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Compliance With Federal Election Campaign Requirements

AICPA

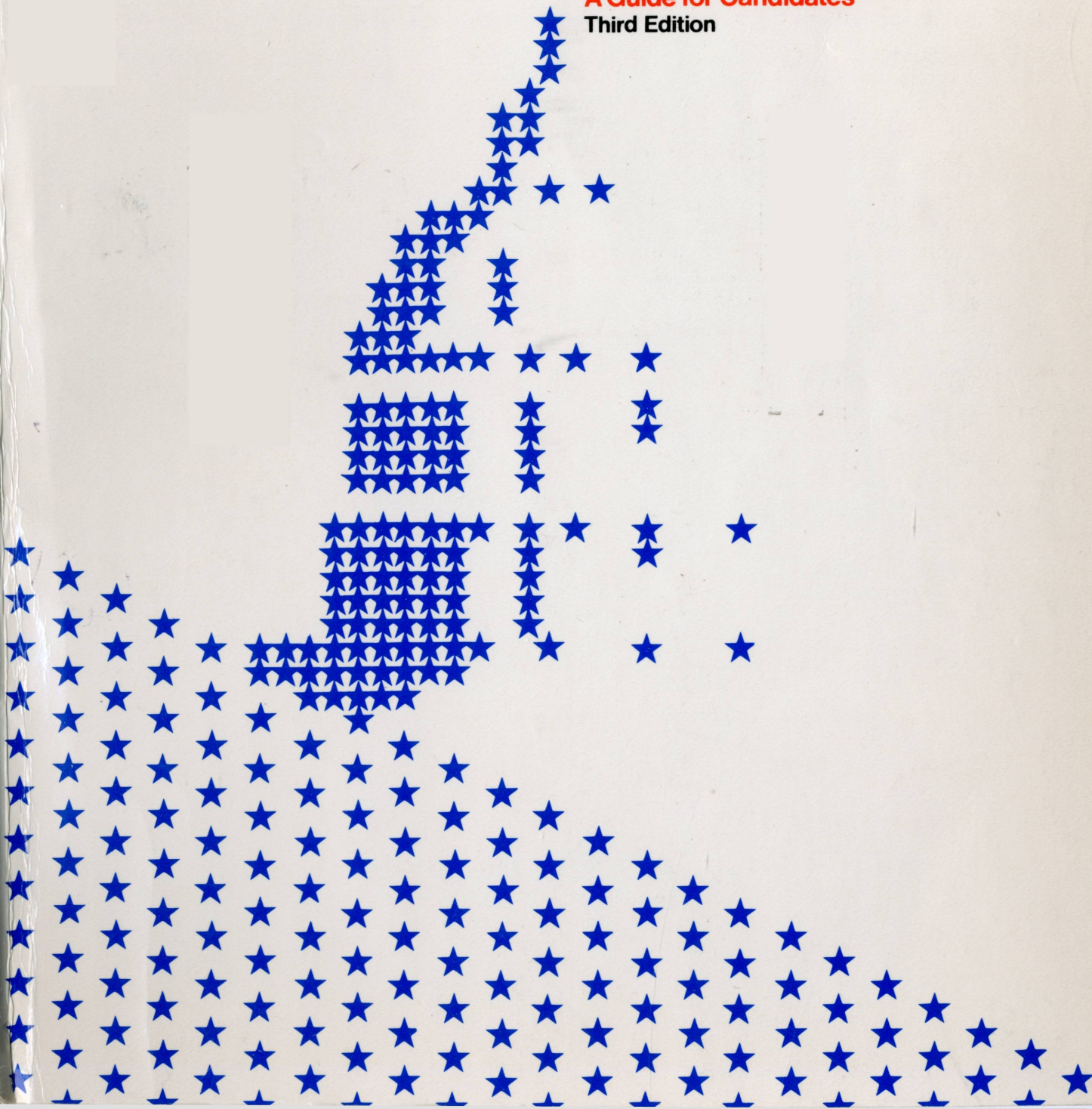
American Institute of
Certified Public Accountants

Compliance With Federal Election Campaign Requirements

A Guide for Candidates
Third Edition

Third Edition

AICPA



The American Institute of Certified Public Accountants is to be congratulated on this fine publication.

It comes at a time when compliance with both the letter and the spirit of the new federal law is essential.

We are especially pleased to note that the accounting profession has taken this forward step by providing this publication. It will assist all of us involved in the political process in complying with the new federal election laws.

**John C. White, *Chairman*
Democratic National Committee**

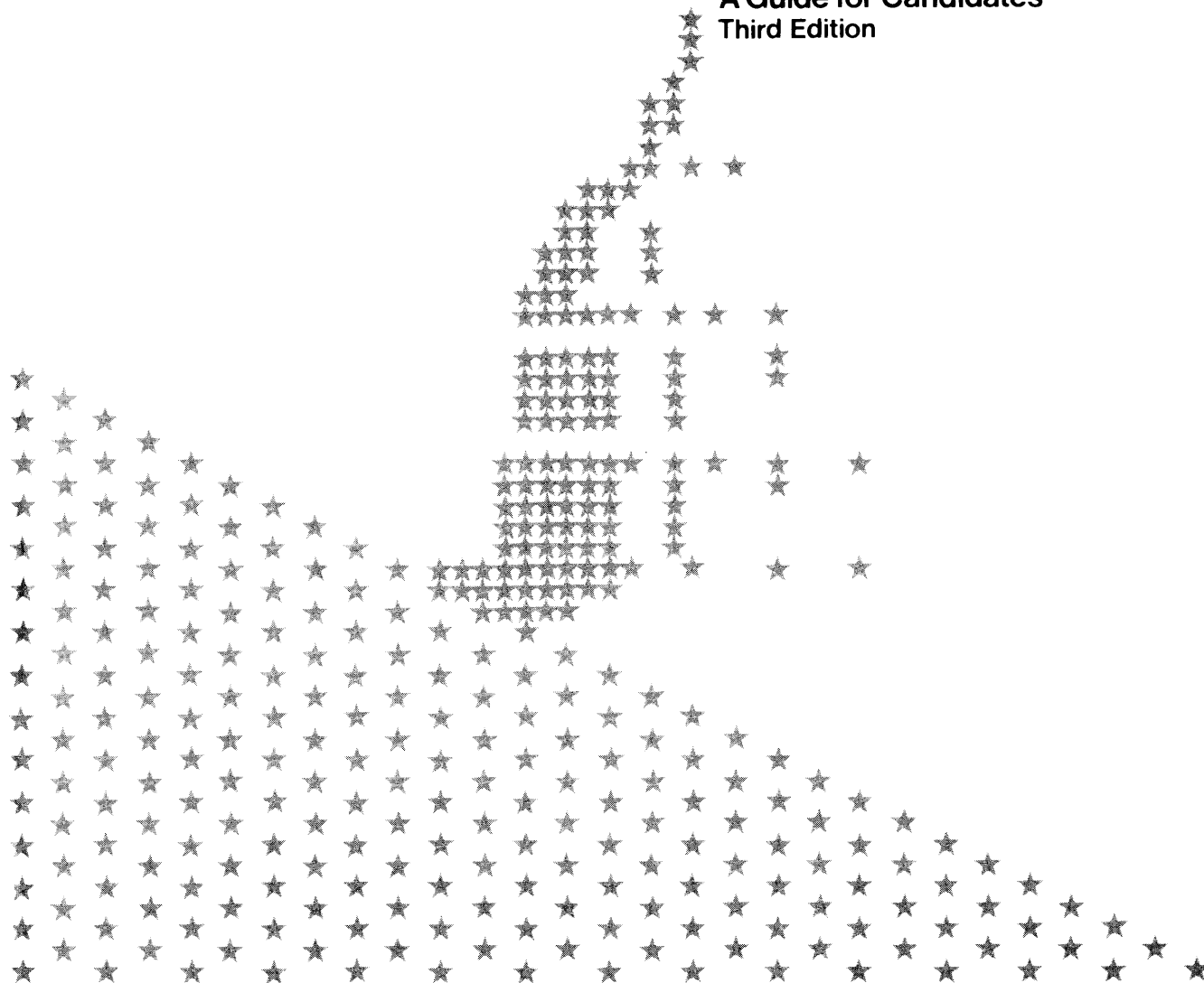
On behalf of the Republican National Committee, I want to thank the American Institute of Certified Public Accountants for becoming professionally involved in trying to help candidates and their committees understand and comply with the complex, new federal election laws. We have examined the publication, *Compliance With Federal Election Campaign Requirements: A Guide for Candidates*, and feel it will prove to be a useful tool to candidates running for federal office.

This whole area of how to comply with this federal law is still very fluid. Accordingly, we want to encourage the AICPA and the entire accounting profession to stay involved in the political arena and join us in doing everything possible to make the new laws workable and effective.

**William M. Brock III, *Chairman*
Republican National Committee**

Compliance With Federal Election Campaign Requirements

A Guide for Candidates
Third Edition



Compiled by the
Federal Election Campaign Guide
Task Force

Federal Government Division
American Institute of
Certified Public Accountants

Compliance With Federal Election Campaign Requirements: A Guide for Candidates is published under the auspices of the Federal Government Division of the American Institute of Certified Public Accountants to aid in understanding the federal election campaign statutes in effect at the time of publication. This guide does not represent an official position of the American Institute of Certified Public Accountants, and it is distributed with the understanding that the authors and publishers are not engaged in rendering legal, accounting, or other professional services.

Every effort has been made to represent accurately the provisions of the federal election campaign statutes in effect at the time of publication. However, users of the guide should consult with competent legal counsel with regard to any sections in the law and the specific applicability of the law to their organizations.

Copies may be obtained from

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PREFACE

The 1974, 1976, 1977, and 1979 amendments to the federal election campaign laws and their implementing regulations have created significant new responsibilities for candidates seeking federal office. These new responsibilities can be stated in one word—*compliance*.

Candidates for elective office have traditionally faced two principal challenges: earning enough votes for election and raising funds to support their campaigns. They now face a third principal challenge: achieving compliance with federal election campaign laws and regulations.

The performance of candidates and their campaign committees in achieving compliance may well be subjected to public review by the Federal Election Commission or scrutiny by opposing candidates and interested parties. It is therefore essential that a strong effort be made to achieve compliance. This guide is dedicated to assisting candidates in this effort.

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INTRODUCTION

PURPOSE

This book has been designed to provide campaign-related information and guidance to candidates for election, or reelection, to the United States Senate and House of Representatives. This information and guidance includes

- How candidates and their campaign committees should work toward achieving compliance with federal election campaign laws (chapters 1 through 3).
- Suggestions for disclosure of personal financial information by candidates and officeholders (chapter 4).
- Tax considerations for political organizations, candidates, officeholders, and contributors (chapter 5).

A candidate's most important immediate objective is to be elected; consequently, the effort he will be able to expend on achieving compliance with federal election campaign laws and regulations will be limited. Therefore, this book has been organized to bring the candidate quickly to the point where he himself can make an informed decision about how the financial and technical resources of the campaign, however limited, can be directed toward achieving compliance.

The guide should enable the candidate to make an informed decision regarding campaign-related opportunities to disclose personal financial information. Finally, the guide should provide the candidate with an understanding of the relevant requirements of the federal tax law.

SCOPE OF DISCUSSION

This guide offers an *approach* for the candidate to follow in making the transition from a general understanding of the content of federal election campaign laws and regulations to the establishment of a campaign organization replete with systems for governing compliance, accounting, and financial management. The book provides information and guidance on those factors that the candidate can personally affect and control:

- Creation of an overall plan for achieving compliance
- Campaign organization structure
- Qualification criteria for advisers, staff, and volunteers
- Procedures to be designed into compliance, accounting, and financial management systems
- Control of affiliated campaign committees, if any
- Policy regarding internal compliance reviews and audits by the Federal Election Commission
- Other important compliance-related policies

The book does not describe or propose an ideal system for campaign accounting and compliance, nor does it propose specific procedures for obtaining the financial information

required to manage a campaign effectively. Campaign treasurers and others responsible for system design and operation will find such guidance available in published literature or from outside consultants.

By focusing on the overall approach to achieving compliance, rather than specific procedures and controls, the candidate will be more effective in ensuring that his organization is putting forth its best effort toward achieving compliance and that he is fulfilling his personal responsibilities. A by-product will be the candidate's ability to knowledgeably disclose or defend, if need be, actions and decisions related to compliance. This may be essential if compliance becomes a campaign issue.

This book is addressed to candidates for election, or reelection, to the U.S. Senate and the U.S. House of Representatives, in recognition that its emphasis should be toward the widest population affected by federal election campaign laws. It is not addressed to candidates for the offices of president and vice-president of the United States, nor to candidates for state and local elective office, although such candidates may find elements of the book useful.

This book does not consider the provisions of the various state and local election campaign laws. It should be noted that, in the past few years, virtually every state has enacted major laws regulating the campaign financing of candidates for state office. These laws are not alike, however, and none matches the federal law in all critical respects. Consequently, candidates, officeholders, campaign committees, contributors, and other participants should obtain, and be familiar with, the provisions of the laws of their respective states.

FEDERAL LAW RELATING TO ELECTION CAMPAIGNS, DISCLOSURE OF PERSONAL FINANCIAL INFORMATION, AND TAXATION

Election Campaigns

During the past several years, significant changes have occurred in the laws governing federal election campaigns. Many of these changes resulted from the passage of the Federal Election Campaign Act of 1971 (P.L. 92-225), the Federal Election Campaign Act Amendments of 1974 (P.L. 93-443), the Federal Election Campaign Act Amendments of 1976 (P.L. 94-283), the Federal Election Campaign Act Amendments of 1977 (P.L. 95-216), and the Federal Election Campaign Act Amendments of 1979 (P.L. 96-187). The 1974 legislation established new requirements concerning the limitations on, and accounting and reporting of, contributions and expenditures and established the Federal Election Commission to implement the laws.

On January 30, 1976, the Supreme Court of the United States handed down an important opinion on the constitutionality of certain sections of the Federal Election Campaign Act of 1971, as amended in 1974. The essential continuing change created by the Court's opinion was the holding that "the limitations on campaign expenditures, on independent expenditures by individuals and groups, and on expenditures by a candidate from his personal funds are constitutionally infirm."

Thereafter, amendments were drafted to modify the federal election campaign laws as required by the Supreme Court and to make certain other changes deemed appropriate by Congress. On May 11, 1976, the Federal Election Campaign Act Amendments of 1976 were signed into law by the president and went into immediate effect.

On December 20, 1977, H.R. 9346 (P.L. 95-216) was signed into law, which in part amended a section of the Federal Election Campaign Act concerning the acceptance of

honorariums by persons who are elected or appointed officers of any branch of the federal government. The act provided in part that “[these] amendments . . . shall apply with respect to any honorarium received after December 31, 1976.”

The Federal Election Campaign Act Amendments of 1979 (P.L. 96-187) reduced the recordkeeping and reporting requirements and expanded the opportunities for political parties to participate in federal elections. The number of candidates who are required to file reports under the act is reduced by a change in the definition of the term *candidate*.

In addition, all of the financial activities of a campaign are to be controlled and reported by the candidate’s authorized committees; however, the candidate is able to receive contributions and make expenditures as an agent of his or her authorized campaign committee or committees.

P.L. 96-187 also provides that a political committee is no longer required to have a chairperson. The requirement remains, however, that each committee have a treasurer and that no contribution or expenditure be made when there is a vacancy in the position.

Appendix 6 contains a compilation of federal election campaign laws. Throughout this guide are references to this compilation in the form of citations to the United States Code (U.S.C.).

Disclosure of Personal Financial Information

This recent period has seen an increase in proposals, at the federal, state, and local levels, for the mandatory disclosure of personal financial information by candidates and officeholders. The Ethics in Government Act of 1978 (P.L. 95-521) established comprehensive public financial disclosure requirements for the president and vice-president and candidates for those offices, as well as many employees and officers of the executive branch of the federal government. Certain state and local governments have implemented similar statutes that may also affect candidates for federal office.

Taxation

During this same period, changes were made in certain sections of the federal tax laws that relate to individuals and organizations participating in federal election campaigns. P.L. 93-625, signed on January 3, 1975, includes many of the changes. These and subsequent changes are reflected in Appendix 6.

THE FEDERAL ELECTION COMMISSION

The Federal Election Commission is responsible for implementing and administering the Federal Election Campaign Act of 1971, as amended. It is an independent regulatory body responsible for monitoring activities of candidates for federal office.

The commission, as a body, will have a far greater impact on the candidate and the federal election process than its predecessors, the secretary of the Senate, the clerk of the House, and the General Accounting Office. This is due in part to the broadened scope of its responsibilities, the consolidation of powers into one body, and the significant current emphasis on accountability to the public.

It is critical that the candidate and the principal campaign committee

1. Understand the law upon which the commission actions are based.
2. Obtain and analyze all commission pronouncements and rulings.

3. Initiate communications with the commissioners, commission counsel, Reports Analysis Division, and the Audit Division whenever there are questions requiring interpretation of regulations concerning accounting, reporting, and administration.

Information concerning the organization and operation of the Federal Election Commission is located in Appendix 1.

It should be noted that rules, advisory opinions, and other guidelines promulgated by the Federal Election Commission are not included in this book. Obtaining such materials directly from the Federal Election Commission will guarantee the candidate and his campaign committee the most current materials together with any interpretative information. Suggested procedures for communicating directly with the commission regarding such materials are included in Appendix 1.

HIGHLIGHTED ROLES OF KEY CAMPAIGN PARTICIPANTS

To achieve compliance with federal election campaign laws, key members of the candidate's campaign may have to undertake new or changed responsibilities. Many of these responsibilities are discussed in some detail in the guide. Following are highlights of the compliance-related roles of key campaign participants.

Candidate

- Responsibility for compliance and understanding how such compliance is achieved through organization, systems, and internal control.
- Supervision of all communications with the Federal Election Commission.

Campaign Chairperson

- Ensuring that the candidate gives adequate time to compliance matters.
- Enforcing the establishment and proper function of compliance controls.
- Liaison with legal counsel.

Principal Campaign Committee Treasurer

- Establishment of the committee's accounting, compliance, and financial management systems.
- Administration of reporting relationships with affiliated campaign committees, if any.
- Determination that all necessary compliance controls are developed, tested, and functioning.
- Liaison with legal counsel and the Federal Election Commission on matters relating to compliance.
- Conduct of liaison with the candidate's compliance advisory committee, auditors of the Federal Election Commission, and CPAs whose professional services have been enlisted.

Affiliated Campaign Committee Treasurers (If Any)

- Implementation of instructions from the principal campaign committee treasurer on appropriate internal accounting and compliance controls.
- Ensuring that the committee activities are properly documented to facilitate any audit by representatives of the principal campaign committee or auditors of the Federal Election Commission.

- Provision of regular positive written assurances concerning compliance to the principal campaign committee.

Legal Counsel

- Understanding and interpretation of the applicable federal election campaign laws.
- Establishment, in conjunction with the principal campaign committee treasurer, of appropriate and adequate compliance controls.

Coordinator of Fund Raising

- Thorough knowledge of the applicable laws and regulations relating to contributions.
- Development of communication procedures to inform contributors of the applicable requirements and limitations of federal election campaign laws.

Press Secretary

- Thorough knowledge of the applicable laws and regulations relating to public communications and media use.
- Approve all public communications and media arrangements.

Certified Public Accountant

- Knowledge of the federal election campaign laws.
- Understanding of the unique issues relating to accounting, financial reporting, and compliance for federal election campaign committees.
- Ensuring that the candidate has clearly defined and communicated his needs relating to compliance to persons involved in the campaign.
- Advising the candidate on the adequacy of the campaign committee's accounting system and compliance controls.
- Advising the candidate on matters relating to the disclosure of personal financial information and the taxation of the candidate and the campaign committee.

CHAPTER 1

PLANNING, ORGANIZING, AND STAFFING THE COMPLIANCE EFFORT

The candidate has the ultimate responsibility for compliance with federal election campaign laws. In most cases, failure to win an election will not affect the personal reputation of the candidate; however, failure to comply with federal election campaign laws may have significant impact on the reputation of the candidate.

Consequently, it is extremely important that the candidate exercise personal authority and control over campaign efforts to achieve compliance. This does not mean that the candidate must become expert on the detail of campaign laws and regulations. He should remain a generalist and a “general”—having adequate knowledge to direct, advise, and control those in the campaign who must work with the detail of the laws and regulations. Accordingly, the candidate should

1. Approve the overall plan for achieving compliance.
2. Approve the design of the principal campaign committee's organization structure.
3. Approve the qualification criteria for advisers, staff, and volunteers involved with compliance.
4. Approve the procedures to be designed into the campaign committee's accounting, compliance, and financial management systems.
5. Approve the policy and procedures to be applied in controlling affiliated campaign committees, if any.
6. Approve the policy regarding internal compliance reviews and Federal Election Commission audits.
7. Approve other compliance-related policies, such as campaign security.

ESTABLISHING A PLAN FOR ACHIEVING COMPLIANCE

The candidate must not only comply with the law but must do so within a set period of time and with the financial and technical resources available, however limited. Therefore the candidate and his campaign advisers must (1) develop a plan that will produce a high level of assurance that compliance will be achieved and (2) develop a plan that maximizes the utilization of the technical resources accessible to the campaign, thus minimizing commitment of time and money. As a basis for establishing the campaign's plan, a list of compliance-related needs should be drafted.

Exhibit 1, page 8, is a suggested form for a candidate's plan to achieve compliance. It includes some examples of compliance needs together with actions recommended to meet them. Such a plan should be prepared for each campaign, and it should be as comprehensive as is practicable. Once the plan has been prepared it should be filled out and detailed to show the assignment of certain tasks to specific members of the campaign, together with dates by which certain objectives are expected to be achieved. The completed plan should be given final approval by the candidate.

EXHIBIT 1: AN ILLUSTRATION OF A CANDIDATE'S PLAN TO ACHIEVE COMPLIANCE

Needs	Recommended Action
Know the law and implementing regulations	<ul style="list-style-type: none"> ■ Assign initial responsibility to legal counsel and treasurer. ■ Distribute to all key campaign staff briefing papers on the law and regulations based on presently published and available materials.
Obtain a professionally designed or recommended accounting, budgeting, and reporting system that can be modified as required to include compliance controls and to meet disclosure requirements	<ul style="list-style-type: none"> ■ Assign responsibility to principal campaign committee treasurer. ■ As a first step, consider campaign systems described in published literature. ■ Prior to modification have an independent CPA review the system contemplated for use and obtain his recommendations.
Modify planned internal accounting controls to integrate required compliance controls	<ul style="list-style-type: none"> ■ Appoint a task force composed of legal counsel and principal campaign committee treasurer to design compliance controls. ■ Enlist the assistance of an independent CPA to review the proposed modifications and to recommend improvements.
Guard against loss of assets and purposeful noncompliance	<ul style="list-style-type: none"> ■ Give regular emphasis to proper adherence to controls. ■ Establish procedures to prevent unauthorized access to campaign records. ■ Set up internal checks to prevent too much control in hands of any given individual.
Ensure that all reporting requirements of the Federal Election Commission are known and complied with	<ul style="list-style-type: none"> ■ Assign responsibility to legal counsel and the principal campaign treasurer. ■ Establish a file on current requirements. ■ Establish procedures for preparation and approval of required reports. ■ Establish procedures for monitoring changes in requirements.

To ensure that the plan is well focused and to avoid duplication of effort, the following actions should be considered:

Make maximum use of advice and materials available through the state and national party organizations and the Federal Election Commission.

Use professional help early for direction and to monitor progress.

Make maximum use of published reference and guidance materials.

To help facilitate these actions, this guide includes within its appendixes the following information:

Appendix 1—How to communicate with the Federal Election Commission.

Appendix 2—A summary of key requirements for reporting to the Federal Election Commission by principal campaign committees and, if any, affiliated campaign committees.

Appendix 3—Published reference materials relating to federal election campaign laws and their implementation.

PRINCIPAL CAMPAIGN COMMITTEE'S ORGANIZATION

Campaigns for the Senate and House of Representatives have always had chairpersons, treasurers, fund raisers, and myriad workers who were by and large dedicated to helping the candidate earn votes. The federal election laws have affected the traditional campaign organization in the following ways:

Time and effort of key campaign staff and advisers have been diverted from “traditional tasks” to matters relating to compliance with the law and regulations.

The duties of key advisers and staff have been altered.

Persons with different or special skills have been employed.

A greater number of persons have become associated with the campaign.

The degree to which these and other changes have affected a campaign organization is determined primarily by variables such as size of campaign effort, volume of contributions and expenditures, and the ultimate allocation of financial and technical resources to earning votes, raising funds, and achieving compliance.

Exhibit 2, which follows on page 10, illustrates an organization chart for the financial and compliance components of a principal campaign committee established for a candidate seeking election to the House of Representatives. It is considered to be one of many possible arrangements; thus, committees may find other staffing arrangements suitable. The labeled positions may represent one person or many persons, depending on the factors cited above and on how the functions listed for each position are assigned. An organization chart for a Senate campaign most likely would include more positions due to the greater number of anticipated transactions and the generally increased complexity of such a campaign.

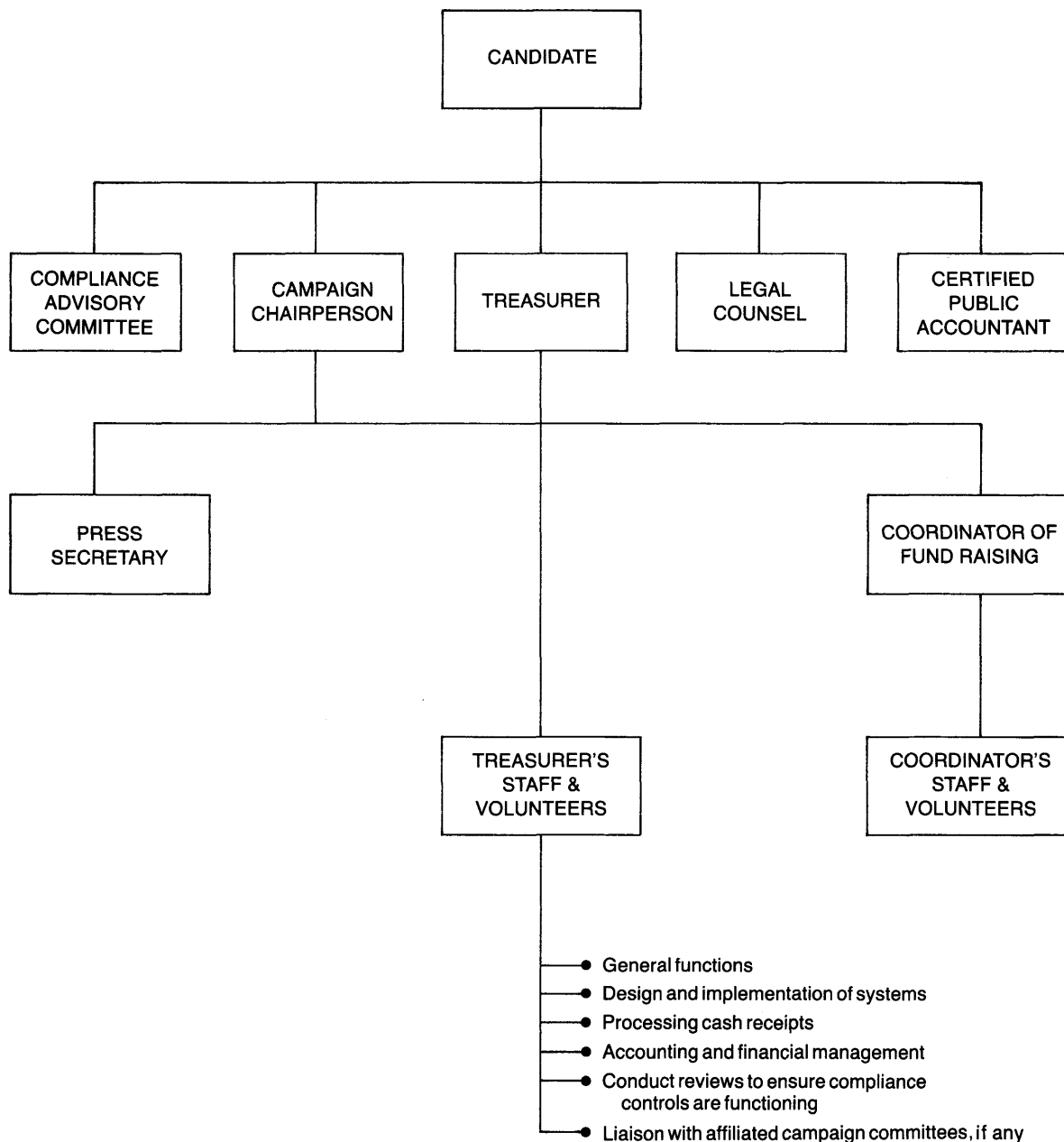
In practice, the resultant organization, complete with names and titles, will reflect at least the following considerations:

- The candidate's decision on how to allocate the personnel and financial resources of the “traditional” basic campaign organization to matters regarding compliance.
- The candidate's decision on the use of professional consulting expertise.
- The candidate's decision to employ, on a paid or volunteer basis, additional personnel solely to respond to the increased number of compliance requirements.

