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## Legislative Recommendations

1977

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In 1976 Congress enacted the fourth major overhaul of campaign financing laws in slightly over four years. The Federal Election Campaign Act Amendments of 1976, like its predecessors (the Presidential Election Campaign Fund Act, the Federal Election Campaign Act of 1971, and the Federal Election Campaign Act Amendments of 1974), made comprehensive changes in the system of campaign financing regulation.

During implementation of the 1976 Amendments, the Commission kept a continually updated listing of omissions, inadequacies and other problems. The legislative recommendations discussed below are a condensation of this original listing, produced by a group of Commissioners and staff members with the final approval of the Commission. Not all of the Commissioners agree with each of the following recommendations. These suggestions merely cite areas in which the Congress may wish to consider amendments in order to improve the functioning of the Act.

The Commission has not made specific recommendations on a number of the major policy issues which may be considered by the Congress, but rather has attempted to focus attention on mainly administrative, technical and less controversial policy-oriented amendments. Ambiguities in the statute which have been resolved by Commission regulations were intentionally omitted.

As the Congress begins to deliberate over possible modifications in the law, the Commission wishes to offer every available assistance in order to make the Act simpler, more workable, and better able to instill public confidence in the political process.

The Commission has categorized these recommendations into seven separate areas: I. Simplification, II. Presidential Elections, III. Limitations and the Role of the Political Party, IV. Corporate and Union Activity, V. Clarification, VI. Miscellaneous, and VII. Technical and Conforming Amendments.

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## SIMPLIFICATION

A major goal of campaign financing legislation should be the facilitation of participation in the political process. Burdensome and cumbersome requirements and procedures only blunt the impact of reform legislation and discourage honest people from entering politics. While both the 1974 and 1976 Amendments made sincere efforts to reduce the burden on candidates, committees, and volunteers, the end result often fell short of this goal. The Commission strongly believes that a simple, workable system of campaign financing regulation is achievable. Approximately half of the Commission's recommendations for 1977 seek to meet this goal and simplify the law.

### Reports

The 1974 Amendments attempted to reduce the number of reports required to be filed, but in 1976 many candidates and committees actually were required to file more reports. Implementation of the following recommendations would drastically reduce the number of reports required to be filed, while actually facilitating public disclosure. Presently, the large number of excess reports and requirements, such as registration amendments disclosing candidate support, make it more difficult for the press and the public to effectively use campaign financing reports.

### Principal Campaign Committee Reporting

By mandating that each candidate designate a principal campaign committee and requiring these committees to file reports, the 1974 Amendments forced many candidates to file two sets of reports. Although the Commission was given authority to exempt candidate reporting by regulation, no such regulation has as yet gone into effect. Instead, candidates could be given two options: (a) filing all reports of receipts and expenditures on the candidate report and not have any committee receiving contributions and making expenditures; or (b) designating a principal campaign committee which would compile all reports, including the candidate's reports (which would not be filed directly with the Commission), and file them with the Commission. This change would reduce the number of reports required by one-half for some candidates.

**Reporting Dates**

**Number of Reports Required Two Year Cycle**

A. Current Law		Election Year	Non-election year
Candidates Principal Campaign Committee	24	Quarterly (if receipts or expenditures are over \$1000) 10-day pre-; 30-day, post-election (primary and general); year end	Quarterly (if over \$5000); year-end
Presidential Candidates	16	Monthly reports	Same
Multicandidate Committee	12 - 24	Choice of: Quarterly (if over \$1000), 10-day pre-30-day, post-election (all primaries and general), year-end; or monthly	Choice of: Quarterly (if receipts or expenditures exceed \$1000), plus pre- and post-election reports if special election involvement; or monthly reports
<b>B. Recommendations</b>			
Candidates and PCCs together; other single candidate committees	8	Quarterly plus 12-day, pre-election reports (primary and general); year-end.	July and year-end reports
Presidential Candidates	14	Monthly, year-end, 12-day, pre-election in lieu of November 10.	Same
Multicandidate Committees	10-- 24	Choice of either of the above	Choice of: monthly; or July and year-end report (plus pre-election reports if involved in special elections).

