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**Republican  
National  
Committee.**

**Mary Louise Smith  
Chairman**

April 14, 1975

MEMORANDUM

TO: Robert T. Hartmann

FROM: Mary Louise Smith *MLSR*

Enclosed for delivery to the President is the original of a document we have upon request prepared and entitled "Highlights of Federal Election Campaign Laws Which Would Apply to the Candidacy of President Ford."

Copies of this are retained here and one copy has been sent to Bill Whyte.

cc: William G. Whyte  
Attachment

HIGHLIGHTS OF FEDERAL ELECTION  
CAMPAIGN LAWS WHICH WOULD APPLY  
TO THE CANDIDACY OF  
PRESIDENT FORD

INTRODUCTION

This memorandum is a general outline of the most important features of the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974, (the "Act") which would apply to the candidacy of President Ford for election to the office of President of the United States in 1976.

SUMMARY

- I. What is the effect of the Act on the President's candidacy prior to his nomination by the 1976 Republican Party National Convention?
  - A. The President becomes a candidate when he
    1. qualifies as a candidate under the law of any State, or
    2. receives contributions or makes expenditures for the purpose of bringing about his nomination or election, or
    3. gives his consent for any other person to receive such contributions or make such expenditures.
  - B. When the President becomes a candidate --
    1. He must immediately designate a principal campaign committee. At this stage of the campaign the principal campaign committee must be a political committee which supports no candidate other than the President for any office.

2. He must immediately designate one or more national or State banks as campaign depositories for use by his principal campaign committee and by other authorized committees.
3. He must begin making periodic reports to the Federal Election Commission and filing copies of these reports with the Secretary of State of each State in which campaign expenditures are made by him or on his behalf.

C. Finances

1. The President may not knowingly receive contributions in excess of the legal limits.
2. Neither the President nor his authorized committees and agents may knowingly spend more than \$10,000,000 in his campaign for nomination, nor may they spend in any one State more than the greater of \$200,000 or 16 cents per member of the voting age population.
3. If the President meets certain criteria and if the funds are available, he may receive, on a matching basis, up to \$5,000,000 from the United States Treasury for use in his campaign for nomination. One of the conditions for receipt of the matching funds from the Treasury is that the President must raise \$5,000 in twenty different States for a total of \$100,000 and only contributions of \$250 or less will count toward the \$5,000 per-State minimum.

II. What is the effect of the Act on the President's candidacy after his nomination by the 1976 Republican Party National Convention?

- A. The President must continue to have a principal campaign committee, one or more campaign depositories and to make required reports just as is required in the period prior to his nomination, EXCEPT that after his nomination he may, if he so chooses, designate the Republican National Committee as his principal campaign committee.

B. Finances

1. The President may not knowingly receive contributions in excess of the legal limits.
2. Neither the President nor his authorized committees and agents may spend more than \$20,000,000 in his general election campaign, EXCEPT the Republican National Committee may spend an additional amount equal to two cents multiplied by the voting age population of the United States regardless of whether it has been designated as the President's principal campaign committee.
3. If the President meets certain criteria and if the funds are available, he may receive up to \$20,000,000 from the United States Treasury for use in his general election campaign.

The remainder of this memorandum is a more detailed, but not exhaustive, discussion of the provisions summarized above and certain other provisions.

DISCUSSION

I. Actions which will make the President a candidate within the meaning of the Act

In order for the President to become a candidate within the meaning of the Act, no formal declaration of candidacy is required. For purposes of the Act the President will become a candidate for nomination for election, or election, to the office of President when he

(1) takes the action necessary under the law of a State to qualify himself for nomination for election, or election, to the office of President; or

(2) receives contributions or makes expenditures, as defined by the Act, with a view to bringing about his nomination for election, or election, to the office of President; or

(3) gives his consent for any other person to receive contributions or make expenditures, as defined by the Act, with a view to bringing about his nomination for election, or election to the office of President. 2 U.S.C. §431(b), 18 U.S.C. §591(b).