EXHIBIT 2: A SUGGESTED CAMPAIGN ORGANIZATION CHART

A Suggested Campaign Organization

(The Financial and Compliance Components
of the Principal Campaign Committee
of a Candidate for Election to
the House of Representatives)



The cumulative effect of these decisions will not only be the establishment of the organization's structure but, in an indirect way, will be a reflection of the candidate's determination to achieve compliance.

A compliance advisory committee is designated on the chart in exhibit 2. This committee, whose specific functions are noted in the succeeding section, may provide the candidate with significant support and direction on matters related to compliance.

It is strongly recommended that the candidate enlist the services of attorneys and certified public accountants to provide independent advice and counsel on the following matters: election campaign law and compliance therewith, the recording and reporting of the financial activities of the campaign, disclosure of the personal financial condition of the candidate, and tax planning and reporting by the candidate and the campaign organization.

The listing of functions below the principal campaign committee treasurer in exhibit 2 suggests that a treasurer alone will not be able to fulfill the many duties associated with compliance, accounting, and financial management. The degree to which he will require persons to assist him in part depends on the variety of functions for which he will be responsible and the various levels of skill and experience required to perform them.

Suggested compliance-related functions of key campaign advisers, staff, and volunteers are illustrated in exhibit 3, pages 12–13. While no attempt is made to indicate how many individual advisers, staff, and volunteers will need to be involved to perform the various functions, the functions have been grouped to facilitate assignment to more than one individual, if required.

ESTABLISHING QUALIFICATIONS FOR ADVISERS, STAFF, AND VOLUNTEERS

Specific individuals will have a direct effect on whether or not the campaign achieves compliance. For this reason, the candidate should approve in advance the qualification criteria for compliance-related positions in the campaign organization.

In establishing these criteria, the candidate will have to consider the following factors:

- Time in which to evaluate people and fully staff the campaign is limited.
- Potential employees may be concerned about the relatively short life span of the campaign.
- Financial resources available for salaries for full- or part-time staff may be limited.
- It is likely that most paid staff, as well as volunteers, will be selected from established resource pools that have traditionally supplied the political process.

In short, the candidate's flexibility in selecting advisers, staff, and volunteers may be limited. Nonetheless, the candidate must be as selective as possible in designating those individuals who will work in compliance areas. Loyalty, dedication, stamina—the trademarks of good campaign workers—alone will not be enough. A minimum level of skill and experience must somehow be built into the campaign organization. The absence of qualified key people could represent a major weakness in the campaign's approach to compliance.

Exhibit 4, page 15, offers certain suggested qualification criteria. It should be noted that individuals available to the campaign may not have backgrounds as complete as those suggested; thus, consideration of how staff members complement and integrate with each other is important.

EXHIBIT 3: COMPLIANCE-RELATED FUNCTIONS OF KEY CAMPAIGN ADVISERS, STAFF, AND VOLUNTEERS

Organization Element	Key Functions
Compliance Advisory Committee (Volunteer "audit committee," preferably with at least two to three members)	<ul style="list-style-type: none"> ■ Provide direct, independent assistance to candidate on significant matters relating to compliance. ■ Review on an overall basis the qualifications of staff and volunteers working on the campaign accounting and compliance functions. ■ Advise the candidate on the quality of the campaign's internal control system and, on a regular basis, determine that it is functioning. ■ Advise on the adequacy of campaign security measures. ■ Review all reports and financial statements of the campaign prior to any public disclosure or submission as required under the law.
Legal Counsel	<ul style="list-style-type: none"> ■ Liaison with FEC. ■ Prepare or review all inquiries to the FEC. ■ Review with treasurer all reports prepared by Federal Election Commission (FEC) auditors, external consultants, and representatives of the campaign who are performing compliance reviews of the principal campaign committee or, if any, affiliated campaign committees, and make recommendations to the candidate based thereon. ■ Ascertain that FEC regulations are received by campaign personnel and are properly interpreted. ■ Monitor laws and regulations relating to public communications and media use. ■ Represent the campaign organization in legal actions. ■ Work in cooperation with the treasurer to establish controls that will ensure compliance. ■ Review campaign commitments and contingencies.
Certified Public Accountant	<ul style="list-style-type: none"> ■ Assist the treasurer and legal counsel in determination and design of specific compliance controls. ■ Advise candidate on general adequacy of campaign systems. ■ Recommend improvements in internal accounting and compliance controls. ■ Provide an informal review of initial reports to the FEC to ensure completeness of data and basis for its inclusion.
Campaign Chairperson	<ul style="list-style-type: none"> ■ Provide full support to compliance-related activities. ■ Represent candidate, when necessary, during discussions regarding compliance. ■ Liaison with legal counsel and CPAs on matters relating to compliance.
Press Secretary	<ul style="list-style-type: none"> ■ Approve all public communications and media arrangements. ■ Thorough knowledge of the applicable laws and regulations relating to public communications and media use.
Treasurer	<ul style="list-style-type: none"> ■ Statutory responsibility for accounting, reporting, financial management, and compliance-related controls. ■ Define the internal accounting and compliance controls to be designed into campaign systems. ■ Conduct initial and periodic tests of campaign systems to ensure that controls are functioning properly. ■ Liaison with affiliated campaign committees, if any. ■ Liaison with FEC Audit Division.

Treasurer (cont.)

- Sign all internal financial reports and reports to the FEC.
- Establish and implement procedures for retention of all financial records and reports.
- Review with legal counsel all reports prepared by Federal Election Commission (FEC) auditors, external consultants, and representatives of the campaign who are performing compliance reviews of the principal campaign committee, or if any, affiliated campaign committees, and make recommendations to the candidate based thereon.
- Obtain from treasurer a list of approved system procedures for integrated accounting, compliance, and financial management systems.
- Draft system overview of controls for treasurer approval.
- Draft detailed flowchart of controls, paper or data flow, files, and records for treasurer approval.
- Design detailed forms and procedures using, whenever possible, existing published or purchasable designs or recommendations of outside consultants.
- Establish implementation plan and assist bookkeepers and clerical staff in implementation.
- Establish system test plan. Have treasurer approve plan; then test system, document results, and have treasurer approve results.

Treasurer's Staff (Design and implementation of campaign systems)

- Conduct liaison on system design with outside consultants.
- Assist affiliated campaign committees, if any, in establishing appropriate systems.

Treasurer and Staff (Processing cash receipts and other cash functions)

- Conduct cashier functions related to receipts and disbursements.
- Forward receipts to contributors.
- Maintain cash books.
- Manage cash, including the transfer of funds, bank relations, and the short-term investment of cash.
- Represent campaign in borrowings and in establishing lines of credit.
- Maintain records of contracts and other financial arrangements.

Treasurer and Staff (Accounting and financial management)

- Maintain general books of account.
- Prepare reports to FEC.
- Prepare budget and other reports for review by candidate.
- Maintain contribution records, including those on in-kind services.
- Processing and accounting for disbursements.
- Obtain, review, and compile reports of affiliated campaign committees, if any.
- Maintain campaign property records.

Treasurer and Staff (Conduct reviews to ensure compliance controls are functioning)

- Establish a program to review and test functioning of accounting and compliance controls in both the principal campaign committee and, if any, affiliated campaign committees.
- Ensure the campaign is prepared for audits by the FEC.

Treasurer and Staff (Liaison with affiliated campaign committees, if any)

- Distribute advisory communications to affiliated campaign committees.
- Review compliance plans of affiliated committees.
- Review progress of affiliated committees during implementation of compliance plans.
- Prepare status reports for candidate on affiliated committee activities.

Coordinator of Fund Raising

- Monitor laws and regulations relating to contributions.
- Advise contributors on requirements of the laws and regulations.

The selection of a campaign treasurer will be extremely critical. The person selected, in addition to possessing the suggested qualifications, should have prior experience in political campaigns or an open willingness to undertake substantial learning activities prior to serving the campaign. The financial volatility and the rapid sequence of events in a campaign do not permit on-the-job training for a treasurer.

EXHIBIT 4: SUGGESTED QUALIFICATION CRITERIA FOR KEY ADVISERS, STAFF, AND VOLUNTEERS

Position	Qualification Criteria
Compliance Advisory Committee	<ul style="list-style-type: none"> ■ Experience in banking, corporate tax reporting, or similar activities. ■ Experience in financial management, corporate accounting, or internal auditing.
Legal Counsel	<ul style="list-style-type: none"> ■ Familiarity with federal and state election laws.
Certified Public Accountant	<ul style="list-style-type: none"> ■ Familiarity with federal and state election laws.
Treasurer (General functions)	<ul style="list-style-type: none"> ■ Experience in designing or administering accounting systems. ■ Business experience related to accounting or a degree in business or accounting. ■ Ability to direct staff personnel. ■ Auditing and accounting knowledge. ■ Familiarity with federal and state election laws.
Treasurer and Staff (Processing cash receipts, disbursements, recordkeeping, and FEC report preparation)	<ul style="list-style-type: none"> ■ Accounting background. ■ Bookkeeping skills and experience. ■ Clerical experience.
Treasurer and Staff (Budget and financial management activities)	<ul style="list-style-type: none"> ■ Experience preparing cash flow projections and analyses of budgets.
Treasurer and Staff (Design of accounting, compliance, and financial management systems)	<ul style="list-style-type: none"> ■ Practical experience designing accounting and financial management systems.
Treasurer and Staff (Review of functioning of compliance controls and liaison with affiliated campaign committees, if any)	<ul style="list-style-type: none"> ■ Auditing experience. ■ Experience in compiling financial reports. ■ Knowledge sufficient to suggest corrective action and improvement when deficiencies are noted.

CHAPTER 2

ESTABLISHING A SYSTEM FOR ACHIEVING COMPLIANCE

One of the candidate's primary responsibilities is to ensure that the various systems of the principal campaign committee adequately support the goals and requirements of the campaign's compliance activities. The candidate can fulfill this responsibility by exercising approval over all significant system procedures.

CAMPAIGN SYSTEMS

Campaign systems serve the general purpose of bringing uniformity and control to the various campaign functions. Campaign systems act to control the application of staff resources and the use of campaign property and materials. Virtually all campaign systems interrelate or overlap.

The significant campaign systems, which every campaign will have in some fashion, are as follows:

- Accounting System

- Financial Management System

- Compliance System

- Personnel System

- Voter-Related Systems

1. Collection of voter preference information.
2. Production of mass or selective mailings.
3. Other procedures that aid in directing the campaign.

- Campaign Security System

If the accounting, financial management, and compliance systems are adequate, they will control resources and help ensure that compliance is achieved and that the fiscal affairs of the campaign are adequately managed.

There are certain procedures that must be designed into the systems to help ensure their adequacy and therefore ensure that they contribute to the achievement of campaign goals. The following brief discussions of accounting and financial management system procedures serve as illustrations.

Accounting System

The principal campaign committee's accounting system controls the processing and recording of campaign financial transactions, principally receipts and disbursements.

Recommended accounting system procedures are not treated at length here since they are adequately presented in general accounting texts and in publications specifically addressed to accounting for election campaigns. (See Appendix 3.)

The candidate should seek to ensure that the contemplated accounting system includes procedures tailored to the unique requirements of the campaign; examples of these requirements are listed below and others are discussed in the section, “Unique Issues Affecting Accounting, Financial Reporting, and Compliance,” at the end of this chapter:

1. Processing of the majority of individual receipt and disbursement transactions within a limited length of time.
2. Maintenance of detailed information to identify supporters (a) for contribution reports and (b) to enlist further aid.
3. Reporting on the overall financial activities of the campaign in accordance with accounting practices required by law, rather than by financial statements prepared in accordance with generally accepted accounting principles. (However, preparation in the latter form may be required, for example, when borrowing funds from a bank.)

Financial Management System

The principal campaign committee's financial management system primarily controls the extraction, analysis, interpretation, and reporting of financial data that supply the candidate and key advisers with information required to make economic and political decisions.

Procedures recommended for inclusion in campaign financial management systems are not treated at length here since they are adequately discussed in texts on financial management or in publications specifically addressed to financial management of election campaigns. (See Appendix 3.)

The committee should seek to ensure that the contemplated financial management systems include the following minimum requirements:

1. Generation of cash flow projections on a timely basis.
2. Establishment of initial and updated budgets for contributions, other income, and disbursements.
3. Comparisons on a periodic basis of actual amounts of contributions, other income, and disbursements with budgeted amounts.

In regard to the development of budgets, the committee may want to have alternative budgets prepared on both an optimistic and a pessimistic basis.

ESTABLISHING CONTROL OVER THE COMPLIANCE SYSTEM

Control over the compliance system is not simply established by a one-time review and approval—compliance must actually be integrated into the system's on-going operation. This continuity of control is maintained primarily through the reporting of required information to the committee officers on a scheduled basis.

Control over the compliance system will be affected by certain factors and influences: (1) committee personnel's knowledge and perception of the benefit of certain system procedures; (2) the quality and timing of advice from members of the candidate's compliance advisory committee, from legal counsel and the certified public accountant, and from representatives of the principal campaign committee who may have conducted internal compliance reviews; and (3) the fact that scheduled required reporting normally encourages discipline and performance on the part of the principal campaign committee treasurer, the treasurer's staff, and other advisers and staff.

The principal campaign committee's compliance systems primarily control the processing, recording, and reporting of financial transactions and related information for the purpose of complying with required limitations on contributions and to provide sufficient data to comply with the financial disclosure provisions of the law.

For discussion purposes, the compliance system of the principal campaign committee may be considered to have four significant parts:

1. Aspects relating to limitations on contributions.
2. Aspects relating to limitations on expenditures.
3. Aspects relating to recordkeeping and reporting to the Federal Election Commission.
4. Aspects relating to requirements of the law affecting committee operations.

HIGHLIGHTS OF THE FEDERAL ELECTION CAMPAIGN LAWS

A complete compilation of the federal election campaign laws, reflecting the 1979 amendments, appears in Appendix 6; special summaries on reporting requirements and fines and penalties appear in Appendixes 2 and 4, respectively.

To facilitate discussion on establishment of system procedures required for compliance, certain relevant sections of the federal election laws are summarized below. When establishing compliance system procedures, principal campaign committees should at all times rely on the law and regulations and authoritative interpretations issued by the Federal Election Commission.

Limitations on Contributions

Contributions are defined as gifts, subscriptions, loans, advances, or deposits of money or anything of value made for the purpose of influencing any election for federal office. The definition of contributions does not include the value of voluntary services by individuals on behalf of a political organization or candidate, although the compensation costs borne by a third party who volunteers the services of an employee to a political organization or candidate are includible as contributions. There are other exclusions related to home entertainment, travel, and so forth, which are covered by the law. Contributions in the name of another, or in cash in excess of \$100, are prohibited. 2 U.S.C. 431(8); 441f; 441g.

Exception for Legal and Accounting Services

The compensation paid by employers to employees who render legal or accounting services without charge to any political committee of a political party or an authorized committee of a candidate or any other political committee is not considered a contribution for purposes of calculating compliance with contribution limitations. This exception applies only for such services as are devoted to ensuring compliance with federal election campaign laws, not to services that pertain to the election of a candidate. Donated legal and accounting services that are exempt from contribution limitations must nevertheless be reported by the candidate as required by 2 U.S.C. 431(8)(B)(ix); 434(b).

Individuals

No individual may contribute more than \$1,000 to any candidate and his authorized political committees for any election for federal office, nor may an individual make contributions aggregating more than \$25,000 in any calendar year. The calendar year restriction governs

contributions made in nonelection years (either before or subsequent to the election) relating to the elections of any one year. 2 U.S.C. 441a(a)(1), (3).

Multicandidate Political Committees

No multicandidate political committee may contribute more than \$5,000 to any candidate and his authorized political committees for any election for federal office. In order to be a multicandidate committee and contribute up to the \$5,000 limit, a political committee must have fifty or more contributors, have made contributions to five or more candidates for federal office, and have been registered as a political committee for at least six months. If these requirements are not met by the committee, it is limited to a maximum contribution of \$1,000 to any one candidate and his authorized political committee for federal office. In addition, no multicandidate political committee may contribute more than \$15,000 in any calendar year to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate. 2 U.S.C. 431(4); 441a(a)(1)(A), (2)(A), (2)(B), (4).

Political Committees of a National Political Party

The national committee of a political party, or a single political committee established, financed, maintained, or controlled by a national committee, may contribute to a candidate and his authorized committees up to \$5,000 for any election, provided the committee qualifies as a multicandidate committee. Notwithstanding this provision or the appropriate expenditure limitation provision cited below, the national committee of a political party (or the Republican or Democratic Senatorial Campaign Committee) may contribute up to \$17,500 during an election year to a candidate for election to the U.S. Senate. 2 U.S.C. 441a(a)(2), (4), (5), (h).

Corporations, Labor Organizations, Banks, and Other Entities

Contributions by national banks, labor organizations, corporations, government contractors, and foreign nationals are prohibited. However, contributions may be accepted from registered political action committees (PACs), which may be affiliated with labor organizations and corporations. See Appendix 5 for more information on PACs. 2 U.S.C. 441b; 441c; 441e.

Limitations on Expenditures

National and State Political Party Committees

The Supreme Court upheld the provisions of the 1974 amendments, which limited the expenditures in the general election of the national committee of a political party and a state committee of a political party (the latter including any subordinate committees) to the greater of \$.02 times the voting age population of the state, or \$20,000 for a campaign for the election of a senator (or representative from a state with only one representative), and \$10,000 for the election of a representative. These expenditures are permitted notwithstanding provisions of the law regarding limitations on contributions. 2 U.S.C. 441a(d)(1), (3), (e).

Independent Expenditures

While the law as amended in 1976 does not place limitations on the amount of independent expenditures made on behalf of a candidate, it does require that "independence" be strictly maintained. Failure to do so would require that the expenditure be recorded against the contribution limitations of the individual providing the benefit to the candidate. The term "independent expenditure" means an expenditure by a person expressly advocating the election (or defeat) of a "clearly identified" candidate, which is made without cooperation or consultation with the candidate or his committee or agent, and which is not made in concert with or at the request of the candidate, his committee, or his agent. 2 U.S.C. 431(17), (18).

The law requires that such independent expenditures in excess of \$250 be reported to the FEC in a manner that indicates support of or opposition to a candidate and that certifies whether or not the expenditure was made in cooperation or concert with the candidate, his committee, or agent. 2 U.S.C. 434(c)(1).

Further, the law provides that such independent expenditures are to be reported in accordance with a prescribed schedule. Based on these reports, the FEC will prepare and publish indexes that illustrate how these independent expenditures relate to various candidates. 2 U.S.C. 434(c)(2), (3).

Candidate Expenditures From Personal Funds

The January 30, 1976, opinion of the U.S. Supreme Court in effect struck down 18 U.S.C. 608(a), which had placed limitations on campaign expenditures from the personal funds of the candidate or the personal funds of his immediate family. The 1976 amendments deleted 18 U.S.C. 608(a) and added no new sections specifically relating to expenditures by Senate and House candidates from their personal funds. In light of these events, a Senate or House candidate may expend from his personal funds without limit on behalf of his own campaign. Contributions by members of the candidate's immediate family are limited to \$1,000 per election as noted in 2 U.S.C. 441a(a)(1).

On this matter, the candidate should review applicable FEC regulations and, if necessary, obtain guidance from the commission's staff in order to properly determine which funds may qualify as the candidate's "personal funds."

Recordkeeping and Reporting

Accounting for Contributions Received; Segregated Funds

Every person who receives a contribution for an authorized political committee shall, no later than ten days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50, the name and address of the person making the contribution and the date received. 2 U.S.C. 432(b)(1).

Every person who receives a contribution for a political committee that is not an authorized committee shall (1) if the amount of the contribution is \$50 or less, forward to the treasurer such contribution no later than thirty days after receiving the contribution, and (2) if the amount is in excess of \$50, forward to the treasurer such contribution, along with the name and address of the person making the contribution and the date received, no later than ten days after receiving the contribution. 2 U.S.C. 432(b)(2).

All funds of a political committee must be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee. 2 U.S.C. 432(b)(3).

Recordkeeping

The treasurer of a political committee shall keep an account of

- All contributions received by or on behalf of such committee.
- The name and address of every person making a contribution in excess of \$50, and the date and amount of it, and, if a person's contributions aggregate more than \$200, the account must include that person's occupation, and the name of his or her employer, if any.
- The full name and address of any political committee that makes a contribution, together with date and amount of such contribution.
- The name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate, and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt,

invoice, or canceled check for each disbursement in excess of \$200. 2 U.S.C. 432 (c)(1), (2), (3), (4), (5).

Preservation of Records and Copies of Reports

The treasurer must preserve all records required to be kept by this section and copies of all reports required to be filed for three years after the report is filed. 2 U.S.C. 432(d).

Principal Campaign Committee; Reports, Filing

It is the duty of each principal campaign committee to receive all designations, reports, and statements of receipts and disbursements required to be filed with it and to compile and file them, together with its own reports and statements, in accordance with commission instructions. 2 U.S.C. 432(f).

Reporting Requirements; Filing Dates

Appendix 2 contains a summary of key requirements for reporting to the Federal Election Commission by campaign committees.

Reporting Debts

All debts, obligations, or other promises to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time the payment is made or no later than sixty days after such obligation is incurred, whichever comes first. Any loan debt or obligation, the amount of which is over \$500, shall be reported as of the time of the transaction. The amount and nature of outstanding debts owed by or to a political committee shall be reported in separate schedules and reporting forms as prescribed by the commission until paid or extinguished. 434(b)(8).

Petty Cash

A political committee may maintain a petty cash fund out of which it may make disbursements not in excess of \$100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements must be kept in accordance with requirements established by the commission. 2 U.S.C. 432(h), (c)(5).

Operating Expense

The name and address of each person to whom an expenditure in the aggregate that exceeds \$200 within the calendar year to meet operating expenses, together with the date, amount, and purpose of such operating expense, must be reported. 2 U.S.C. 434(b)(5)(A).

Requirements for Committee Organization and Operation

Organization of Political Committees

Each candidate for election to the U.S. Senate and U.S. House of Representatives is required to designate in writing a political committee to serve as his principal campaign committee. The candidate's principal campaign committee receives the reports of other authorized committees that have received or disbursed funds on the candidate's behalf, compiles them, and, together with its own reports, files them in accordance with commission instructions. 2 U.S.C. 432(e); 434(a)(1), (2).

Treasurer; Vacancies; Official Authorizations

Every political committee must have a treasurer. No contribution and no expenditure can be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer. No expenditure can be made for or on behalf of a political committee without the authorization of its treasurer, or his or her designated agents. 2 U.S.C. 432(a).

The law implies that the treasurer is responsible for

1. Preparation of campaign budgets and timely reports on the financial status of the campaign.
2. Establishment of an accounting system that adequately controls and protects the campaign assets and permits the committee to meet its legal reporting requirements.
3. Preparation of required financial reports and tax returns. *2 U.S.C. 432(c); 434(a), (b).*

Registration of Political Committees

Each authorized campaign committee must file a statement of organization no later than ten days after it has been designated by the candidate. Each separate segregated fund must file a statement of organization no later than ten days after establishment. All other committees must file a statement of organization after becoming a political committee as defined by the act. *2 U.S.C. 431(4); 433(a).*

Campaign Depositories

Each political committee must designate one or more state banks, federally chartered depository institutions, or depository institutions, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as campaign depositories of the principal campaign committee and must maintain at each such depository at least a single checking account, and such other accounts as the committee deems necessary. All receipts received by the committee must be deposited in these designated accounts. No disbursement other than for petty cash may be made by the committee except by check drawn on these accounts. *2 U.S.C. 432(h)(1), (2).*

DEVELOPING COMPLIANCE SYSTEM PROCEDURES

The treasurer, legal counsel, certain key campaign advisers, and staff, together with any outside advisers, will most likely compose the group responsible for developing recommended compliance system procedures for candidate review and approval. This group will not only have to consider the implication of those sections of the law highlighted above, but it will need to review all remaining sections of the law to determine their applicability to the campaign. Further, all available administrative regulations and guidelines promulgated and published by the Federal Election Commission should be reviewed for the same purpose.

The product of this review should be a summary checklist of sections of the law and regulations with which the campaign must comply. Such a compliance checklist might be categorized and segmented in a manner similar to the previous sections or as otherwise found suitable.

Once formed, the compliance checklist can be useful in a number of ways:

- It provides a framework in which to summarize the system procedures appropriate to each compliance requirement.
- It forms a framework on which specific system controls may be outlined during the actual system design phase.
- It becomes a format for recording and reporting to the candidate all subsequent amendments to the law and regulations and provides a quick analysis of the compliance implications of such amendments.

- It is a framework with which to plan the organization and conduct of internal compliance reviews.
- It provides a basis for communication with other candidates and campaign committees within the same political party. (Chapter 3 includes a discussion of intraparty cooperation.)

An Illustrative Compliance Checklist

Exhibit 5, which follows on pages 25-27, illustrates a sample compliance checklist drafted to reflect those compliance requirements described in the immediately preceding section. Included are suggested procedures considered appropriate for the listed compliance requirements and references to the applicable section of the *United States Code*.

The suggested procedures shown in exhibit 5 are designed to provide guidance regarding the specific compliance requirements in the checklist as well as other general requirements. The procedures noted might be characterized as follows:

1. Screening of transactions for type, source, and amount and for rejection of all exceptions to acceptance requirements or limitations.
2. Regular monitoring of cumulative amounts of contributions and comparison of totals with limitations.
3. Scheduling of key requirements and regular review and reporting of progress.
4. Full recognition and use of controls and procedures normally found in accounting systems.
5. Regular reporting of progress and performance to candidates and other key advisers and direct reporting of significant exceptions or noncompliance.

Once approved, the procedures can be used to form a basis for the detailed design of the campaign compliance system.

Unique Issues Affecting Accounting, Financial Reporting, and Compliance

Certain unique issues and conditions affecting accounting, financial reporting, and compliance in the campaign environment must be considered when establishing system procedures and the detailed system design. Several of the significant issues, in addition to those mentioned in previous sections, may be highlighted as follows:

- Contributions are sometimes designated to be allocated between more than one committee or candidate. The allocated portion of such receipts is to be recorded by an authorized committee as transfers out (when paid to another authorized committee of the same candidate) or as transfers in (when received from another authorized committee of the same candidate).
- A political committee may make expenditures on behalf of more than one candidate. For reporting purposes, such expenditures must be allocated among the candidates on a reasonable basis.
- The need to segregate, designate, and/or allocate contributions and expenditures between primary and general election campaigns must be considered.

EXHIBIT 5: AN ILLUSTRATIVE COMPLIANCE CHECKLIST

Compliance Category	Compliance Requirement	Citation to U.S.C.	Suggested Procedures
Contribution Limitations	Contributions must be in accordance with legal definition. Exception for certain legal and accounting services should be noted.	2 U.S.C. 431(8)	<ul style="list-style-type: none"> ■ Code all contributions by type, and report to treasurer all contributions that cannot be matched with an acceptable definition. ■ Make record of and return unacceptable contributions. ■ Calculate cumulative contributions from contributors who give more than once.
	Contributions in cash; aggregate payments per person in excess of \$100 cannot be accepted.	2 U.S.C. 441g	<ul style="list-style-type: none"> ■ Record all contributions by each separate source. ■ Compute, during each separate transaction, the cumulative contributions, and test against limits. ■ Report to treasurer all cumulative contributions exceeding limitation. ■ Record and return all excess contributions.
	A maximum of \$1,000 in contributions can be received from individuals for any election.	2 U.S.C. 441a(a)(1)	<ul style="list-style-type: none"> ■ Record all contributions by each separate source. ■ Compute, during each separate transaction, the cumulative contributions, and test against limits. ■ Report to treasurer all cumulative contributions exceeding limitation. ■ Record and return all excess contributions.
	A maximum of \$5,000 in contributions for any election can be received from certain political committees.	2 U.S.C. 441a (a)(2)	<ul style="list-style-type: none"> ■ Record all contributions by each separate source. ■ Compute, during each separate transaction, the cumulative contributions, and test against limits. ■ Report to treasurer all cumulative contributions exceeding limitation. ■ Record and return all excess contributions.
	Contributions by national banks, labor organizations, corporations, government contractors, and foreign nationals are prohibited. (However contributions from political action committees (PACs) are acceptable. See Appendix 5.)	2 U.S.C. 441b; 441c; 441e; 441f	<ul style="list-style-type: none"> ■ Code all contributions by source and report to treasurer all contributions that are not acceptable. ■ Make a record of and return contributions from prohibited sources.

