

RECORD

June 1983

1325 K Street NW Washington DC 20463

Volume 9, Number 6

REPORTS

SPECIAL ELECTIONS IN CALIFORNIA AND ILLINOIS

Beginning in June, special elections will be held in two states to fill vacant House seats. On **June 21**, California will hold a special election in its 5th Congressional District to fill the seat vacated by the death of Representative Phillip Burton. If no candidate obtains a majority of the votes, a special runoff election will be held on August 16. On **July 26**, Illinois will hold a special primary election in its 1st Congressional District to nominate candidates for the seat formerly held by Representative Harold Washington. A special general election will be held on **August 23, 1983**.

The principal campaign committees of candidates participating in these special elections must file the appropriate pre- and post-election reports. Since the financial activity covered by these reports overlaps with the activity covered by the July semiannual report, the July semiannual reporting schedule has been modified as follows:

California Special Elections: Semiannual Report

If only one special election is held, the committees of candidates participating in the special election do **not** have to file a July semiannual report provided they file a post-special election report by July 21, 1983. The post-special election report must cover all financial activity since the pre-election report through July 11.

If both a special election and a runoff election are held:

- Committees of candidates participating in the runoff election are not required to file a post-special election report. Instead, they must file a pre-runoff report, due by August 4, 1983. Filed in lieu of the July semiannual report, the pre-runoff report must cover all financial activity since the pre-special election report through July 27. A post-runoff report must also be filed by September 15, which covers activity since the pre-runoff report through September 5.
- Committees of candidates not participating in the runoff election must file a semiannual report by July 31, 1983, which covers activity since the pre-special election report through

June 30, 1983. These committees are **not** required to file a post-special election report.

Illinois Special Elections: Semiannual Report

Instead of filing a separate semiannual report by July 31, committees involved in the Illinois special elections may file a report by July 14, 1983, which combines activity covered by both the July semiannual report and the pre-primary report. The combined report must include activity from January 1, 1983, or the date of registration, whichever is later, through July 6, 1983.

All other political committees which support candidates in these special elections (and which do not report on a monthly basis) must also follow the appropriate reporting schedules.

This article does not cover all filing dates applicable to these special elections. The FEC will send specific notices on reporting requirements and filing dates to individuals known to be actively pursuing election to these House seats. All other committees supporting candidates in the special elections should contact the Commission for more information on required reports. Call 202/523-4068 or toll free 800/424-9530.

REGULATIONS

FEC PRESCRIBES REGULATIONS ON NOTICES FOR POLITICAL ADS AND SOLICITATIONS

On May 13, 1983, the Commission prescribed revised regulations governing the use of disclaimer notices on political advertisements and solicitations. The revised regulations modify the requirements for public political advertising which expressly advocates the election or defeat of a clearly identified federal candidate or which solicits contributions to influence federal elections. 11 CFR 110.11(a). A copy of the new regulations is available, upon request, from the Public Communications Office. Call 202/523-4068 or, toll free, 800/424-9530.

continued

STATUS OF FEC REGULATIONS

Regulations*	Date Sent to Congress	Federal Register Publication	Date Prescribed** by the Commission
11 CFR 100.7(a)(1)(i)(C), 100.7(b)(11), 100.8(b)(12), 110.10(b) and 9003.2(c)(3) Candidate's Use of Property in Which Spouse Has an Interest	4/27/83	4/27/83 48 <u>Fed. Reg.</u> 19019	
11 CFR 110.11 Disclaimer Notices	2/25/83	3/2/83 48 <u>Fed. Reg.</u> 8809	5/13/83
11 CFR 110.12(a)(2) - (a)(4) Annual Honoraria Limit	NA	4/8/82 47 <u>Fed. Reg.</u> 15098	4/8/82
11 CFR 114.3 and 114.4 Communications by Corporations and Labor Organizations	3/1/83 (withdrawn to obtain further public comment, 4/22/83)	3/4/83 48 <u>Fed. Reg.</u> 9236; 4/22/83 48 <u>Fed. Reg.</u> 17567	
11 CFR 106 and 9031 - 9039 Presidential Primary Matching Fund	1/24/83	2/4/83 48 <u>Fed. Reg.</u> 5224	4/4/83

*The chart is cumulative, listing all amendments to the FEC Regulations proposed after the 1981 edition of 11 CFR was published, including any technical amendments.

**The Commission may prescribe its regulations 30 legislative days after it has transmitted them to Congress, provided neither the House nor the Senate disapproves them during this period.