## Reporting Dates

Under the 1974 and 1976 Amendments, a candidate and his principal campaign committee had to file up to 24 reports in 1975 and 1976, assuming there were no special or runoff elections. Reporting dates should be reduced as follows: During non-election years, candidates and committees would file only two reports, a July and a year-end report. There would be no threshold for exemption from filing these reports. Special elections would necessitate the filing of a 12-day, pre-election report by the candidates and committees involved. Multicandidate committees would have the option of filing on a monthly basis during off years. This would exclude those filers from submitting pre-election reports for any special elections. Committees desiring to file monthly would have to inform the Commission that they wish to do so.

During election years, Presidential candidates' committees in campaigns operating in two or more States and multicandidate committees who request monthly filing should be required to report monthly, except that a 12-day, pre-general election report would be filed in lieu of a November 10 report. Other committees would report on a quarterly basis, file a 12-day, pre-primary report, a 12-day, pre-general report and a year-end report. It may be advisable to require that the books be closed seven days prior to the due date to allow for more time to get the report in for the pre-primary and pre-general election reports. (Note: Appropriate adjustments would then be needed in the 48-hour reporting requirement.) This would alleviate some of the pressure on the treasurers filing reports. If a pre-election report falls due within five days of the quarterly report, the requirement to file the quarterly report would be waived.

If the principal campaign committee reporting recommendation suggested above is also adopted, the maximum number of reports would be reduced from 24 to 8.

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Candidate  
Support Statements

The Act imposes the burdensome requirement on multicandidate committees that they report on their registration statements the names and offices of all the candidates they support. Any change in this information must be reported by amendment within 10 days. Some multicandidate committees are required, under this provision, to file amendments almost every 10 days. These amendments sometimes exceed the length of the reports on receipts and expenditures. On occasion, the volume of these reports is so great that public disclosure is impaired. Further, the same information is contained on the reports of receipts and expenditures of each multicandidate committee. Except in the case of authorized and single-candidate committees, this provision should be repealed.

Secretary of  
State Reporting

If the recommendations mentioned below on filing with the Secretaries of State are adopted, candidates and committees would eventually not be required to file these reports, since all campaign finance reports filed with the Commission would be available in each State through a computer terminal or some other similar means.

General Waiver  
Authority

In the past, there have been instances when the Commission may have wished to suspend the reporting requirements of the law in cases where reports or requirements are excessive or unnecessary. To further reduce needlessly burdensome disclosure requirements, the Commission should have the authority to grant general waivers or exemptions from the extensive reporting, recordkeeping and organizational requirements of the Act. Each proposal for a general waiver would, of course, be submitted to the Congress in the form of a regulation for purposes of review.

The cumulative effect of the above recommendations on disclosure would be to reduce the number of reports by 50 percent for many candidates and committees and by up to 90 percent for some candidates and committees, while at the same time enhancing the ability of the press and the public to glean from the reports important campaign finance data.

Registration  
Statements

The law requires political committees to supply information on their statements of organization which is not integral to the central goals and purposes of the Act. The following provisions do not add sufficient information to the concept of disclosure to warrant retention and should be repealed:

— the requirement that “the area, scope, or jurisdiction of the committee” be listed.

– the requirement that the statement of organization contain “a statement whether the committee is a continuing one.”

– the requirement that committees state “the disposition of residual funds which will be made in the event of dissolution.”

In addition, since State and local reports are pre-empted by Federal law, the provision requiring a “statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons” should be repealed.

### Election Period Limitations

The contribution limitations are structured on a “per-election” basis, thus necessitating dual bookkeeping or the adoption of some other method to distinguish between primary and general election contributions. The Act could be simplified by changing the contribution limitations from a “per-election” basis to an “annual” or “election-cycle” basis. If an annual limitation is chosen, contributions made to a candidate in a year other than the calendar year in which the election is held should be considered to be made during the election year. Thus, multicandidate committees could give up to \$10,000 and all other persons could give up to \$2,000 at any point during the election cycle.

### State Filing

The Act presently requires all candidates and committees to file a copy of each statement filed with the Commission with the Secretary of State or other equivalent State officer. It also imposes certain responsibilities on the Secretaries of State or equivalent officers. The Commission should be granted regulatory authority to determine the time, place and manner in which these reports should be filed with the State officers. Ultimately, if it is given sufficient funds, the Commission may decide to suspend this filing requirement and supply the Secretaries with microfilm copies of reports filed with the Commission or it may wish to place a computer terminal in each Secretary of State's office or to use existing computer terminals in State capitals to make available to the States all reports filed with the Commission. General Commission regulatory authority would be needed to accomplish this goal without statutory amendment and to make the filing times and places more flexible and to grant the Secretaries more latitude in how they carry out their duties.