## II. Mandatory designation of a principal campaign committee

When the President becomes a candidate within the meaning of the Act, he must immediately designate a political committee to serve as his "principal campaign committee." 2 U.S.C. §432(f)(1). The principal campaign committee must have at least a chairman and a treasurer. In addition to whatever fund-raising and campaign administration functions which the principal campaign committee may perform, the Act requires that the principal campaign committee serve as a funnel for the flow of information concerning the financing of the President's campaign for nomination for election, or election. All other political committees which support the President's campaign must report to the President's principal campaign committee. The principal campaign committee must in turn report to the Federal Election Commission and must file a copy of such reports with the Secretary of State of each State in which expenditures are made by or on behalf of the President.

During the period preceding the President's nomination for the office of President by the 1976 Republican Party National Convention, the President's principal campaign committee must be a single-candidate political committee which supports no candidate other than the President for any office. After the President has been nominated for the office of President by the 1976 Republican Party National Convention, his principal campaign committee may be either a single-candidate political committee which supports no candidate other than the President for any office or the Republican National Committee. If the President designates the Republican National Committee as his principal campaign committee after his nomination for the office of President by the Republican Party National Convention, the Republican National Committee may continue to support other candidates for other offices. 2 U.S.C. §432(f)(1).

## III. Mandatory designation of a campaign depository

When the President becomes a candidate within the meaning of the Act, he must immediately designate one or more national or State banks as his campaign depositories, and he may establish one such depository in each State. The President's principal campaign committee and all other authorized committees must use these campaign depositories for the receipt of contributions and the making of expenditures.

IV. Mandatory reports by the President to the Federal Election Commission and to the Secretary of State of certain States

When the President becomes a candidate within the meaning of the Act, he must begin making periodic reports concerning his campaign finances to the Federal Election Commission. The content and frequency of these reports are prescribed by the Act. A copy of such reports must be filed with the Secretary of State of each State in which expenditures are made by or on behalf of the President.

V. Financing the President's campaign for nomination and his general election campaign

A. Contributions

Within the meaning of the Act, almost anything of value given for the purpose of influencing the nomination for election, or election, of the President constitutes a contribution. As a general rule, no person (including a political committee) may contribute more than \$1,000 to the President's campaign for nomination for election and \$1,000 to the President's general election campaign for the office of President. Furthermore, no individual may make contributions in an aggregate amount in excess of \$25,000 in any one calendar year to all candidates and political committees. An exception to the general rule provides that multi-candidate political committees, as defined by the Act, may contribute up to \$5,000 to the President's campaign for nomination for election and \$5,000 to the President's general election campaign for the office of President.

Contributions to a committee authorized by the President in writing to receive them will be considered as contributions made to him, as will contributions made to or for the benefit of the Vice-Presidential candidate nominated by the Republican Party. Contributions out of the general funds of national banks, corporations, labor organizations, government contractors and by foreign nationals, as defined in the Act, are prohibited. Cash contributions in excess of \$100 are prohibited. It is illegal to promise appointment to a public or private position or to threaten a person with loss of his job in order to obtain support for a candidate.

B. Expenditures

1. Expenditures by the President in his campaign for nomination

a. Limitations

The President may not spend more than \$10,000,000 in his campaign for nomination for election to the office of President, subject to the further limitation that he may not spend in any one State more than the greater of \$200,000 or 16 cents multiplied by the voting age population of the particular State, as determined by the Secretary of Commerce. Expenditures made on behalf of the President, by an authorized committee or a person authorized to do so by such an authorized committee or by the President, are treated as expenditures made by the President.

b. Source of funds

(1) Private funds

Subject to the applicable limitations on the amounts which may be contributed to his campaign, the President may, if he so chooses, use exclusively private funds in his campaign for nomination for election. If the President uses only private funds in his campaign for nomination, then in addition to \$10,000,000 he may also spend \$2,000,000 (20% of \$10,000,000) in fund-raising costs which will not count against the \$10,000,000 limitation on his expenditures.