FEC WITHDRAWS REGS ON CORPORATE/LABOR COMMUNICATIONS; SEEKS ADDITIONAL COMMENTS

To permit further public comment on regulations governing corporate/labor communications, the Commission has decided to withdraw from Congressional consideration proposed changes to 11 CFR Part 114. The Commission had transmitted the proposed revisions to Congress on March 1, 1983.* Following this second comment period, the Commission may resubmit revised regulations (Part 114) to Congress.

In particular, the Commission seeks additional comments on revisions which would expand the

definition of "restricted class," as it pertains to incorporated membership organizations and labor organizations. Under the suggested revisions:

- An incorporated membership organization, a trade association, cooperative or a corporation without stock could address partisan communications to, and solicit contributions for its separate segregated fund from, families of its members, in addition to its members.
- A labor organization could make partisan communications to, and solicit contributions for its separate segregated fund from, its executive and administrative personnel, as well as its members and their families.

Comments or questions on these proposed revisions should be submitted to Ms. Susan E. Propper, Assistant General Counsel, by May 23, 1983. Ms. Propper may be contacted at 202/523-4143 or by writing to the Commission at 1325 K Street, N.W., Washington, D.C. 20463.

*The full text of proposed changes to 11 CFR 114.3, 114.4, 114.5, 114.7 and 114.8 were published in the Federal Register on March 4, 1983 (48 Fed. Reg. 9236). A summary of the proposed changes appeared in the April 1983 Record.

RULES SENT TO CONGRESS ON CANDIDATE'S USE OF PROPERTY IN WHICH SPOUSE HAS AN INTEREST

On April 22, 1983, the Commission transmitted to Congress proposed rules governing a candidate's use of property jointly owned with a spouse or property in which the spouse has some other legal interest. These regulations will be prescribed 30 legislative days after their transmittal to Congress, provided neither the House nor the Senate disapproves them. The proposed rules address the following circumstances involving joint ownership of financial assets by a candidate and his/her spouse:

Loans Requiring Spouse's Signature

Current regulations view all loan endorsers and guarantors as contributors to the campaign. Thus, if a candidate's spouse is required to cosign a loan, he or she becomes a contributor to the campaign. Under the suggested revisions, a spouse who cosigns a loan would not be considered a contributor if the candidate's share of the assets used as collateral equaled or exceeded 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

Under the current regulations, a candidate may contribute an unlimited amount of "personal funds" to his or her campaign. Under the proposed rules, a candidate may also 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., a joint checking account or proceeds from the sale of jointly owned stock), the Commission will assume that the candidate's share of the assets is 50 percent of their total value.

The proposed rules also clarify the definition of "personal funds." Under the new regulations, the term "personal funds" includes a) funds to which the candidate 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. Moreover, since the term "equitable interest" is commonly used in property law to define an individual's interest in property to which he or she does not have legal title, the proposed regulations use this term instead of "right of beneficial enjoyment."

The proposed rules affect the following sections of Commission Regulations: 11 CFR 100.7(a)(1)(i)(C)-(E), 100.7(b)(11), 100.8(b)(12), 110.10(b), 110.10(b)(1), 110.10(b)(3) and 9003.2(c)(3). The full text of the proposed rules was published in the Federal Register on April 27, 1983 (48 Fed. Reg. 19019). Copies of the notice may be obtained by writing the FEC's Public Communications Office, 1325 K Street, N.W., Washington, D.C. 20463 or by calling: 202/523-4068 or toll free 800/424-9530.

OPINIONS

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
1983-13	Escrow account established by union PAC for testamentary bequest. (Date made public: April 20, 1983; Length: 2 pages, plus 9-page supplement)
1983-14	Use of excess funds from 1982 Congressional campaign. (Date made public: April 26, 1983; Length: 1 page)
1983-15	State public funds deposited in state party's federal account. (Date made public: May 5, 1983; Length: 2 pages)

continued

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

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

-- AOR 1983-7 was withdrawn by its requester on April 14, 1983.

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 1983-8: Building Fund Established to Purchase Office Space for National Party Committee

The National Republican Senatorial Committee (NRSC), a national committee of the Republican party, has established a fund (the building fund) to defray the costs of purchasing office space for NRSC. As long as NRSC uses donations to the building fund **solely** for this purpose, the funds are specifically exempt from the Act's definition of "contribution." 2 U.S.C. §431(8)(B)(viii). If NRSC uses donations to the building fund for any other purpose (i.e., to pay costs of administering the building property), these donations would **not** be exempt; they would be considered contributions made to defray NRSC's operating expenditures. As such, they would be subject to the limits and prohibitions of the Act.