Alternatively, the present, more restrictive statutory language could be kept and several less major changes made. Although State election commissions and other similar State agencies are frequently the most logical place to have Federal reports filed, the statute requires all such reports to be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer). Instead, the Governor of each State should be allowed to designate the appropriate place, subject to notification of the Commission. The appropriate State officials should be required to keep reports for only three years for House, five years for President and seven years for Senate, instead of the present 5- and 10-year requirements. The Secretaries of State have expressed more opposition to the report preservation feature of their filing responsibilities than any other.

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## Point of Entry

The Commission recommends that it be the sole point of entry for all disclosure documents filed by Federal candidates and committees supporting those candidates. A single point of entry would eliminate any confusion about where candidates and committees are to file their reports. It would assist committee treasurers by having one office with which to file, correspond, and ask questions. At present, conflicts may arise when more than one office sends out materials, makes requests for additional information and answers questions relating to the interpretation of the law. A single point of entry should also reduce the governmental costs now connected with the three different offices, such as personnel, equipment and processing centers.

The Commission has the authority to prepare and publish lists of nonfilers. It is extremely difficult to ascertain who has and who has not filed when reports may have been filed at or are in transit between two different offices. Finally, separate points of entry make it difficult for the Commission to track responses to compliance notices. Many responses and/or amendments may not be received by the Commission in a timely manner, even though they were sent on time by the candidate or committee. The delay in transmittal between two offices sometimes leads the Commission to believe that candidates and committees are not in compliance. A single point of entry would eliminate this confusion.

## Written Pledges

Candidates and committees are required to report all written pledges even if there is no hope of collecting the money, because the definition of contribution includes "a written contract, promise, or agreement, whether or not legally enforceable, to make a contribution." Candidates and committees should be required to keep records of written pledge cards and other similar written instruments, but they should not have to be reported.

## Office Vacancy

The Act prohibits the acceptance of contributions and the making of expenditures when there is a vacancy in either the office of chairman or treasurer. The main thrust of this provision is to assure that there is at least one person responsible for the acceptance of contributions and making of expenditures. Since the treasurer is responsible for signing the reports and keeping the books, there is little reason to also include the chairman within the ambit of this provision. This prohibition should cover only those periods when there is a vacancy in the office of the treasurer.

**Disclaimer**

The disclaimer required on all solicitations of contributions should be shortened to read:

“A copy of our report is filed with and is available for purchase from the Federal Election Commission, Washington, D.C.”

The present disclaimer is redundant and reduces the amount of space or air time a candidate can use for his own advertising.

**Independent Expenditures**

The threshold for the reporting of independent expenditures should be increased from \$100 to \$250. The present burden of reporting on persons who make relatively small amounts of independent expenditures is not consonant with the purposes of the Act. The higher amount of \$250 would appear to be a more realistic figure as to when independent expenditures begin to have an impact on election campaigns.

**Independent Contributors**

Persons who make independent contributions in excess of \$100 are required to file reports with the Commission. An independent contribution is a contribution to a person (other than a candidate or political committee) who makes an independent expenditure. The Commission suggests that independent contributors not be required to report to the Commission. Instead, persons who file independent expenditure reports should be required to report the sources of any contributions in excess of \$100 made with a view towards bringing about an independent expenditure.

**Trade Associations**

Trade association political action committees must obtain the separate and specific approval each year of each member corporation in order to be able to solicit the corporation's executive and administrative personnel. Some trade associations have thousands of members and it is a considerable administrative burden to obtain approval to solicit every year. The one-year time limitation should be removed and the trade association should be allowed to solicit until the corporation revokes its approval.

**PRESIDENTIAL ELECTIONS**

The Federal Election Campaign Act and Presidential Election Campaign Fund Act made sweeping changes in the financing of Presidential elections. Several amendments are needed to both of these Acts.