EXHIBIT 5: AN ILLUSTRATIVE COMPLIANCE CHECKLIST (Cont.)

Compliance Category	Compliance Requirement	Citation to U.S.C.	Suggested Procedures
Contribution Limitations (cont.)			<ul style="list-style-type: none"> ■ If there is any question regarding the source of a contribution, the contribution should be placed in a separate account similar to an escrow account until such time as the permissibility of accepting the contribution can be determined.
Expenditure Limitations	<p>Limitations on expenditures by national and state party committees are the greater of \$.02 x the voting age population, or \$20,000 for a Senate candidate, or \$10,000 for a House candidate.</p> <p>Ensure that independent expenditures by persons are not made in consultation or concert with the candidate, or his committees, or any agents.</p> <p>Ensure that expenditures from the candidate's "personal funds" are made in accordance with FEC regulations, also ensure that contributions from the candidate's immediate family are within the \$1,000 per election limitation.</p>	<p>2 U.S.C. 441a(d)(1), (3), (e)</p> <p>2 U.S.C. 431(17), (18); 434(c)</p> <p>FEC Regulations; 2 U.S.C. 434(b)(2)(B)</p>	<ul style="list-style-type: none"> ■ Monitor all expenditures by national and state party committees. ■ Report to treasurer all cumulative expenditures exceeding limitation. ■ Monitor FEC indexes to identify independent expenditures made on behalf of candidate, and ensure correctness of certification statements. ■ Review all the candidate's expenditures from his personal funds to ensure compliance.
Recordkeeping and Reporting	<p>Need to segregate campaign funds from any others.</p> <p>Record date and amount of contributions; record name and address of persons contributing between \$50 and \$200, and also occupation and name of employer for amounts in excess of \$200; record the identification of any political committee that makes a contribution, together with the date and amount of the contribution.</p> <p>Record all disbursements; record name, address, date, amount, and purpose.</p>	<p>2 U.S.C. 432(b)</p> <p>2 U.S.C. 432(c) (2), (3), (4); 431(13)(A)</p> <p>2 U.S.C. 432(c)(5)</p>	<ul style="list-style-type: none"> ■ Treasurer control over establishment and maintenance of separate bank accounts. ■ Coding of all contributions and expenditures as previously noted to inhibit commingling. ■ Provide an information form to document all contributions. ■ Normal accounting system controls over receipts. ■ Conduct data completion check, and note contributions requiring follow-up for information or clarification. ■ Normal accounting system controls over disbursements. ■ Maintain records on all encumbrances (e.g., financial commitments not yet invoiced). ■ Record cumulative disbursements to each vendor.

Recordkeeping and Reporting (cont.)	Meet completion and mailing dates for campaign reports, including reports of all debts, to the clerk of the House of Representatives or the secretary of the Senate.	2 U.S.C. 432(g); 433(c); 434(a); (see Appendix 2)	<ul style="list-style-type: none"> ■ Normal accounting and financial management system controls over summarizing and reporting of financial data. ■ Establish a schedule for preparation and issuance of all commission required, and internally required, reports.
	Retention of reports, records, and supporting documents for three years.	2 U.S.C. 432(d)	<ul style="list-style-type: none"> ■ Establish a retention policy.
	Petty cash limitation: \$100 per person per transaction.	2 U.S.C. 432(h)(2)	<ul style="list-style-type: none"> ■ Normal accounting system controls.
	Operating expense reporting.	2 U.S.C. 434(b)(5)(A)	<ul style="list-style-type: none"> ■ Normal accounting system controls.
Committee Organization and Operation	Designation of principal campaign committee.	2 U.S.C. 432(e)	<ul style="list-style-type: none"> ■ The designation is one of the basic initial actions required to organize a campaign.
	Submission of reports of affiliated campaign committees, if any, to principal campaign committee.	2 U.S.C. 432(f), (g)	<ul style="list-style-type: none"> ■ Normal accounting and financial management system controls for compiling financial information. ■ Establish a schedule for receipt of reports of affiliated campaign committees and monitor progress, reporting deficiencies to the candidate.
	No contribution or expenditure shall be accepted or made when there is a vacancy in the office of treasurer.	2 U.S.C. 432(a)	<ul style="list-style-type: none"> ■ Prepare a contingency plan to fill vacancy on a timely basis.
	All expenditures must be authorized by the treasurer or his or her designated agents.	2 U.S.C. 432(a)	<ul style="list-style-type: none"> ■ Normal accounting system controls (e.g., control through approval and signature of purchase orders, checks, contracts, etc.).
	Treasurer responsible for preparation of budgets, financial reports, tax returns, and establishment of accounting system.	2 U.S.C. 432(c); 434(a), (b)	<ul style="list-style-type: none"> ■ Planning, scheduling, and progress reviews.
	Registration of committee.	2 U.S.C. 433	<ul style="list-style-type: none"> ■ A basic requirement in organizing the campaign.
	Designate certain banks as campaign depositories. Deposit all contributions in designated depositories and make all disbursements from such depositories.	2 U.S.C. 432(h)(1)	<ul style="list-style-type: none"> ■ Schedule preparation and recording of designations. ■ Authorize changes in initial designation and advise commission of changes. ■ Normal accounting system controls.

- Differences may exist between the accounting for committees required by the federal election campaign laws and generally accepted accounting principles, specifically
 - Under the law, reporting is essentially on a cash basis with the additional requirement to disclose and report certain debts and obligations of the committee.
 - Loans received by the committee are required by law to be classified as contributions received.
- Accounting must be made for certain contributed in-kind services (for example, volunteers' travel expenses) below and above a \$1,000 limitation. Over \$1,000, such contributions must be charged against campaign contribution limitations and accounted for as a contribution and an expenditure. *2 U.S.C. 431(8)(B)(ii), (iii), (iv).*
- It must be determined how the concept of materiality applies in determining the disclosure of noncompliance in financial statements.
- It must be determined whether advisory opinion requests (AORs) submitted by others have application to the campaign.
- Consideration should be given to the degree to which potential compliance or noncompliance may be affected by persons not under the control of the candidate or his primary campaign committee; for example, by certain staff members, individual or group contributors, and supporting committees.
- The campaign is of temporary nature; specific provisions must be made for start-up and close-out requirements.
- When contemplating use of electronic data processing, the following should be considered:
 - Use of available software packages and the facilities of data processing service centers to process payroll, disbursements, and so forth.
 - The use of modified or specifically designed software packages and the facilities of data processing service centers, or computer timesharing arrangements, to process such applications as contributions received, contributor records, cash flow projections, voter information, and statistics.
- Attention should be given to the allocation of contributions and expenditures
 - by a candidate who engages in campaign activity during the course of other business or personal activities.
 - by one candidate campaigning on behalf of another, or between two candidates campaigning together.
 - between a political party committee and the candidate(s) it supports.
 - by a nonparty political committee and the candidate(s) it supports.
 - by other "persons" on behalf of the candidate(s).
- Transfers of funds between checking accounts in designated depositories and savings or investment accounts must be carefully controlled.
- An imprest fund system may be used to control financial activities of affiliated committees.

When planning campaign needs, it is suggested that the foregoing and similar unique issues be identified early.

CHAPTER 3

ADDITIONAL COMPLIANCE CONSIDERATIONS

CONTROLLING AFFILIATED CAMPAIGN COMMITTEES (If Any)

The Federal Election Campaign Act Amendments of 1974, 1976, 1977, and 1979 require that "affiliated campaign committees" formed in support of a candidate must report their activity to the candidate's "principal campaign committee." Such reports are then to be compiled by the principal campaign committee and submitted in accordance with instructions of the Federal Election Commission. This requirement places significant coordination responsibilities on the affiliated and principal campaign committees. 2 U.S.C. 432(f), (g).

The principal campaign committee has primary responsibility for advising the affiliated campaign committees on the requirements of the federal election campaign laws and for issuing specific accounting, reporting, and compliance guidelines.

The candidate should approve the plans for controlling the relationship between principal and affiliated committees. These plans should provide for the following:

- Orientation of the affiliated committee to the requirements of the law.
- Requirement that appropriate steps be taken to ensure compliance prior to official authorization of the affiliated committee to act on behalf of the candidate.
- Assistance to the affiliated committee as it establishes its compliance plans.
- Provision for the cosigning of the compliance plan by both principal and affiliated committee treasurers.
- Periodic reviews of affiliated committee compliance controls by representatives of the principal committee.
- Preagreement to discontinue the affiliated committee in the event of significant unresolved problems of noncompliance.

INTERNAL COMPLIANCE REVIEW AND FEDERAL ELECTION COMMISSION COMPLIANCE AUDITS

Efforts to achieve compliance can be considerably strengthened if the principal campaign committee voluntarily conducts internal compliance reviews. By requiring and approving such reviews, the candidate can exercise a vital control over compliance efforts.

Internal compliance reviews are important for these reasons:

1. The relatively short campaign cycle and consequent rapid turnover of events require that no material lapses in internal accounting and compliance controls be allowed to occur and/or continue. An effective way of guarding against such lapses is through the periodic monitoring and testing of controls by a person independent of the basic accounting and compliance organization.

2. By conducting such internal compliance reviews, the campaign organization will enhance the degree to which it is prepared for audit by the Federal Election Commission.

Auditors of the Federal Election Commission will play a very significant role in determining whether or not political committees are in compliance with the federal election campaign laws.

Since audit determinations could have an adverse political consequence, it is necessary that the candidate supervise the principal campaign committee's participation in connection with commission audits. Specifically, the committee should require the following:

1. That staff and volunteers be informed of the positive assistance that auditors from the commission may provide in ensuring that the campaign is achieving compliance.
2. That key advisers and staff clearly understand the scope and objectives of the commission audit prior to the start of the audit.
3. That one individual, preferably the treasurer, be designated as liaison for the commission auditors and that this individual have sufficient knowledge, experience, and available time for effective coordination.
4. That key advisers and staff review and discuss whenever possible the findings of the commission auditors prior to the completion of the auditors' field work at the campaign site.
5. That any instance of noncompliance determined by the commission auditors be brought immediately to the attention of the candidate by the individual designated for liaison.

In the event that noncompliance is determined, the candidate should take the following measures:

1. Ascertain that the principal campaign committee treasurer and legal counsel have reviewed the determinations and concur with the findings.
2. Determine that a plan is prepared to correct, if possible, the noncompliance in past transactions and to ensure that future transactions will be in compliance.
3. Ascertain that the matter is regularly reviewed until instances of noncompliance are fully corrected.

In the event that instances of noncompliance are publicly disclosed by the commission, and there is a response from the public or from an opponent, the candidate may consider making a general statement that presents the candidate's views on the importance of complying with the federal election campaign laws; examples of specific controls and procedures developed to achieve compliance; and a brief explanation of the circumstances of the specific noncompliance and the actions taken to correct the situation. A detailed statement may be appropriate in certain circumstances.

CANDIDATE APPROVAL OF OTHER COMPLIANCE-RELATED POLICIES

The candidate should personally approve the establishment of all policies that are significant to compliance. In addition to those previously discussed, the two topics of campaign security and intraparty cooperation serve as examples of policy areas that should receive the attention of the candidate.

Campaign Security Measures

Campaign security measures should be reviewed and approved by the candidate. It is

critical to establish procedures and rules to prevent access to campaign systems and records by unauthorized persons.

Following are examples of security measures that might be employed:

1. Advise staff and volunteers of the need for security.
2. Whenever possible, locate accounting and recordkeeping activities in restricted areas.
3. Control the distribution of keys, combinations, and so forth, which permit access to significant campaign information, and require that such information be locked in file cabinets or safes after closing.

Intraparty Communication

A policy for communication with other candidates regarding compliance should be developed and approved by the candidate. Each candidate for the House or the Senate will be facing similar compliance requirements. Potential benefits from periodic exchanges of information could include the following:

- Knowledge of attorneys and CPAs who are qualified to provide campaign-related services.
- Identification of accounting and compliance systems that may be obtained and modified for use.
- Information about electronic data processing software packages that may be obtained and used for processing contributions, payroll, other disbursements, and the like.
- Knowledge about the audit activities of the Federal Election Commission.

COMPLIANCE IN PERSPECTIVE

It has been recommended that the candidate personally control key efforts to achieve compliance through approval of the following matters:

- Plans for achieving compliance.
- Campaign organization structure.
- Qualification criteria for advisers, staff, and volunteers.
- System procedures for campaign accounting, compliance, and financial management systems.
- Controls over affiliated campaign committees, if any.
- Policy regarding internal compliance reviews and audits by the Federal Election Commission.

Having effectively exercised this kind of control, the candidate will have taken significant steps to ensure that compliance with federal election campaign laws is achieved.

However, it should be recognized that the internal accounting and compliance control procedures of any system have certain limitations. The objective of the campaign's accounting and compliance control systems is to provide reasonable assurance that (1) campaign funds are properly accounted for and distributed, (2) the accounting and compliance-related records can be relied upon in preparing required reports to the Federal Election Commission, and (3) the transactions and affairs of the candidate and campaign committee are in compliance with federal election campaign laws.

Accounting and compliance control systems have inherent limitations because

- The cost of a system of internal controls should not exceed the benefits derived.
- Control failure and errors can result from misunderstood instructions, mistakes of judgment, or other personal factors.
- Controls whose effectiveness depend upon segregation of duties can be nullified by collusion.
- Controls can be neutralized through improper execution and recording of transactions or through deficient judgments.

Although these limitations are recognized, they need not diminish the candidate's determination to achieve compliance with the federal election campaign laws.

CHAPTER 4

DISCLOSURE OF PERSONAL FINANCIAL INFORMATION BY CANDIDATES AND OFFICEHOLDERS

In recent years, many public officials as well as candidates for public office have been required to disclose information concerning their personal financial status. The Ethics in Government Act of 1978, P.L. 95-521, established comprehensive public financial disclosure requirements for the president and vice-president and candidates for those offices as well as many employees and officers of the executive branch of the federal government. In addition, all states now have some form of financial reporting requirements for many state candidates, incumbents, and employees. To date, the form and content of the required financial representations have varied widely because of differences in state statutes and regulations. Generally, required financial disclosures are incomplete financial presentations.

In the interest of open government, some candidates and elected officials have chosen to make public disclosure of their personal financial affairs in the form of personal financial statements. The AICPA industry audit guide, *Audits of Personal Financial Statements*, deals with such statements.¹ This chapter is designed to assist those candidates and public officials who desire to present personal financial information in financial statements prepared in accordance with generally accepted accounting principles. Recommendations for recordkeeping are set forth to facilitate the preparation of personal financial statements. In addition, sample financial statements with appropriate disclosures are presented to aid the individual in preparing this form of public financial disclosure.

ENTITY TO BE COVERED

Personal financial statements may be prepared for an individual, a husband and a wife, or a larger family group, as circumstances may require. Ordinarily, a combined statement of assets and liabilities of both spouses, and possibly those of minor children, will be the most appropriate presentation of personal financial information. However, in certain situations, disclosure of each individual's interest in the net assets of the combined statement may be useful and should be included. In any case, the individuals covered by the statements should be clearly indicated.

Where financial statements are prepared for only one of a group of joint owners of assets, or where additional statements are prepared for each individual owner, only the share of the assets that the individual has a right to as a beneficial owner under the property laws of the state should be included. Any liabilities, or share thereof, for which each individual is obligated should also be included.

Where property is held in joint tenancy, as community property, or in a similar situation,

1. The AICPA is presently considering revisions to this audit guide. The reader interested in presenting personal financial statements in accordance with generally accepted accounting principles may determine the status of this revision from the AICPA.

and the legal status of the separate equities of the parties is not clear, the advice of an attorney will be required in determining whether the interest in such property should be included among the assets and, if so, its proper allocation under the applicable state laws. Where such property is included in the combined personal financial statements of a husband and wife or larger family group, full disclosure of the circumstances is generally necessary.

FORM AND CONTENT

The form and content of financial statements presenting assets and liabilities of individuals have not been given as much attention by the accounting profession as those for commercial enterprises. To achieve a desirable degree of uniformity and provide meaningful information, financial statements for individuals should be prepared in conformity with generally accepted accounting principles. Accordingly, accrual accounting should be used, and cash basis statements are not appropriate.

A disparity frequently exists between cost and estimated values. When the more common reasons for the use of personal financial statements are considered, it is evident that this disparity creates a need for a clear presentation of estimated values. For example, financial statements may be used for personal purposes, estate and income tax planning, contemplated retirement, credit purposes, and public disclosures by political candidates. Therefore, it is recommended that the statement of assets and liabilities, restated at estimated values, be included as additional financial information.

A two-column presentation of personal financial statements is recommended as the most useful and easily understood. The first column should present financial data on the cost basis, paralleled by a second column presenting estimated values.

Comparative financial statements for at least two years are considered to be substantially more informative than single statements as of a given date. Therefore, presentation of comparative financial statements is recommended. Financial statements illustrating this approach are set forth in pages 42–46. It should be noted, however, that, in the initial preparation of personal financial statements, the absence of adequate records concerning financial affairs of prior periods may preclude the preparation of both a comparative statement of assets and liabilities and a statement of changes in net assets.

Certain items frequently included in personal financial statements are discussed in the following sections.

STATEMENT OF ASSETS AND LIABILITIES

Business Interests, Proprietorships, and Partnerships

Business interests that constitute a significant part of the overall assets should ordinarily be shown separately and described specifically, with further explanatory information as necessary, in the notes to the financial statements.

An investment in a separate entity, such as a closely held corporation or a partnership, even if controlled by the principals, or a business operated as an individual proprietorship, generally should be shown in one amount as an investment. Assets and liabilities of the separate entity should not be combined with similar items of a personal nature. Where investments are material in relation to the overall statement of assets and liabilities, information regarding the various assets and liabilities and operating results of the entity

should be set forth in summary form in the footnotes or as separate supplementary financial statements.

In the case of individual proprietorships, there may be little, if any, distinction between personal and business assets and liabilities, except on a completely arbitrary basis determined by the proprietor. This fact should be considered in deciding the manner in which financial information is presented.

Blind Trusts

Occasionally a public official or candidate may have financial interests that cannot be liquidated in an orderly fashion, thus creating an actual or apparent conflict of interest with the duties and responsibilities of a particular governmental position. In such cases, an officeholder and/or candidate (the beneficiary) may elect to establish a "blind trust" into which such assets are placed. Although the specific legal requirements regarding the establishment, administration, and dissolution of such a trust may vary with state laws, the trust administrator is generally given complete discretion over the disposition of the assets entrusted to him as well as discretion over future investment decisions made on behalf of the beneficiary. Typically, the composition of assets held in trust is not revealed to the beneficiary so that any apparent conflict of interest with the duties and responsibilities of a particular office can be avoided. The beneficiary is permitted, however, to request and receive cash payments from the trust.

The cost and current value of assets held in such a trust should be included in the financial statements.

Personal Effects

Normally, objects of art, jewelry, household furnishings, and other personal effects should be included in the financial statements. However, personal effects are often immaterial and consequently are omitted from financial statements or included at a nominal amount. It is frequently impractical to devote time, effort, and expense to determine cost and estimated values for these immaterial items. However, if personal effects are material in relation to total assets, their omission would cause the financial statements to be incomplete and thus misleading.

Future Interests

Individuals may have future interests in such items as pensions, profit-sharing plans, deferred compensation contracts, beneficial interests in trusts, remainder interests in property subject to life estates and annuities, and other rights. These future interests are often omitted from personal financial statements because the individual may not have an immediate call on them. However, the present value of such future interests should be included as assets in the estimated current value column of the financial statements if the property rights are vested.

If material future interests are not included in the financial statements because circumstances exist that preclude the determination of a fair value, a note should be included in the financial statements disclosing all pertinent information concerning the interests.

Income Taxes

Current Taxes Payable

The liability for income taxes payable should include, in addition to any unpaid taxes for completed taxable years, an estimated liability for any elapsed part of the current

taxable year up to the date of the statement of assets and liabilities. This provision should be computed on a basis that relates the tax to taxable income in the period. The method of computing the liability should be disclosed in a note.

Deferred Income Taxes—Cost Basis

The income tax bases of certain assets may differ from the cost bases shown in the statement of assets and liabilities, or items of income or expense may appear in the statement of changes in net assets in periods other than those in which they enter into the individual's income tax returns. In these instances, tax deferrals or accruals should be provided, and relevant disclosure should be made, in conformity with generally accepted accounting principles.

Estimated Income Taxes on Net Unrealized Appreciation—Estimated Current Value Basis

An accrual for income taxes on net unrealized appreciation (the difference between the tax basis and estimated current value of net assets) should be included in the presentation of the estimated current value column in personal financial statements. This accrual is necessary because the estimated current values generally cannot be realized without incurring taxes. The type of asset, the time of sale, anticipated applicable rates, and carryovers are matters to be considered in making the accrual. The basis of the income tax computation should be fully disclosed in a note to the statements.

The amounts of any carryovers not yet utilized in computing current or estimated income taxes such as capital losses, contributions, and investment credits, should also be disclosed in a note, together with expiration dates.

CLASSIFICATION OF ASSETS AND LIABILITIES

The financial affairs of individuals do not generally involve a business cycle because the realization of assets and the liquidation of liabilities are usually dependent upon the individual's circumstances. Accordingly, the concept of working capital, as related to business enterprises, is generally not appropriate for individuals. Ordinarily, the most useful and readily understood presentation is to set forth the assets and liabilities in order of liquidity and maturity without classification between current and noncurrent items.

STATEMENT OF CHANGES IN NET ASSETS

A single statement of changes in net assets should generally be presented rather than two separate statements, one for income and one for the other changes. This presentation is considered preferable because of the mixture of business, personal, and family items in personal financial statements. To be informative, the statement should disclose the major increases and decreases in the individual assets and liabilities. An illustration of this presentation appears on page 43. A statement of changes in net assets is not necessary for a fair presentation of assets and liabilities.

Where a statement of changes in net assets is prepared, the two-column approach, as previously recommended, should be followed.

COST BASIS

For assets acquired in various ways, the definition of cost as used in this guide is as follows:

Property acquired by purchase. Cost is the amount paid, or to be paid, when acquired.

Property acquired by trade. Cost is generally the fair value of the property given up in exchange or the fair value of the property acquired, whichever is more clearly evident. There may be cases where it is more appropriate for the cost of property given up in exchange to be recorded as the cost of the property received, particularly when the fair value of either property is not readily determinable. (Any significant difference between the income tax basis and the cost basis of the property should be disclosed in a note.)

Property acquired by inheritance. Cost is the fair value at the date of inheritance. (This generally is the value used in the final determination of the federal estate tax or state inheritance tax.)

Property acquired by a gift. Cost is the fair value of the property at the time of gift. (Any significant difference between the income tax basis and the cost basis of property should be disclosed in a note.)

Certain personal assets such as automobiles, household furnishings, and the like may diminish in value with use. Such diminution should be considered as a permanent impairment to value, and the cost of such assets should be reduced accordingly. Investments in income-producing property, such as rental property, should be depreciated over their estimated useful lives.

Business interests (such as sole proprietorships, partnerships, joint ventures, corporations taxed under subchapter S of the Internal Revenue Code) and other similar assets such as blind trusts should be presented in the cost basis column at cost adjusted for any accumulated undistributed earnings or losses since formation or acquisition.

In the case of non-income-producing property, such as a personal residence, the carrying basis should be original cost plus the cost of capital improvements unless there is evidence of a permanent decline in the value of the property.

ESTIMATED CURRENT VALUE

Estimated current value should represent fair market value in instances where it can be determined or reasonably estimated. Fair market value may be defined as the value determined by bona fide bargaining between well-informed buyers and sellers. It should be noted that, in some instances, estimated current value of an asset may be less than its cost due to a decline in value. In the case of closely held business interests, where fair market value is not ascertainable, cost adjusted for any accumulated undistributed earnings or losses since acquisition may be appropriate.

Assets that are difficult to value may constitute a substantial portion of an individual's holdings. The following paragraphs discuss certain of these assets as well as methods of determining current value.

Marketable Securities

Careful consideration should be given to the determination of the estimated current value of marketable securities. Quoted market prices or actual sales prices may require adjustment in view of the relative size of the investment. For example, a large block of shares might not be salable at the same quoted price at which a small number of shares have been recently sold or quoted. Further, a substantial minority interest may be difficult to sell even if there have been isolated sales of small numbers of shares.

On the other hand, a controlling interest may be proportionately more valuable than minority interests that may have been sold.

Investments in Closely Held Businesses

The estimated current value of interests in closely held businesses, represented by securities not ordinarily traded on the open market, may be difficult to determine. There is no single established formula for determining estimated current values. Some methods commonly used, which in certain circumstances may be indicative of fair value, are as follows:

- Book value
- Reproduction value
- Liquidation value
- Capitalized earnings value

In partnerships and in corporations with a limited number of stockholders, there may be agreements containing provisions concerning the amounts to be paid to a withdrawing partner or owner in the event of death, retirement, or withdrawal. These agreements may be the basis for determining current values.

Real Estate

Procedures that may be employed in the determination of estimated current value of real estate include (1) obtaining estimates of selling prices and selling costs and expenses from independent real estate agents or brokers who are familiar with the particular type of real estate in similar locations, (2) investigating assessed values for property taxes, taking into consideration the usual relationship of assessed values to actual market values in the particular area, (3) investigating actual sales of similar real estate in similar locations, or (4) using recent appraisals made to obtain loans or for other purposes.

INFORMATIVE DISCLOSURE

The fairness of presentation of financial statements of an individual(s) in conformity with generally accepted accounting principles comprehends the adequacy of disclosures involving material matters concerning financial affairs or particular transactions. Although disclosure of particular facts may be presented in the body of financial statements, typically because of relative length of narrative description, such disclosures are presented in notes to the financial statements.

The following enumeration is not intended to be all-inclusive but simply indicative of the nature and type of matters to be disclosed to make financial statements sufficiently informative:

- Accounting policies used in determining the cost basis.
- Basis of determining the amounts set forth as estimated current values.
- Maturities, interest rates, collateral, and other pertinent details of long-term debt.
- Pertinent details of commitments, long-term leases, and assets subject to lien.
- Effect of significant events that have occurred subsequent to the date of the financial statements.
- Pertinent details of tax accruals and deferrals, including the method of determining the tax effect of the difference between tax basis, cost basis, and estimated current value basis of net assets.

- The existence of future interests in trust agreements, pensions, deferred compensation, annuities, and similar agreements, which are only contingent and therefore are not to be included in the financial statements.
- The existence of liabilities that are only contingent and therefore are not included in the financial statements, for example, campaign debts exceeding campaign funds, which may become a personal liability.
- Pertinent details of financial transactions required by statute or regulations, such as the amount of honorariums and travel reimbursement received.

The disclosures should make clear whether they relate to the cost basis or to the estimated current value basis columns within financial statements.

COMPLIANCE WITH STATUTES AND REGULATIONS

Personal financial disclosures that are required to be filed by officeholders or candidates for office may require disclosure of certain financial transactions in more detail than is generally necessary in financial statements. Therefore, federal and state statutes and regulations should be carefully considered prior to adopting a recordkeeping system so that disclosure requirements regarding personal financial affairs can be complied with when personal financial statements of an officeholder or candidate are presented.

PERSONAL ACCOUNTING RECORDS

Anyone who contemplates issuing personal financial statements must understand the need for adequate accounting records. To facilitate the preparation of financial statements, candidates and officeholders and their families must develop a system to provide for the accumulation of financial data and the retention of documents to support

- Acquisition, sale, or other disposal of assets
- Incurrence or liquidation of liabilities
- Sources of income
- Payment of expenses

Since each individual or family is to an extent unique, there is no simple comprehensive system that will serve everyone's needs. Accounting systems can vary from the highly sophisticated to the highly simplified, depending on the volume and nature of transactions. Therefore, prior to adopting a particular accounting system, it is suggested that individuals seek the counsel of a certified public accountant to assure that the system to be utilized will provide, in the most efficient manner, sufficient data to permit the preparation of a personal financial statement. A listing of certain accounting controls, records, and documents pertaining to some common financial activities of individuals is presented below. This listing is not intended to be all-inclusive but simply indicative of the type of control over financial matters and the documentation of transactions that individuals should adopt and maintain.

- *Bank Accounts.* A bank account should be established and prenumbered deposit slips and checks used so that numerical and chronological control over transactions can be maintained. The use of separate accounts for personal and business transactions should also be considered. Separate accounts must be established for campaign-related receipts and disbursements.
- Cash received from all sources should be deposited intact and appropriately recorded. The source and nature of the receipt should be clearly identified.