The Commission was unable to reach a decision by an affirmative vote of four Commissioners concerning the disclosure of donations to the building fund. (Date issued: May 3, 1983; Length: 3 pages)

AO 1983-9: Primary Matching Fund Eligibility for Candidate Whose Personal Loan for Testing the Waters May Exceed \$50,000

Judge Charles E. Curry, who is testing the waters for a Presidential candidacy, may loan his exploratory committee more than \$50,000 in personal funds and still be eligible for primary matching funds if he later becomes a candidate. He may establish eligibility provided that, within 10 days after he becomes a candidate, his campaign committee repays that portion of the loan which exceeds \$50,000.

Under the Primary Matching Fund Act, Presidential primary candidates who seek eligibility for matching funds must certify that they have not and will not spend more than \$50,000 in personal funds. 11 CFR 9035.2(a). This is true regardless of whether the candidate loans the funds or contributes them to his campaign. On the other hand, before becoming a candidate, an individual may lawfully make **unlimited** disbursements, using funds from any source, to test the waters for a potential candidacy. These payments are not considered "expenditures" subject to the Act's requirements. 11 CFR 100.8(b)(1). However, once an individual becomes a candidate, these disbursements (including those made from the candidate's personal loan) retroactively become campaign "expenditures" subject to the Act's limitations. Under these circumstances, Commission Regulations permit a campaign committee to achieve compliance with the Act by returning, within 10 days after the individual becomes a candidate, any unlawful funds that the committee received during the testing-the-waters period. 11 CFR 101.3. Therefore, if the exploratory committee returns that portion of the loan exceeding \$50,000 within 10 days, Judge Curry may become eligible for matching funds, assuming he is otherwise eligible.

If his committee meets this requirement, Judge Curry should expressly state, in the certifications submitted to establish matching fund eligibility, that he had at one time exceeded the \$50,000 spending limit. He should also explain the details of his committee's reimbursement of his personal loan. (Date issued: May 3, 1983; Length: 4 pages)

PUBLIC FUNDING

MONDALE, CRANSTON ELIGIBLE FOR PRIMARY MATCHING FUNDS

On April 14, 1983, the Commission determined that Democratic Presidential candidates Walter F. Mondale and Alan Cranston were eligible to receive federal matching funds for their 1984 primary campaigns. Under the election law, Presidential candidates may begin seeking eligibility for primary matching funds after January 1, 1983. However, the U.S. Treasury may not make actual payments before January 1, 1984. The maximum amount of matching funds an eligible candidate may receive during 1984 is equal to half the overall spending limit established by law for each publicly funded Presidential primary candidate (\$10 million, plus a cost-of-living adjustment).

The Commission's determination followed a thorough review by the Audit Division of the threshold submissions made by the two candidates during January 1983. To establish eligibility for matching funds, a Presidential primary candidate must raise in excess of \$5,000 from individuals in each of at least 20 different states. Although individual contributors may give up to \$1,000 to the candidate, only \$250 may be matched with public funds. As a prerequisite to being eligible for primary matching funds, the candidate must agree to comply with the election law and Commission Regulations.

FEDERAL REGISTER

FEDERAL REGISTER NOTICES

The items below identify FEC documents that appeared in the Federal Register during April and May 1983. Copies of these notices are available in the Public Records Office.

Notice	Title
1983-10	11 CFR 114.3 and 114.4: Nonpartisan Communications by Corporations and Labor Organizations; Withdrawal of Regulations From Congress (48 <u>Fed. Reg.</u> 17566, April 22, 1983)
1983-11	11 CFR 114.3 and 114.4: Nonpartisan Communications by Corporations and Labor Organizations; Second Notice of Proposed Rulemaking (48 <u>Fed. Reg.</u> 17567, April 22, 1983)
1983-12	11 CFR 100.7(a)(1)(i)(C), 100.7(b)(11), 100.8(b)(12), 110.10(b) and 9003.2(c)(3): Candidate's Use of Property in Which Spouse Has an Interest; Final Rule, Transmittal of Regulations to Congress (48 <u>Fed. Reg.</u> 19019, April 27, 1983)
1983-13	Filing Dates for California Special Election (48 <u>Fed. Reg.</u> 20136, May 4, 1983)
1983-14	Disclaimer Notices: Final Rule, Announcement of Effective Date (48 <u>Fed. Reg.</u> 21553, May 13, 1983)
1983-15	Filing Dates for Illinois Special Election (48 <u>Fed. Reg.</u> 22991, May 23, 1983)

STATISTICS

PAC CONTRIBUTIONS UP 51 PERCENT FOR 1982 RACES

Contributions made by political action committees (PACs)* to 1982 Congressional campaigns totaled \$83.1 million, a 50.5 percent increase over the \$55.2 million contributed by PACs to 1980 Congressional races.