**Delegate Selection**

Amendments are needed to delineate the status of delegates and delegate-candidates to Presidential nominating conventions and the applicability of the disclosure provisions and contribution and expenditure limitations to their activities. Further, it is noted that the general prohibitions on contributions by corporations, labor organizations, Government contractors, and the prohibitions on cash contributions over \$100 and contributions by foreign nationals apply to contributions to delegates.



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Congress may wish to exempt from the definition of contribution and expenditure: (a) the payment by a delegate of all travel and subsistence costs incurred in attending caucuses or conventions; and, (b) the payment of expenditures incurred by a State or local political party in sponsoring party meetings, caucuses and conventions for the purpose of selecting delegates.

Additionally, since some delegates are closely connected with a Presidential campaign, while others run independently of any Presidential candidate, it is necessary to distinguish among the different relationships for the purpose of determining the reporting responsibilities and the applicable contribution and expenditure limitations. One suggestion would be to consider delegates who have been formally authorized by a Presidential candidate to raise and expend money on behalf of the Presidential candidate as "authorized" delegates. These delegates would report to the Presidential candidate. Contributions to the delegate would be considered contributions to the Presidential candidate and expenditures by the delegate would be charged against the Presidential candidate's limitations.

All delegates who have not been authorized, i.e., "unauthorized delegates," could be required to report when they receive contributions or make expenditures in excess of \$1,000. Presently, they may be subject to the independent-expenditure reporting provisions for which the reporting threshold is \$100.

The contribution limitations for unauthorized delegates could be set so that persons could give up to \$1,000 to these delegates—excluding amounts donated for travel and subsistence expenses. A contributor could give up to \$1,000 to a single delegate or could divide the contribution among any number of delegates so long as the total amount of contributions to all delegates does not exceed \$1,000. Similarly, a qualified multicandidate committee could give up to \$5,000 to all delegates.

#### Support of Presidential Nominees

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Congress may wish to clarify to what extent a congressional candidate may give occasional, isolated or incidental support to the Presidential nominee without that support counting as a contribution in-kind, which is prohibited by the Presidential Election Campaign Fund Act. During the 1976 elections, there was considerable confusion as to whether and in what form and manner a congressional candidate could mention and support his political party's Presidential nominee.

For example, a congressional candidate could be provided with a separate spending limitation for the support, listing and mention of the Presidential candidate in campaign materials. A suggested limit would be \$2,500 or  $\frac{1}{2}\%$  times the Voting Age Population of the district or State, whichever is greater. Further, Congress may wish to determine that the brief mention or appearance of the Presidential nominee in newspaper ads or in television or radio ads would not be considered a contribution so long as the purpose is to further the election of the congressional candidate and the appearance is at the initiative of the congressional candidate.

## Presidential Election Campaign Fund

Under the current provisions, the Secretary of the Treasury is required to place first priority on funds for convention financing; second priority on funds for general election financing; and third priority on the matching-payment fund. Since the primaries occur before the general election, the Secretary may not have a clear idea of the amount to reserve for the general election fund. The Secretary may determine that a substantial portion of the entire fund needs to be reserved for a number of possible qualified nominees in the general election; thus leaving insufficient funds to give Presidential primary candidates their full entitlements. On the other hand, the Secretary may make a determination which would not reserve sufficient monies for the general election fund to pay new party candidates who qualify in the general election. Since the amount in the fund is a fixed amount in that it is limited by the number of dollars received as a result of the tax check-off provision, the Secretary may be faced with a situation where he must risk depleting the general election fund to assure full entitlement for Presidential primary candidates. Under some circumstances, the present system could be unworkable and should be modified to either assure candidates full entitlement or to eliminate all discretion by the Secretary and the Commission in determining how to distribute partial entitlements.

## State Spending Limits

It is recommended that consideration be given to the retroactive application of expenditure limitations to Presidential candidates who apply for public funds after they have campaigned in several primaries. A candidate might spend considerably more than the State-by-State expenditure limitation in the early primaries and then apply for Presidential matching funds. By making huge outlays in the early primaries and thus obtaining the early momentum, a candidate would have an unfair advantage over publicly funded candidates who would be subject to the State-by-State expenditure limitations. Congress may wish to establish that any candidate who exceeds the State-by-State ceilings would not be eligible to receive primary matching funds.

