

RECORD

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November 1982

REPORTS

STATISTICS

POST-GENERAL ELECTION REPORT DUE

The following political committees are required to file a post-general election report, due by December 2, 1982:

- Authorized committees of candidates who participated in the 1982 general elections; and
- All noncandidate committees (i.e., political committees which have not been authorized by any federal candidate), including noncandidate committees that have chosen to file on a monthly (rather than a quarterly) basis.

Note: In lieu of monthly reports due in November and December 1982 and January 1983, noncandidate committees filing on a monthly basis must instead file pre- and post-general election reports and a year-end report.

Information Covered

The post-general election report must be filed, regardless of whether a committee has had any financial activity during the period covered by the report. The report must disclose financial information from the closing date of the last report filed or from the date of registration, whichever is later, through November 22, 1982.

Forms and Information

Reporting forms are being sent to all registered committees, alerting them to their reporting obligations. Questions and requests for additional forms should be addressed to the Office of Public Communications, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463; or call 202/523-4068 or toll free 800/424-9530.

PAC CONTRIBUTIONS

EXCEED \$38 MILLION DURING 1981-82 ELECTION CYCLE

Contributions made by PACs to federal candidates totaled \$38 million during the first 18 months of the 1981-82 election cycle. Most of that amount, \$34 million, was contributed to candidates active in 1982 Congressional elections. By contrast, during the first 18 months of the

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PUBLIC APPEARANCES

Date	Sponsoring Organization
11/2	Institute of International Education Humphrey Fellowship Program Washington, D.C. B. Allen Clutter, Staff Director
11/7	Aspen Institute for Humanistic Studies 1982 Communications Policy Workshop Eastern Shore of Maryland Chairman Frank P. Reiche
11/9	Kentucky County Clerks Association Fall Convention Lexington, Kentucky Chairman Frank P. Reiche Dr. Gary Greenhalgh, Assistant Staff Director, Information Division Gwen Hofmann, Research Specialist, FEC Clearinghouse on Election Administration

ADVISORY OPINION REQUESTS

The following chart lists recent requests for advisory opinions (AORs). The full text of each AOR is available to the public in the Commission's Office of Public Records.

AOR Subject

- | | |
|---------|--|
| 1982-54 | Corporate member approvals sought by association PAC for solicitations in following year. (Date made public: September 24, 1982; Length: 4 pages) |
| 1982-55 | Combined payment of membership dues and PAC contributions to association's trust account. (Date made public: September 27, 1982; Length: 2 pages, plus supplement) |
| 1982-56 | Congressional candidate's endorsement of local candidate included in local candidate's T.V. ad. (Date made public: September 27, 1982; Length: 2 pages, plus supplement) |

ADVISORY OPINIONS: SUMMARIES

An Advisory Opinion (AO) issued by the Commission provides guidance with regard to the specific situation described in the AOR. Any qualified person who has requested an AO and acts in accordance with the opinion will not be subject to any sanctions under the Act. Other persons may rely on the opinion if they are involved in a specific activity which is indistinguishable in all material aspects from the activity discussed in the AO. Those seeking guidance for their own activity, however, should consult the full text of an AO and not rely only on the summary given here.

AO 1982-49: Contributions Designated for Primary, Which Was Never Held

The Weicker '82 Committee (the Committee), the principal campaign committee for Senator Lowell Weicker's reelection campaign, may not use or retain contributions designated for a possible primary election. Since the primary was never held, there is no separate limit for contributions made for the primary, which, under Connecticut law, would have been a separate election after the party nominating convention. Accordingly, the Committee must return any contributions designated for the primary because they were given by individuals who had reached their contribution limits with respect to Senator Weicker's campaigns for nomination at his party's convention and for the general election. (The convention and the general election each constitute a separate election, with separate contribution limits.)