Information released by the FEC on April 29, 1983, also showed a variation in PAC contribution patterns between the two election cycles. During 1981-82, PACs increased the proportion of their contributions to Democratic candidates running for Congress. Of the total amount PACs contributed to 1982 Congressional races (i.e., primary and general election races), 54.3 percent (or \$45.1 million) went to Democratic candidates, while 45.7 percent (or \$38 million) went to Republican candidates. By contrast, Democratic candidates in 1980 Congressional races received 52.3 percent (or \$28.9 million) of total PAC contributions, while Republicans received 47.5 percent (or \$26.2 million).

During the current election cycle, PAC contributions made to incumbents, rather than challengers, increased by an even wider margin. During the 1981-82 election cycle, incumbents campaigning for reelection in 1982 received 65.9 percent of all PAC contributions made to Congressional candidates (or \$54.8 million), while challengers received 19.3 percent (or \$16 million). The remaining 14.8 percent (or \$12.3 million) went to open-seat races. By contrast, during the 1979-80 election cycle, Congressional candidates who were incumbents received 60.7 percent of PAC money (or \$33.5 million), while challengers received 26.3 percent (or \$14.5 million). The remaining 13 percent (or \$7.2 million) went to open-seat races.

Total funds raised and spent by PACs also varied between the two election cycles. PACs raised a total of \$199.3 million during 1981-82. During the 1979-80 election cycle, which included a Presidential election as well as Congressional races, they raised \$137.7 million. During the 1981-82 cycle, PACs made disbursements totaling \$190.4

continued

*PAC is a popular term used to define a political committee that has not been authorized by a candidate or political party. The term includes separate segregated funds sponsored by corporations and labor organizations, as well as political committees without any sponsoring organization.

million, ending the period with a cash-on-hand balance of \$31.4 million. They had outstanding debts totaling \$5.1 million. PACs spent a total of \$131.1 million during the 1979-80 election cycle, with a remaining cash balance of \$22 million. Outstanding debts totaled \$2.3 million.

Charts I and II list those PACs which have raised the most money and made the most contributions to federal candidates during the 1981-82 election cycle. Chart III summarizes total financial activity of PACs during the period.

More detailed information may be obtained from the four-volume interim study, FEC Reports on Financial Activity, 1981-82, Interim Report No. 4: 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.

CHART I TOP 10 PAC MONEY RAISERS

Political Action Committee	Amount Raised 1/81 - 12/82
National Conservative Political Action Committee	\$9,990,931
National Congressional Club	9,742,494
Realtors Political Action Committee (National Association of Realtors)*	2,991,732
Fund for a Conservative Majority	2,945,874
American Medical Association Political Action Committee (AMA)	2,466,425
National Committee for an Effective Congress	2,430,886
Citizens for the Republic	2,415,720
Committee for the Survival of a Free Congress	2,359,477
Fund for a Democratic Majority	2,307,605
Committee for the Future of America, Inc.	2,190,264