- Checks drawn on the account should be recorded in a check register along with an appropriate explanation of the purpose of the disbursement.
 - Checks should be utilized for the payment of all bills including household expenses.
 - Periodic statements received from the bank should be reconciled with recorded deposits and withdrawals and with the balance shown in the check book. Reconciliations, including deposit slips and canceled checks, should be maintained for future reference.
- In addition to establishing a bank account to systematically record and control financial transactions, documents supporting transactions, such as those described below, should be retained.
- *Marketable securities.* All brokerage advices, confirmations of sales and purchases, monthly statements, and a complete list of securities owned including the dates on which purchased, cost, and number of shares held.
 - *Business interests (corporations, partnerships, proprietorships)*
 - All financial statements, tax returns, and similar documents.
 - Copies of appraisal reports.
 - Evidence of equity participation in the organization (stock certificates, bonds, notes, stock options, and so forth).
 - *Residence and real property investments*
 - Deeds, closing statements, and other related documents for each piece of property held.
 - Paid invoices or other evidence for capital improvements made and property taxes paid.
 - Insurance policy files including all amendments and riders thereto.
 - Depreciation and expense records for income producing property.
 - *Automobiles*
 - Paid invoices, bills of sale, receipts for excise or sales tax paid, and other related documentation concerning the purchase.
 - Insurance policy files including all amendments and riders thereto.
 - *Household furnishings, jewelry, paintings, and other personal valuables*
 - Inventory of all valuable items.
 - Sales slips, agreements, or other evidence of cost including dates of purchase, sale, or exchange.
 - Insurance policies including amendments and riders thereto and other correspondence with brokers and carriers.
 - Appraisal reports or agreements for contemplated future sales.
 - *Life insurance.* Policies together with amendments, riders, brokers' advices, paid invoices, and related correspondence.
 - *Accounts payable.* Unpaid invoices by major vendor.
 - *Notes and mortgages payable*
 - Debt instrument and related documents.
 - All correspondence with creditors.
 - Mortgage or loan reduction schedules.
 - *Income*
 - Pay stubs and W-2 forms.
 - Documentation of political contributions (copies of checks, acknowledgments, and so forth).
 - Honorariums (remittance advices, correspondence, and so forth).
 - Interest and dividend remittance advices and 1099 forms.
 - Requests for travel and expense reimbursements.

- Remittance advices pertaining to directors' fees and 1099 forms.
- Record of drawings from business interests (proprietorship, partnership, and so forth).

■ *Expenses*

- Paid invoices and other evidence of payments made in cash.
- Paid invoices, canceled checks, and other evidence of campaign expenses.
- Personal expense diary.

■ *Other records*

- Personal financial statements; tax returns, including personal, gift, estate, and business; annual estimated tax payment records; and correspondence with taxing authorities.
- A listing of all credit cards including account number, expiration date, and address and phone number of financial intermediary.

The requirements concerning the periods for which records must be retained, for example, for tax and political campaign purposes, should be carefully considered.

EXAMINATION OF FINANCIAL STATEMENTS BY CPAs

Some political officeholders and candidates may consider it desirable to have their financial statements examined and reported on by an independent certified public accountant. It should be recognized that the scope of the examination and the nature of the opinion rendered will be dependent on the adequacy of the established controls and records and the accounting principles and policies used in the preparation of the financial statements.

EXHIBIT 6: ILLUSTRATIVE FINANCIAL STATEMENTS FOR AN OFFICEHOLDER

MR. AND MRS. OFFICEHOLDER
Statements of Assets and Liabilities

December 31

	1980		1979	
	Cost	Estimated Current Value	Cost	Estimated Current Value
Assets				
Cash	\$ 16,079	\$ 16,079	\$ 11,642	\$ 11,642
U.S. Savings Bonds, Series E	6,725	7,450	3,650	3,915
Marketable securities (Note 2)	35,741	44,764	33,567	43,970
Interest in net assets of blind trust (Note 3)	97,550	105,300	93,750	101,900
Cash value of life insurance	4,647	4,647	3,916	3,916
Net assets of ABC Partnership (Note 4)	47,970	65,280	45,905	60,980
Equity in net assets of XYZ Corp. (Note 5)	3,335	4,730	3,000	4,117
Residence, pledged on mortgage note (Note 7)	62,000	77,000	62,000	75,880
Automobiles	3,000	3,000	4,125	4,125
Jewelry (Note 7)	6,300	8,400	6,300	8,400
Paintings (Note 6)	10,000	20,000	10,000	20,000
Household furnishings	2,000	2,000	2,000	2,000
Vested interest in CEH Pension Trust	—	17,810	—	17,263
Investment in rental property net of accumulated depreciation of \$4,500 in 1980 and \$3,250 in 1979 (Note 7)	30,678	41,000	31,928	41,000
Contingent asset (Note 9)	—	—	—	—
Total Assets	<u><u>\$326,025</u></u>	<u><u>\$417,460</u></u>	<u><u>\$311,783</u></u>	<u><u>\$399,108</u></u>
Liabilities				
Accounts payable and accrued expenses	\$ 3,290	\$ 3,290	\$ 4,655	\$ 4,655
9% note payable, unsecured, due January 15, 1982	25,000	25,000	20,000	20,000
7½% mortgage, maturing in 1994, secured by residence (annual amortization and interest payments amount to \$4,360)	49,790	49,790	51,940	51,940
Accrued income taxes payable, net of prepayments (Note 8)	2,400	2,400	3,100	3,100
Deferred income taxes (Note 8)	2,315	—	1,750	—
Accrued income taxes on unrealized asset appreciation (Note 8)	—	28,100	—	24,900
Total Liabilities	<u><u>82,795</u></u>	<u><u>108,580</u></u>	<u><u>81,445</u></u>	<u><u>104,595</u></u>
Excess of Assets Over Liabilities	<u><u>\$243,230</u></u>	<u><u>\$308,880</u></u>	<u><u>\$230,338</u></u>	<u><u>\$294,513</u></u>

The notes to the financial statements are an integral part of this statement.

EXHIBIT 6 (cont.)

MR. AND MRS. OFFICEHOLDER
Statements of Changes in Net Assets

Years Ended December 31

	1980		1979	
	Cost	Estimated Current Value	Cost	Estimated Current Value
Income and Other Increases in Net Assets				
Salary	\$ 42,000	\$ 42,000	\$ 47,500	\$ 47,500
Honorariums received	4,500	4,500	—	—
Dividends and interest on investments	2,970	2,970	7,513	7,513
Gain on sale of securities	3,989	1,743	1,013	584
Increase in values since January 1:				
U.S. Savings Bonds, Series E		460		215
Marketable securities		866		1,987
Blind trust	3,800	3,400	—	—
Net assets in ABC Partnership	2,065	4,300	1,020	1,845
Equity in net assets of XYZ Corp.	335	613	490	971
Residence	—	1,120		1,450
Vested interest in CEH Pension Trust	—	547		487
Total	<u>59,659</u>	<u>62,519</u>	<u>57,536</u>	<u>62,552</u>
Expenses and Other Decreases in Net Assets				
Personal expenditures	15,968	15,968	17,654	17,654
Expenses of office in excess of reimbursements	6,004	6,004	—	—
Interest expense	6,185	6,185	6,317	6,317
Real estate taxes	3,410	3,410	3,264	3,264
Current income taxes (Note 8)	12,260	12,260	14,361	14,361
Deferred income taxes (Note 8)	565	3,200	415	3,750
Decrease in values since January 1:				
Automobiles	1,125	1,125	1,500	1,500
Depreciation on rental property	1,250	—	1,250	—
Total	<u>46,767</u>	<u>48,152</u>	<u>44,761</u>	<u>46,846</u>
Net Increase in Net Assets	<u>12,892</u>	<u>14,367</u>	<u>12,775</u>	<u>15,706</u>
Net Assets, January 1	<u>230,338</u>	<u>294,513</u>	<u>217,563</u>	<u>278,807</u>
Net Assets, December 31	<u>\$243,230</u>	<u>\$308,880</u>	<u>\$230,338</u>	<u>\$294,513</u>

The notes to the financial statements are an integral part of this statement.

MR. AND MRS. OFFICEHOLDER

Notes to the Financial Statements

December 31, 1980

Note 1: Summary of Accounting Policies

Accrual basis. The statements of assets and liabilities and changes in net assets have been prepared on the accrual basis of accounting.

Asset values**Cost—**

Personal assets not used for the purpose of generating revenue are stated at original cost and have been reduced to recognize any permanent diminution in value due to age or usage. Assets used in connection with the production of income are stated at cost less accumulated depreciation or amortization. Depreciation and amortization are provided on a straightline basis over the estimated useful lives of the related assets. (Disclose lives.) Investments in the blind trust and business entities are stated at cost plus any equity in undistributed earnings.

Estimated Current Value—

Estimated current value generally represents the estimated current fair market value of the assets determined by reference to market quotations, independent appraisals, firm offers to purchase, or selling prices of similar type assets.

Further information regarding the cost or estimated current value of particular assets is included elsewhere in the notes to these financial statements.

Income taxes. Deferred income taxes are provided for the tax effects of items of income and expense appearing in the statement of changes in net assets in periods other than those in which they enter into the determination of taxable income and for the tax effects of the difference between the cost and tax basis of assets.

Investment tax credits, which are not material in amount, are recorded as a reduction of the provision for federal income taxes in the year realized.

Note 2: Marketable Securities

The amounts shown as estimated current value at December 31, 1980, were arrived at as follows:

Stocks—quoted closing or latest bid prices

Bonds—quoted latest bid prices

Marketable securities consist of the following.

Stock	Shares	Cost	Estimated Market Value
American Industries, Inc.	100	\$ 1,647	\$ 4,003
Charlene Ellen Cosmetics	300	1,103	1,617
Colleen Fabrics Corp.	1000	9,696	10,322
Do-All Manufacturing, Ltd.	50	913	401
Loretta Jane Cookie Co.	100	1,925	1,285
Thomas Lighting Company	75	1,097	4,243
Tim Pat Productions	200	3,135	4,635
Maureen Fashions, Inc.	225	7,674	8,949
United Products	500	2,312	1,676
U.S. Equipment Rentals	100	239	920
		<u>29,741</u>	<u>38,051</u>
Bonds			
United Products 6.25% due 7/1/89		2,000	2,713
U.S. Government 7.50% due 11/15/2005		4,000	4,000
		<u>6,000</u>	<u>6,713</u>
		<u>\$35,741</u>	<u>\$44,764</u>

EXHIBIT 6 (cont.)**Notes to the Financial Statements (cont.)****Note 3: Interest in Net Assets of Blind Trust**

In 1979 certain security investments were placed in a blind trust to avoid any apparent conflict of interest between investment decisions and the office held by Mr. Officeholder. Under the terms of the trust, the trustee has sole discretion over the disposition of the assets entrusted to him and over future investment decisions. The composition of assets held at any time cannot be revealed to the beneficiaries. The trustee can be requested to liquidate all or a portion of the trust assets and remit the proceeds to Mr. and Mrs. Officeholder.

Trust assets are held in safekeeping by the McGriff National Bank and Trust Company. LPH and Company, Certified Public Accountants, has examined the financial statements of the trust and rendered their unqualified opinion thereon.

Estimated current values at December 31, 1979, and 1980, were arrived at as follows:

Stock—quoted closing or latest bid prices

Bonds—quoted latest bid prices

Income taxes resulting from net realized gains on investment transactions are paid separately by the trust.

Note 4: Net Assets of ABC Partnership

A summary statement of the net assets of the partnership as of December 31, 1980, and 1979, is as follows:

	1980	1979
Current Assets	\$ 75,388	\$ 80,513
Land, Building, and Equipment, net	51,140	53,920
Other Assets	4,220	2,185
Total	<u>130,748</u>	<u>136,618</u>
Current Liabilities	11,580	17,247
Deferred Items	6,188	7,911
Long-Term Debt	17,040	19,650
Total	<u>34,808</u>	<u>44,808</u>
Net Assets	<u>\$ 95,940</u>	<u>\$ 91,810</u>

The ABC Partnership, which is 50 percent-owned by Mr. Officeholder, is engaged in manufacturing wooden clothes hangers. Sales to governmental organizations during the year 1980 were insignificant.

Income for the year ended December 31, 1980, amounted to \$4,130 after partners' salaries. While in office, Mr. Officeholder has elected not to draw against partnership earnings.

A certified public accounting firm has examined the financial statements of the partnership as of December 31, 1980, and expressed an unqualified opinion on them.

The estimated current value of the 50 percent interest in the partnership is based on net assets plus the difference between the cost of a parcel of land and the amount offered by the persons interested in acquiring the land.

Note 5: Interest in Net Assets of XYZ Corp.

Estimated current value of the 25 percent interest in the net assets of the corporation is based on book value as reported in unaudited financial statements as of September 30, 1980, and 1979, respectively. Management of XYZ Corp. has reported that no material financial changes have occurred since that date.

Note 6: Paintings

Estimated current value is based upon a bona fide offer to purchase the paintings by Modern Galleries, Inc. on December 16, 1979.

EXHIBIT 6 (cont.)

Notes to the Financial Statements (cont.)

Note 7: Appraisals

Estimated current value is based upon independent appraisals obtained from individuals and/or firms (could be named) for the following assets:

Residence	\$77,000(A)
Jewelry	8,400(B)
Rental property	41,000(C)

(A) Recent purchase of homes within the same general area approximate the appraised valuation. The assessed real estate value (100 percent valuation) was determined in 1979 to be \$71,000.

(B) Mrs. Officeholder's jewelry has been insured in the amount of \$8,400.

(C) The assessed real estate value (100 percent valuation) was determined in 1980 to be \$38,000.

Note 8: Income Taxes

The provision for current income tax expense is composed of federal and state income taxes amounting to \$9,345 and \$2,915, respectively. The computation of income tax expense was based primarily on tax rates applicable to ordinary income.

At December 31, 1980, Mr. and Mrs. Officeholder had a capital loss carryforward for tax purposes of \$6,700. This amount is available to reduce capital gain for tax purposes in future periods.

Deferred income taxes have been provided in the cost basis financial statements to recognize the tax effects of the difference between the amount of depreciation deducted for tax purposes and the amount recorded for book purposes on rental property.

Unrealized appreciation in the value of assets would, if realized, require payment of taxes at capital gains rates. Therefore, accrued income taxes have been provided in the estimated current value financial statements to recognize the tax effects of the increase in unrealized asset appreciation.

Note 9: Contingent Assets

Stock Option. Mr. Officeholder has been granted an option to purchase 300 shares, or any part thereof, of QM Corp. common stock at a price of \$9 per share. The option expires on August 31, 1985. The market value of QM Corp. common stock is approximately \$10 per share.

Interest in Property Subject to Life Estate. Mrs. Officeholder is the beneficiary of the estate of John Smith, her father, remaining at the time of the death of her mother. Contingencies within the bequest preclude the actuarial determination of a present value.

CHAPTER 5

TAX CONSIDERATIONS FOR POLITICAL ORGANIZATIONS, CANDIDATES, OFFICEHOLDERS, AND CONTRIBUTORS

This chapter on tax considerations provides information regarding those significant aspects of federal tax law that relate to the federal election campaign process and that affect federal officeholders. The basis for this information is the Internal Revenue Code of 1954, as amended through the enactment on November 6, 1978, of P.L. 95-600. The principal source of the taxation of political organizations was the enactment on January 3, 1975, of P.L. 93-625.

Although the following information principally relates to the federal area, the tax aspects discussed are generally applicable to state and local situations as well. It should be noted, however, that there is no discussion of taxation of political organizations, candidates, and contributors under state and local law. Also excluded is a discussion of the tax considerations associated with the establishment and operation of political action committees, although the tax rules involved generally do not vary from those discussed in this chapter. For a discussion of political action committees, see Appendix 5.

Since the information presented represents a summary and interpretation, those directly involved with the preparation of reports and materials required under the law should refer to the Internal Revenue Code. Much of the following information is referenced to the *United States Code* (U.S.C.), the legislative history of P.L. 93-625, U.S. Treasury regulations contained in the *Code of Federal Regulations* (C.F.R.), revenue procedures (Rev. Proc.), published revenue rulings (Rev. Rul.), or private rulings (Ltr. R.). Appendix 6 contains pertinent provisions from the Internal Revenue Code (Title 26 of the United States Code).

Candidates, officeholders, political organizations, and contributors are urged to obtain advice and counsel from competent professional sources or the Internal Revenue Service regarding actions taken or contemplated.

TAXATION OF POLITICAL ORGANIZATIONS

Tax Status

The Internal Revenue Service ruled in 1974 that political parties and committees were subject to tax after 1971. Prior to that ruling no special effort was made to tax political organizations, probably because there were no specific provisions in the Internal Revenue Code defining the tax status of political parties, committees, and candidates' funds. *Rev. Rul. 74-21, 1974-1 C.B. 14.*

Prior to 1972, the law provided and continues to provide specific guidelines for the qualification of tax-exempt organizations. It prohibits exemptions where "a substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting to influence legislation, or participating or intervening in (including the publishing or distribution of statements) any political campaign of a candidate." The courts have interpreted

this section to mean that an "action" organization that engages in substantial political activities and does not represent a nonpartisan analysis of the general public will be denied tax-exempt status. Under this concept, for example, a nonprofit organization formed to implement an orderly change of administration in the office of state governor, including the screening and selection of applicants for state appointed offices, and the preparation of a legislative program, was held to be an "action" organization and did not qualify for tax exemption. 26 U.S.C. 501(c)(3); *Haswell v. U.S.* 500 F.2d 1133; *Rev. Rul.* 74-117, 1974-1 C.B. 128.

Current Law (After 1974)

The amendments to the tax law enacted by P.L. 93-625 provide that every political organization, and every fund treated as if it constituted a political organization, is required to file an income tax return, but only if it has taxable income. 26 U.S.C. 527(b)(1); 6012(a)(6).

A political organization is defined as one that is primarily operated to accept, either directly or indirectly, contributions, make expenditures, or both, for an exempt function. In this context the exempt function of a political organization is defined as influencing, or attempting to influence, the selection, nomination, election, or appointment of an individual to any federal, state, or local public or political office. 26 U.S.C. 527(e)(2).

The political organization, whether party, committee, trust, or separate fund, is treated as a corporation and its taxable income is taxed at the corporate rate. The rate is the highest rate of tax specified for corporations. In addition, the law provides for the alternative tax (generally a flat rate of 28 percent on net long-term capital gains) to be applicable if the organization has capital gains. The due date of the return (Form 1120-POL) is the same as it is for a corporation, two and one-half months after the close of the organization's taxable year, subject to extensions. 26 U.S.C. 527(b).

Income of a Political Organization

The taxable income of a political organization is the gross income for the taxable year less deductions directly connected with production of gross income. The law allows a specific deduction of \$100, but does not allow the political entity any net operating loss or special deductions, such as the dividends received deduction, among others. 26 U.S.C. 527(c).

In computing taxable income, the so-called exempt function income is excluded. Exempt function income is any amount received as a contribution of money or other property. Membership dues, fees, or assessments from a member of the political organization are also considered exempt function income. In addition, proceeds from a political fund-raising or entertainment event or from the sale of campaign materials are exempt function income if they are not received in the ordinary course of a trade or business. Further, exempt function income may include the proceeds from conducting a bingo game if not carried out on a commercial basis. Exempt function income also includes receipt of federal, state, or local funds from public financing and filing fees paid by individuals who run in primary or general elections. 26 U.S.C. 527(c)(3); legislative history of P.L. 93-625.

To qualify as exempt function income, such receipts must be segregated and used only for the exempt function of the political entity. 26 U.S.C. 527(c).

Reportable Gross Income

For tax return purposes, the income of a political party, committee, or candidate's fund consists of interest, dividends, and net gains realized from the sale of securities as well as such other income as is referred to below. The Internal Revenue Service has indicated

that gain realized on the disposal of other nondepreciable property should also be reported on the return. The reportable gain on appreciated securities acquired *before May 8, 1974*, is the excess of the selling price over the adjusted basis to the contributor. If an organization is unable to ascertain the contributor's cost basis before the return is filed, it must compute the gain by using a zero basis for the securities. When the basis is finally determined, a claim for refund should then be filed within three years after the date the return was filed or two years after the tax was paid, whichever is later. The holding period, to determine the type of gain (short-term or long-term), is the total time the securities are held by the political organization and the contributor. 26 U.S.C. 84; for effective dates see P.L. 93-625, Sec. 13(a), (c); Rev. Rul. 74-21, 1974-1 C.B. 14.

The transfer of appreciated property to a political organization *after May 7, 1974*, is considered a sale of the property on the date of transfer. The contributor is treated as having realized an amount equal to the fair market value at the date of transfer and, accordingly, the basis of the property to the political organization will be the basis to the contributor, increased by any gain recognized. This is generally equal to the property's fair market value at the date of transfer. Where the contributor's basis exceeds fair market value at the date of transfer, the political organization's basis is limited to fair market value (see further discussion, page 66). The contribution of property that has declined in value does not constitute a sale or exchange. 26 U.S.C. 84(a), (b).

Since the political party or committee is taxed on its income as if it were a corporation, any net capital loss is not available as an offset to taxable income but can be utilized as a carryback or carryforward against past or future capital gains. 26 U.S.C. 527(b)(1); 1212(a)(1).

Nontaxable Interest

In determining taxable income, interest from state or municipal obligations is excludible as in the case of other taxable entities.

Other Income

Income derived from ancillary commercial activities, such as the rental of unused office space, is required to be reported on the return.

Since a political organization is considered an exempt organization, except as otherwise previously discussed, it is also taxed like any other exempt organization on its "unrelated trade or business" income. Any income substantially related to the exempt function of the organization does not qualify as "unrelated trade or business" income. Thus, if a building owned and used by the political organization in its exempt function is disposed of, any gain from sale does not constitute income to the organization. However, if part of the building is rented to third parties, a disposition of the building generates taxable gain to the extent the proceeds allocated to the rented portion exceed its depreciated basis. It should be noted that a political organization need not apply to have exempt status. An organization that meets the definition of a political organization is deemed exempt.

Campaign Contributions

Campaign contributions are not includible in the gross income of the organization; neither are the transfers of political campaign contributions from one bank account to another. If campaign contributions are diverted to noncampaign use by the organization, the amount diverted is taxable income to the organization. 26 U.S.C. 527(d); Rev. Rul. 74-21, 1974-1 C.B. 14.

Expenses of a Political Organization

Expenditures made by a political party, committee, or candidate's fund directly attributable to the production of interest or dividend income or to the sale of securities are deductible or otherwise accounted for on the tax return. Such expenses include litigation costs incurred to collect interest or dividend income and the rental of a safe deposit box used for the safekeeping of securities. Accounting, legal, and investment counseling fees related to the earning and reporting of the political organization's income generally are deductible. Indirect expenses, such as general administrative expenses, are not allowed as deductions, since Congress expected that these items would be relatively small and their elimination as deductions would greatly simplify tax calculations. 26 U.S.C. 527(c)(1)(B).

There must be adherence to the basic accounting principle requiring the functional matching of revenues with expenses. Accordingly, campaign contributions are not included in gross income, and expenditures for campaign purposes are not deductible. Expenditures made by the organization to reimburse a candidate for out-of-pocket campaign expenses, or incurred in fund-raising activities are nondeductible. Likewise, any filing fees paid by the organization to have a candidate participate in a primary election cannot be deducted either as a business expense or as an expense for the production of income. *Senate Finance Committee Report 93-1357*.

Although wages paid to campaign workers are classified as nondeductible expenditures, they are subject to the provisions of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, which require the withholding of tax from the employee and the payment of both the employer's and employee's share to the government. It also follows that there must be compliance with the federal income tax withholding requirements on employees' compensation. *Rev. Rul. 68-190, 1968-1 C.B. 422*.

Treatment of Excess Contributions

At the conclusion of a political campaign and after all expenses are paid by the organization, there may remain an unexpended balance, commonly referred to as "excess contributions." Any income derived from the investment of the excess contributions, whether it be in the form of interest or dividend income or from the sale of appreciated property, is taxable income to the political organization. If the funds are transferred or refunded to known contributors, the repayments do not constitute taxable income to the contributors (except to the extent that such contributions were deducted by contributors) nor are they considered a diversion of funds taxable to the political organization. If it is impractical to refund the contributions, excess contributions may be transferred to the United States government, the transfer being treated as an expenditure to further the principles of the organization. Therefore, such a transfer is not taxable to the political organization as a diversion for the benefit of the organization. 26 U.S.C. 527(d).

Incidental amounts used by the political party for the benefit of the candidate directly in his campaign are not deemed to be a diversion. Therefore, expenditures such as those for voice and speech lessons paid for by the political organization are not amounts diverted for the personal benefit of the candidate. Transition expenses of the candidate paid by the political organization are not considered a diversion if the amount paid is reasonable. The law does not define transition expenses. However, it may be implied that any costs incurred in becoming acquainted with the new job or office will qualify as transition expenses. With respect to persons who were not members of Congress on January 8, 1980, the Federal Election Campaign Act Amendments of 1979 disallow any personal use of excess campaign funds. *Senate Finance Committee Report 93-1357; 2 U.S.C. 439a*.

The following transfers of money or property are deemed nontaxable and are permitted on the premise that they do not represent a diversion of political funds:

1. Transfers to another political organization to be used for that organization's exempt function.
2. Transfers to a tax-exempt charitable organization that is not a private foundation.
3. Transfers to the general fund of any state or local government. 26 U.S.C. 527(d).

But no political organization, candidate, or contributor is entitled to a charitable deduction even though the funds are transferred by the political organization to the federal government, a state or local government, or a public charity.

Miscellaneous Tax Considerations

Tax-Exempt Organization Disbursing Funds to Political Parties

A tax-exempt organization, such as one described in 26 U.S.C. 501(c)(4), which disburses funds directly or indirectly for an exempt function of a political organization, is taxed on the expenditure. The tax is based on the lesser of the net investment income for the year or the aggregate amount so spent during the year. The rate of tax is the same as the rate imposed upon political organizations (as discussed on page 48). 26 U.S.C. 527(f)(1).

Legislative history indicates that this rule is not intended to make the tax-exempt organization absolutely liable for tax on any expenditures made by an organization to which it gives funds. For instance, if there is a reasonable expectation that the funds may be spent for political purposes and the tax-exempt organization wishes to avoid imposition of tax, it should segregate the political action receipts from its other receipts. This procedure is considered satisfactory to demonstrate that indirect payments do not result from the payment by the tax-exempt organization and thus are not taxable to the tax-exempt organization collecting the funds.

Newsletter Funds

A newsletter fund maintained by a candidate or any elected official is treated as if the fund is a political organization (see discussion on page 58).

TAXATION OF CANDIDATES

This section is addressed specifically to candidates for the U.S. Senate and the U.S. House of Representatives. However, most of the rules set forth will be equally applicable to presidential, vice-presidential, and state and local candidates. The tax law generally provides that campaign contributions received by a candidate are not taxable to him if they are segregated from his personal funds and are used for generally recognized campaign expenses. The money earned on contributions received by a candidate, such as interest and dividend income, is subject to federal income taxation as previously discussed. If a candidate spends his own money in his campaign, such expenses are generally not deductible by him on his own return.

Contributions Received by the Candidate

Running for the Senate or House can be very expensive. Very few candidates are able to personally assume such expenditures solely from their personal funds, although such expenditures are now allowed without limit under the 1976 amendments. (See discussion in chapter 2.) Consequently, most individuals seeking public office immediately set up machinery for raising campaign funds.

Segregate the Campaign Receipts

Although funds can be obtained from national, state, or local political parties, they are most often contributed by the individual or interested groups. The tax law provides that even though an individual candidate personally receives campaign contributions, such funds will not be included in his income if they are immediately deposited into a special campaign fund set up on behalf of the candidate.

The qualifying fund must be organized and operated primarily for accepting contributions and making expenditures related to the nomination and/or election of the office seeker. It can be established in the year before the individual officially announces his candidacy, and the rules in this section will still apply. There is no mandatory organizational structure for a qualifying fund—it may be incorporated with a formal charter or merely consist of a separate bank account; it may consist solely of a checking account or may include separate savings and brokerage accounts. Regardless of the formality of the fund, it must be organized and operated as an entity separate from all of the candidate's personal funds. In addition to these tax rules, candidates should be sure to comply with the campaign depository requirements as detailed on page 23. 26 U.S.C. 527(e).