## Issue-Oriented Candidacies

During the 1976 elections, the Commission had a great deal of difficulty ascertaining the intent of contributors to issue-oriented or cause-oriented candidacies. Determinations had to be made as to whether the contributor was giving to further the nomination of the candidate or merely to further the issue or cause.

All written instruments representing contributions submitted to the Commission for matching payments should be required to include the name of the individual whose candidacy they are intended to support. If contributions can be made out to "cause" committees or other noncandidate related entities, the Commission cannot expeditiously and effectively check the contributor's intent.

## Fundraising Exemption

Congress may wish to consider the results of the application of the 20 percent fundraising exemption as it is presently drafted. The Act clearly makes the 20 percent fundraising exemption applicable to the entire \$10 million limit for Presidential primary candidates, although the legislative history indicates a congressional intent to apply the exemption only to the \$5 million privately raised. Further, the 20 percent fundraising exemption applies to Presidential nominees who accept partial public funding for the general election. The application of the fundraising exemption in this situation has the effect of increasing the nominee's spending ceiling and placing nominees who have elected to accept full funding at a lower spending limit. The 20 percent fundraising exemption should be eliminated and the expenditure limitation raised accordingly.

## Investment of Funds

Congress may wish to change the tax on income earned by Presidential committees on the deposit of Federal funds. Under the current law, recipients of Federal funds are permitted to invest these funds, and the income generated is applied against the recipients' entitlement. However, the interest income of a political committee is taxed at a specified rate (approximately 46 percent) under the Internal Revenue Code.

The application of these two provisions places the committee in an unusual predicament. If the candidate places the Federal funds in an interest-bearing account, the actual amount of money available for campaigning is reduced by the amount of taxes due on the interest income. If the candidate chooses to maximize the funds available, the funds will be put in a non-interest bearing account. The campaign depository thereby receives a windfall while the Federal Government loses the benefit which could be expected from the investment of these funds in accordance with normal business practices. This anomaly could be eliminated if the tax on the interest earned on Federal funds were repealed.

## Treasury Accounts

Alternatively, Congress may wish to consider requiring candidates who receive public funds to establish an account with the Treasury. Each candidate would then be allowed to draw from this account as needed up to his or her entitlement. Such a procedure would eliminate any "lump sum" payments to the Presidential candidates which, when deposited in the campaign depository, could amount to "windfall profits" for the bank.

**CONTRIBUTION AND EXPENDITURE LIMITATIONS  
AND THE ROLE OF THE POLITICAL PARTY**

A systematic, comprehensive, enforceable system of contribution and expenditure limitations was implemented for the first time in the 1976 elections. The Commission recommends the following changes in the application of these limitations:

**Party Activity**

Political parties have a central role to play in the political system. Campaign finance legislation must be carefully drafted to bolster the role of political parties in campaign financing, while at the same time assuring that the parties do not become conduits for wealthy individuals and the special interests. The Commission believes that the role of the political parties, particularly in the Presidential election, can be substantially strengthened without imposing any significant corrupting influence on the political process. One of the major failures of campaign financing legislation in the 1976 elections was the limited role which it delegated to State and local party committees. Accordingly, the Commission recommends the following:

State committees of a political party should be allowed to spend the greater of \$20,000 or 2¢ times the Voting Age Population on behalf of the Presidential candidate of the national party. State committees should be allowed to delegate this spending right to subordinate committees.

Local and subordinate committees of a State committee should be allowed to distribute campaign materials and paraphernalia normally connected with volunteer activities (such as pins, bumper stickers, handbills, pamphlets, posters and yard signs, but not including billboards, newspapers, mass mailings, radio, television and other similar general public political advertising). These activities would be exempt from the limitations when undertaken on behalf of the Presidential candidate; would be subject to the disclosure provisions; could mention as few or as many candidates as deemed desirable; and would be paid for only with funds that are not earmarked for a particular candidate.

If the abovementioned recommendations are adopted, the political parties will be given a strengthened role in the political process and volunteer activities will be encouraged. If the proposed changes are incorporated into the Act, 26 U.S.C. §9012(f) should be repealed.

**Contribution  
Limitations**

In the aftermath of the 1976 elections, there has been a great deal of public discussion about the desirability of raising or lowering the contribution limitations. The Commission makes no specific recommendation on these suggestions, but urges the Congress to study the impact of the various ceilings carefully in order to set the limitations in consonance with the overall statutory scheme. Overly restrictive limitations only serve to strangle citizen participation and reduce the flow of information to the voters, while excessively high limitations reduce public confidence and open the door to special-interest influence.