Since Connecticut law gives a party's nominating convention the authority to nominate a candidate for federal office, the convention is considered an "election" for purposes of the Act's contribution limits. 2 U.S.C. §431(1)(B); 11 CFR 100.2(e). Connecticut law also permits an individual to call for a primary election to challenge a candidate endorsed by the state party convention if the individual: 1) receives at least 20 percent of his or her party's vote at the party's nominating convention and 2) files petitions signed by the requisite number of party members. If this occurs, the primary constitutes a third election.

Although Prescott Bush, Senator Weicker's chief opponent for the Republican Party's nomination for U.S. Senator, had received over 20 percent of the convention votes, the primary election was not held because Mr. Bush never filed the required petitions. A primary election contribution limit was, therefore, not available to Senator Weicker's contributors and the Committee had to refund contributions designated for the primary campaign. (Date issued: October 8, 1982; Length: 3 pages)

AO 1982-52: Funds Transferred From State Campaign to Federal Campaign for Debt Retirement

State Senator Doug Ross may transfer funds from his state campaign committee to his Congressional campaign in order to retire debts of an

continued

The Record is published by the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Commissioners are: Frank P. Reiche, Chairman; Danny Lee McDonald, Vice Chairman; Joan D. Aikens; Lee Ann Elliott; Thomas E. Harris; John Warren McGarry; William F. Hildenbrand, Secretary of the Senate, Ex Officio; Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Ex Officio. For more information, call 202/523-4068 or toll-free 800/424-9530.

unsuccessful primary campaign for a House seat in Michigan's 17th Congressional District. Because the two committees are affiliated by virtue of having been established by the same candidate, unlimited funds could be transferred between them. The size of the transfer, however, would determine whether or not the state campaign committee exceeded the threshold for becoming a "political committee" under the Act and how the transfer should be reported.

Transfers Exceeding \$1,000

If the state campaign committee transferred more than \$1,000 to Mr. Ross' Congressional campaign committee during the year, it would have to register, file reports and operate as a "political committee" under the Act. 2 U.S.C. §431(4)(A); 11 CFR 100.5 and 102.6(a). On its first report (which could also be its termination report), the state campaign committee--newly registered as a federal committee--would have to disclose the source of all cash-on-hand on the basis of last in, first "on hand." The committee would have to exclude any contributions which are not permissible under the Act from its cash-on-hand. In addition, the committee would have to exclude any contribution which, when added to contributions already made by the same donor to the Congressional committee, caused the contributor to exceed the \$1,000/\$5,000 limit.*

On the same report, the new federal committee could also disclose the transfer of these funds to the Congressional campaign committee. The Congressional campaign committee, in turn, would report its receipt of the transfer as a "miscellaneous receipt" from the state campaign committee.

Transfer of \$1,000 or Less

Alternatively, if the state campaign committee transferred \$1,000 or less to the Congressional campaign committee during the year, the state campaign committee would **not** have to register as a political committee under the Act. 11 CFR 102.6(a) and 100.5. Instead, the state campaign committee would be required to either:

1. Establish a separate account from which it could transfer funds permissible under the Act; or
2. Demonstrate through a reasonable accounting method that, when the transfers were made to the Congressional campaign committee, the state committee had received sufficient permissible funds to make the transfers. 11 CFR 102.5(b).

The Commission expressed no opinion on state laws governing the disposition of state campaign funds since they are not within its jurisdiction. (Date issued: September 30, 1982; Length: 4 pages)

STATISTICS

continued from p. 1

1979-80 election cycle, PACs* contributed \$25 million to federal candidates, with approximately \$20 to \$23 million going to candidates active in 1980 Congressional elections. (A similar study on PAC activity during the first 15 months of the current election cycle was published on p. 7 of the August 1982 Record.)