Types of Campaign Receipts

If a qualifying fund is established, contributions made to the candidate from his supporters and from political parties and other political organizations will not be included in the candidate's income provided they are immediately deposited into the fund accounts. Money, securities, loans, advances, or anything of value, including receipts derived from fund-raising activities, can be received by a qualifying fund. Fund-raising activities such as breakfasts, dinners, receptions, picnics, dances, or the sale of political campaign materials, such as bumper stickers or buttons, must be clearly political and not carried on in the ordinary course of the candidate's trade or business. 26 U.S.C. 527(c)(3).

Maintain Proper Records

The candidate's treasurer must maintain a complete and separate set of books and records for the campaign fund. Detailed substantiating records of all receipts and disbursements must be maintained to ensure that the campaign fund is in fact kept separate and distinct from the candidate's private funds. *The importance of this physical segregation and accounting cannot be overemphasized.* If campaign contributions are received but are not segregated from the candidate's personal funds, they will be included in his income even if the candidate is able to establish that the same amount he received as a political contribution was spent for a valid campaign expense. Rev. Proc. 68-19, 1968-1 C.B. 810.

Campaign expenditures paid by the candidate's special campaign fund are not deductible on the candidate's tax return. Even when a candidate spends his own personal funds directly on his own political campaign, he may not deduct such expenditures. 26 U.S.C. 162(e)(2).

Taxability of Segregated Campaign Receipts

The campaign fund established by the candidate is a separate taxable entity, and certain of its receipts are subject to federal taxation. Nevertheless, other receipts of the fund are not includible in its income and are therefore not taxable. (See discussion under "Taxation of Political Organizations," pages 47–51.) It should be noted that, while the designated treasurer is responsible for the filing of the fund's tax return, the tax liability is assessed against the fund assets.

Campaign Funds Distributed to Candidate

Campaign contributions received by a candidate and immediately deposited into a separate campaign fund are not includible in the candidate's income. Similarly, the candidate does not recognize income when his valid campaign expenses are paid by the fund. A distribution made by the fund directly to the candidate to reimburse him for valid out-of-pocket campaign expenses also is not subject to taxation if adequate substantiation is made by the candidate to the fund. *Rev. Proc. 68-19, 1968-1 C.B. 810; Rev. Rul. 71-449, 1971-2 C.B. 77.*

In summary, all campaign contributions will be included in the candidate's income if he fails to segregate them from his personal funds or fails to maintain adequate records to substantiate their receipt and disbursement.

Disposition of Unexpended Campaign Funds

Occasionally, a candidate will have campaign funds remaining after the election. There are several means of disposing of excess funds, including a winning candidate's use of a portion of such funds for the payment of transition expenses. Caution must be exercised in the disposition of excess campaign funds since various laws and House and Senate rules may apply. (See the discussion at page 50.)

Illustration of the Taxation of a Candidate and His Campaign Fund

John W. Jones announced his candidacy for the U.S. Congress on February 12, 1980, and on the same day designated Mrs. White as his campaign manager and Mr. Green as his campaign treasurer. The following day, candidate Jones and Mr. Green opened two new accounts with a qualifying bank—a savings account and a checking account—both in the name of "John W. Jones, candidate for U.S. Congress." They also opened a new account with a local stockbroker in the same name. Mr. Green had been delegated responsibility for maintaining books and records of all campaign receipts and validating all disbursement claims for campaign expenditures. All checks in excess of \$200 were to be approved by Mrs. White and cosigned by Jones and Green. During the period prior to the November election, the following items were received by Mr. Green.

	Description	Amount
1	Checks payable to "John W. Jones" from individual supporters for campaign purposes.	\$ 30,500
2	Checks payable to "Jones for Congress" from individual supporters for campaign purposes.	40,500
3	1,000 shares of XYZ common stock received from various individual supporters. (Value on date of gifts, April 15, 1980; cost to contributors in each case was less than the value at date of gift.)	10,000
4	Loans from various supporters received on March 1, 1980, payable by October 31, 1980, @ 12% interest.	10,000
5	Gross receipts from sale of tickets for fund-raising dinner held June 12th.	20,000
6	Gross receipts from sale of campaign material (buttons, hats, bumper stickers, matchbooks, etc.).	1,000
7	Contributions from national political party.	5,000
8	ABC 8% bonds received from various supporters. (Value on date of gifts, July 1, 1980, excluding purchased interest.)	5,000

	Description	Amount
9	Interest received on savings account.	3,500
10	Interest received on ABC bonds attributable to period after date of gift.	100
11	Dividends received on XYZ stock.	300
12	Gain on the sale of XYZ stock. (Sold on Nov. 1, 1980, for \$12,000.)	2,000
13	Gain on the sale of ABC bonds. (Sold on Sept. 1, 1980, for \$5,000.)	0
	Total Receipts Prior to Election	<u>\$127,900</u>

All of the above receipts were immediately deposited into either the campaign checking, savings, or brokerage accounts when received. The treasurer, Mr. Green, recorded all of the necessary details of each receipt such as date, amount, and contributor. During the course of the campaign the following amounts were authorized and disbursed by Mr. Green.

	Description	Amount
14	Local television and radio stations for campaign advertising.	\$ 30,620
15	Local newspapers and magazines for campaign advertising.	15,000
16	Billboards for campaign advertising.	15,000
17	Purchase of campaign materials (buttons, hats, bumper stickers, posters, handbills, etc.).	10,000
18	Rental of hall and caterer's bill for June 12 fund-raising dinner.	5,000
19	Rental of office space.	7,000
20	Office supplies (stationery, stamps, etc.).	8,000
21	Reimbursed transportation expenses of candidate (documented by candidate).	1,200
22	Brokerage expenses on sale of stock (no brokerage expenses on sale of bond).	800
23	Safe deposit box for safekeeping of securities.	100
24	Repayment of loan plus interest of \$800 on Oct. 31, 1980.	10,800
25	Production costs of advertisements.	2,080
	Total Preelection Disbursements	<u>\$105,600</u>

On election day the remaining campaign fund balance was \$22,300; this amount was transferred to the campaign fund savings account. In November, Mr. Jones was elected to Congress by a landslide vote. During the remainder of 1980, the newly elected congressman received an additional \$5,000 in contributions from various contributors (item 26), all of which were duly recorded by Mr. Green and deposited in the fund savings account. On December 31, 1980, the savings account was credited with an additional \$400 in interest (item 27), and on that date Mr. Green made the following disbursements.

	Description	Amount
28	\$1,000 contribution made by individual A on June 15, 1980, returned to A at his request.	\$1,000
29	Disbursement to the national political party.	5,000
30	Disbursement to the U.S. Treasury general fund.	5,000
31	Disbursement to the United Way.	5,000

After the above disbursements were made, the remaining fund balance in the savings account was \$11,700. It was then decided to retain this sum in the campaign fund savings account for the 1982 reelection campaign.

Tax Consequences

Candidate

None of the receipts (items 1 through 13 and items 26 and 27) is includible in Jones's income for 1980 even though at least one of them (item 1) was received personally by Jones. This is because immediately upon receipt these funds were segregated from Jones's other personal accounts and deposited into the account specifically designated as a campaign fund.

Although Jones received a disbursement from the fund (item 21), such disbursement is not includible in his income because it represents a reimbursement for a valid out-of-pocket campaign expense personally incurred by him and adequately documented to the fund for reimbursement.

All of the other disbursements listed (items 14 through 25 and items 28 through 31) constitute valid campaign expenditures made by the fund and are therefore not includible in the candidate's income. It should be noted that neither Jones nor any of his contributors is entitled to a charitable deduction for the fund's postelection contribution to the United Way (item 31).

Finally, the remaining balance of the campaign fund account, which is to be kept for the 1982 reelection campaign, is not to be included in Jones's income for 1980 or any year thereafter, so long as it remains segregated from his personal funds and is not diverted for his personal use.

Campaign Fund

Items 1 through 8 and item 26 are not includible in the fund's taxable income because contributions of money or other property to a campaign fund are not taxable income to it. Nevertheless, the earnings on such funds (items 9, 10, 11, and 27) and the gain on the sale of appreciated property (item 12) are includible in the fund's taxable income.

General campaign expenditures (items 14 through 21 and items 24 and 25) and dispositions of unexpended campaign funds (items 28 through 31) are not deductible from the campaign fund's taxable income. Nevertheless, expenses incurred directly in earning the fund's taxable income (item 23) are deductible. Also, the brokerage commissions on the sale of the stock (item 22) reduce the amount of gain on the sale of the stock. The fund is not entitled to a dividend exclusion. In addition to its expenses incurred directly in earning its investment income, a fund is entitled to a specific \$100 deduction from income.

Campaign Fund Reporting for Tax Purposes

Jones and his treasurer prepared a 1980 tax return (Form 1120-POL) for the fund reflecting the following information.

Item of income and deduction	Taxable income	Tax liability
Interest income	\$4,000	
Dividend income (no dividend exclusion allowed)	300	
Long-term capital gain:		
(1,000 shares of XYZ stock acquired April 15, sold on November 1):		
Amount realized on sale	\$12,000	
Basis (value on date of gifts)	(10,000)	
Selling expenses	(800)	
Net long-term capital gain	1,200	
Short-term capital gain:		
(ABC bond acquired March 1, sold September 1):		
Amount realized on sale	\$ 5,000	
Basis (value on date of gifts)	(5,000)	
Selling expenses	—	
Net short-term capital gain	—	
Expenses directly attributable to earning income (safe deposit box)	(100)	
Specific deduction	(100)	
1980 campaign fund taxable income	<u>\$5,300</u>	
Tax on net long-term capital gain (\$1,200 at 28%)		\$ 336
Tax on ordinary income (\$4,100 at 46% *)		1,886
1980 campaign fund tax liability		<u>\$2,222</u>

Mr. Jones and Mr. Green must withdraw \$2,222 from the remaining balance of the campaign fund and enclose that amount together with the fund's tax return and mail them to the Internal Revenue Service on or before March 15, 1981.

TAXATION OF THE FEDERAL OFFICEHOLDER

Once a candidate for the U.S. Senate or U.S. House of Representatives has been elected, he is faced with the problem of maintaining contact with his constituents while keeping abreast of and participating in the operation of the federal government in Washington, D.C. To fulfill this dual function, most congressmen find it necessary to maintain not only an office in Washington, but also at least one office in their home district. The government provides each congressman, in addition to his regular salary, several expense allowances to maintain and operate such offices. The tax treatment of these allowances and the unreimbursed expenses of a congressman are discussed below. For a full description of the allowances, reference should be made to the *Congressional Handbook* issued to each member upon his arrival in Washington.

Annual Salary and Benefits

The basic salary of a congressman is established by federal statutes and, of course, is fully taxable to the member. Each congressman may authorize a variety of payroll deductions, such as group life insurance premiums, health insurance premiums, and savings bond purchases. He can also voluntarily participate in the Civil Service Retirement System and

* The highest rate specified in 26 U.S.C. 11(b)

have his contributions withheld from his salary. None of these payroll deductions is deductible on the member's tax return except, to a limited extent, his health insurance premiums.

Office Space and Equipment

Washington Office

Each member is assigned an office in one of the congressional office buildings adjacent to the Capitol in Washington. In addition, each member is given an allowance to requisition office equipment from the government for his Washington office. Office equipment purchased in excess of the allowance from either the government or a commercial outlet must be paid for out of the member's own funds.

District Offices

Senators

Senators' office space is chosen from space available in federal buildings in each Senator's home state. Although no limitation exists with respect to the number of offices, there is a limitation on the aggregate square footage space based on the population of the state.

Representatives

As part of their official office expense allowance (see discussion below), each representative receives an amount for office space in his district. The amount varies according to the cost of renting space in the various districts.

Staff Allowances

Each member is authorized to staff his Washington and home-district offices to assist him in his official duties. The staff allowance of Senators and Representatives have differing limitations concerning the number of aides to be employed, their individual compensation, and the aggregate payroll expense. The staff is paid directly by the government, and consequently the member should not include the allowance in his income. Some members find it necessary to hire additional staff whose salaries must be paid with the congressman's personal funds. Such expenses qualify as "miscellaneous deductions" deductible by the member on Schedule A (Form 1040). No deduction is allowed, however, if the assistant is employed for political or campaign purposes. *Rev. Rul. 75-146, 1975-1 C.B. 23.*

Intern Programs

Occasionally, a member of Congress will solicit funds from his constituents to establish a congressional intern program. The program is designed to provide on-the-job education and training in the legislative process for a student chosen from the member's district. The intern will work in the congressman's office and perform the same services as his staff who are compensated by the government. The funds solicited from his constituents for such an intern program must be included in the congressman's income, and he may deduct the amount paid to such interns as a "miscellaneous deduction" on Schedule A (Form 1040). *Rev. Rul. 75-146, 1975-1 C.B. 23.*

Official Office Expenses

At the beginning of each session of Congress, each member is given an allowance (which varies among congressmen) for official office expenses. Official office expenses include such items as telephone and telegraph, stationery, and travel.

Each member is entitled to reimbursement for official office expenses up to the maximum amount of the allowance. In order to obtain reimbursement, the member must submit an expense voucher, together with supporting documents, to the appropriate officer of the House or Senate.

The official office expense allowance is not includible in the member's income, and expenses paid through the allowance are not deductible by the member. If the congressman incurs expenses in excess of such allowance, such expenses must be paid out of the member's personal funds and may be deducted as a "miscellaneous deduction" on Schedule A (Form 1040) if the expenses constitute ordinary and necessary expenses incurred in an official capacity. (For examples of a congressman's deductible expenses, see the section, "Illustration of the Taxation of an Officeholder.") *Rev. Rul. 73-464, 1973-2 C.B. 35.*

Newsletters and Questionnaires

Many congressmen request funds from constituents during their term in order to publish and mail a newsletter or questionnaire to all or to selected constituents in their districts. Other members finance the newsletter by charging a subscription price. The purpose of such newsletters or questionnaires is to keep constituents informed about the affairs of the federal government and the congressman's official actions and to seek constituents' opinions on pertinent issues. The tax law has been amended to provide that these receipts will not be includible in the congressman's income if they are immediately deposited into a newsletter or questionnaire account separate and apart from his own personal accounts. Withdrawals from the separate account must be used solely for the purpose of preparing and circulating the publication, such as for the cost of secretarial services, printing, addressing, and mailing. No such funds may be used for campaign expenditures. *26 U.S.C. 527(g).*

Newsletter Fund Taxed as Separate Entity

In most respects, a newsletter fund will be treated for tax purposes in the same manner as a candidate's campaign fund. The contributions received by the congressman and deposited into the newsletter fund are not taxable income either to the congressman or to the fund; expenditures out of the fund for preparing and circulating the publication are not deductible expenses to either the candidate or the fund. On the other hand, earnings on deposited newsletter funds (such as dividends, interest, and so forth) are taxable income to the newsletter fund, and a tax return (Form 1120-POL) must be filed annually to report such earnings. The resulting tax must be paid in the same manner as is required for campaign funds described earlier in this chapter. The only exception is that the newsletter fund is not entitled to the \$100 specific deduction.

Any funds remaining after the newsletter is published can be (1) retained for use for a future newsletter or questionnaire; (2) contributed to public charities; or (3) contributed to the general funds of the federal, state (including the District of Columbia), or local government. No deduction is available to the fund, congressman, or contributor if the unexpended funds are contributed to a public charity. If the congressman withdraws the unexpended newsletter funds for his own personal use, he must report the withdrawal as taxable income. It should be noted that unexpended newsletter funds cannot be transferred to the congressman's separate campaign funds, nor may they be used directly to pay campaign expenditures. *26 U.S.C. 527(g).*

Expenses in Excess of Contributions to Fund

Expenses of preparing and circulating a newsletter or questionnaire in excess of the newsletter fund balance, paid by the congressman, are deductible as a "miscellaneous deduction" on Schedule A (Form 1040). *Rev. Rul. 73-356, 1973-2 C.B. 31; 26 U.S.C. 527(g)(1).*

Newsletter Allowance Supplied by Government

The House of Representatives has established a program whereby its members can be reimbursed by the government for a portion of the printing and production costs of newsletters and questionnaires for constituents. Any reimbursement received from the government must be included in the member's income on Form 1040 and offset by the related deductible expenses.

Contributions Received by Congressmen From Constituents

Contributions received by a congressman for his reelection campaign and immediately deposited into a qualified campaign fund, described earlier in this chapter, are not includible in his income. Likewise, contributions received by a congressman for the financial support of newsletters or questionnaires and immediately deposited into a qualified newsletter fund, described earlier in this chapter, are not includible in his income.

Nevertheless, all other contributions received by a congressman for the financial support of his other official duties, such as the operation of his Washington and home-district offices or his official business travel, are includible in his income. This is true whether the contributions are received directly by the congressman or received by a special segregated fund established specifically for such purposes. However, the congressman will be entitled to claim a deduction on his tax return for any such contributions that are actually spent on official congressional business.

Honorariums

Often a congressman will be asked to speak to a group or organization either in his own district or elsewhere in the country. If he is given money or other property for making the speech or appearance, such money or the value of such property must be included in his taxable income and may be subject to self-employment tax. His travel expenses may be deducted, but if his wife accompanies him on the trip, her travel expenses are not generally deductible. The maximum amount a senator may receive is \$2,000 per appearance and no more than an aggregate of \$25,000 per year. (The \$2,000/\$25,000 limitations are not violated where a congressman's honorariums exceed the limits to the extent that the excessive portion was paid to a charitable organization selected by the payor from a list of at least five charitable organizations supplied by the congressman.) *2 U.S.C. 441i; 26 U.S.C. 61(a).*

The House of Representatives has adopted a more restrictive rule than the statutory provision governing senators. The House rule places a limit of \$1,000 plus expenses per appearance. As for aggregate income, the annual limitation governs all earned income, whether from honorariums or other sources; the maximum amount a representative may receive is adjusted from time to time. For 1980, the maximum amount is \$9,100. *House of Representatives rule 47(2).*

Foreign Gifts

Representatives of the federal government, including members of Congress, the president, and vice-president, may not accept gifts from foreign governments or their representatives, unless it is merely a souvenir worth less than \$50 and refusal of the gift would cause diplomatic offense. Nevertheless, if larger gifts are received, they must be turned over to the chief of protocol at the U.S. State Department. In either case, the value of the gift is not includible in the income of the recipient. In addition there are detailed reporting requirements relating to the purchase of gifts abroad. *P.L. 89-673; P.L. 95-105.*

Moving to Washington and Washington Living Expenses

A newly elected congressman can deduct the expenses incurred in moving his family to Washington if he pays for the move out of his own funds. If, however, the congressman's principal place of employment prior to the election was located near Washington, D.C., generally within 50 miles of the Capitol, he is not entitled to a moving expense deduction. *26 U.S.C. 217; Rev. Rul. 73-468, 1973-2 C.B. 77.*

Most congressmen are considered for tax purposes to be "away from home" while attending a session of Congress in Washington and are therefore entitled to deduct their meals and lodging ("living expenses") while in Washington. This deduction is presently limited by law to \$3,000 yearly, which covers only the congressman's own expenses. Adequate records must be kept documenting the expenses claimed as a "living expense" deduction. A congressman who represents a district close enough to Washington not to be considered "away from home" while in Washington may not claim a "living expense" deduction. *26 U.S.C. 162(a); Rev. Rul. 73-468, 1973-2 C.B. 77.*

Illustration of the Taxation of an Officeholder

The discussions and exhibits that follow offer examples of certain items of income and expense that an officeholder might experience. Comments are offered on their inclusion in the computation of taxable income or their inclusion as a deductible expense.

Illustration of Reportable Income and Expense Items of a Federal Officeholder

During 1980, John W. Jones, a member of Congress, paid the following amounts.

1	Business travel expense.	\$ 9,000
2	Office stationery and supplies.	15,000
3	Official office general expenses.	5,000
4	Official office telephone expenses.	16,000
5	Official office rent.	18,000
6	Salary expense of additional staff (only amounts paid in excess of government allowance).	7,000
7	Salary expense of student intern (paid entirely by member, partly out of personal funds, partly out of funds contributed for such purpose by constituents).	8,000
8	Expenses of preparing, publishing, and mailing newsletter.	12,000
9	Expenses of reelection campaign for 1981 (only amount paid from personal funds).	2,000
10	Expenses of moving member's family to Washington, D.C.	4,000
11	Living expenses in Washington, D.C.	18,000

During 1980, Congressman Jones received the following amounts.

12 Congressional salary.	\$60,663
13 Official office expense allowance.	60,000
14 Funds contributed by constituents for campaign purposes (deposited by him into reelection fund).	1,000
15 Funds contributed by constituents for preparation, publication, and circulation of newsletter (deposited by him into newsletter fund).	6,000
16 Reimbursement by government for printing and production costs of newsletter.	4,000
17 Funds contributed by constituents for student intern program.	4,500

Campaign contributions (item 14) and newsletter contributions (item 15) are not includible in the member's income if immediately deposited into a separate campaign fund and newsletter fund, respectively. Campaign expenses personally incurred (item 9) are not deductible by the member. All other items must be reported on the member's tax return.

Salary (item 12) is reported on the appropriate line of Form 1040. The member's moving expense deduction (item 10) is computed on Form 3903. All other items may be reported on a separate statement attached to the return in a manner similar to exhibit 7.

EXHIBIT 7: SCHEDULE OF CONGRESSIONAL EXPENSES IN EXCESS OF REIMBURSEMENTS
(An attachment to Form 1040)

Official Office Expenses

Travel	\$ 9,000	
Office stationery & supplies	15,000	
General	5,000	
Telephone	16,000	
Rent	18,000	
	<u>63,000</u>	
Reimbursement	(60,000)	
Excess expenses		\$ 3,000

Student intern program

Total salary expenses	8,000	
Funds contributed by constituents	<u>(4,500)</u>	
Excess expenses		3,500

Newsletter

Total newsletter expenses	12,000	
Reimbursement by government	<u>(4,000)</u>	
Funds contributed by constituents	<u>(6,000)</u>	
Excess expenses		2,000

Staff Salaries

Expenses in excess of government allowance	7,000	
Total Deductible Excess Expenses		<u>\$15,500</u>

In addition, living expenses while in Washington (up to \$3,000) may be claimed as an "employee business deduction" on Form 1040.

TAX CONSIDERATIONS FOR CONTRIBUTORS TO POLITICAL CAMPAIGNS

Individuals who have made contributions to candidates running for federal office in the past should note that federal laws and regulations relating to political contributions have been altered considerably. Limits have been imposed on the amounts that may

be donated legally to candidates for federal office in any election and the amount of income tax deduction or credit allowable as a result of such contributions. The gift tax on political contributions was repealed retroactively for donations made after May 7, 1974. The contributor must recognize gain, but not loss, on contributions of appreciated property made to a political organization after that date.

Income Tax Credit for Political Contributions

Limitations

The tax law provides limited credits for contributions by individuals to announced political candidates or committees. The credit is allowed only for monetary payments made by an individual. Prior to 1979, an individual was allowed to elect to claim either a deduction or a credit for a political contribution. The deduction, however, has been repealed for contributions made for all years after December 31, 1978. The annual deduction was limited to a maximum of \$100 (\$200 on a joint return). The maximum credit is limited to one-half the contribution, \$50 (\$100 on a joint return). There is no carryover or carryback of contributions. 26 U.S.C. 41(a), (b)(1); 218(a), (b)(1); P.L. 95-600.

The tax credit is allowable for donations to individuals who are candidates (or to political organizations established to influence the election of such candidates) for nomination or election to any elective public office at the federal, state, or local levels. The contribution may be made prior to an election or afterwards to satisfy a deficit sustained in a campaign. The dollar limitations indicated above are applicable to the total amount of political contributions made by the contributor during the year. However, these limits should not be confused with the maximum amounts that may be contributed legally to candidates for federal office under the Federal Election Campaign Act (see discussion in chapter 2). 26 U.S.C. 218(a), (b).

Qualified Recipients

Candidates

By law, political contributions qualifying for credit may be made to three groups: candidates, national political parties, and political organizations influencing election of candidates to federal, state, and local office. As mentioned above, eligible candidates include persons seeking nomination or election to any federal, state, or local elective public office. The District of Columbia is considered to be a state for this purpose.

"Local" is defined as a political subdivision, or a part thereof, of a state. The election may be a primary, general, or special election. The candidate must use the contribution to further his candidacy; and an individual is considered to be a candidate if he publicly announces his intention before the close of the calendar year following the calendar year in which the contribution is made. 26 U.S.C. 41(c).

The IRS has indicated that contributions to a negative campaign organization, that is, an organization established for the purpose of defeating certain candidates, are not eligible for the tax credit. Their position, as set forth in a February 1980 letter ruling, stated that contributions must further a candidacy to be eligible for the credit. However, since such rulings are nonbinding except in regard to the specific individual to whom they are addressed, the ultimate resolution of the issue is in doubt.

A further unresolved issue is whether negative campaign organizations must present a disclaimer to potential contributors, notifying them that donations may not be creditable.

Political Parties

The second group of eligible recipients includes national political parties and their subdivisions. A national political party is defined as a political party presenting candidates or electors for president and vice-president on the official election ballot of ten or more states. If the contribution is made in a year other than the one in which the political party presents candidates or electors, the contribution will still qualify if the organization was a national political party in the last preceding presidential election. National political party subdivisions that are eligible recipients include the national committee of the party, the state committee of the national party (as designated by the national committee), or a local committee of the national party (as designated by an eligible state committee). As contributions to a national political party or one of its subdivisions may or may not be earmarked for announced candidates, there is no requirement that these funds be used in connection with any particular candidacy. 26 U.S.C. 41(c).

Other Qualified Recipients

Other political organizations may also be eligible recipients. The law provides that

Any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office [to which contributions are made will be considered eligible recipients]. 26 U.S.C. 41(c)(1)(B); Ltr. R. 7742008.

Because the law provides that these organizations must be operated exclusively for the purpose of influencing the nomination or election of announced candidates, contributions will not qualify for credit if made to political action committees engaging in general political, educational, or legislative activities. Therefore, it is appropriate for the political action committee to set up a separate fund whose sole function is to support announced candidates (as defined for an individual candidate). A contributor should be aware that funds transferred by a political action committee to a separate campaign fund after the contribution is made are not eligible for the credit. 26 U.S.C. 527(e)(1).

Newsletter Fund Contributions

A feature of the tax law provides a credit for “newsletter fund contributions.” Amounts paid to a candidate (or an individual who has been elected to, or presently holds, office) for the purpose of defraying the cost of printing and distributing a newsletter qualify for the income tax credit. As discussed on page 58, the candidate must establish a fund to be used exclusively to prepare and circulate his newsletter. The aggregate of political contributions and newsletter fund contributions is taken into account in determining the maximum allowable as a credit. 26 U.S.C. 527(g); 41(c)(5).

Verification of Contributions

The Internal Revenue Service requires “verification” of political contributions and newsletter fund contributions. Contributors must provide substantiation, such as a canceled check or a receipt obtained from the recipient of the contribution. (Sample receipts prescribed by the IRS appear at the end of the chapter as exhibits 8, 9, 10, and 11, pages 67–68.) 26 U.S.C. 41(b)(3).

Political Fund-Raising Activities

Often a candidate or political committee will sponsor a political dinner or function having an admission charge to raise funds for use in the candidate's campaign. The Internal Revenue Service has ruled that the entire cost of the admission ticket will constitute a political contribution eligible for credit where the dinner or function is "clearly in the context of the campaign of the candidate . . . and is not primarily a device to confer private benefits in the form of meals or entertainment to the contributor."

Thus, entertainment that is merely incidental to what is essentially a political event will not alter the status of an otherwise eligible political contribution in the form of an admission ticket. However, where the political dinner or function is primarily designed to confer benefits of value to those attending, the eligible political contribution is limited to the extent the admission price exceeds the fair market value of all the benefits available to the contributor. Finally, any amount paid for a raffle ticket purchased in connection with a political campaign does not qualify as a political contribution. 26 U.S.C. 276(a); Rev. Rul. 72-412, 1972-2 C.B. 5; 26 U.S.C. 41.

Political Contributions by Corporations

As discussed earlier, the federal election campaign laws prohibit contributions by corporations to candidates for election to federal office. Absent state law to the contrary, a corporation may, of course, make political contributions to candidates seeking office at the state or local level. No income tax credit would be allowed, however, because they are available to individuals only. 2 U.S.C. 441b; 26 U.S.C. 41.

Business Expenditures of a Quasi-Political Nature

Deductible Expenses

The tax law does, however, contemplate certain situations wherein corporations are allowed deductions for expenditures in connection with various transactions of a political nature. For example, a corporation (or other business entity) is specifically allowed to deduct ordinary and necessary business expenses "in direct connection with appearances before, submissions of statements to, or sending communications to, committees or individual members of Congress or of any legislative body of a state, possession or political subdivision with respect to legislation or proposed legislation of direct interest to the taxpayer." 26 U.S.C. 162(e).