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## Expenditure Limitations

The experience of the 1976 elections suggests that the Congress may wish to raise the Presidential spending limitations. The entitlement for Presidential candidates receiving full funding for the general election could be increased to \$25, \$30, or \$35 million. The amount finally chosen should be set in cognizance of the fact that it will be increased by the Cost-of-Living Adjustment. Similarly, the \$2 million entitlement for the national nominating conventions of the political parties should be examined and the \$10 million limitation on candidates seeking nomination for President could be increased, especially if the fund-raising exemption is eliminated (see recommendation under Presidential Elections). The Commission also makes no specific recommendation on the raising of the expenditure limitations, albeit these limitations should be set at a sufficiently high level to allow the candidates and the political parties to wage vigorous campaigns.

## Contribution Limitation Anomalies

When structuring an equitable balance in the application of the contribution ceilings, Congress should attempt to rectify two serious anomalies:

(a) A national political party committee which is not authorized by any candidate may accept contributions of up to \$15,000 from multicandidate committees and \$20,000 from any other person. However, if the Presidential nominee of the political party designates the national committee as his principal campaign committee, then the national committee is prohibited from accepting contributions in excess of \$5,000 from all persons. Thus, the national committee of a political party is, in effect, prevented from becoming the principal campaign committee of its Presidential nominee.

(b) As was noted above, an individual can give a national political party committee up to \$20,000 but a multicandidate committee can give only \$15,000.

## Contributions by Minors

The Act does not stipulate at what age a minor child may make contributions. Presently, the Commission is forced to rely on subjective criteria such as whether "the decision to contribute is made knowingly and voluntarily by the minor child." Contributions by minor children under the age of 16 should be considered to have been made by the parent and should be subject to the parent's \$1,000 contribution limitation—unless the minor child's contributions aggregate \$100 or less per candidate per election or per election cycle.

## Multicandidate Status

In order to attain multicandidate committee status and thus become eligible to give \$5,000 to a candidate, a political committee need only give \$1 to four other candidates. A threshold should be set to assure that small political committees do not achieve multicandidate committee status.

**CORPORATE AND UNION ACTIVITY****Honorariums**

The Commission recommends that corporations and labor organizations be prohibited from giving honorariums to Federal candidates. Since honorariums have been exempted from the definition of contribution, corporations and labor organizations have been allowed to use general treasury money to give honorariums to Federal candidates. If the candidates are not Federal officeholders, there may be no limit on the amount of the honorariums.

**Reporting  
Communication  
Expenses**

Although the Act requires membership organizations—including labor organizations and corporations—to report the costs of certain communications expressly advocating the election or defeat of a clearly identified candidate if these costs exceed \$2,000 per election, the Act does not currently provide specific procedures and dates for reporting these costs. Because of the numerous reports which may be required, Congress may wish to consider specific reporting requirements such as those recommended in the simplification section above.

**Registration/  
Get-out-the-Vote**

Congress may wish to amend the Act to allow corporations and labor organizations to conduct nonpartisan registration and get-out-the-vote activities aimed at the general public without sponsorship of a nonpartisan organization so long as the activities are not targeted toward selected groups and so long as the activities merely urge people to register and to vote. Currently, corporations and labor organizations may only participate in such activities if they are cosponsored with and conducted by an organization which does not support or endorse candidates or political parties. The present overly restrictive provision effectively prevents corporations and labor organizations from engaging in some of the simplest and most innocuous types of political activity—such as putting up signs urging employees and the general public to register and vote and paying for public service broadcast spots which merely urge people to vote.

**CLARIFICATION**

Modifications are needed in the Act to clarify several ambiguities resulting from the comprehensive effort to regulate our diverse system of campaign financing. Any initial, wide-ranging effort to regulate a pluralistic political system may inevitably result in some arbitrary distinctions, but many of these disparities can be mitigated by further legislation.