The information released by the FEC on October 3, 1982, is based on a four-volume interim study, FEC Reports on Financial Activity, 1981-82. This study, along with previous FEC reports, shows a variation in total funds raised and spent by PACs during the first 18 months of the 1978, 1980 and 1982 election cycles. PACs raised a total of \$137.2 million during the period from January 1, 1981, through June 30, 1982. During the same period in 1979-80, they raised \$85.3 million, and in 1977-78, \$54.0 million. During the current election cycle, PACs made disbursements totaling \$103.9 million. PACs spent a total of \$61.4 million during the same period in 1979-80, and a total of \$38.7 million in 1977-78.

Charts I and II list those PACs that have raised the most money and made the most contributions to federal candidates during the first 18 months of the current election cycle. Chart III shows the distribution of PAC contributions to 1981-82 Congressional candidates by party affiliation and by their status as incumbent, challenger or open seat candidates. Chart IV summarizes total financial activity of PACs during the same period.

More detailed information may be obtained from the four-volume interim study, FEC Reports on Financial Activity, 1981-82 -- Interim Report No. 2: Party and Non-Party Political Committees. The study may be purchased (\$5.00 per volume) from the FEC's Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463. Checks should be made payable to the FEC.

continued

*PAC is a popular term used to define all political committees that have not been authorized by candidates or political parties. The term includes separate segregated funds connected to corporations and labor organizations as well as political committees without any connected organization (i.e., corporate or labor sponsor).

*Qualified multicandidate committees may contribute up to \$5,000 per candidate, per election. All other persons may each contribute up to \$1,000 per candidate, per election.

CHART I
TOP 10 PAC MONEY RAISERS

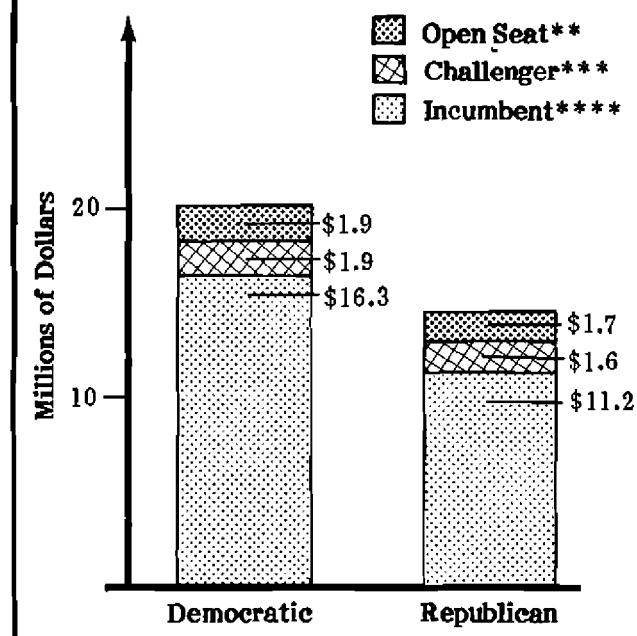
Political Action Committee	Amount Raised 1/81 - 6/82
National Congressional Club	\$7,695,037
National Conservative Political Action Committee	7,223,209
Realtors Political Action Committee (National Association of Realtors)*	2,225,645
American Medical Political Action Committee (American Medical Association)	2,172,477
Citizens for the Republic	1,945,809
Fund for a Conservative Majority Committee for the Survival of a Free Congress	1,915,763
National Committee for an Effective Congress	1,786,675
Committee for the Future of America, Inc.	1,623,820
Committee for Thorough Agricultural Political Education (Associated Milk Producers, Inc.)	1,457,835
	1,378,406

CHART II
TOP 10 PAC CONTRIBUTOR'S TO CANDIDATES

Political Action Committee	Amount Contributed 1/81 - 6/82
American Medical Political Action Committee (American Medical Association)*	\$857,461
Realtors Political Action Committee (National Association of Realtors)	614,110
UAW Voluntary Community Action Program (United Auto Workers)	566,415
Machinists Non-Partisan Political League (International Association of Machinists & Aerospace Workers)	560,048
American Bankers Association BANKPAC (American Bankers Association)	471,515
National Education Association PAC (National Education Association)	411,933
Seafarers Political Activity Donation (Seafarers International Union of North America)	394,166
Committee for Thorough Agricultural Political Education (Associated Milk Producers, Inc.)	376,200
Responsible Citizens Political League (Railway, Airline & Steamship Clerks)	371,917
American Dental Political Action Committee (American Dental Association)	357,650

*The connected organizations (i.e., sponsors) of separate segregated funds are indicated in parentheses.

