study totaled \$92.2 million and \$79.5 million, respectively. (Gross receipt and expenditure figures have been adjusted to eliminate transfers between filers within the same campaign.)

*continued*

- Of the adjusted gross figures, 242 Senate campaigns showed receipts of \$39.6 million and expenditures of \$35.7 million. The 1,570 House campaigns had receipts totaling \$52.6 million and expenditures totaling \$43.8 million.
- The 991 Democratic candidates raised \$54.2 million and spent \$46.2 million, while 683 Republican candidates received \$37.8 million and spent \$33 million.
- The 413 House and Senate incumbents raised \$38.6 million and spent \$28.5 million compared to their 897 challengers who raised \$24.6 million and spent \$23.2 million. Open-seat candidates (502) showed receipts of \$29 million and expenditures of \$27.7 million.

A final report will be issued following the end of the 1977-1978 election cycle. Copies of the Interim Report are available in the Commission's Office of Public Records by calling 523-4181 or toll-free 800-424-9530.

## OPINIONS

### PENDING ADVISORY OPINION REQUESTS

The following chart lists pending Advisory Opinion Requests (AOR's), with a brief description of the subject matter, the date the requests were made public and the number of pages of each request. The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR	Subject	Date Made Public	Number of Pages
1978-73	Acceptance of honorarium.	9/19/78	1
1978-74	Availability of payroll deduction plan.	9/20/78	27
1978-75	Solicitation of stockholders.	9/29/78	2
1978-76	Use of film for public service announcement.	9/29/78	2
1978-77	Endorsement of candidate by corporate officer.	9/29/78	2
1978-78	Payments for committee's office space.	9/29/78	2
1978-79	Definition of election for limitation purposes.	10/3/78	3

### ADVISORY OPINIONS: SUMMARIES

Designated as AO's, Advisory Opinions discuss the application of the Act or Commission regulations to specific factual situations. Any qualified person requesting an Advisory Opinion, who in good faith acts in accordance with the opinion, will not be subject to any sanctions under the Act with regard to the activity in question. The opinion may also be relied on by any other person involved in a specific transaction which is indistinguishable in all material aspects from the activity discussed in the Advisory Opinion. Those seeking guidance for their own activity should consult the full text of an Advisory Opinion and not rely only on the summary given here.

#### AO 1978-28: Party Get-Out-The-Vote Drive

The Washoe County Republican Party Committee (the Committee) of Nevada may conduct a get-out-the-vote drive in connection with the general election on behalf of State and local candidates. However, because it is a Federal election year, the expenses for the drive are considered to be made, in part, for the purpose of influencing the election of a person to Federal office. They must be allocated on a reasonable basis (11 CFR 106.1) between expenditures made to influence a Federal election and those which are made to influence a State or local election. That portion of the expenses which would be attributable to a Federal election must be paid from funds which are lawful under the Act.

Since the Committee does not anticipate that the portion of the funds attributable to a Federal election will exceed \$1,000, the Committee will not be required to register and report as a "political committee" under the Act. Furthermore, because the drive will not identify any "clearly identified" candidate for Federal office, the expenditures attributable to Federal elections are not considered contributions to or expenditures on behalf of any specific candidate for Federal office. (Length: 4 pages)

#### AO 1978-42: Solicitations by Dental Association

The Dental Society of the State of New York (the Society) may solicit contributions to its separate segregated fund, Empire Dental Political Action Committee (EDPAC), in conjunction with the mailing of dues statements to the Society's individual members.

Members of the Society may use a single personal check to both make contributions to EDPAC and pay their dues to the Society. The check must be made payable to the Society or to one of its district dental societies. Checks representing the combined dues payment and contribution may be placed in the bank account of the Society or district society. They may then remit the contribution portion to EDPAC by means of a separate check.

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This conclusion was based on several assumptions:

- Contributions are regarded as "received" by EDPAC at the time the combined dues payment/contribution is received by the Society or any of the district societies.
- The contribution portion of the checks are deposited in EDPAC's depository within 10 days after having been "received."
- All records of the Society's bank accounts into which combined dues payments/contributions are deposited are available to the Commission for inspection.
- The Society (and any district societies) must maintain for a specified period of time ". . . usual and customary accounting records of members' dues payments and other appropriate records indicating those members who make political contributions in combination with dues payments." (Length: 3 pages)

#### **AO 1978-50: Party Get-Out-the-Vote Drive**

The Michigan Democratic Party (the Party) may conduct a get-out-the-vote drive for the purpose of "identifying and motivating persons to support the Party's Gubernatorial nominee." However, the expenditures for such a drive must also be regarded as for the additional purpose of influencing the election of the Party's candidates for Federal office. Therefore, the expenses for the drive must be allocated on a reasonable basis between those made to influence Federal elections and those which are not.