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**Legislatively  
Appropriated Funds**

The Act does not set forth a statutory scheme for the treatment of the use of appropriated funds in connection with election campaigns. The Commission has been confronted with numerous questions in this area, most of which have eluded any coherent regulatory framework. For example, if a candidate uses a Government conveyance during an election period, is he required to reimburse the Government for the full cost of such use, the fair market value, or anything at all? Can individuals whose salaries are paid for exclusively with appropriated funds be used in connection with a political campaign? Must these persons take bona fide vacation time to work on campaigns? Can a candidate's campaign use materials produced by Government agencies such as the House and Senate recording studios with or without reimbursement? Can Members of Congress use Government services such as mobile vans during campaign periods if they are on legislative business? Can Members of Congress pay for the maintenance of such vehicles with campaign funds?

The number of questions appears to be multiplying and there is, as of now, no logical, coherent mechanism for formulating an equitable, fair application of the law. The Commission has been unsuccessful in finding any definitive regulatory scheme within the present Act for treating these problems.

**Voluntary Services**

The Act places no limit on the services that a professional may donate to a candidate, including those which are provided on a commercial, non-campaign related basis. Thus, a professional entertainer may hold a concert and donate the proceeds of that concert to a candidate without those funds counting towards the contribution limitations. Congress may wish to circumscribe the use of volunteer professional services when they are not donated directly to the candidate or his committee for campaign-related purposes.

**MISCELLANEOUS**

**Draft Movements**

The Congress may wish to consider amending the Act to bring draft movements within the reporting provisions and contribution limitations. Under the Act, an individual does not become a candidate until he or she takes the action necessary to get on the ballot, makes or raises or authorizes a person to make or raise contributions or expenditures on his or her behalf or takes other affirmative action to become a Federal candidate. The reporting requirement in 2 U.S.C. §434 applies to political committees supporting a candidate or candidates, to candidates, and to persons who make contributions or independent expenditures on behalf of clearly identified candidates. Thus, persons or committees supporting a draft movement on behalf of an individual who is not a candidate within the meaning of the Act may not have any reporting obligation. Section 434 should be amended to require reporting by political committees whose purpose is to influence a clearly identified individual or individuals to become a candidate and to require the reporting of contributions or independent expenditures expressly advocating that a clearly identified individual become or refrain from becoming a candidate.

Consideration should also be given to the application of contribution limitations to draft movements. Since the \$1,000 limitation on contributions by persons applies only to candidates, a person could now give up to \$5,000—the limit applicable to contributions to political committees—to a draft committee. Congress may wish to amend the limitation section to make the \$1,000 limitation applicable to contributions to political committees whose purpose is to influence a clearly identified individual or individuals to become a candidate. Although the limitation on contributions by multicandidate committees to candidates or to draft committees is identical, multicandidate committees, as well as persons, would be able to make two contributions toward the nomination of an individual—one contribution to a draft movement and, if the individual becomes a candidate, one contribution to the candidate. Accordingly, Congress may wish to consider amending the Act to provide that a person who has contributed to a draft committee with the knowledge that a substantial portion of his or her contribution will be expended on behalf of a clearly identified individual will, for the purposes of contribution limitations, be considered to have made a contribution to a “candidate.” If that individual should become a candidate, the contributors to the draft movement would be eligible to give to the candidate only to the extent their earlier contributions did not exceed the “candidate” limits.

#### 48-Hour Reports

Thought should be given to requiring multicandidate committees to submit 48-hour reports on contributions of \$1,000 or more made by the committee. Presently, the recipient must report, within 48 hours, the receipt of contributions of \$1,000 or more received after the 15th day, but more than 48 hours before any election. Requiring multicandidate committees to report their contributions would greatly facilitate the disclosure of large contributions prior to the election.

#### Reporting Transfers

A committee or candidate is currently required to disclose the name and address of each political committee or candidate to which it transfers funds or from which it receives funds. The requirement for the name and address of the candidate has not eliminated confusion as to the actual candidate who received the funds. To avoid such confusion, the Act could be amended to require the reporting of the office sought and the District, rather than the address, with regard to candidate contributions.

#### Debts and Obligations

Two provisions of the Act, 2 U.S.C. §§434(b)(12) and 436(c), relate to the reporting of debts and obligations. These sections should be consolidated.