CHART III
PAC CONTRIBUTIONS* TO 1982 HOUSE AND SENATE CANDIDATES



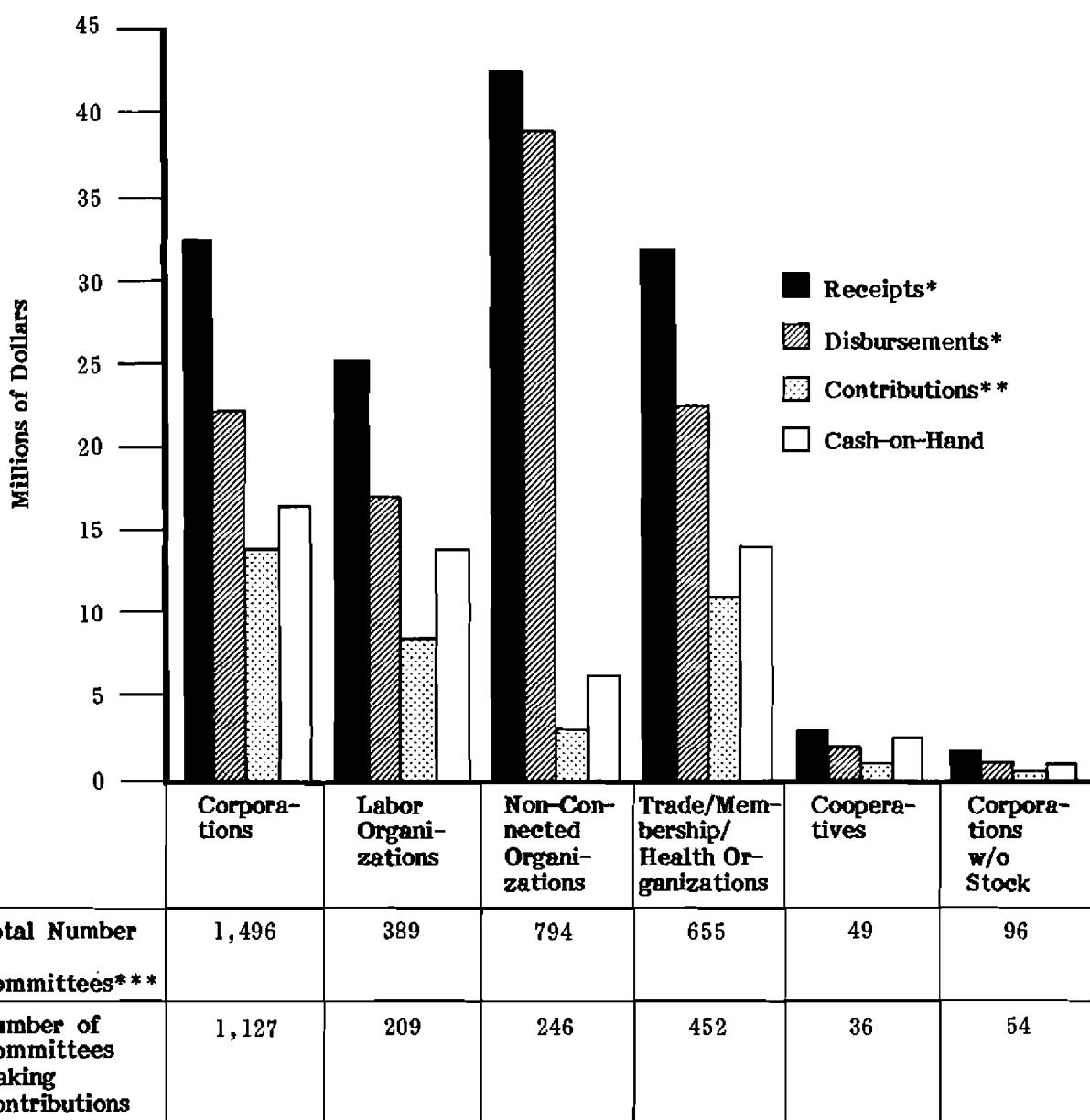
*Includes contributions made by PACs from 1/1/81 - 6/30/82.