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

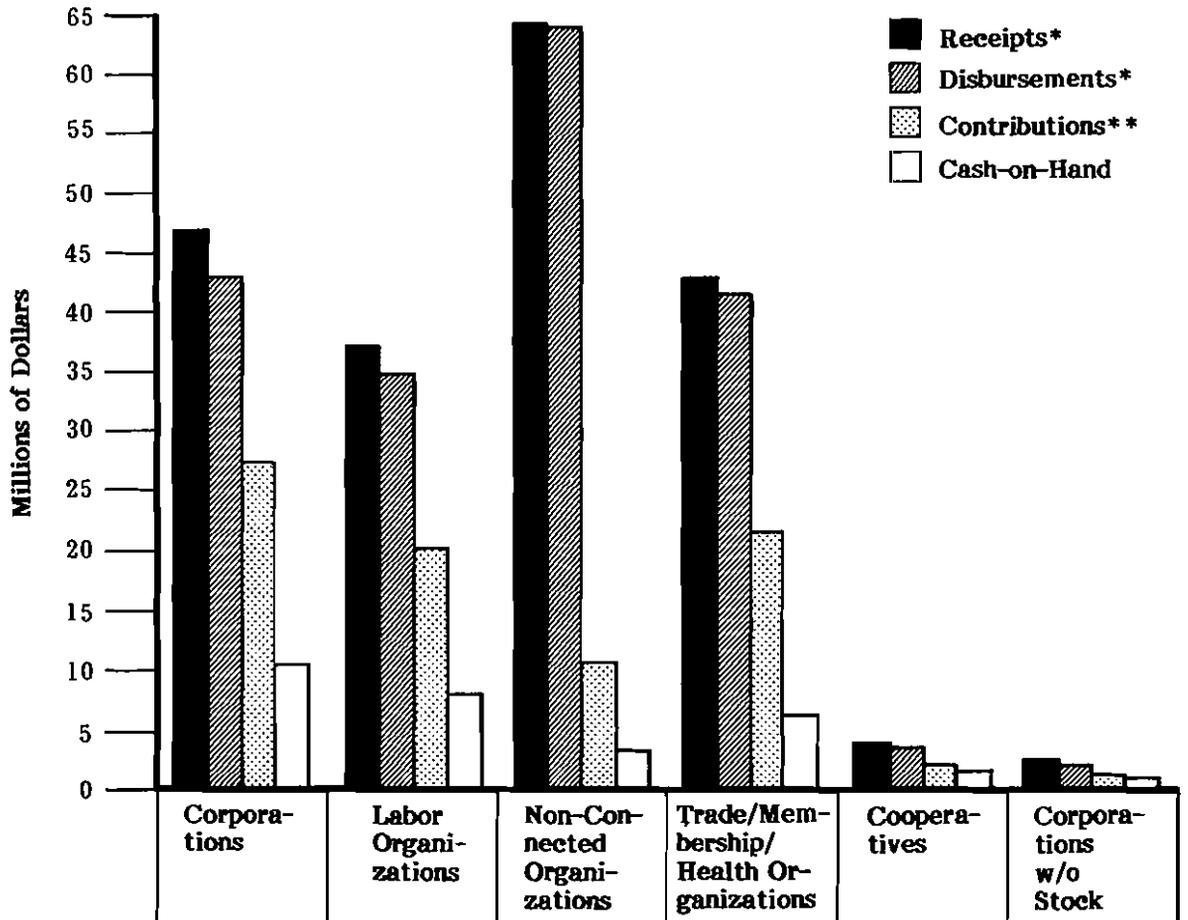
CHART II TOP 10 PAC CONTRIBUTORS TO ALL FEDERAL CANDIDATES*

Political Action Committee	Amount Contributed 1/81 - 12/82
Realtors Political Action Committee (National Association of Realtors)**	\$2,115,135
American Medical Political Action Committee (AMA)	1,737,090
UAW Voluntary Community Action Program (United Auto Workers)	1,623,947
Machinists Non-Partisan Political League (International Association of Machinists & Aerospace Workers)	1,444,959
National Education Association PAC (National Education Association)	1,183,215
Build Political Action Committee (National Association of Home Builders)	1,005,628
Committee for Thorough Agricultural Political Education (Associated Milk Producers, Inc.)	962,450
American Bankers Association 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

*Contribution figures do not include totals for independent expenditures for or against candidates. For example, the three political committees making the largest independent expenditures were the National Conservative Political Action Committee (\$3,177,210), the Fund for a Conservative Majority (\$390,170) and Citizens Organized to Replace Kennedy (\$349,199). See the May 1983 Record, page 5.

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

**CHART III
FINANCIAL ACTIVITY OF PACS, 1/1/81 - 12/31/82**



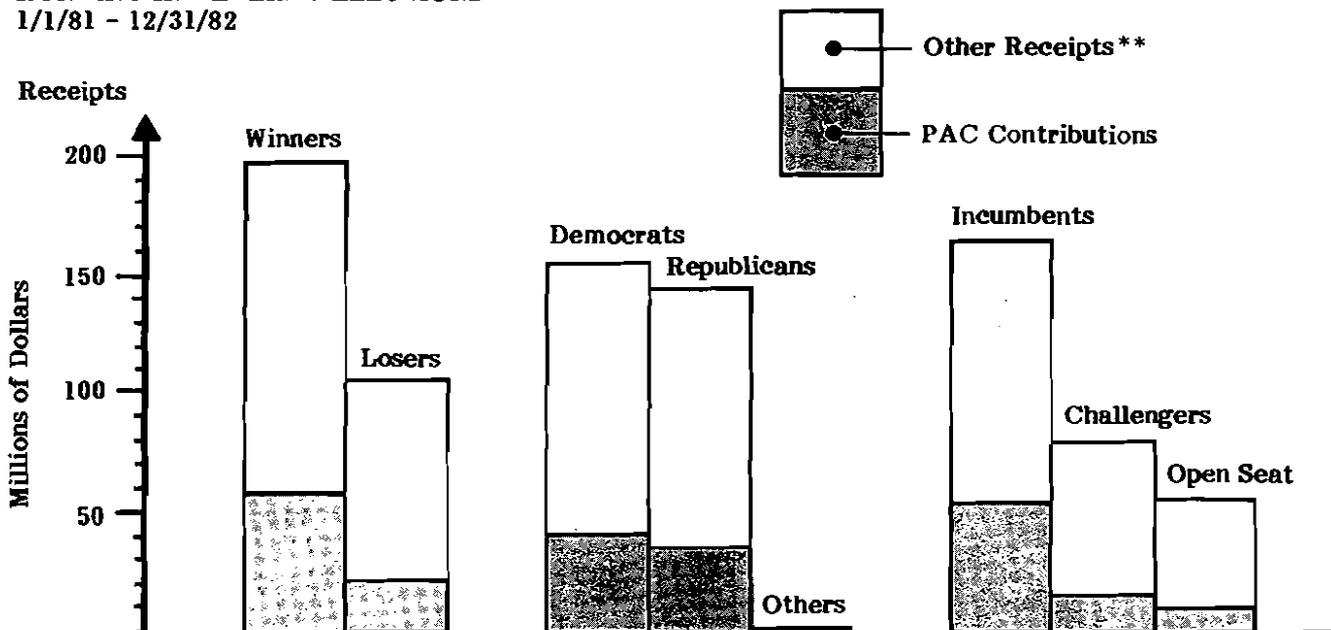
	Corporations	Labor Organizations	Non-Connected Organizations	Trade/Membership/Health Organizations	Cooperatives	Corporations w/o Stock
Total Number of Committees***	1,555	415	928	668	50	111
Number of Committees Making Contributions	1,310	288	411	520	45	77