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## Conciliation Period

The enforcement provisions of the Act provide for a mandatory 30-day conciliation period. Congress has recognized that the 30-day period could delay enforcement actions immediately prior to an election and has, accordingly, provided for a shortened conciliation period when the Commission has reached a reasonable-cause-to-believe determination close to the election for certain types of enforcement actions. The mandatory conciliation period should be shortened to 15 days to enable the Commission to process complaints more expeditiously and also to thwart the use of the mandatory conciliation period to delay enforcement action close to the election.

## Judicial Review

The Act contains different judicial review provisions which Congress might wish to consider conforming to each other. As noted by the Court of Appeals for the District of Columbia, no apparent reason exists for different review provisions in Chapters 95 and 96 of Title 26. Congress might wish to consider making the provisions of 26 U.S.C. §9011, including the provision for expedited review in §9011(b), apply to Chapter 96, perhaps making §§9040 and 9041 identical to §§9010 and 9011. Additionally, Congress might wish to address what the Supreme Court called the "jurisdictional ambiguities" resulting from Title 2 having a totally different expedited review provision (2 U.S.C. §437h) for questions of the constitutionality and construction of the statutory provision.

## Legislative Days

The Congress may wish to consider reducing the requisite 30 legislative days for the review of regulations to 15 legislative days.

## Use of Reports

Thought should be given to amending the Act to allow the use of the names and addresses of political committees obtained from reports to solicit political contributions from those political committees. Under the present law, information copied from reports and statements may not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose (2 U.S.C. §438(a)(4)). A distinction could be made between protecting the privacy of individuals and political committees which are in the business of making contributions.

## Private Benefit

Prior to 1972, the law prohibited the purchase of goods or articles, the proceeds of which inured to the benefit of a Federal candidate or political committee. (18 U.S.C. §608(b), repealed by the Federal Election Campaign Act of 1971.)

*Stat  
Change*

Congress should reinstate some strict controls on campaign activities conducted for the private profit of the candidate or committee, particularly in cases involving the conversion of political funds to personal use. Currently, the Act provides that excess campaign funds may be used for any lawful purpose (2 U.S.C. §439a).

**Multiyear  
Authorization**

The Commission should be given a multiyear authorization of appropriation in order to increase its ability to engage in long-range planning and to make long-range decisions on implementing the law. The present scheme drains valuable staff resources each year in attempts to justify an authorization and frustrates intelligent management of the agency.

**Criminal Code  
Provisions**

Certain provisions of the criminal code (18 U.S.C. §§592-607) pertain to elections or election-related activities. Many of these provisions are outmoded, vague, or overly broad. Congress should clarify these provisions and review the sections with a view toward resolving any jurisdictional conflicts.

**TECHNICAL AND CONFORMING AMENDMENTS**

The \$500 exceptions to the definitions of contribution and expenditure occur at the end of the paragraph in 2 U.S.C. §431(e)(5), but occur at the end of each exception or subparagraph in 2 U.S.C. §431(f)(4). These provisions should be made parallel by adopting the method used in 2 U.S.C. §431(f)(4).

The phrase "*to the extent that* the cumulative value" is used in 2 U.S.C. §431(e)(5), but the phrase "*if* the cumulative value" is used in 2 U.S.C. §431(f)(4). Under one interpretation of the above-mentioned provision, if a person exceeds the \$500 threshold only the amount in excess of \$500 must be disclosed and credited to the limits. On the other hand, in the latter provision, the full amount—including any sums under \$500—must be disclosed. The phrase "*to the extent that*" should be substituted for "*if*" in 2 U.S.C. §431(f)(4).

In 2 U.S.C. §432(e)(2), the term "political committee" should read "authorized political committee" in order to clarify any ambiguity that might exist about which committees file with the principal campaign committee.

The last sentence in 2 U.S.C. §433(a) is no longer needed and should be stricken.

A statutory provision relating to the FEC's already implicit general authority to procure goods and services as a Government agency would clarify some apparent gaps and uncertainties.

The language relating to the procurement of temporary and intermittent services contained in 26 U.S.C. §§9010(a) and 9040(a) should also be placed in 2 U.S.C. §437c(f)(2).

2 U.S.C. §455 was improperly codified and "Title III of this Act" should be stricken each place it occurs and in lieu thereof should be inserted "chapter."

The cross-reference in 26 U.S.C. §527(f)(3) should be changed from "section 610 of Title 18" to "section 441b of Title 2."