Deductions are also allowed for expenses "in direct connection with communication of information between the taxpayer and an organization of which he is a member with respect to legislation or proposed legislation of direct interest to the taxpayer and to the organization." To the extent attributable to the activities outlined above, the portion of the dues paid to that organization, for example, a chamber of commerce, may also be deducted.

Examples of expenses that meet the tests of deductibility include travel expenses and the cost of preparing testimony. Additional tests are provided for determining whether the legislation or proposed legislation is of "direct interest" to the taxpayer. In short, the legislation is of direct interest to the taxpayer when it will, or may reasonably be expected to, affect the trade or business of the taxpayer, either detrimentally or beneficially. 26 C.F.R. 1.162-20(c).

Advertising designed to encourage the public to register and vote, and to contribute to the campaign fund of the candidate of their choice, is deductible by a corporation provided it

(1) was intended to be, and was, in fact, politically impartial in character; (2) was reasonably related to future public patronage expected by the taxpayer; and (3) meets the ordinary and necessary business expense requirements.

In addition, expenditures made by a corporation in sponsoring a politically impartial presentation of a debate among the candidates for a particular office are deductible provided they meet the above three requirements. *Rev. Rul. 62-156, 1962-2 C.B. 47.*

Under certain circumstances, corporations and other business entities may make deductible donations to organizations that do not qualify as charitable organizations under the tax law. Of course, the donation would not qualify as a charitable contribution; however, donations to such organizations may nevertheless give rise to valid trade or business expense deductions when the donation bears a direct relationship to the taxpayer's business and is made with a reasonable expectation of a financial return commensurate with the amount of the deduction. *26 C.F.R. 1.162-15(b).*

Nondeductible Expenses

The law specifically prohibits certain indirect political contributions. No deduction is allowed to corporations for amounts expended for expenses of advertising in political programs or for admission to political fund-raising functions. The prohibition applies to all advertising in political programs, such as pamphlets distributed at a convention or placed in a publication, when a political party or candidate will directly or indirectly receive the proceeds therefrom. *26 U.S.C. 276.*

Deductions are also barred for costs of admission to any dinner or similar event, the proceeds of which will benefit a political party or candidate. If proceeds from these events are used directly or indirectly for the purposes of furthering a political candidate's selection, nomination, or election to any elective public office, the deduction will be disallowed.

However, if the proceeds are received by the candidate in the ordinary course of his trade or business (other than the trade or business of holding elective public office), the prohibition does not apply. *26 U.S.C. 276(a).*

The law specifically prohibits a deduction for any amount paid

1. For participation in, or intervention in, any political campaign on behalf of any candidate for public office; or
2. In connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums. *26 U.S.C. 162(e).*

The tax law contains another provision that disallows a deduction in the event a debt owed to the taxpayer by a political organization becomes worthless. No bad debt deduction may be claimed when a political party, or a national, state, or local committee of a political party, defaults on any debt, regardless of whether the debt may have arisen in the ordinary course of the taxpayer's trade or business. The disallowance also applies to defaulted debts owed to the taxpayer by other committees, associations, or organizations that accept contributions and make expenditures for the purpose of influencing the election of candidates for public office. In this regard, taxpayers are also prohibited from taking this deduction disguised as a loss from worthlessness of securities. This provision does not, however, apply to banks when it appears that the debt was acquired in accordance with their usual commercial practices. *26 U.S.C. 271.*

Other Tax Aspects of Gifts to Political Organizations

The Gift Tax Aspect

Perhaps the greatest area of uncertainty in the area of political contributions was removed with the repeal of the gift tax on donations made after May 7, 1974. The entire area had been a quagmire for taxpayers and the Treasury alike. The need for the proliferation of gifts among artificially created committees, trusts, and other political entities has been eliminated. 26 U.S.C. 2501.

Income Taxation of Appreciated Property at Date of Gift

Under the law, however, any unrealized appreciation on property transferred to political organizations after May 7, 1974, subjects the contributor to income tax. Thus, if a person transfers property to a political organization, and at the time of the transfer, the fair market value of the property exceeds its adjusted basis to the contributor, the contributor is treated as having sold the property on the date of the transfer. The contributor is deemed to have realized gain in an amount equal to such excess. The basis of the property to the organization is the basis to the transferor plus the amount of gain recognized by the transferor on account of the transfer. No loss is allowed, however, when the fair market value of the property at the date of transfer is less than its adjusted basis to the contributor. It appears in that case that the basis to the organization would be limited to the fair market value of the property at the date of contribution. However, in the absence of statutory guidance, the Internal Revenue Service may consider contributions of depreciated property to be gifts for purposes of determining basis to the political organization. 26 U.S.C. 84.

If gain on the sale would have been treated as ordinary income if sold to an independent third party, it will be taxed as ordinary income. Similarly, if the gain would have qualified for capital gains treatment had the property been otherwise sold, it would also be treated as capital gain under this provision. Other provisions of the law, such as depreciation recapture and minimum tax on preference items, will apply as if the property had been sold.

EXHIBIT 8

Sample Receipt—Individual Candidate

I, John Doe, of Illinois, in connection with my campaign for nomination and election to the U.S. Senate in 1980 acknowledge receipt during 1980 of \$_____ from _____

John Doe

EXHIBIT 9

Sample Receipt—Campaign Committee for Named Candidates

The Illinois Committee for John Doe, for the nomination and election of John Doe to the U.S. Senate in 1980 acknowledges receipt during 1980 of \$_____ from _____

The Illinois Committee for John Doe

By _____
Authorized Agent

Note: These forms have been modified to eliminate the declaration that Form 4908 or Form 4909 will be filed by the recipient. (IR 1545, December 24, 1975.)

EXHIBIT 10

Sample Receipt—Campaign Committee for Multiple Candidates

The Illinois Committee for an Effective Congress, for the nomination and election of certain individuals to the Congress of the United States in 1980 acknowledges receipt during 1980 of \$_____ from _____

Illinois Committee for an Effective Congress

By _____
Authorized Agent

EXHIBIT 11

**Sample Receipt—
Campaign Committee for Multiple Candidates in More Than One State**

The Illinois Committee for Good Government, for the nomination and election of certain individuals to Federal, State or local effective public offices in 1980 acknowledges receipt during 1980 of \$_____ from _____

Illinois Committee for Good Government

By _____
Authorized Agent

Note: These forms have been modified to eliminate the declaration that Form 4908 or Form 4909 will be filed by the recipient. (IR 1545, December 24, 1975.)

APPENDIXES

APPENDIX 1

THE FEDERAL ELECTION COMMISSION: COMMUNICATION, ORGANIZATION, AND RESPONSIBILITIES

HOW TO COMMUNICATE WITH THE COMMISSION

The official address of the Federal Election Commission (FEC) is

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

The FEC maintains the following toll-free information line: **(800) 424-9530**.

The FEC publishes “notices” regarding Advisory Opinions, Advisory Opinion Requests, Interim Guidelines, Proposed Regulations, and like material in the *Federal Register*. The *Federal Register* is published daily, Monday through Friday, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

Copies of the *Federal Register* may be ordered from

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

The FEC has published a number of valuable books, pamphlets, and guides relating to federal election campaign laws and their implementation. Many of these are listed in Appendix 3 under the following section headings:

- Federal Election Campaign Laws
- Federal Election Commission Advisory Opinions, Advisory Opinion Requests, Regulations, Guidelines, and Notices

COMMISSION ORGANIZATION AND RESPONSIBILITIES

The Federal Election Commission is comprised of six full-time commissioners who are appointed by the president, with the advice and consent of the Senate, together with the secretary of the Senate and the clerk of the House of Representatives who are ex officio, nonvoting members of the commission. 2 U.S.C. 437c(a)(1); 438.

The commission has the following responsibilities:

- Prescribe suitable rules and regulations to carry out the provisions of the act.
- Prescribe and distribute forms for reports and statements required to be filed with the commission.
- Develop and distribute a manual setting forth recommended uniform methods of bookkeeping and reporting.
- Make all reports available for public inspection and copying.
- Prepare and publish periodically lists of authorized committees that fail to file reports as required by the act.

- Serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of federal elections.
- Publish lists of filed reports and statements.
- Make audits and field investigations with respect to reports and statements filed and alleged failures to file.

The commission has the authority to

- Require any person to submit such statements or reports as it may prescribe.
- Administer oaths.
- Subpoena witnesses and evidence.
- Initiate, defend, or appeal any civil action for the purpose of enforcing the provisions of the act and chapters 95 and 96 of the Internal Revenue Code.
- Render advisory opinions concerning the application of a general rule of law stated within the act or chapters 95 and 96 of the Internal Revenue Code.
- Formulate general policy with respect to administration of the act and chapters 95 and 96 of the Internal Revenue Code.
- Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations of law to proper law enforcement authorities (the commission is the primary civil enforcement agency). 2 U.S.C. 437d(a)(1), (2), (3), (6), (7), (8), (9).

Appendix 4 contains an overview of fines and penalties that may be imposed under the Federal Election Campaign Act of 1971, as amended.

An annual report containing a detailed statement of its activities, together with its recommendations, shall be submitted by the commission to the president and to each house of the Congress. Appendix 3 contains mention of the availability of this report. 2 U.S.C. 438(a)(10).

The commission's enforcement capability appears to rest largely in its investigatory powers, followed by informal persuasion, reserving legal action for only the more serious violations or more stubborn violators. It is therefore critical that the candidate seek to correct on a timely basis all instances of noncompliance determined by internal reviews or commission investigations. 2 U.S.C. 437g.

Advisory Opinion

The law provides that upon a complete written request of a person, the commission shall render an advisory opinion concerning the application of a general rule of law stated in the act or chapter 95 or chapter 96 of the Internal Revenue Code no later than sixty days after the commission receives such a request.

If an advisory opinion is requested by a candidate, or any authorized committee of such candidate during the sixty-day period before any election for federal office involving the requesting party, the commission shall render a written advisory opinion relating to such request no later than twenty days after the commission receives a complete written request. The law further provides that

- Any person who acts in good faith in accordance with the provisions and findings of an advisory opinion will not be subject to sanctions provided by the act.
- Any person may rely on an advisory opinion who is involved in the specific transaction or activity that is the subject of the rendered advisory opinion.

It should be noted that the advisory opinion provisions were revised by the Federal Election Campaign Act Amendments of 1979, as shown in Appendix 6. 2 U.S.C. 437f.

Instructions for the submission of advisory opinions should be obtained by contacting the FEC.

General Information Letter

In the case of general requests for guidance and specific inquiries that do not meet the statutory requirements for a formal Advisory Opinion, the FEC Office of General Counsel or Office of Information will endeavor to provide information, answers, or guidance. The organization and operation of the FEC reflects its dedication to assisting individuals, candidates, and committees in their efforts to understand and comply with the law.

Complaints

The law provides that any person who believes that a violation has occurred may file a complaint with the commission. Complaints must be submitted in writing with the notarized signature of the person submitting the complaint. It should be noted that the provisions for submitting a complaint, and the required resultant actions of the FEC, were revised by the Federal Election Campaign Act Amendments of 1979, as shown in Appendix 6. 2 U.S.C. 437g.

Regulations

As noted above, the FEC has responsibility for prescribing regulations to carry out the provisions of the Federal Election Campaign Laws. The commission will, from time to time, publish proposed and final regulations in the *Federal Register*. It is important for the candidate and his principal campaign committee to monitor the development of such regulations and to consider carefully the requirements imposed by final regulations. The FEC can be expected to publish a compilation of such final regulations under separate cover.

Regulations implementing the Federal Election Campaign Act Amendments of 1979 were effective April 1, 1980. These regulations were published in 45 *Federal Register* 15080–15126 (1980).

APPENDIX 2

A SUMMARY OF KEY REQUIREMENTS FOR REPORTING TO THE FEDERAL ELECTION COMMISSION

(Clerk of the House and Secretary of the Senate)

REPORTING BY PRINCIPAL CAMPAIGN COMMITTEES AND, IF ANY, AFFILIATED CAMPAIGN COMMITTEES

The federal election campaign laws contain various requirements for the periodic reporting of the activities of the principal campaign committee and, if any, affiliated campaign committees. These requirements are summarized below.

Statement of Organization

Principal campaign committees designated in writing by the candidates for the House and Senate must file a statement of organization with the clerk of the House of Representatives or the secretary of the Senate within ten days following designation. The statement must reflect information supplied by affiliated campaign committees, which therefore must file statements of organization with their appropriate principal campaign committee. 2 U.S.C. 432(e), (f), (g); 433(a), (b).

Each respective statement of organization must be kept up-to-date by reporting any change in information previously submitted within ten days after its occurrence. 439(a)(1), (2).

Notification must be sent to the commission when the committee intends to disband and that it will no longer receive any contributions or make any disbursements. 2 U.S.C. 433(d).

A copy of each statement of organization of a principal campaign committee must also be filed with the secretary of state of the state in which the candidate seeks election. 2 U.S.C. 439(a)(1), (2).

Among the items to be reported in the statement of organization is a list of all banks, safety deposit boxes, or other depositories used by the committee. Each committee is required to designate one or more state banks or other approved institutions as depositories. All affiliated campaign committees authorized by the candidate to receive contributions or make expenditures on his behalf must use a checking account in a designated depository. 2 U.S.C. 432(h).

Reports of Receipts and Disbursements

Each principal campaign committee treasurer is required to file periodic reports of receipts and disbursements in accordance with the commission's instructions. These reports require information on cash balances, contributions, transfers, loans, other receipts, disbursements, refunds, and debts, with details of certain individual items exceeding \$200.

Reports of receipts and expenditures must be filed by principal campaign committees of candidates for the House of Representatives or for the Senate as follows.

In a Calendar Year in Which a Regularly Scheduled Election for Federal Office Is Held

■ **Preelection report.** A preelection report is due not later than the twelfth day before the election, complete as of the twentieth day before (must be postmarked not later than the fifteenth day before). 2 U.S.C. 434(a)(2)(A)(i).

■ **Post-general-election report.** A post-general-election report is due not later than the thirtieth day after the election, complete as of the twentieth day after the election. 2 U.S.C. 434(a)(2)(A)(ii).

■ **Quarterly reports.** Additional quarterly reports shall be filed no later than the fifteenth day following the close of the quarter except for the quarter ending December 31, which shall be filed no later than January 31. 2 U.S.C. 434(a)(2)(A)(iii).

■ **Special report.** Any contribution of \$1,000 or more received after the twentieth day but more than forty-eight hours before any election must be reported within forty-eight hours after its receipt. 2 U.S.C. 434(a)(6).

In Nonelection Years

In any other calendar year a report shall be filed covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31. 2 U.S.C. 434(2)(B).

Treasurers of affiliated campaign committees must file the above reports with the appropriate principal campaign committee. 2 U.S.C. 432(f).

The reports of receipts and disbursements must be cumulative during the calendar year to which they relate, but when there has been no change in an item reported previously, only the amount need be carried forward. If there have been no contributions or expenditures during a calendar year, the treasurer must file a statement to that effect. 2 U.S.C. 434(7).

If a designation, report, or statement filed is sent by registered or certified mail, the United States postmark shall be considered the date of filing. 2 U.S.C. 434(5).

Other Reports and Notifications

Notification Relating to Campaign Advertising

Communications on behalf of, or opposed to, candidates, which are made through a broadcast, newspaper, magazine, billboard, direct mailing, or other general public media, must indicate clearly either that the candidate or his committee has authorized the communication or that the candidate or his committee has not authorized the statement. In the case of the latter, the name of the person or committee sponsoring the communication must be indicated. 2 U.S.C. 441d.

Reports Filed With State Officers

A copy of all reports filed by the principal campaign committee with the clerk of the House of Representatives or the secretary of the Senate must be filed with the secretary of state (or the equivalent state officer) of the state in which the candidate seeks election. 2 U.S.C. 439.

APPENDIX 3

PUBLISHED REFERENCE MATERIALS RELATING TO FEDERAL ELECTION CAMPAIGN LAWS AND THEIR IMPLEMENTATION

This appendix provides a list of reference publications that may be obtained for the campaign committee's library. Instructions for acquisition are included.

These materials may be particularly helpful in

- Designing and operating the accounting, compliance, and financial management systems of the campaign.
- Staff orientation and education related to accounting, compliance, and financial management.
- Developing a common ground of knowledge to be responsive to consulting assistance.
- Having a consistent source of reference in dealings with the Federal Election Commission and affiliated campaign committees, if any.

SIGNIFICANT PUBLISHED REFERENCE MATERIALS

Topic	Reference	Acquisition Instructions
Federal Election Campaign Laws	<p>■ <i>Election Case Law: An Analysis of Recent Supreme Court, Federal Court and State Court Decisions</i> (Washington, D.C.: American Law Division of the Congressional Research Service, Library of Congress).</p> <p>(This quarterly publication is designed to report and summarize all recent state and federal litigation relating to election matters. The series is cumulative throughout the calendar year.)</p> <p>■ <i>Election Law Updates</i> (Washington, D.C.: American Law Division of the Congressional Research Service, Library of Congress).</p> <p>(This quarterly publication summarizes recent state and federal legislation affecting election laws, with a separate section on state campaign finance laws.)</p> <p>■ United States Senate, <i>Senate Election Law Guidebook 1980</i> (Washington, D.C.: U.S. Government Printing Office, 1980).</p> <p>(Prepared under the direction of the Committee on Rules and Administration, Claiborne Pell, chairman, the guidebook combines information previously found in two publications, <i>Senate Campaign Information</i> and <i>Election Law Guidebook</i>. It includes statistical information related to past and present campaigns and elections and summarizes federal and state laws pertaining to the nomination and election of senators.)</p> <p>■ Durbin, Thomas M., <i>Federal Election Campaign Laws Relating to the U.S. House of Representatives</i> (Washington, D.C.: American Law Division of the Congressional Research Service, Library of Congress, 1980.)</p> <p>(A compilation of provisions of the U.S. Constitution and federal statutes governing election to the House of Representatives. The compilation was prepared under the direction of Bob Moss, chief counsel of the Committee on House Administration, Frank Thompson, Jr., chairman.)</p> <p>■ <i>Federal Election Campaign Financing Guide</i> (Chicago: Commerce Clearing House, Inc., 1976).</p> <p>(This single looseleaf volume contains the full text of the basic law governing the financing of federal election campaigns and relevant directives issued by the FEC. Periodic reports will be added to this guide. It is organized with indexes, finding lists, and in the topical format typically found in CCH publications.)</p>	<p>Sales Desk National Technical Information Service Department of Commerce 5285 Port Royal Road Springfield, Va. 22161 Report No. NTISUB/E/235-03 Price: \$7.50 per quarter</p> <p>Sales Desk National Technical Information Service Department of Commerce 5285 Port Royal Road Springfield, Va. 22161 Report No. NTISUB/E/234-03 Price: \$7.50 per quarter</p> <p>Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402</p> <p>Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402 Stock No. 052-071-00486-6 Price: \$2.20</p> <p>Order Department Commerce Clearing House, Inc. 4025 West Peterson Avenue Chicago, Ill. 60646 Price: \$125.00 per year</p>

Federal Election Campaign Laws (cont.)	<ul style="list-style-type: none"> ■ <i>Campaign Finance: An Analysis of State and Federal Election Campaign Laws</i> (Washington, D.C.: Chamber of Commerce of the United States, 1976). (An analysis of federal and state campaign laws with periodic updates.) 	Public Affairs Department Chamber of Commerce of the United States 1615 H Street, N.W. Washington, D.C. 20062 Price: \$135.00—reference manual and supplements
	<ul style="list-style-type: none"> ■ <i>Federal Election Campaign Laws</i> (Washington, D.C.: Federal Election Commission, 1980). (An FEC-prepared compilation of federal election laws through the 1979 amendments.) 	Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463
	<ul style="list-style-type: none"> ■ <i>Campaign Contributions and Lobbying Laws (Condensed)</i> (Falls Church, Va.: Martin Ryan Haley & Associates, Inc., 1978). (Presents synopses of state and federal campaign laws. It is updated periodically as changes occur.) 	Federal-State Reports, Inc. 5203 Leesburg Pike, Suite 1201 Falls Church, Va. 22041 Price: \$150.00 per year
Federal Election Commission Advisory Opinions, Advisory Opinion Requests, Regulations, Guidelines, and Notices	<ul style="list-style-type: none"> ■ <i>Federal Register</i> published daily, Monday through Friday, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. (The <i>Federal Register</i> provides a uniform system for making available to the public regulations and legal notices issued by federal agencies, including the Federal Election Commission. These include presidential proclamations and executive orders and federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other federal agency documents of public interest.) 	Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402 Price: \$50.00 per year
	<ul style="list-style-type: none"> ■ <i>The Federal Election Commission Record</i> (Washington, D.C.: Federal Election Commission). (A newsletter published periodically by the commission.) 	Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463
	<ul style="list-style-type: none"> ■ <i>The FEC and The Federal Campaign Finance Law</i> (Washington, D.C.: Federal Election Commission). (An FEC introductory pamphlet.) 	Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463
	<ul style="list-style-type: none"> ■ <i>Campaign Guide for Political Committees</i> (Washington, D.C.: Federal Election Commission, 1978). (This practical guide focuses exclusively on those requirements affecting political committees that have not been authorized by any candidate.) 	Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463 Currently under revision

Significant Published Reference Material (cont.)

Topic	Reference	Acquisition Instructions
Federal Election Commission Advisory Opinions, Advisory Opinion Requests, Regulations, Guidelines, and Notices (cont.)	<ul style="list-style-type: none"> ■ <i>Campaign Guide for Presidential Candidates and Their Committees</i> (Washington, D.C.: The Federal Election Commission, 1979). (This guide covers the basic requirements of the act and regulations as they apply to all presidential candidates and their committees.) ■ <i>Campaign Guide for State and Subordinate Party Committees</i> (Washington, D.C.: Federal Election Commission, 1976). (The FEC has prepared this guide to help state and subordinate party committees supporting federal candidates comply with the Federal Election Campaign Act, as amended.) ■ <i>Campaign Guide for Congressional Candidates and Their Committees</i> (Washington, D.C.: The Federal Election Commission, February 1978). (This guide focuses on those requirements affecting federal candidates and their principal campaign committees and any other authorized committees.) ■ <i>Federal Election Commission Regulations</i> (Washington, D.C.: The Federal Election Commission, 1980). (The FEC has prepared this volume of FEC regulations to help federal candidates, political committees, and other persons involved in federal elections comply with the Federal Election Campaign Act of 1971, as amended.) ■ <i>Annual Report 1979</i> (Washington, D.C.: Federal Election Commission). (An in-depth review of the organization, operation, and accomplishments of the FEC in 1979). 	<p>Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463</p> <p>Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463 Currently under revision</p> <p>Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463 Currently under revision</p> <p>Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463</p> <p>Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463</p>
Accounting, Reporting and Financial Management	<ul style="list-style-type: none"> ■ <i>Bookkeeping and Reporting Manual for Candidates and Political Committees</i> (Washington, D.C.: Federal Election Commission, 1978). (This recommended method of bookkeeping is designed to assist federal candidates and political committees in maintaining records required by the Federal Election Campaign Act.) 	<p>Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463 Currently under revision</p>

Accounting, Reporting
and Financial
Management
(cont.)

- Huckaby, Stan; Perkins, Robert J., *Guidelines for Federal Campaign Compliance* (Washington, D.C., 1978).

(This practical manual explains step-by-step procedures for complying with the Federal Election Campaign Act of 1971, as amended. Emphasis is on accounting and reporting procedures.)

- *Campaign Treasurer's Handbook*, rev. ed. (New York, N.Y.: American Institute of Certified Public Accountants, 1976).

(This handbook offers information relating to the duties of campaign treasurers who are responsible for campaigns at the state or local government level.)

- Alexander, Herbert E., *Financing Politics: Money, Elections and Political Reform*, Second edition (Washington, D.C.: Congressional Quarterly Press).

(Revised to include campaign spending in the 1976 and 1978 elections, this book examines the levels, sources and expenditures of campaign funds, as well as regulations limiting collecting and spending.)

- Brandstedter, Rodney, "Campaign Reporting: A Challenge for Accountants," *Management Accounting*, October 1979, pp. 50-54.

(The article emphasizes accounting for contributions and expenditures and gives step-by-step instructions for filing appropriate reports with the FEC.)

- Sollenberger, Harold M., "Financial Planning and Control for Political Campaigns," *Management Accounting*, June 1976, pp. 31-37.

(The article includes information on campaign budgeting, accounting system procedures and internal controls, suggested management reports, and the unique characteristics of the campaign environment.)

- *Campaign Practices Reports* (Washington, D.C.: Plus Publications, Inc.).

(A biweekly newsletter devoted to campaign practices and financing at the federal and state level, including coverage of legislation, judicial decisions, tax rulings, and organizational activities.)

General Information
on Campaign
Practices

Stan Huckaby
Suite 110
310 1st Street, S.E.
Washington, D.C. 20003

Price: \$35.00

Note: A revision will be published in 1980.

Publication Order Department
American Institute of CPAs
1211 Avenue of the Americas
New York, N.Y. 10036

Note: A revision will be published in 1980.

Congressional Quarterly, Inc.
1414 22nd Street, N.W.
Washington, D.C. 20037

Doc. No. ISBN 0-87187-182-3
Price: \$6.95

Special Order Department
National Association of Accountants
919 Third Avenue
New York, N.Y. 10026

Note: Reprints are available.

Special Order Department
National Association of Accountants
919 Third Avenue
New York, N.Y. 10026

Note: Reprints are available.

Plus Publications, Inc.
2814 Pennsylvania Avenue, N.W.
Washington, D.C. 20007

Price: \$132.00 per year

Significant Published Reference Material (cont.)

Topic	Reference	Acquisition Instructions
General Information on Campaign Practices (cont.)	<p>■ <i>Campaign Law Reporter</i> (Sacramento, Calif.: Pacific Communications). (A monthly newsletter and reference service with periodic updates monitoring developments in local, state (emphasis on California), and federal election, lobbying and conflict-of-interest laws.)</p>	<p>Pacific Communications 1024 10th Street Suite B Sacramento, Calif. 95814 Price: \$ 96.00 per year—newsletter \$160.00—reference manual & supplements \$245.00—both documents</p>
	<p>■ <i>Campaign Guides: Work Plans for Winning</i> (Washington, D.C.: Democratic National Committee, 1978). (These guides cover such topics as candidate activities, in-house polling, targeting, planning budget and management, fundraising, media organization, volunteer coordination, voter contact, and voter registration.)</p> <p>■ Alexander, Herbert E., <i>Financing the 1976 Election</i> (Washington, D.C.: Congressional Quarterly Press, 1979). (Special attention is given to presidential campaigns. However, this reference also covers a wide variety of other topics, including financing the 1976 congressional campaigns, the growth of political action committees, and the workings of the FEC and the difficulties it has experienced.)</p>	<p>Frank Bierlein Research Director Democratic National Committee 1625 Massachusetts Avenue, N.W. Washington, D.C. 20036 Price: \$10.00/set or \$1.00/guide</p> <p>Congressional Quarterly, Inc. 1414 22nd Street, N.W. Washington, D.C. 20037 Doc. No. LC 79-9099 Price: \$35.00</p>
Other Relevant Publications	<p>■ Durbin, Thomas M.; Reimer, Rita A.; and Ripy, Thomas E., <i>Nomination and Election of the President and Vice-President of the United States</i> (Washington, D.C.: Congressional Research Service, Library of Congress, 1980). (Compiled under the direction of Francis R. Valeo, secretary of the Senate, this document is an analysis of the constitutional clauses, federal and state laws and rules of the two major political parties governing the nominations and election of the president and vice-president of the United States. Included is the manner of selecting delegates to national political conventions.)</p>	<p>Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402 Stock No. 052-002-00038-9 Price: \$6.50</p>

Other Relevant
Publications
(cont.)

- **PAC Manager** (Washington, D.C.: National Association of Manufacturers, 1979).

(This monthly newsletter analyzes business political action committees (PACs) and highlights techniques that business PAC movements have found effective for their operations. It also focuses on key federal legislation that would affect PACs.)

- **Guidelines for Corporate Political Action Committees** (Washington, D.C.: Chamber of Commerce of the United States, 1976).

(This publication provides an informational reference source for business and professional organizations' executives and their legal counsel pertaining to the organization, registration, and conduct of political action committees.)

- **Parties, Interest Groups and Campaign Finance Laws** (Washington, D.C.: American Enterprise Institute for Public Policy Research).

(Edited by Edwin M. Epstein and Michael J. Malbin. Political activists and experts in campaign finance laws debate the impact of federal regulation on campaigns.)