*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 elections or retiring debts of former campaigns.

***Includes total number of PACs active in federal elections at any time between January 1, 1981, and December 31, 1982. Since some committees have terminated, this figure does not represent all committees active as of December 31, 1982.

**CAMPAIGN RECEIPTS*
OF 1982 CONGRESSIONAL CANDIDATES
RUNNING IN GENERAL ELECTIONS
1/1/81 - 12/31/82**



*Includes receipts for primary and general election campaigns of general election candidates.

**Other campaign receipts include, for example, contributions from individuals, contributions from candidates to their own campaigns, contributions from other campaigns, transfers among authorized committees of the same candidate, loans, refunds, and interest income earned on investments.

**WINNERS LEAD IN FUNDRAISING
AND SPENDING FOR 1982
CONGRESSIONAL RACES**

Campaigns waged by 471 successful candidates for U.S. Senate and House seats accounted for a significant portion of the total money raised and spent by all 1982 Congressional campaigns. The same successful candidates received 70 percent (or \$58.2 million) of all political action committee (PAC) contributions.

According to a study released by the FEC on May 2, 1983, 33 candidates who won election to the Senate in 1982 raised a total of \$71.3 million, of which 21.9 percent came from PACs, and spent \$68.8 million to finance their primary and general election campaigns.* By contrast, their opponents in the general election raised a total of \$45.9 million, of which 13.2 percent came from PACs, and spent \$45.5 million.

The 438 candidates who won House races raised a total of \$124.4 million, more than a third of which

came from PACs, and spent \$115.9 million. By contrast, candidates opposing House winners in the general election raised a total of \$60.7 million, 24.8 percent of which came from PACs, and spent \$60 million.

During the 1981-82 election cycle, total spending by Congressional campaigns (i.e., 283 Senate candidates and 1,956 House candidates) increased significantly. Congressional campaigns spent a total of \$343.9 million, an increase of approximately 44 percent over total spending in 1980 Congressional races and an almost 80 percent increase over 1978 spending. Campaign costs for House races alone have risen 50 percent since 1980 and 86.7 percent since 1978. Spending on Senate campaigns has increased 35.5 percent since 1980 and 63.6 percent since 1978.

The chart above details receipts of 1982 Congressional candidates running in general elections. More detailed information may be obtained from FEC Reports on Financial Activity, 1981-82, Interim Report No. 3: U.S. Senate and House Campaigns. Copies of the study may be purchased for \$5.00 from the FEC's Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463. Checks should be made payable to the FEC.

*Figures for total receipts and disbursements are inflated because they include funds transferred between the authorized committees of the same candidate.

800 LINE

The Public Communications Office frequently receives questions about partnerships: What special rules apply to contributions from partnerships? How does my committee report partnership contributions? May a partnership establish a political committee? This article answers those questions and covers other aspects of participation by partnerships in federal elections. It is written both for partnerships and for committees that receive support from partnerships.

PARTNERSHIPS

Under the Federal Election Campaign Act and Commission Regulations, a partnership may participate in federal elections in three ways. First, depending on the status of the individual partners, a partnership may contribute directly to candidate committees and other political committees. Second, it may establish a political committee which makes contributions to influence elections. And third, it may provide certain free legal and accounting services to political committees.