The expenditures allocable to Federal candidates must be paid from and reported by the Party's Federal campaign committee. These expenses do not, however, need to be allocated as contributions to or expenditures on behalf of specific candidates for Federal office, unless the drive is conducted on behalf of clearly identified candidates. The Party may use materials which identify candidates for Federal office in connection with the drive, without the expenses for those materials being considered a contribution or expenditure, provided the materials are prepared in accordance with the slate card/sample ballot exemption under the Act (2 U.S.C. §431(e)(5)(E) and §431(f)(4)(G)).

The Michigan State law requiring party committees to make all expenditures from one account is preempted and superceded by the provisions of the Act which require that expenditures to influence the results of Federal elections be made and reported by a registered political committee.

Commissioner Thomas E. Harris filed a dissenting opinion. (Length, including dissenting opinion: 6 pages)

#### **AO 1978-59: Definition of Honorarium**

Payments to Senator Daniel Patrick Moynihan would be considered honoraria if the payments involved the reprinting or republication, as an **article**, of any of his previously published works. The payments are considered honoraria regardless of "whether or not additional effort is required from the author to produce the income from the reprint." Payment for an article is specifically included in the defini-

tion of "honorarium" in the Commission's regulations (11 CFR 110.12(b)). "Article" is defined to include a writing (other than a book) which has been published.

Income realized from the publication of books, however, is not considered an honorarium. Therefore, payments for the reprinting or republication of his works in a **book** are not considered honoraria and are not subject to the honoraria limitations in 2 U.S.C. §441i. (Length: 3 pages)

#### **AO 1978-63: Donations to Retire Campaign Debts**

Donations to retire campaign debts of Friends of Dick Obenshain (the Committee), the principal campaign committee of the late Richard Obenshain, are not considered contributions within the definition of the Act or regulations. Because the donations to the Committee are not made to influence the results of a Federal election, they are not subject to contribution limits. As receipts, however, they must be reported by the Committee. The retirement of debts of the Committee must also be reported.

The conclusion is based on two assumptions:

- "Any funds received in excess of the amount required to liquidate the debt will not be transferred or applied for the benefit of any 'political committee' or 'candidate' . . ."; and
- None of the debts to be retired will be assumed by any political party organization. (Length: 3 pages)

#### **AO 1978-66: Preemption of California Law**

William E. Dannemeyer, a candidate for the U.S. House of Representatives, may accept contributions from lobbyists registered under California law, even though he is also currently an elected State officer in California. A State law prohibiting contributions from lobbyists to any State officer is preempted by the Federal Election Campaign Act, to the extent the officer accepts contributions made to him (or his campaign committee) as a candidate for Federal office. 2 U.S.C. §453. (Length: 3 pages)

#### **AO 1978-67: Headquarters Shared by Federal And Non-Federal Candidates**

Congressman Glenn M. Anderson may share the costs of a combined campaign headquarters with a candidate for State office provided the costs of the shared facilities are allocated between the two campaigns "in a manner which equitably reflects the actual use and benefit to each campaign." Payment of Congressman Anderson's share of the costs would be considered an expenditure by his principal campaign committee and may be made in one of the following ways:

- Payment by Congressman Anderson's committee directly to the commercial vendor(s);
- Payment by Congressman Anderson's committee to the State candidate's committee (which, in turn, pays the full amount to the commercial vendor(s)); or
- Payment directly to the commercial vendor(s) by a single check drawn on an escrow account established jointly by Congressman Anderson's committee and the State candidate's committee.

Payment may not be made by means of a transfer from the State candidate's committee to Congressman Anderson's committee if the State candidate's committee has accepted any funds which would not be lawful under the Act. If the State candidate's committee paid the entire cost of the headquarters, without being reimbursed by Congressman Anderson's committee, the payment would be considered a contribution in-kind to Congressman Anderson's campaign, subject to the Act's limitations and prohibitions. (Length: 2 pages)

#### AO 1978-68: Contributions by Credit Card

The Seith for Senate Committee (the Committee) may accept contributions made by credit card which are authorized to be made over the telephone. The definition of "contribution" includes a written agreement to make a contribution, and does not require that the agreement be signed by the contributor. Such credit card contributions would be considered received by the Committee (and thus, reportable) when the proceeds of the transaction are received by the Committee from the credit card company.