- **An Analysis of the Impact of the Federal Election Campaign Act, 1972-78: Final Report to the Committee on House Administration of the U.S. House of Representatives** (Cambridge, Massachusetts: The Campaign Finance Study Group, The Institute of Politics, Harvard University, 1979).

(Detailed examination of the impact of the Federal Election Campaign Act, as amended, on federal campaigns including recommended legislative changes.)

- **Guide to U.S. Elections** (Washington, D.C.: Congressional Quarterly, Inc., 1975).

(A 1103-page document containing a history of political parties and extensive statistical data, going back to the 1800s, concerning congressional, presidential, and gubernatorial elections.)

- **Political Finance: Reform and Reality** (Philadelphia, Pa.: The Annals of the American Academy of Political and Social Science, May 1976).

(Edited by Herbert E. Alexander, director of the Citizens' Research Foundation, Princeton, New Jersey, this entire volume is devoted to the subject of political finance. Included among 11 separately authored articles are

Office of Publications Coordination
Public Affairs Department
National Association of Manufacturers
1776 F Street, N.W.
Washington, D.C. 20006
Price: \$25.00 per year—members
\$35.00 per year—nonmembers

Public Affairs Department
Chamber of Commerce of the
United States
1615 H Street, N.W.
Washington, D.C. 20062
Doc. No. 6120
Price: \$35.00

American Enterprise Institute for
Public Policy Research
1150 17th Street, N.W.
Washington, D.C. 20036
Price: \$ 8.75 paperback
\$15.75 hardback

The Institute of Politics
John F. Kennedy School of Government
Harvard University
79 Boylston Street
Cambridge, Mass. 02138

Price: \$5.00

Congressional Quarterly, Inc.
1414 22nd Street, N.W.
Washington, D.C. 20037

American Academy of Political and
Social Science
3937 Chestnut Street
Philadelphia, Pa. 19104
Library of Congress Catalog Card
No. 75-45503

Significant Published Reference Materials (cont.)

Topic	Reference	Acquisition Instructions
Other Relevant Publications (cont.)	<p>"Rethinking Election Reform," Herbert E. Alexander; "Impact of the Federal Election Campaign Act of 1971," Elmer B. Staats; and "Corporations and Labor Unions in Electoral Politics," Edwin M. Epstein.)</p> <p>■ <i>Campaigns & Elections</i> (Washington, D.C.: Campaigns and Elections). (A national quarterly review of campaign and election strategies, tactics, and management. The journal is designed to help candidates, campaign managers, and others involved in the political process to learn how to run for public office, at all levels, and win.)</p>	<p>Campaigns & Elections 1067 National Press Building Washington, D.C. 20045 Price: \$24.00 per year</p>

APPENDIX 4

AN OVERVIEW OF FINES AND PENALTIES IMPOSED BY THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 AS AMENDED

FINES AND PENALTIES REGARDING CONTRIBUTIONS

Individuals

Violators of the contribution limitations are subject to a fine of not more than the greater of 300 percent of the amount of the contribution in violation or \$25,000, or to imprisonment for not more than one year, or both. These penalties pertain to violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during the calendar year. 2 U.S.C. 437g(d)(1)(A).

Lesser civil penalties are set forth in 2 U.S.C. 437g(a)(5), (6).

Corporations and Labor Organizations

Officers and directors of corporations and labor unions who consent to contributions in violation of the act, and recipients of such contributions, are subject to fines not to exceed the greater of 300 percent of the amount of the contribution or \$25,000, or to imprisonment for not more than one year, or both.

These penalties pertain to violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year. 2 U.S.C. 437g(d)(1)(B); 441b(b)(3).

National and State Political Party Committees

Violators of the contribution limitations are subject to a fine of not more than the greater of 300 percent of the amount of the contribution in violation or \$25,000, or to imprisonment for not more than one year, or both. These penalties pertain to violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year. 2 U.S.C. 437g(d)(1)(A).

Government Contractors and Foreign Principals

The fine for contributions in violation of the act by government contractors is not more than the greater of 300 percent of the amount of the contribution or \$25,000, or one year's imprisonment, or both. These penalties pertain to violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year. The fine for knowingly soliciting, accepting, or receiving contributions from foreign nationals is the same as above. 2 U.S.C. 437g(d)(1)(B); 441c; 441h.

Misrepresentation and Cash Contributions

Fines of not more than the greater of 300 percent of the amount of contribution in violation or \$25,000, or one year's imprisonment, or both, will be imposed for making a contribution in

the name of another person or knowingly permitting one's name to be used to effect such a contribution, or making a contribution in currency in excess of \$100 for any campaign.

These penalties pertain to violations involving amounts in the aggregate of \$250 or more during a calendar year. 2 U.S.C. 437g(d)(1)(B); 441f.

Political Action Committees

Fines of not more than the greater of 300 percent of the amount of the contribution in violation or \$25,000, or imprisonment for not more than one year, or both, can be imposed on knowing and willful violators of the rules relating to the operation of PACs for the following offenses:

- The use of coercion in obtaining contributions to the PAC fund.
- Failure to notify an employee at the time of the solicitation of the political purpose of the fund.
- Failure to notify an employee of his right to refuse to contribute to the fund.

These penalties pertain to violations involving amounts in the aggregate of \$250 or more during a calendar year. 2 U.S.C. 437g(d)(1)(B); 441c(b).

Intimidation of Voters

Fines of \$1,000, or one year's imprisonment, or both, will be imposed on anyone interfering with the right of another person to vote as he chooses in any federal election. Interference includes coercion, threat, or other forms of intimidation. 18 U.S.C. 594.

OTHER FINES AND PENALTIES

Excessive Honorariums

Any person, while an elected or appointed federal officer or employee, who accepts any honorarium for more than \$2,000 or aggregating more than \$25,000 in any calendar year will be fined not more than the greater of 300 percent of the amount of honorarium in violation or \$25,000, or be subject to imprisonment for not more than one year, or both.

These penalties pertain to violations involving the making, receiving, or reporting of contributions having a value, in the aggregate, of \$2,000 or more during a calendar year. 2 U.S.C. 437g(d)(1)(A).

Members of the House of Representatives who violate the more restrictive rules established by the House (\$1,000 limit per appearance; 1980 aggregate limit of \$9,100) may be subject to disciplinary action by the House. *House of Representatives Rule 47(2)*.

Fraudulent Misrepresentation of Campaign Authority

Any candidate or employee or agent of a candidate who fraudulently misrepresents himself or participates in a plan in a manner damaging to any other candidate or political party will be fined not more than \$25,000, or will be subject to one year's imprisonment, or both. 2 U.S.C. 437g(d).

Solicitations

Any senator, representative, delegate, resident commissioner, or candidate for Congress or any officer or employee of the United States or of any department or agency thereof or any person receiving compensation for services from the Treasury of the United

States who solicits or receives a political contribution from any other such person shall be fined not more than \$5,000, or imprisoned not more than three years, or both. In addition, any such person who solicits or receives any political contribution in any room or building used in the discharge of his official duties or in any army fort, navy yard, or arsenal will be fined not more than \$5,000, or imprisoned not more than three years, or both.

18 U.S.C. 602, 607.

Expenditures to Influence Voting

Any person who makes, or offers to make, an expenditure to any other person, either to vote or withhold his vote, or to vote for or against any candidate, and any person who solicits, accepts, or receives any such expenditure, will be fined not more than \$1,000, or imprisoned not more than one year, or both, unless the violation was willful; in which case, the guilty party is subject to a fine not to exceed \$10,000, or to imprisonment not to exceed two years, or both. *18 U.S.C. 597.*

Noncompliance With Recordkeeping and Reporting Requirements

Campaign participants who knowingly and willfully commit a violation of the recordkeeping and reporting provisions of the act are subject to fines and penalties if the violation involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of \$2,000 or more during a calendar year. Such violators may be fined an amount not to exceed the greater of \$25,000 or 300 percent of the amount involved in the violation or may be imprisoned for not more than one year, or both. *2 U.S.C.*

437g(d)(1)(A).

APPENDIX 5

POLITICAL ACTION COMMITTEES

INTRODUCTION

Various federal laws prohibit corporations, labor organizations, government contractors, or persons negotiating for government contracts from making direct or indirect contributions or expenditures in connection with any federal election. This prohibition also includes becoming involved with a primary election, political convention, or a caucus held to select candidates for federal office. Penalties may be imposed upon violators. *2 U.S.C. 441b; 441c.* In addition, it is illegal for corporations, labor organizations, or government contractors to make loans to candidates or political organizations for the purpose of influencing an election. Banking institutions can make loans in the ordinary course of business, applying standard banking laws. *2 U.S.C. 441b.*

A corporation may establish a “trustee” or “payroll” program based on payroll deductions deposited in separate accounts for each participating employee. The corporation performs a bookkeeping function exercising no control over the disposition of any funds. The participation should be available to all employees and must be on a nonpartisan basis. *Rev. Rul. 62-156, 1962-2 C.B. 47.*

The law permits the establishment of a separate, segregated fund, commonly organized by a political action committee (PAC). PACs may be established by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock. The administrators of the committee have the advantage of selecting the recipients of the funds. Although the corporation may not contribute to the committee, it can pay the administrative and organization costs of the committee. *2 U.S.C. 441b(b)(2), (c).*

Individual contributions received may be commingled and distributed in the name of the committee unless the funds received are earmarked. If there are “earmarked” contributions, the designated candidate must be notified of the names of the individual donors. *2 U.S.C. 441a(a)(8).*

Contributors to any of the aforementioned plans may be eligible for the limited credit (as previously discussed in chapter 5), provided contributions to candidates or other committees have not exhausted eligibility.

ORGANIZATION

Due to the prohibition on corporate contributions, a political action committee should operate as an unincorporated entity. A governing document, similar to a set of corporate bylaws, setting forth the manner of operation should be adopted. The committee must have a treasurer. *2 U.S.C. 432(a).* In addition, the committee should appoint the treasurer’s successor, since the organization may not accept contributions or make expenditures if there is a vacancy in the office. Another reason for appointing a successor to the treasurer is that this officer must authorize each expenditure of money.

An organization that accepts contributions or makes expenditures during a calendar year is defined under the election law as a political committee and must register as such.

2 U.S.C. 433(a); 411b(b). The registration statement must be filed within ten days of its being established. This registration statement includes

1. Name, address, and type of committee and all affiliated or connected organizations.
 2. Name and address of the treasurer.
 3. Name, address, and position of the custodian of the books and accounts.
 4. Listing of all banks, safety deposit boxes, or other depositories used by the committee.
- 2 U.S.C. 433(b).*

The registration statement of the political action committee should be filed with the Federal Election Commission and various state officials. *2 U.S.C. 433(a); 439.*

SOLICITATION

The Federal Election Campaign Act of 1971, as amended, prescribes specific rules and prohibitions to guide a PAC in the solicitation of funds. These include

- A strong prohibition against the use of coercion.
- A requirement to fully inform a person as to the purpose of the solicitation and his right to refuse participation.
- A restriction on corporation PACs to solicit only from stockholders and executive or administrative personnel and their families.
- A restriction on labor organization PACs to solicit only from members and their families.
- An exception that allows both corporations and labor union PACs to make special written solicitations twice each year to any stockholders, executive or administrative personnel, or employees of the corporation and families of such persons. *2 U.S.C. 441b(b)(1)–(7).*

LIMITATION ON CONTRIBUTIONS RECEIVED

Under the Federal Election Campaign Act of 1971, as amended, \$5,000 is the maximum amount an individual may contribute to a given PAC in a calendar year. *2 U.S.C. 441a(a)(1)(C).*

A further limit is imposed upon earmarked contributions. These contributions are deemed to be made to a candidate by the original donor and not by the committee. The act provides that no individual may contribute to any candidate for federal office an amount exceeding \$1,000. Therefore, the committee must not accept from any contributor more than \$1,000 of earmarked contributions per candidate per election. *2 U.S.C. 441a(a)(1)(A).* The law provides penalties for violations of these limitations. *2 U.S.C. 437g(d).*

EXPENDITURES

The selection and determination of the amounts to be given to candidates by the political action committee is important. The selection process aids the candidate in deciding whether to run for office. Priorities must be developed, however, since the election laws limit the amounts the committee may contribute to a candidate. If the political action committee has fifty or more contributors, has made contributions to five or more candidates for federal office, and has been registered as a political action committee for at least six months, its contribution to any one candidate cannot be more than \$5,000. If the above

requirements are not met by the committee, it is limited to a maximum contribution to any one candidate for federal office of \$1,000. All PACs established and controlled by a corporation or labor union are considered as one committee for the purpose of applying limitations on contributions to candidates. 2 U.S.C. 441a(a)(1)(A), (2)(A), (4), (5), (6), (8).

Regardless of these limitations, the Supreme Court in *Buckley v. Valeo* has opened the opportunity for PACs to support or oppose any candidate for federal office without any limitation on expenditures, so long as this is done independently of the candidate or authorized delegate. "Independence," for this purpose, should be narrowly construed and no proximate or even remote nexus should be tolerated for this purpose. 2 U.S.C. 431(17); 434(b)(4)(H)(iii), (c).

RECORDKEEPING AND REPORTING REQUIREMENTS

The committee treasurer must open a checking account in a designated depository separate from any maintained by the corporation affiliated with the committee. Each check received should be a personal one. The treasurer must keep detailed records of all contributions including a list of the names and addresses of every person who contributes \$50 or more. 2 U.S.C. 432(b), (c).

The disbursement records maintained by the treasurer must indicate the name of the candidate, office being sought, and date and amount of the contribution. All expenditures over \$200 must be evidenced by a receipt, invoice, or canceled check. The treasurer must also maintain a record of expenditures of less than \$200. 2 U.S.C. 432(c)(5), (d).

If a PAC makes independent expenditures on behalf of a clearly identified candidate, the recordkeeping requirements are applicable.

Following initial organization and registration, the ongoing reporting requirements of a PAC are those of a political committee. In addition, the PAC must certify under penalty of perjury that such independent expenditures were not made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his agent. 2 U.S.C. 434(b)(6)(B)(iii).

TAXATION OF THE ORGANIZATION

The fund organized by a political action committee is treated as a political organization for tax purposes. (See chapter 5.)

APPENDIX 6

FEDERAL ELECTION
CAMPAIGN LAWS

Compiled by

THE
FEDERAL
ELECTION
COMMISSION

(Including The "Federal Election Campaign Act
Amendments of 1979," Pub. L. No. 96-187)

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Clerk of the House of Representatives

First Printing January 1980

PREFACE

The Federal Election Commission (FEC) has prepared this new compilation of Federal election campaign laws to reflect the latest changes in the law.

There are two major sections of this new compilation:

1. **FEDERAL ELECTION CAMPAIGN LAWS:** The text of the "Federal Election Campaign Act (FECA) of 1971," as amended, the "Presidential Election Campaign Fund Act," as amended, and the "Presidential Primary Matching Payment Account Act," as amended, contained in titles 2 and 26 of the United States Code. (See FECA Amendments of 1974, 1976, 1977 and 1979: Pub. L. No. 93-443, Pub. L. No. 94-283, Pub. L. No. 95-216 and Pub. L. No. 96-187, respectively.)

2. **APPENDIX:** The text of additional provisions of the United States Code, which are not in the FECA or under the jurisdiction of the Federal Election Commission, but which are relevant to persons involved with Federal elections.

The 1979 Amendments became effective on January 8, 1980.

This compilation is presented in codified form, with FECA section numbers converted to United States Code section numbers, in order to facilitate cross-references between this pamphlet, the United States Code, and the United States Code Annotated, and in order to be consistent with prior compilations of Federal election laws that also used the United States Code section numbers.

Users of this compilation should be aware that many terms in the law are defined differently in different titles. Thus, the meaning of a particular term may not be consistent throughout this pamphlet. Care should be exercised to check the definitions provided in any given title or section.

Copies of this compilation are available from the Federal Election Commission, Washington, D.C. 20463.

ERRATA

- p. 14, §432(i): incorrect indentation (see attachment).
- p. 21, §434(b)(5)(E): second line should begin “other” (insert “o”).
- p. 56, NOTE, 3rd line from bottom of page: “Title 18” should read “title 18.”
- p. 57, §9002(2), 6th line from bottom of page: “and individual” should read “an individual.”
- p. 79, §9035(a): third line cite, “section 441(a)(b)(1)(A),” should read “section 441a(b)(1)(A)”:

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APPENDIX

This appendix includes excerpts from Federal election campaign statutes in title 18, United States Code, over which the Commission has no jurisdiction. They are reprinted here to provide the user with a comprehensive reference source.

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TITLE 2. THE CONGRESS

Chapter 14—Federal Election Campaigns

Subchapter 1—Disclosure of Federal Campaign Funds

§ 431. Definitions

When used in this Act:

- (1) The term “election” means—
 - (A) a general, special, primary, or runoff election;
 - (B) a convention or caucus of a political party which has authority to nominate a candidate;
 - (C) a primary election held for the selection of delegates to a national nominating convention of a political party; and
 - (D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.
- (2) The term “candidate” means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—
 - (A) if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000; or
 - (B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of \$5,000 or has made such expenditures aggregating in excess of \$5,000.
- (3) The term “Federal office” means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.
- (4) The term “political committee” means—
 - (A) any committee, club, association, or other group of persons which receives contributions aggregating in

excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of section 441b(b) of this title; or

(C) any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of \$5,000 during a calendar year, or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year.

(5) The term "principal campaign committee" means a political committee designated and authorized by a candidate under section 432(e)(1) of this title.

(6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 432(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.

(7) The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

(8) (A) The term "contribution" includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to

any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed \$1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed \$2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred

by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;

(ix) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such

services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26, but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) of this title by the committee receiving such services;

(x) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided, That* such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xii) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the vote activities conducted by such committee on behalf of nominees of such party for

President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

(xiv) any honorarium (within the meaning of section 441i of this title).

(9) (A) The term “expenditure” includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term “expenditure” does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation

directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed \$2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A) (i) of this title, and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 441a(b), but all such costs shall be reported in accordance with section 434(b);

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities

which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contri-

butions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

(17) The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is

not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended.

§432. Organization of political committees

(a) *Treasurer; vacancy; official authorizations.* Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

(b) *Account of contributions; segregated funds.*

(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

(A) if the amount of the contribution is \$50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(B) if the amount of the contribution is in excess of \$50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

(c) *Recordkeeping.* The treasurer of a political committee shall keep an account of—

(1) all contributions received by or on behalf of such political committee;

(2) the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contribution by any person;

(3) the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution;

(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of \$200.

(d) *Preservation of records and copies of reports.* The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

(e) *Principal and additional campaign committees; designations, status of candidate, authorized committees, etc.*

(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1) of this section.

(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

(3) (A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(B) As used in this section, the term "support" does not include a contribution by any authorized committee in amounts of \$1,000 or less to an authorized committee of any other candidate.

(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

(5) The name of any separate segregated fund established pursuant to section 441b(b) shall include the name of its connected organization.

(f) *Filing with and receipt of designations, statements, and reports by principal campaign committees.*

(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

(g) *Filing with and receipt of designations, statements, and reports by Clerk of House of Representatives or Secretary of Senate; forwarding to Commission; filing requirements with Commission; public inspection and preservation of designations, etc.*

(1) Designations, statements, and reports required to be filed under this Act by a candidate or by an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and by the principal campaign committee of such a candidate, shall be filed with the Clerk of the House of Representatives, who shall

receive such designations, statements, and reports as custodian for the Commission.

(2) Designations, statements, and reports required to be filed under this Act by a candidate for the office of Senator, and by the principal campaign committee of such candidate, shall be filed with the Secretary of the Senate, who shall receive such designations, statements, and reports, as custodian for the Commission.

(3) The Clerk of the House of Representatives and the Secretary of the Senate shall forward a copy of any designation, statement, or report filed with them under this subsection to the Commission as soon as possible (but no later than 2 working days) after receiving such designation, statement, or report.

(4) All designations, statements, and reports required to be filed under this Act, except designations, statements, and reports filed in accordance with paragraphs (1) and (2), shall be filed with the Commission.

(5) The Clerk of the House of Representatives and the Secretary of the Senate shall make the designations, statements, and reports received under this subsection available for public inspection and copying in the same manner as the Commission under section 438(a)(4), and shall preserve such designations, statements, and reports in the same manner as the Commission under section 438(a)(5).

(h) *Campaign depositories; designations, maintenance of accounts, etc.; petty cash fund for disbursements; record of disbursements.*

(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

(2) A political committee may maintain a petty cash fund for disbursements not in excess of \$100 to any person in connection with a single purchase or transaction. A record of all

petty cash disbursements shall be maintained in accordance with subsection (c)(5) of this section.

(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of title 26.

§433. Registration of political committees

(a) *Statements of organization.* Each authorized campaign committee shall file a statement of organization no later than 10 days after designation pursuant to section 432(e)(1). Each separate segregated fund established under the provisions of section 441b(b) shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement of organization within 10 days after becoming a political committee within the meaning of section 431(4).

(b) *Contents of statements.* The statement of organization of a political committee shall include—

- (1) the name, address, and type of committee;
- (2) the name, address, relationship, and type of any connected organization or affiliated committee;
- (3) the name, address, and position of the custodian of books and accounts of the committee;
- (4) the name and address of the treasurer of the committee;
- (5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; and
- (6) a listing of all banks, safety deposit boxes, or other depositories used by the committee.

(c) *Change of information in statements.* Any change in information previously submitted in a statement of organization shall be reported in accordance with section 432(g) no later than 10 days after the date of the change.

(d) *Termination, etc., requirements and authorities.*

(1) A political committee may terminate only when such a committee files a written statement, in accordance with section 432(g), that it will no longer receive any contributions or make any disbursements and that such committee has no outstanding debts or obligations.

(2) Nothing contained in this subsection may be con-

strued 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.

§434. Reporting requirements

(a) *Receipts and disbursements by treasurers of political committees; filing requirements.*

(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is a regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the following reports shall be filed:

(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating \$100,000 or made expenditures aggregating \$100,000 or anticipates receiving contributions aggregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of \$100,000 or makes expenditures in excess of \$100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no

later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A) (i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6) (A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one preelection report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such

election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(b) *Contents of reports.* Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount of value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year, together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year, the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 441a(d) of this title; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 441a(b);

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or ther offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6) (A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the

reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 441a(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year; and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and

conditions under which such debts or obligations were extinguished and the consideration therefor.

(c) *Statements by other than political committees; filing; contents; indices of expenditures.*

(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) of this section for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2) of this section, and shall include—

(A) the information required by subsection (b)(6)(B)(iii) of this section, indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. Such statement shall be filed with the Clerk, the Secretary, or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii) of this section, made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

§437. Reports on convention financing

Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President, shall, within 60 days following the end of the convention (but not later than 20 days prior to the date on which presidential and vice-presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purpose for which such funds were expended.

§437c. Federal Election Commission

(a) *Establishment; membership; term of office; vacancies; qualifications; compensation; chairman and vice chairman.*

(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

(2) (A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his

or her successor has taken office as a member of the Commission.

(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (5 U.S.C. 5315).

(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

(b) *Administration, enforcement, and formulation of policy; exclusive jurisdiction of civil enforcement; Congressional authorities or functions with respect to elections for Federal office.*

(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of title 26. The Commission shall have exclusive jurisdiction with respect to the civil enforcement of such provisions.

(2) Nothing in this Act shall be construed to limit, re-

strict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

(c) *Voting requirements; delegation of authorities.* All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his or her vote or any decisionmaking authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 437d(a) of this title or with chapter 95 or chapter 96 of title 26.

(d) *Meetings.* The Commission shall meet at least once each month and also at the call of any member.

(e) *Rules for conduct of activities; judicial notice of seal; principal office.* The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

(f) *Staff director and general counsel; appointment and compensation; appointment and compensation of personnel and procurement of intermittent services by staff director; use of assistance, personnel, and facilities of Federal agencies and departments; counsel for defense of actions.*

(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316). With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.*

(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United

*Section 203 of Pub. L. No. 96-187 amended section 3132(a)(1) of title 5, United States Code, to exclude the Federal Commission from the Senior Executive Service.

States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

(4) Notwithstanding the provisions of paragraph (2), the Commission is authorized to appear in and defend against any action instituted under this Act, either—

(A) by attorneys employed in its office, or

(B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

§437d. Powers of the Commission

(a) *Specific authorities.* The Commission has the power—

(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

(2) to administer oaths or affirmations;

(3) to require by subpoena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 437g(a)(8) of this title) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of title 26, through its general counsel;

(7) to render advisory opinions under section 437f of this title;

(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of title 26; and

(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

(b) *Judicial orders for compliance with subpoenas and orders of Commission; contempt of court.* Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpoena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) *Civil liability for disclosure of information.* No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(d) *Concurrent transmissions to Congress or member of budget estimates, etc.; prior submission of legislative recommendations, testimony, or comments on legislation.*

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States

for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(e) *Exclusive civil remedy for enforcement.* Except as provided in section 437g(a)(8) of this title, the power of the Commission to initiate civil actions under subsection (a)(6) of this section shall be the exclusive civil remedy for the enforcement of the provisions of this Act.

§437f. Advisory opinions

(a) *Requests by persons, candidates, or authorized committees; subject matter; time for response.*

(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of title 26, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 20 days after the Commission receives a complete written request.

(b) *Procedures applicable to initial proposal of rules or regulations, and advisory opinions.* Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 438(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

(c) *Persons entitled to rely upon opinions; scope of protection for good faith reliance.*

(1) Any advisory opinion rendered by the Commission under subsection (a) of this section may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(d) *Requests made public; submission of written comments by interested public.* The Commission shall make public any request made under subsection (a) of this section for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public.

§437g. Enforcement

(a) *Administrative and judicial practice and procedure.*

(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such

alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4) (A) (i) Except as provided in clause (ii), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of title 26, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B) (i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the

Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of title 26, the Commission shall make public such determination.

(5) (A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d) of this section, or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person

has violated, in whole or in part, any requirement of such conciliation agreement.

(6) (A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of title 26, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of title 26.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26, the court may impose a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(7) In any action brought under paragraph (5) or (6), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(8) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the

Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(10) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 437h of this title).

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12) (A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than \$2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than \$5,000.

(b) *Notice to persons not filing reports prior to institution of enforcement action; publication of identity of persons and unfiled reports.* Before taking any action under subsection (a) of this section against any person who has failed to file a report required under section 434(a)(2)(A)(iii) of this title for the calendar quarter immediately preceding the election involved, or in accordance with section 434(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is

not received within 4 business days after the date of notification, the Commission shall, pursuant to section 438(a)(7) of this title, publish before the election the name of the person and the report or reports such person has failed to file.

(c) *Reports by Attorney General of apparent violations.* Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

(d) *Penalties; defenses; mitigation of offenses.*

(1) (A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating \$2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of \$25,000 or 300 percent of any contribution or expenditure involved in such violation.

(B) In the case of a knowing and willful violation of section 441b(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating \$250 or more during a calendar year. Such violation of section 441b(b)(3) may incorporate a violation of section 441c(b), 441f or 441g of this title.

(C) In the case of a knowing and willful violation of section 441h of this title, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of \$1,000 or more is involved.

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in

considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

§437h. Judicial review

(a) *Actions, including declaratory judgments, for construction of constitutional questions; eligible plaintiffs; certification of such questions to courts of appeals sitting en banc.* The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(b) *Appeal to Supreme Court; time for appeal.* Notwithstanding any other provision of law, any decision on a matter certified under subsection (a) of this section shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.

(c) *Advancement on appellate docket and expedited disposition of certified questions.* It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a) of this section.

§438. Administrative provisions

(a) *Duties of Commission.* The Commission shall—

(1) prescribe forms necessary to implement this Act;

(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record;

(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

(6) (A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multicandidate committees, including in such index a list of multicandidate committees; and

(C) compile and maintain a list of multicandidate committees, which shall be revised and made available monthly;

(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d) of this section;

(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate; and

(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter

into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.

(b) *Audits and field investigations.* The Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of title 26 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of 4 of its members, conduct an audit and field investigation of any committee which does meet the threshold requirements established by the Commission. Such audit shall be commenced within 30 days of such vote, except that any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

(c) *Statutory provisions applicable to forms and information-gathering activities.* Any forms prescribed by the Commission under subsection (a)(1) of this section, and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512 of title 44, United States Code.

(d) *Rules, regulations, or forms; issuance, procedures applicable, etc.*

(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

(3) For purposes of this subsection, the term “legislative day” means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

(4) For purposes of this subsection, the terms “rule” and “regulation” mean a provision or series of interrelated provisions stating a single, separable rule of law.

(5) (A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

(e) *Scope of protection for good faith reliance upon rules or regulations.* Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(f) *Promulgation of rules, regulations, and forms by Commission and Internal Revenue Service; report to Congress on cooperative efforts.* In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.