L MAKE DIRECT CONTRIBUTIONS

Contribution Limits

Because a partnership is defined as a "person" (11 CFR 100.10), it may make contributions to influence federal elections, but its contributions are limited. A partnership may contribute up to \$1,000 per election to a candidate for federal office and up to \$5,000 annually to a political committee other than a candidate committee. Additionally, a contribution from a partnership counts proportionately against each contributing partner's personal limit. An individual partner, like a partnership, may contribute up to \$1,000 per candidate, per election, and up to \$5,000 annually to other political committees; an individual must also limit total federal contributions to \$25,000 per year. 11 CFR 110.1(a), (c), and (e) and 110.5.

Note, however, that certain partnerships and partners are prohibited from making any contributions. See "Prohibited Partnership Contributions," below.

Allocating Contributions Among Partners

A portion of a partnership contribution must be allocated to each contributing partner.* If all

partners within the organization participate in the political contribution, the partnership may allocate the contribution among the partners according to their share of the profits. However, if the partnership allocates contributions on another basis agreed to by the partners or if it attributes contributions only to certain partners, the following rules must be observed:

- The contributing partners' respective profits must be reduced (or their losses increased) by the amount of the contribution attributed to them; and
- The profits (or losses) of only the contributing partners must be affected. 11 CFR 110.1(e)(1) and (2); AO 1980-132.

Whatever the allocation method used, the portion of the contribution allocated to each partner must not exceed the individual's contribution limit. 11 CFR 110.1(e)(3).

Prohibited Partnership Contributions

Partnerships That Are Professional Corporations. A partnership that is a professional corporation is prohibited from making any contributions because contributions from corporations are unlawful. 11 CFR 114.2 and 114.7(d).

However, an individual member of such a partnership may contribute a check drawn on his or her nonrepayable corporate drawing account since the check represents a contribution from the individual, rather than the corporation. AOs 1978-42, 1979-19 and 1981-4.

Partnerships with Corporate Members. Because contributions from corporations are prohibited, a partnership with corporate members may not attribute any portion of a contribution to the corporate partners. 11 CFR 114.2; AOs 1980-132 and 1982-63. A partnership composed entirely of corporate partners may not make any contributions. AOs 1981-54 and 1981-56.

Partnerships with Foreign National Members. Similarly, because contributions from foreign nationals are prohibited, a partnership may not attribute any portion of a contribution to a partner who is a foreign national. 11 CFR 110.4(a).

Partnerships with Federal Government Contracts. A partnership which is negotiating a contract with the federal government or which has not completed performance of such a contract is prohibited from making contributions. Nevertheless, an individual partner in such a firm may make contributions from personal funds (rather than from funds drawn on the partnership's account). 11 CFR 115.4.

*A portion of a contribution drawn on a partnership account may not be attributed to the spouse of a partner, unless the spouse is also a member of the partnership. AO 1980-67.

Reporting Partnership Contributions

A political committee that receives a contribution from a partnership should report it as described below. (The partnership has no reporting obligation although it provides necessary information to the recipient political committee.)

Contributions from Individuals/Persons: Total.

The committee must include a partnership contribution in the total figure reported for "contributions from individuals/persons other than political committees" (line 11(a)) on the Detailed Summary Page of the appropriate reporting form (FEC Form 3 or 3X).

Itemization. If a partnership contribution exceeds \$200 or aggregates in excess of \$200 during a calendar year, the committee must itemize the contribution on a Schedule A used for "contributions from individuals/persons other than political committees."

Additionally, if an individual partner's share of the contribution exceeds \$200 when combined with other contributions received from that partner, the committee must disclose, as a memo entry,* itemized information on the partner (name, address, occupation, date of the contribution, the partner's share of the contribution and the aggregate year-to-date total of contributions made by the partner).

Contribution Plans

A partnership may set up an internal plan to facilitate making contributions to candidates. For specific details, see AOs 1980-72, 1981-50, 1982-13 and 1982-63.

II. ESTABLISH A COMMITTEE

Nonconnected Political Committees

In addition to making direct contributions, a partnership may participate in federal elections by establishing a nonconnected political committee.** A nonconnected committee is a political committee which supports candidates for federal office, but which is not established or administered by any candidate, party committee, corporation or labor organization. Nonconnected political committees are frequently called PACs (political action committees) but should not be con-

*A memo entry is supplemental information on a reporting schedule. The dollar amount in a memo entry is not incorporated into the total figure for that schedule.

**However, a partnership composed entirely of corporate members may not make contributions or expenditures to establish or support a nonconnected political committee. 11 CFR 114.2; AOs 1981-54 and 1981-56.

fused with another kind of PAC: a separate segregated fund, which is a political committee established by a corporation or labor organization.