The amount of the contribution is considered to be the total amount authorized by the contributor. The total contribution may not be reduced by discounts or service charges deducted by the credit card company before transferring the proceeds to the Committee. Any such discounts or service charges are considered expenditures made by the Committee on the date when it receives notice that the discount or service charge has been taken.

The conclusion is based on the assumptions that:

- The credit card company follows its usual and normal collection procedures with respect to obtaining payment from credit card holders who used their card to make a political contribution.

- The credit card company and the independent company receiving calls from contributors render "their services in the ordinary course of business"; and
- The credit card company and the independent company receiving calls are paid the normal and usual charge for their services. (Length: 4 pages)

#### ALTERNATE DISPOSITION OF ADVISORY OPINION REQUESTS

Since July 1978, the Commission has responded to the following Advisory Opinion Requests in a manner other than the issuance of an Advisory Opinion:

- AOR 1978-8 was withdrawn by its requestor.
- AOR 1978-57 was withdrawn by its requestor.

## INFORMATION

#### REPORTING OF PARTICULARS OF EXPENDITURES

On August 31, 1978, the Commission approved procedures for the disclosure of particulars of expenditures by non-Presidential candidates and committees. The procedures are contained in FEC Directive No. 12. **Note:** Procedures for the disclosure of particulars by Presidential candidates and committees in the 1980 election will be determined at a later date.

The Commission's regulations require that each candidate and committee required to report under the Act must disclose on their reports of receipts and expenditures:

*The identification of each person to whom expenditures have been made . . . which total more than \$100, or in an amount less than \$100 if the total exceeds \$100 within a calendar year, together with the amount, date, and particulars of each such expenditure . . .*  
(11 CFR 104.9(b)(9)) (Emphasis added.)

The procedures approved by the Commission provide guidelines for acceptable categories to use when reporting the particulars of expenditures. These include, among others, "transportation, consulting/professional fees, surveys/polls, advertising, printing/photography, fundraising, administration/operating, postage and meetings." Those categories which are not acceptable include:

1. "Credit Cards." Instead, the particulars (i.e., one of the categories listed above) of the credit card expenditures must be disclosed, together with the identification of each person (including hotels, restaurants, etc.) to whom expenditures were made by credit card in an aggregate amount exceeding \$100.
2. "Get-Out-the-Vote/Election Day," when such expenditures exceed either \$1,000 to any one person or \$2,500 to all persons during a reporting period. Instead, the

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#### FEC PUBLIC APPEARANCES

In keeping with its objective of making information available to the public, the Federal Election Commission regularly accepts invitations for its representatives to address public gatherings on the subject of campaign finance laws and the Commission itself. This regular column lists scheduled Commission appearances, detailing the name of the sponsoring organization, the location of the event and the Commission's representative.

11/9-10 National Association of Business  
Political Action Committees  
Scottsdale, Arizona  
Jan Baran, Executive Assistant to  
Chairman Joan Aikens

11/14 Delaware Valley Women's Chapter  
Freedoms Foundation at Valley Forge  
Valley Forge, Pennsylvania  
Chairman Joan Aikens

particulars (i.e., those categories listed in the paragraph above) of each actual election day expenditure must be disclosed.

3. "Advances." Instead, the particulars of the actual use of each expenditure (i.e., those categories listed in the paragraph above) must be disclosed.

## 800 LINE

The Public Communications Office of the Federal Election Commission receives numerous inquiries from the public on the toll-free line (800-424-9530). The following explanation of methods for allocating party expenses is in response to several frequently asked questions.

### ALLOCATION OF PARTY EXPENSES

The Commission's regulations require that "party committees and other political committees [supporting both Federal and non-Federal candidates] which have established Federal campaign committees pursuant to §102.6 [of FEC regulations] shall allocate administrative expenses on a reasonable basis between their Federal and non-Federal accounts . . ." These administrative expenses include rent, personnel, overhead, and other day-to-day costs of the party committee. Expenses for general party get-out-the-vote or registration drives must also be allocated between Federal and non-Federal accounts.

The portion of the expenses allocable to the Federal committee need not be attributed to any candidate's limits as contributions to or expenditures on behalf of any specific candidate unless they are made on behalf of and can be directly attributed to a clearly identified candidate. The expenses allocable to the Federal committee must be paid from funds lawfully contributed under the Act. The non-Federal expenses may be paid from a non-Federal account which may include, if permissible under State law, funds from corporate or labor sources. (Note: This supercedes the "Note" in the article on allocation of expenses in the December 1977 issue of the *Record*, p. 1.)