NOTE: *Transition Provisions for Public L. No. 96-187.* Section 303 of Public L. No. 96-187 provided that:

(a) *The Federal Election Commission shall transmit to the Congress proposed rules and regulations necessary for the purpose of implementing the provisions of this Act, and the*

amendments made by this Act [See Short Title of 1979 Amendment note set out below], prior to February 29, 1980.

(b) The provisions of section 311(d) of the Federal Election Campaign Act of 1971 [section 438(d) of this title] allowing disapproval of rules and regulations by either House of Congress within 30 legislative days after receipt shall, with respect to rules and regulations required to be proposed under subsection (a) of this section, be deemed to allow such disapproval within 15 legislative days after receipt.

NOTE: *Voting System Study*. Section 302 of Public L. No. 96-197 provided that:

The Federal Election Commission, with the cooperation and assistance of the National Bureau of Standards, shall conduct a preliminary study with respect to the future development of voluntary engineering and procedural performance standards for voting systems used in the United States. The Commission shall report to the Congress the results of the study, and such report shall include recommendations, if any, for the implementation of a program of such standards (including estimates of the costs and time requirements of implementing such a program). The cost of the study shall be paid out of any funds otherwise available to defray the expenses of the Commission.

§439. Statements filed with State officers; “appropriate State” defined; duties of State officers

(a) (1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

(2) For purposes of this subsection, the term “appropriate State” means—

(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or

Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

(b) The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1) of this section, shall—

(1) receive and maintain in an orderly manner all reports and statements required by this Act to be filed therewith;

(2) keep such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

(4) compile and maintain a current list of all reports and statements pertaining to each candidate.

§439a. Use of contributed amounts for certain purposes

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 501(c) of title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on January 8, 1980, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.

§439c. Authorization of appropriations

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed \$5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission \$6,000,000 for the fiscal year ending June 30, 1976, \$1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and \$6,000,000 for the fiscal year ending September 30, 1977, and \$7,811,500 for the fiscal year ending September 30, 1978.

§441a. Limitations on contributions and expenditures

(a) *Dollar limits on contributions.*

(1) No person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed \$20,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed \$15,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

(3) No individual shall make contributions aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local

committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term "multicandidate political committee" means a political committee which has been registered under section 433 of this title for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that—

(A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts;

(B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and

(C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if—

(i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices;

(ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and

(iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of title 26.

In any case in which a corporation and any of its subsidiaries,

branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original

source and the intended recipient of such contribution to the Commission and to the intended recipient.

(b) *Dollar limits on expenditures by candidates for office of President of the United States.*

(1) No candidate for the office of President of the United States who is eligible under section 9003 of title 26 (relating to condition for eligibility for payments) or under section 9033 of title 26 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) \$10,000,000 in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section), or \$200,000; or

(B) \$20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

(c) *Increases on limits based on increases in price index.*

(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) of this section and subsection (d) of this section shall be increased by such percent

difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term “price index” means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term “base period” means the calendar year of 1974.

(d) *Expenditures by national committee, State committee, or subordinate committee of State committee in connection with general election campaign of candidates for Federal office.*

(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or

(ii) \$20,000; and

(B) in the case of a candidate for election to the

office of Representative, Delegate, or Resident Commissioner of any other State, \$10,000.

(e) *Certification and publication of estimated voting age population.* During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

(f) *Prohibited contributions and expenditures.* No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) *Attribution of multi-state expenditures to candidate's expenditure limitation in each State.* The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

(h) *Senatorial candidates.* Notwithstanding any other provision of this Act, amounts totaling not more than \$17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

§441b. Contributions or expenditures by national banks, corporations, or labor organizations

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which

presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b) (1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 79(h) of title 15, the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include—

(A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject;

(B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and

(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or ex-

penditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital

stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

§441c. Contributions by government contractors

(a) *Prohibitions.* It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or

equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of—

(A) the completion of performance under; or

(B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings,

directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

(b) *Separate segregated funds.* This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 441b of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 441b of this title applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

(c) *“Labor organization” defined.* For purposes of this section, the term “labor organization” has the meaning given it by section 441b(b)(1) of this title.

§441d. Publication and distribution of statements and solicitations; charge for newspaper or magazine space

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

§441e. Contributions by foreign nationals

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 611(b) of title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(20) of title 8.

§441f. Contributions in name of another prohibited

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a

contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

§441g. Limitation on contribution of currency

No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

§441h. Fraudulent misrepresentation of campaign authority

No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

§441i. Acceptance of excessive honorariums

(a) *Prohibited practices.* No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than \$2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or

(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than \$25,000 in any calendar year.

(b) *Payment of honorarium to charitable organization; definition.* If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of subsection (a) of this section, as accepting that honorarium. For purposes of this subsection, the term "charitable organization" means an organization described in section 501(c) of title 26.

(c) *Aggregate amount received during any calendar year.* For

purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

(d) *Time of acceptance of honorarium.* For purposes of paragraph (2) of subsection (a) of this section, an honorarium shall be treated as accepted only in the year in which that honorarium is received.

§442. Authority to procure technical support and other services and incur travel expenses; payment of such expenses

For the purpose of carrying out his duties under the Federal Election Campaign Act of 1971, the Secretary of the Senate is authorized, from and after July 1, 1972—

(1) to procure technical support services,

(2) to procure the temporary or intermittent services of individual technicians, experts, or consultants, or organizations thereof, in the same manner and under the same conditions, to the extent applicable, as a standing committee of the Senate may procure such services under section 72a(i) of this title,

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and

(4) to incur official travel expenses.

Payments to carry out the provisions of this paragraph shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. All sums received by the Secretary under authority of the Federal Election Campaign Act of 1971 [as amended] shall be covered into the Treasury as miscellaneous receipts.

Subchapter II—General Provisions

§451. Extension of credit by regulated industries; regulations

The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after February 7, 1972, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection

with the campaign of such candidate for nomination for election, or election, to such office.

§452. Prohibition against use of certain Federal funds for election activities

No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Community Services Administration who, in his official capacity as such an officer or employee, engages in any such activity.

§453. State laws affected

The provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office.

§454. Partial invalidity

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

§455. Period of limitations

(a) No person shall be prosecuted, tried, or punished for any violation of subchapter I of this chapter, unless the indictment is found or the information is instituted within 3 years after the date of the violation.

(b) Notwithstanding any other provision of law—

(1) the period of limitations referred to in subsection (a) of this section shall apply with respect to violations referred to in such subsection committed before, on, or after the effective date of this section; and

(2) no criminal proceeding shall be instituted against any person for any act or omission which was a violation of any provision of subchapter I of this chapter, as in effect on December 31, 1974, if such act or omission does not constitute a violation of any such provision, as amended by the Federal Election Campaign Act Amendments of 1974.

Nothing in this subsection shall affect any proceeding pending in any court of the United States on January 1, 1975.

NOTE: *Effective date of 1979 Amendment.* Section 301 of Pub. L. No. 96-187 provided that:

(a) *Except as provided in subsection (b), the amendments made by this Act [see Short Title of 1979 Amendment note set out below] are effective upon enactment [January 8, 1980].*

(b) *For authorized committees of candidates for President and Vice President, section 304(b) of the Federal Election Campaign Act of 1971 [section 434(b) of this title] shall be effective for elections occurring after January 1, 1981.*

NOTE: *Short Title of 1979 Amendment.* Section I of Pub. L. No. 96-187 provided: *That this Act [amending sections 431, 437, 437c, 437d, 437f to 439a, 439c, 441a to 441i of this title, section 3132 of Title 5, Government Organization and Employees, sections 602, 603, and 607 of Title 18, Crimes and Criminal Procedure, section 901a of Title 22, Foreign Relations and Intercourse, section 9008 of Title 26, Internal Revenue Code, and section 5043 of Title 42, The Public Health and Welfare; repealing sections 435, 436, 437b, 437e, 439b, and 441j of this title and section 591 of Title 18; and enacting provisions set out as notes under this section] may be cited as the "Federal Election Campaign Act Amendments of 1979".*

TITLE 26: INTERNAL REVENUE CODE

Chapter 95—Presidential Election Campaign Fund

§9001. Short title

This chapter may be cited as the “Presidential Election Campaign Fund Act.”

§9002. Definitions

For purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means with respect to any presidential election, an individual who—

(A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or

(B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States.

For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term “candidate” means, with respect to any preceding presidential election, and individual who received popular votes for the office of President in such election. The term “candidate” shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.

(3) The term “Commission” means the Federal Election Commission established by section 309(a)(1) of the Federal Election Campaign Act of 1971 [section 437c(a)(1) of title 2].

(4) The term “eligible candidates” means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

(5) The term “fund” means the Presidential Election Campaign Fund established by section 9006(a).

(6) The term “major party” means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(7) The term “minor party” means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

(8) The term “new party” means with respect to any presidential election, a political party which is neither a major party nor a minor party.

(9) The term “political committee” means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

(10) The term “presidential election” means the election of presidential and vice-presidential electors.

(11) The term “qualified campaign expense” means an expense—

(A) incurred—

(i) by the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both,

(ii) by the candidate of a political party for the office of Vice President to further his election to

such office or to further the election of the candidate of such political party for the office of President, or both, or

(iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices,

(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in such proportion as the Commission prescribes by rules or regulations.

(12) The term "expenditure report period" with respect to any presidential election means—

(A) in the case of a major party, the period beginning with the first day of September before the election, or, if earlier, with the date on which such major party at its national convention nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the presidential election; and

(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such presidential election under subparagraph (A).

§9003. Condition for eligibility for payments

(a) *In general.* In order to be eligible to receive any payments under section 9006, the candidates of a political party in a presidential election shall, in writing—

(1) agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of such candidates,

(2) agree to keep and furnish to the Commission such records, books, and other information as it may request, and

(3) agree to an audit and examination by the Commission under section 9007 and to pay any amounts required to be paid under such section.

(b) *Major parties.* In order to be eligible to receive any payments under section 9006, the candidates of a major party in a presidential election shall certify to the Commission, under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under section 9004, and

(2) no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(d), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11) have been or will be accepted by such candidates or any of their authorized committees.

Such certification shall be made within such time prior to the day of the presidential election as the Commission shall prescribe by rules or regulations.

(c) *Minor and new parties.* In order to be eligible to receive any payments under section 9006, the candidates of a minor or new party in a presidential election shall certify to the Commission under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004, and

(2) such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their

authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the presidential election as the Commission shall prescribe by rules or regulations.

(d) *Withdrawal by candidate.* In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.

§9004. Entitlement of eligible candidates to payments

(a) *In general.* Subject to the provisions of this chapter—

(1) The eligible candidates of each major party in a presidential election shall be entitled to equal payments under section 9006 in an amount which, in the aggregate, shall not exceed the expenditure limitations applicable to such candidates under section 441a(b)(1)(B) of title 2.

(2) (A) The eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election.

(B) If the candidate of one or more political parties (not including a major party) for the office of President was a candidate for such office in the preceding presidential election and received 5 percent or more but less than 25 percent of the total number of popular votes

received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of section 9003(a) and (c), shall be treated as eligible candidates entitled to payments under section 9006 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for the office of President in the preceding presidential election. If eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

(3) The eligible candidates of a minor party or a new party in a presidential election whose candidate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties. In the case of eligible candidates entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

(b) *Limitations.* The aggregate payments to which the eligible candidates of a political party shall be entitled under subsections (a)(2) and (3) with respect to a presidential election shall not exceed an amount equal to the lower of—

(1) the amount of qualified campaign expenses incurred by such eligible candidates and their authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidates and such committees, or

(2) the aggregate payments to which the eligible candidates of a major party are entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

(c) *Restrictions.* The eligible candidates of a political party shall be entitled to payments under subsection (a) only—

(1) to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees, or

(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses.

(d) *Expenditures from personal funds.* In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, \$50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(e) *Definition of immediate family.* For purposes of subsection (d), the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

§9005. Certification by Commission

(a) *Initial certifications.* Not later than 10 days after the candidates of a political party for President and Vice President of the United States have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003, the Commission shall certify to the Secretary of the Treasury for payment to such eligible candidates under section 9006 payment in full of amounts to which such candidates are entitled under section 9004.

(b) *Finality of certifications and determinations.* Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 9007 and judicial review under section 9011.

§9006. Payments to eligible candidates

(a) *Establishment of campaign fund.* There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund." The Secretary of the Treasury shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated

(subsequent to the previous Presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

(b) *Payments from the fund.* Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary of the Treasury shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

(c) *Insufficient amounts in fund.* If at the time of a certification by the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. In any case in which the Secretary determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.

§9007. Examinations and audits; repayments

(a) *Examinations and audits.* After each presidential election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

(b) *Repayments.*

(1) If the Commission determines that any portion of the payments made to the eligible candidates of a political party under section 9006 was in excess of the aggregate payments to which candidates were entitled under section 9004, it shall so

notify such candidates, and such candidates shall pay to the Secretary of the Treasury an amount equal to such portion.

(2) If the Commission determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, it shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(3) If the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), it shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(4) If the Commission determines that any amount of any payment made to the eligible candidates of a political party under section 9006 was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used to defray such qualified campaign expenses,

it shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

(5) No payment shall be required from the eligible candidates of a political party under this subsection to the extent that such payment, when added to other payments required from such candidates under this subsection, exceeds the amount of payments received by such candidates under section 9006.

(c) *Notification.* No notification shall be made by the Commission under subsection (b) with respect to a presidential election more than 3 years after the day of such election.

(d) *Deposit of repayments.* All payments received by the Secretary of the Treasury under subsection (b) shall be deposited by him in the general fund of the Treasury.

§9008. Payments for presidential nominating conventions

(a) *Establishment of accounts.* The Secretary shall maintain in the fund, in addition to any account which he maintains under section 9006(a), a separate account for the national committee of each major party and minor party. The Secretary shall deposit in each such account an amount equal to the amount which each such committee may receive under subsection (b). Such deposits shall be drawn from amounts designated by individuals under section 6096 and shall be made before any transfer is made to any account for any eligible candidate under section 9006(a).

(b) *Entitlement to payments from the fund.*

(1) *Major parties.* Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed \$3,000,000.

(2) *Minor parties.* Subject to the provisions of this section, the national committee of a minor party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under paragraph (1) as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding presidential election.

(3) *Payments.* Upon receipt of certification from the Commission under subsection (g), the Secretary shall make payments from the appropriate account maintained under subsection (a) to the national committee of a major party or minor party which elects to receive its entitlement under this subsection. Such payments shall be available for use by such committee in accordance with the provisions of subsection (c).

(4) *Limitation.* Payments to the national committee of a major party or minor party under this subsection, from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

(5) *Adjustment of entitlements.* The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by section 441a(b) and section 441a(d) of title 2, United States Code, are adjusted

pursuant to the provisions of section 441a(c) of such title.

(c) *Use of funds.* No part of any payment made under subsection (b) shall be used to defray the expenses of any candidate or delegate who is participating in any presidential nominating convention. Such payments shall be used only—

(1) to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds (other than contributions to defray such expenses received by such committee) used to defray such expenses.

(d) *Limitation of expenditures.*

(1) *Major parties.* Except as provided by paragraph (3), the national committee of a major party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under subsection (b)(1).

(2) *Minor parties.* Except as provided by paragraph (3), the national committee of a minor party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under subsection (b)(1).

(3) *Exception.* The Commission may authorize the national committee of a major party or minor party to make expenditures which, in the aggregate, exceed the limitation established by paragraph (1) or paragraph (2) of this subsection. Such authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee.

(4) *Provision of legal or accounting services.* For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such commit-

tee with respect to its limitations on presidential nominating convention expenses.

(e) *Availability of payments.* The national committee of a major party or minor party may receive payments under subsection (b)(3) beginning on July 1 of the calendar year immediately preceding the calendar year in which a presidential nominating convention of the political party involved is held.

(f) *Transfer to the fund.* If, after the close of a presidential nominating convention and after the national committee of the political party involved has been paid the amount which it is entitled to receive under this section, there are moneys remaining in the account of such national committee, the Secretary shall transfer the moneys so remaining to the fund.

(g) *Certification by Commission.* Any major party or minor party may file a statement with the Commission in such form and manner and at such times as it may require, designating the national committee of such party. Such statement shall include the information required by section 433(b) of title 2, together with such additional information as the Commission may require. Upon receipt of a statement filed under the preceding sentences, the Commission promptly shall verify such statement according to such procedures and criteria as it may establish and shall certify to the Secretary for payment in full to any such committee of amounts to which such committee may be entitled under subsection (b). Such certifications shall be subject to an examination and audit which the Commission shall conduct no later than December 31 of the calendar year in which the presidential nominating convention involved is held.

(h) *Repayments.* The Commission shall have the same authority to require repayments from the national committee of a major party or a minor party as it has with respect to repayments from any eligible candidate under section 9007(b). The provisions of section 9007(c) and section 9007(d) shall apply with respect to any repayment required by the Commission under this subsection.

§9009. Reports to Congress; regulations

(a) *Reports.* The Commission shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by it under section 9005 for payment to the eligible candidates of each political party;

(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required;

(4) the expenses incurred by the national committee of a major party or minor party with respect to a presidential nominating convention;

(5) the amounts certified by it under section 9008(g) for payment to each such committee; and

(6) the amount of payments, if any, required from such committees under section 9008(h), and the reasons for each such payment.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) *Regulations, etc.* The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this chapter.

(c) *Review of regulations.*

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. The Commission may not prescribe any rule or regulation

which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term "rule or regulation" means a provision or series of interrelated provisions stating a single separable rule of law.

§9010. Participation by Commission in judicial proceedings

(a) *Appearance by counsel.* The Commission is authorized to appear in and defend against any action filed under section 9011, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) *Recovery of certain payments.* The Commission is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of examination and audit made pursuant to section 9007.

(c) *Declaratory and injunctive relief.* The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Commission an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) *Appeal.* The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

§9011. Judicial review

(a) *Review of certification, determination, or other action by the Commission.* Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Commission for which review is sought.

(b) *Suits to implement chapter.*

(1) The Commission, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provisions of this chapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

§9012. Criminal penalties

(a) *Excess expenses.*

(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election. It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of the expenditure limitation applicable with respect to such committee under section 9008(d), unless the incurring of

such expenses is authorized by the Commission under section 9008(d)(3).

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(b) *Contributions.*

(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11).

(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

(3) Any person who violates paragraph (1) or (2) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(c) *Unlawful use of payments.*

(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received

and expended) which were used, to defray such qualified campaign expenses.

(2) It shall be unlawful for the national committee of a major party or minor party which receives any payment under section 9008(b)(3) to use, or authorize the use of, such payment for any purpose other than a purpose authorized by section 9008(c).

(3) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(d) *False statements, etc.*

(1) It shall be unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter; or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(e) *Kickbacks and illegal payments.*

(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees. It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense incurred by such committee with respect to a presidential nominating convention.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees, or in connection

with any expense incurred by the national committee of a major party or minor party with respect to a presidential nominating convention shall pay to the Secretary of the Treasury, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

(f) *Unauthorized expenditures and contributions.*

(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election 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.

(2) This subsection shall not apply to—

(A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or

(B) expenditures by any organization described in section 501(c) of this title which is exempt from tax under section 501(a) of this title in communicating to its members the views of that organization.

(3) Any political committee which violates paragraph (1) shall be fined not more than \$5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(g) *Unauthorized disclosure of information.*

(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

§9013. Effective date of chapter

The provisions of this chapter shall take effect on January 1, 1973.

Chapter 96—Presidential Primary Matching Payment Account

§9031. Short title

This chapter may be cited as the “Presidential Primary Matching Payment Account Act.”

§9032. Definitions

For the purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means an individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he—

(A) takes the action necessary under the law of a State to qualify himself for nomination for election,

(B) receives contributions or incurs qualified campaign expenses, or

(C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf.

The term “candidate” shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

(3) The term “Commission” means the Federal Election Commission established by section 437c(a)(1) of title 2.

(4) Except as provided by section 9034(a), the term “contribution”—

(A) means a gift, subscription, loan, advance, or deposit of money, or anything of value, the payment of which was made on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such gift,

subscription, loan, advance, or deposit of money, or anything of value, is made, for the purpose of influencing the result of a primary election,

(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose,

(C) means funds received by a political committee which are transferred to that committee from another committee, and

(D) means the payment by any person other than a candidate, or his authorized committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge, but

(E) does not include—

(i) except as provided in subparagraph (D), the value of personal services rendered to or for the benefit of a candidate by an individual who receives no compensation for rendering such service to or for the benefit of the candidate, or

(ii) payments under section 9037.

(5) The term “matching payment account” means the Presidential Primary Matching Payment Account established under section 9037(a).

(6) The term “matching payment period” means the period beginning with the beginning of the calendar year in which a general election for the office of President of the United States will be held and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, ending on the earlier of—

(A) the date such party nominates its candidate for the office of President of the United States, or

(B) the last day of the last national convention held by a major party during such calendar year.

(7) The term “primary election” means an election, including a runoff election or a nominating convention or caucus held by a political party, for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President of the United States.

(8) The term “political committee” means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified

campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any person for election to the office of President of the United States.

(9) The term "qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or of anything of value—

(A) incurred by a candidate, or by his authorized committee, in connection with his campaign for nomination for election, and

(B) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid.

For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or the committee.

(10) The term "State" means each State of the United States and the District of Columbia.

§9033. Eligibility for payments

(a) *Conditions.* To be eligible to receive payments under section 9037, a candidate shall, in writing—

(1) agree to obtain and furnish to the Commission any evidence it may request of qualified campaign expenses,

(2) agree to keep and furnish to the Commission any records, books, and other information it may request, and

(3) agree to an audit and examination by the Commission under section 9038 and to pay any amounts required to be paid under such section.

(b) *Expense limitation; declaration of intent; minimum contributions.* To be eligible to receive payments under section 9037, a candidate shall certify to the Commission that—

(1) the candidate and his authorized committees will not incur qualified campaign expenses in excess of the limitations on such expenses under section 9035,

(2) the candidate is seeking nomination by a political party for election to the office of President of the United States,

(3) the candidate has received matching contributions which in the aggregate, exceed \$5,000 in contributions from residents of each of at least 20 States, and

(4) the aggregate of contributions certified with respect to any person under paragraph (3) does not exceed \$250.

(c) *Termination of payments.*

(1) *General rule.* Except as provided by paragraph (2), no payment shall be made to any individual under section 9037—

(A) if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or

(B) more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

(2) *Qualified campaign expenses; payments to Secretary.* Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to receive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).

(3) *Calculation of voting percentage.* For purposes of paragraph (1)(B), if the primary elections involved are held in more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

(4) *Reestablishment of eligibility.*

(A) In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1)(A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a).

(B) Notwithstanding the provisions of paragraph (1)(B), a candidate whose payments have been terminated under paragraph (1)(B) may again receive payments (including amounts he would have received but for paragraph (1)(B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the

election was held which was the basis for terminating payments to him.

§9034. Entitlement of eligible candidates to payments

(a) *In general.* Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution received by such candidate on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such candidate is seeking nomination, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by such person on or after the beginning of such preceding calendar year exceeds \$250. For purposes of this subsection and section 9033(b), the term "contribution" means a gift of money made by a written instrument which identifies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything of value or anything described in subparagraph (B), (C), or (D) of section 9032(4).

(b) *Limitations.* The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed 50 percent of the expenditure limitation applicable under section 441a(b)(1)(A) of title 2.

§9035. Qualified campaign expense limitations

(a) *Expenditure limitations.* No candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 441(a)(b)(1)(A) of title 2, and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000.

(b) *Definition of immediate family.* For purposes of this section, the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

§9036. Certification by Commission

(a) *Initial certifications.* Not later than 10 days after a candidate establishes his eligibility under section 9033 to receive payments under section 9037, the Commission shall certify to the Secretary for payment to such candidate under section 9037 payment in full of

amounts to which such candidate is entitled under section 9034. The Commission shall make such additional certifications as may be necessary to permit candidates to receive payments for contributions under section 9037.

(b) *Finality of determinations.* Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter, are final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 9038 and judicial review under section 9041.

§9037. Payments to eligible candidates

(a) *Establishment of account.* The Secretary shall maintain in the Presidential Election Campaign Fund established by section 9006(a), in addition to any account which he maintains under such section, a separate account to be known as the Presidential Primary Matching Payment Account. The Secretary shall deposit into the matching payment account, for use by the candidate of any political party who is eligible to receive payments under section 9033, the amount available after the Secretary determines that amounts for payments under section 9006(c) and for payments under section 9008(b)(3) are available for such payments.

(b) *Payments from the matching payment account.* Upon receipt of a certification from the Commission under section 9036, but not before the beginning of the matching payment period, the Secretary shall promptly transfer the amount certified by the Commission from the matching payment account to the candidate. In making such transfers to candidates of the same political party, the Secretary shall seek to achieve an equitable distribution of funds available under subsection (a), and the Secretary shall take into account, in seeking to achieve an equitable distribution, the sequence in which such certifications are received.

§9038. Examinations and audits; repayments

(a) *Examinations and audits.* After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037.

(b) *Repayments.*

(1) If the Commission determines that any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount of payments to which such candidate was entitled under section 9034, it shall notify the candidate, and the candidate shall pay to the

Secretary an amount equal to the amount of excess payments.

(2) If the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses,

it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

(3) Amounts received by a candidate from the matching payment account may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred for a period not exceeding 6 months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the matching payment account.

(c) *Notification.* No notification shall be made by the Commission under subsection (b) with respect to a matching payment period more than 3 years after the end of such period.

(d) *Deposit of repayments.* All payments received by the Secretary under subsection (b) shall be deposited by him in the matching payment account.

§9039. Reports to Congress; regulations

(a) *Reports.* The Commission shall, as soon as practicable after each matching payment period, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees,

(2) the amounts certified by it under section 9036 for payment to each eligible candidate, and

(3) the amount of payments, if any, required from candi-

dates under section 9038, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) *Regulations, etc.* The Commission is authorized to prescribe rules and regulations in accordance with the provisions of subsection (c), to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)), to conduct investigations, and to require the keeping and submission of any books, records, and information, which it determines to be necessary to carry out its responsibilities under this chapter.

(c) *Review of regulations.*

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term "rule or regulation" means a provision or series of interrelated provisions stating a single separable rule of law.

§9040. Participation by Commission in judicial proceedings

(a) *Appearance by counsel.* The Commission is authorized to

appear in and defend against any action instituted under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) *Recovery of certain payments.* The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of an examination and audit made pursuant to section 9038.

(c) *Injunctive relief.* The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate to implement any provision of this chapter.

(d) *Appeal.* The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

§9041. Judicial review

(a) *Review of agency action by the Commission.* Any agency action by the Commission made under the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

(b) *Review procedures.* The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

§9042. Criminal penalties

(a) *Excess campaign expenses.* Any person who violates the provisions of section 9035 shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to any expenditure in violation of the provisions of section 9035 shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both.

(b) *Unlawful use of payments.*

(1) It is unlawful for any person who receives any payment under section 9037, or to whom any portion of any such

payment is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray qualified campaign expenses, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(c) *False statements, etc.*

(1) It is unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this chapter, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter, or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(d) *Kickbacks and illegal payments.*

(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of a candidate, or his authorized committees, who receives payments under section 9037.

(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of a candidate or his authorized committees shall pay to the Secretary for deposit in the matching payment account, an amount equal to 125 percent of the kickback or payment received.

APPENDIX

This appendix includes excerpts from Federal election campaign statutes in title 18, United States Code, over which the Commission has no jurisdiction. They are reprinted here to provide the user with a comprehensive reference source.

TITLE 18: CRIMES AND CRIMINAL PROCEDURE

§594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§595. Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia, or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the

election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

§597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

§598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

§600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§601. Deprivation of employment or other benefit for political contribution

(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State; if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

(b) As used in this section—

(1) the term “candidate” means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has—

(A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or

(B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing

about his nomination for election, or election, to such office;

(2) the term "election" means—

(A) a general, special primary, or runoff election,

(B) a convention or caucus of a political party held to nominate a candidate,

(C) a primary election held for the selection of delegates to a nominating convention of a political party,

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and

(E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

(3) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§602. Solicitation of political contributions

It shall be unlawful for—

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit, any contribution within the meaning of section 431(8) of title 2 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

§603. Making political contributions

(a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 431(8) of title 2 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or

Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) For purposes of this section, a contribution to an authorized committee as defined in section 432(e)(1) of title 2 shall be considered a contribution to the individual who has authorized such committee.

§604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

§607. Place of solicitation

(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 431(8) of title 2 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 432(e) of title 2.