Unlike the corporate or labor sponsor of a separate segregated fund (SSF), which may pay for the administrative and solicitation costs of its SSF, a partnership is limited in the support it may give to its nonconnected committee. Support provided by the partnership (for example, office space and phones) is considered a contribution. Contributions to the committee are limited to \$5,000 per calendar year. 11 CFR 110.1(c). Like any contribution a partnership makes, a contribution to its nonconnected committee must be allocated among the partners, as explained above.

The various types of contributions a partnership may provide to its nonconnected committee are explained below.

Contributions of Money

A partnership may make contributions to its nonconnected committee from its treasury funds. (The partnership may not, however, serve as a conduit for contributions that would otherwise be prohibited under the Federal Election Campaign Act.) Contributions of money count against the partnership's yearly \$5,000 limit, per committee, and must be reported by the committee. 11 CFR 110.1(c).

In-Kind Contributions

A partnership makes in-kind contributions when it pays for some of the day-to-day costs of operating the committee. For example, the partnership may pay for the committee's rent, office equipment and supplies, utilities, telephone service or fundraising expenses. The partnership may also provide personnel to help run the committee. All of the partnership's payments for goods, services and staff time are considered reportable in-kind contributions* and are subject to the same \$5,000 limit as contributions of money. 11 CFR 100.7(a)(1)(iii); AO 1982-63. (Certain legal and accounting services, however, are not considered contributions to a committee. See below.)

Loans

A partnership may loan money to its nonconnected committee. A loan is considered a contribution and counts against the \$5,000 contribution limit to the extent of the outstanding balance of the loan. A loan exceeding the contri-

continued

*However, when employees volunteer their time to a committee during nonworking hours or make up work time used for volunteer activities, the volunteer activity is not considered a contribution and is not reportable. 11 CFR 100.7(b)(3).

bution limit is unlawful even if repaid in full. The committee must report the receipt of the loan and repayments made on the loan until the debt is extinguished. 11 CFR 100.7(a)(1)(i).

III. PROVIDE LEGAL AND ACCOUNTING SERVICES

A partnership may offer free legal and accounting services to its nonconnected committee, to candidate committees and to other political committees provided:

- The individual who performs the service is a regular employee of the partnership (a partner is considered a regular employee of a partnership);
- The services to candidate committees and other nonparty committees are provided only for the purpose of helping them comply with the federal election campaign law; and
- The services provided to party political committees do not directly further the election of candidates for federal office. 11 CFR 100.7(b)(13) and (14).

The recipient committee must report the value of the donated services as a memo entry* on Schedule A if the aggregate value exceeds \$200 per calendar year. 11 CFR 104.3(h).

*A memo entry is supplemental information on a reporting schedule. The dollar amount in a memo entry is not incorporated into the total figure for that schedule.

COURT CASES

FEC v. NATIONAL RIFLE ASSOCIATION OF AMERICA

On April 27, 1983, the U.S. District Court for the District of Columbia issued a consent decree resolving claims brought by the FEC against the National Rifle Association of America (NRA), an incorporated association; the Institute for Legislative Action (ILA), NRA's lobbying organization; and the NRA Political Victory Fund (PVF), NRA's separate segregated fund (Civil Action No. 81-1218).

The FEC filed suit against the defendants in May 1981, claiming that they had violated 2 U.S.C. §441b(a), which prohibits corporations from making contributions in connection with federal elections. Specifically, the FEC alleged that:

- NRA and ILA had made corporate expenditures in connection with the 1978 and 1980 Congressional elections and the 1980 Presidential elections;
- NRA and ILA had made corporate contributions to PVF in the form of advanced payments of expenditures on behalf of PVF, for which they were later reimbursed by PVF; and
- PVF had received corporate contributions by accepting (and subsequently reimbursing) the advanced payments of expenditures by NRA and ILA.

On January 6, 1983, the court dismissed, without prejudice, a portion of the FEC's claims, namely, allegations related to NRA's purchase of certain goods and services for PVF that had resulted in a violation of 2 U.S.C. §441b(a). The court found that it did not have subject matter jurisdiction over these specific factual allegations because the FEC had not undertaken conciliation with respect to them.

By the terms of the court's April 27 consent decree, the defendants agreed that:

- They will no longer engage in those activities alleged in the FEC's complaint which were not dismissed as part of the court's January 6, 1983, order.
- They will no longer spend corporate funds in connection with any federal election or otherwise engage in political activities prohibited by 2 U.S.C. §441b(a).
- They will limit partisan communications to NRA's restricted class of personnel (as specified by 2 U.S.C. §431(8)(B)(vi)).
- They will limit corporate expenditures in connection with federal elections to those exempt activities explicitly permitted by the Act and FEC Regulations.

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.

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

Official Business

First Class Mail
Postage & Fees Paid
FEC
Washington, D.C.
Permit No. G-31