The following methods of allocating party expenses between Federal and non-Federal accounts have been suggested by the Commission for possible use:

#### 1. Proportionate to Funds Spent

Expenses may be allocated in proportion to the amount of funds spent on Federal elections as compared to the amount spent on non-Federal elections. (11 CFR 106.1(e))

#### 2. Proportionate to Funds Raised

Expenses may be allocated in proportion to the total amount of funds received respectively by the Federal committee alone and the Federal and non-Federal committees together. The ratio should be based on cumulative figures, from the beginning of the year, and should not include refunds or loan repayments. Consider, for example, a State-wide political party organization which has received a total of \$10,000 for both its

Federal and non-Federal committees, and whose receipts for the Federal committee alone amount to \$1,500. In this case, the expenses which must be paid by the Federal committee would be 15 percent of the total expenses of the State party organization.

#### 3. Ballot Position

Expenses may be allocated in proportion to the number of Federal and non-Federal candidates appearing on the official election ballot. Candidates for Federal office may not be equated on a one-to-one basis with State or local candidates. (For two specific examples of this type of allocation, see Re: AOR 1976-72 and AO 1978-28.)

#### 4. Any Other Reasonable Basis

Expenses may be allocated between the Federal and non-Federal committees on any other reasonable basis.

**Note:** In a recent Advisory Opinion, the Commission concluded that a county party unit, not qualified as a "political committee," had to consider a portion of its expenses for a get-out-the-vote drive as expenditures made for the purpose of influencing a Federal election, since the drive was held in a Federal election year and would, therefore, have an influence on Federal elections. Using one of the methods outlined above, party units had to allocate these expenses **even though**:

- The drive was not on behalf of or for the benefit of any clearly identified candidate for Federal office (and, therefore, not counted against limitations as a contribution to or an expenditure on behalf of such a candidate);
- The county party unit was not required to establish a Federal political committee under 11 CFR 102.6; and
- The County party unit had not made and did not intend to make contributions to or expenditures on behalf of Federal candidates in excess of \$1,000 during the calendar year. See Advisory Opinion 1978-28.

If the portion of get-out-the-vote expenses attributable to Federal elections (or if those expenses in combination with contributions to or expenditures on behalf of a clearly identified candidate for Federal office) exceeded \$1,000 during the calendar year, the party unit would become a "political committee" under the Act and would be subject to the Act's registration and reporting requirements.

## COMPLIANCE

### FEC PUBLISHES NAMES OF NONFILERS

The Commission is required by the Federal Election Campaign Act to publish the names of candidates and political committees who fail to file required reports of receipts and expenditures.

Before publishing the name of a candidate or committee who has failed to file, the Commission sends them at least

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two notices. If, following receipt of these notices, the candidate or committee continues not to file the required report, the name of that "nonfiler" is made public. The following is a list of recent nonfiler actions taken by the Commission:

Publication Date	Report Not Filed	Number of Nonfilers
9/13/78	July 10 (Quarterly)	138
9/25/78	Mississippi (Post-Runoff)	1
10/5/78	Hawaii (Pre-Primary)	1

## AUDITS

### AUDITS RELEASED TO THE PUBLIC

The Federal Election Campaign Act requires the Commission "... to make from time to time audits and field investigations with respect to reports and statements filed under the Act." The Commission is also required to conduct audits of all campaigns of Presidential candidates who receive public funds. Once an audit is completed and an audit report is approved by the Commission, the report is made public and is available in the Office of Public Records and the Press Office. The following is a chronological listing of audits released as of October 18, 1978.

Audit	Date Made Public
1. D.C. Republican Committee/1976 D.C. Republican Dinner Committee/ 1978 D.C. Republican Dinner Committee	9/22/78

FEDERAL ELECTION COMMISSION  
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OFFICIAL BUSINESS

## PUBLICATIONS

### INFORMATION BROCHURE

The Commission recently released its new general informational brochure, **The FEC and the Federal Campaign Finance Law**. Designed for the general public, the 12-page pamphlet gives a brief overview of the major provisions of the Federal Election Campaign Act and the Commission's role in administering it. The brochure also summarizes the information and assistance available from the FEC and contains details on how to obtain additional information on other election-related topics.

The brochure is available to anyone requesting a copy or, in bulk, to organizations wishing to distribute multiple copies. For further information, contact the Office of Public Communications at the Commission (800-424-9530).

### FORMS

Forms for candidates and committees to register and report are available at any time by contacting:

Office of Public Communications  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463  
Telephone: 202/523-4068  
Toll-Free: 800/424-9530

Candidates and committees should use the revised form for reporting receipts and expenditures, which is designated in the upper left hand corner as: **FEC Form 3 REVISED, January 1978**. Candidates and committees may make and use photocopies of standard FEC forms.

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