**Open seat campaigns refer to the campaigns of all candidates running in a 1981 or 1982 election where the incumbent does not seek re-election.

***Challenger campaigns refer to the campaigns of all those candidates running in an election where an incumbent seeks or did seek re-election. Candidates maintain their challenger status throughout the election cycle, even if the incumbent is defeated in a primary or run-off election.

****Incumbent campaigns are those of candidates who have held a Congressional office at any time during the 97th Congress. With respect to the eight special elections in 1981 and 1982 for vacant House seats, post-election contributions reported being made to the winners are included in the incumbent campaign category. Earlier contributions to these eight campaigns are placed in the open seat category.

CHART IV
FINANCIAL ACTIVITY OF PACS, 1/1/81 - 6/30/82



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

**Includes contributions to committees of: 1982 House and Senate candidates; and all federal candidates (for House, Senate and Presidency) campaigning in future or special elections or retiring debts of former campaigns.

***Includes total number of PACs active in federal elections at any time between January 1, 1981, and June 30, 1982. Since some committees have terminated, this figure does not represent all committees active as of June 30, 1982.

COURT CASES

FEC v. FLORIDA FOR KENNEDY COMMITTEE

On August 2, 1982, the U.S. Court of Appeals for the Eleventh Circuit issued an opinion overturning a ruling of the U.S. District Court for the Southern District of Florida in FEC v. Florida for Kennedy Committee (FKC) (Civil Action No. 80-6013). 681 F.2d 1281 (11th Cir. 1982). The appeals court, with Judge Clark dissenting, found that the Commission lacked subject matter jurisdiction over the FKC's activities. The appeals court therefore reversed the district court's order enforcing subpoenas that the Commission had issued to FKC.

The suit was one of four separate suits* filed by the FEC in U.S. district courts that sought enforcement of subpoenas the FEC had issued to several political committees, which had been engaged in promoting the Presidential candidacy of Senator Edward Kennedy during 1979.** The Commission had issued the subpoenas as part of its investigation into a complaint alleging that the "draft Kennedy" committees had unlawfully failed to disclose their affiliation. The complaint further alleged that, as affiliated committees subject to a single \$5,000 contribution limit, the committees had accepted excessive contributions amounting to \$30,000 from the Machinists Non-Partisan Political League, the political arm of the International Association of Machinists.

In ordering enforcement of the subpoenas, the district court held that the subpoenas met the guidelines for enforceability and were within the authority of the FEC. Relying on the Supreme Court's decision in NAACP v. Alabama (357 U.S. 499 [1958]), the appeals court maintained, however, that the usual standard for judicial review of agency subpoenas did not apply in the FEC's case. The appeals court reasoned that "the FEC [must] prove to the satisfaction of the courts that it has statutory investigative authority" before the courts may order enforcement of FEC subpoenas. The appeals court then found that "committees organized to 'draft' a person for federal office" are not "political committees" within the purview of the Act and are not, therefore, subject to the Commission's investigative authority.

Judge Clark, in his dissent to the majority opinion, concluded that the statutory language and legislative history both demonstrated that "draft" committees fall within the jurisdiction of the Act. Judge Clark argued that to exempt draft committees from the Act "would leave a significant portion of political activity outside the coverage of the Act, a construction rejected by the Supreme Court." Judge Clark also found the court's reliance on NAACP v. Alabama to be inappropriate.