(2) Combination of private and public funds

The President may, if he so chooses and if he qualifies, use a combination of private and public funds provided under the Presidential Primary Matching Payment Account Act. The President may receive on a matching basis from the Matching Payment Account, a separate account in the taxpayer-financed Presidential Election Campaign Fund of the United States Treasury (the "check-off fund"), up to \$5,000,000 in his campaign for nomination for election. In order to qualify to receive funds from the Matching Payment Account, the President must agree to certain conditions and make the certification prescribed by the Act (see 26 U.S.C. §9033) and must raise \$5,000 in contributions from residents



of each of at least 20 States (i.e., \$100,000) with the limitation that no contribution in excess of \$250 will count toward the \$5,000 per-State minimum (the "threshold requirement"). Such contributions must be made by a written instrument containing certain prescribed information identifying the donor.

If the President qualifies to receive matching payments, then for each contribution of \$250 or less which he receives, he may receive from the Matching Payment Account an amount up to \$250 but no more than a total of \$5,000,000. The President may receive contributions in excess of \$250, but only the first \$250 of each contribution will count toward the minimum \$100,000 qualifying amount and will qualify for a matching payment. Money raised after January 1, 1975 may qualify for a matching payment from the Matching Payment Account, but the matching payments will not actually be made from the Matching Payment Account until January 1, 1976. Payment of the full amount of matching funds is subject to the presence of sufficient money in the Matching Payment Account to meet the demands of all candidates.

If in his campaign for nomination the President uses a combination of private and public funds under the matching payment program, and if he receives the maximum \$5,000,000 in public funds, he may spend no more than \$1,000,000 (20% of \$5,000,000) in fund-raising costs which will not count against the \$10,000,000 limitation on his expenditures.

2. Expenditures by the President in his general election campaign

a. Limitations

In addition to the \$10,000,000 which he may spend in his campaign for nomination, the President may spend \$20,000,000 in his general election campaign for the office of President. After the President and his Vice-Presidential running-mate have been nominated by the 1976 Republican Party National Convention, any expenditures made by or on behalf of the Vice-Presidential candidate will be considered as expenditures made by or on behalf of the President and will count against the \$20,000,000 limitation on the amount which the President may spend in his general election campaign.

b. Source of funds

(1) Private funds

Subject to the applicable limitations on the amounts which may be contributed to his campaign, the President may, if he so chooses, use exclusively private funds in his general election campaign. If the President chooses to use private funds, then in addition to the \$20,000,000 which he may spend in his general election campaign, he may also spend up to \$4,000,000 (20% of \$20,000,000) in fund-raising costs which will not count against the \$20,000,000 limitation on his expenditures.

(2) Public funds

As the candidate of the Republican Party, the President may choose to receive \$20,000,000 in public money from the Presidential Election Campaign Fund for use in his general election campaign. If he chooses to use this public money and if he agrees to certain conditions and makes the certification prescribed by the Act (see 26 U.S.C. §9003), the President may only use private money to the extent that the money available from the Presidential Election Campaign Fund is less than his \$20,000,000 entitlement. If the President chooses to use public money for financing his general election campaign, he is not entitled to spend any additional amounts in exempt fund-raising costs, with the possible exception of fund-raising costs in the amount of 20% of the amount of private money raised to supplement insufficient public money.

3. Expenditures by the Republican National Committee in the President's general election campaign

In addition to the \$20,000,000 which the President may spend in his general election campaign for the office of President, the Republican National Committee may spend in the President's general election campaign an amount not in excess of 2 cents multiplied by the voting age population of the United States, as determined by the Secretary of Commerce. The Republican National Committee may spend this amount regardless of whether it is or is not the President's principal campaign committee. There is no similar provision for expenditures by State and local Republican Party Committees. If such State and local Committees make expenditures on behalf of the President or his Vice-Presidential running-mate, such expenditures will count against the \$20,000,000 limitation on the President's expenditures.

4. Independent expenditures advocating the election of the President or the defeat of his opponent

In addition to the above expenditures which may be made by or on behalf of the President, any person (including a political committee) may make an independent expenditure advocating the election of the President or the defeat of his opponent in an amount which in the aggregate does not exceed \$1,000 in any calendar year. It is essential that such an independent expenditure be in no way solicited, requested or approved by the President or any agent or committee authorized by the President.