On September 22, 1982, the Commission filed a petition with the appeals court for a rehearing of the suit and a suggestion for a rehearing en banc, which was denied October 8, 1982.

FEC v. ROBERT EARL SHORT

On September 27, 1982, the U.S. District Court for the District of Minnesota, Third Division, issued a consent order resolving claims brought by the Commission against the defendants in FEC v. Robert Earl Short, et al. (Civil Action No. 3-82 Civ. 192). The court levied civil penalties against the defendant committees and dismissed the suit with prejudice against all defendants.

FEC's Claims

In its suit, filed March 1, 1982, the FEC claimed that Employees of Bob Short Companies Committee and Just a Bunch of Plain DFL Folks Who Want Common Sense Government, two political committees, and Larry J. Weisgram and Walter E. Riordan, the treasurer of each committee, respectively, had violated the election law by failing to report disbursements as in-kind contributions to, rather than as independent expenditures on behalf of, the Short for Senate Committee of Volunteers. The FEC alleged the disbursements had exceeded the Act's contribution limits. 2 U.S.C. §§434 and 441a (1976). The FEC further claimed that defendants Robert Earl Short, a 1978 Senate candidate from Minnesota, the Short for Senate Committee of Volunteers, his principal campaign committee, and Robert J. Foster, its treasurer, had also violated the Act by failing to report the Short committee's receipt of these "in-kind contributions." 2 U.S.C. §434 (1976).

Resolution of Claims

In the consent order, the defendant committees agreed that they had violated these provisions of the election law. The defendant committees further agreed to amend their respective reports within 30 days of the consent order to reflect the disbursements made by the donor committees as "in-kind contributions" from the committees to Short's principal campaign committee. Additionally, the Court imposed a civil penalty of \$400 on each defendant committee. The court voluntarily dismissed the case as to the individual defendants.

*For a detailed summary of these suits, see p. 5 of the July 1981 Record.

**The Act, as amended in 1976, defines "political committee" to include any group receiving "contributions" or making "expenditures" totaling more than \$1,000 to influence federal elections. 2 U.S.C. §431(d)(1976).

NEW LITIGATION

William A. William v. FEC

On September 28, 1982, plaintiff filed suit in the district court requesting that the court:

- Declare that the FEC's failure to take final action on an administrative complaint he had filed on April 28, 1982, was contrary to law; and
- Require that the FEC take final action on the complaint on or before October 28, 1982. (Under the Act, if the FEC has not taken action on a complaint within 120 days after it has been filed, the complainant may file a petition with the U.S. District Court for the District of Columbia. If it finds the FEC's failure to act on the complaint was contrary

to law, the court may order the FEC to take final action within 30 days. 2 U.S.C. §437g(a)(8)(A).)

On September 29, 1982, plaintiff filed a motion for a temporary restraining order, a preliminary injunction and an expedited hearing on his case. On October 1, 1982, the court denied plaintiff's motion for a temporary restraining order and scheduled a hearing on his request for a preliminary injunction for October 6, 1982. Since, however, the Commission took final action on the administrative complaint on October 5, 1982, the suit was voluntarily dismissed on October 6, 1982.

U.S. District Court for the District of Columbia, Docket No. 82-2778, September 30, 1982.

CHANGE OF ADDRESS

Political Committees

Registered political committees are automatically sent the Record. Any change of address by a registered committee must, by law, be made in writing as an amendment to FEC Form 1 (Statement of Organization) and filed with the Clerk of the House, the Secretary of the Senate, or the FEC, as appropriate.

Other Subscribers

Record subscribers (who are not political committees), when calling or mailing in a change of address, are asked to provide the following information:

1. Name of person to whom the Record is sent.
2. Old address.
3. New address.
4. Subscription number. The subscription number is located in the upper left hand corner of the mailing label. It consists of three letters and five numbers. Without this number, there is no guarantee that your subscription can be located on the computer.

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