5. Expenditures from the personal and family funds of the President and Vice President

Neither the President nor his Vice Presidential running-mate may spend more than \$50,000 each from their personal funds or the personal funds of their immediate families in connection with their campaigns for office during any calendar year. These expenditures are not in addition to, and therefore count against, the limitations on expenditures by the President and his Vice-Presidential running-mate in their campaign for nomination (\$10,000,000) and in their general election campaign (\$20,000,000). Such expenditures made in a calendar year other than an election year will be deemed to have been made in the election year.

6. Adjustment of amount of expenditure limitations

Except for the limitation on independent expenditures and the limitation on expenditures from personal and family funds, all the expenditure limitations discussed above are subject to an annual increase beginning January 1, 1976 to correspond with any increase in price index statistics compiled by the Department of Labor. Calendar year 1974 is the base year for computing any increase in the price index.

VI. Criminal penalties

Violation of almost any provision of the Act, including, for example, knowingly receiving excessive contributions, knowingly making excessive expenditures and failing to file required reports, is a crime punishable by fine and/or imprisonment.

*File*

HIGHLIGHTS OF FEDERAL LAWS RELATING TO

FINANCING AND CONDUCTING

FEDERAL ELECTION CAMPAIGNS

Prepared by:  
The Republican National Committee

January 24, 1975

## INTRODUCTION

On October 15, 1974 Congress passed and the President signed the Federal Election Campaign Act Amendments of 1974 ("the 1974 Amendments"), which made far-reaching changes in the Federal Election Campaign Act of 1971 ("the 1971 Act"). The 1971 Act, as amended by the 1974 Amendments, will hereinafter be referred to as "the Act."

The Act imposes many new restrictions on the amount of contributions which individuals and groups may make to candidates for Federal office, and on the amount of expenditures which candidates for Federal office may make and which may be made on their behalf; establishes a required procedure for disclosing, reporting and handling campaign funds; establishes a Federal Election Commission ("the Commission"); prohibits certain campaign practices; changes the law dealing with public financing of Presidential general elections; provides for public financing of national nominating conventions of political parties; and provides for partial public financing of Presidential primary elections.

All provisions of the Act became effective no later than January 1, 1975. The effect of the Act is drastically to alter the way in which campaigns for Federal offices may be financed and conducted. It is essential that you and your staff understand what you may and may not do in order to be in compliance with the law. Failure to comply with almost any provision of the Act may result in a criminal penalty. In addition, failure to comply with the provisions of the Act dealing with reporting, disclosing and handling of funds may result in the disqualification of an individual from eligibility to run for Federal office.

The Republican National Committee has prepared this "Highlights" pamphlet in order to help you familiarize yourself with the requirements of the Act. The pamphlet is called "Highlights" because it is, necessarily, a highly simplified treatment of what is, in fact, a very complicated law. The purpose of these "Highlights" is not to give you an in-depth and detailed understanding of the Act but rather

merely to alert you to what appear to be its most important features.

A Manual of Federal Laws Relating to Financing and Conducting Federal Election Campaigns ("the Manual") has been prepared by, and is available from, the Republican National Committee. The Manual contains a comprehensive examination of the Act. You should read the Manual carefully and save it for use when questions arise as to the legality of a specific transaction or practice. In any event, you should write the Republican National Committee when you have questions or problems of compliance with the Act.

### CONTRIBUTION LIMITATIONS

(See Chapter I of the Manual)

Definition of Contribution. Contribution is defined very broadly and includes almost anything of any value (including in-kind contributions) made available to a candidate's campaign which is not specifically excepted from the definition. The items which are specifically excepted, and which may be given to a candidate's campaign without counting toward the donor's contribution limitation, are:

(1) the value of the services of a person who on his own initiative volunteers his services without remuneration;

(2) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities up to \$500;

(3) the value of the discount given on the sale of food or beverages for use in a campaign at a charge less than the vendor's normal comparable charge, but at least equal to his cost, up to \$500;

(4) unreimbursed travel expenses up to \$500; and

(5) slate cards, sample ballots or other printed listings of 3 or more candidates for public office in a particular State prepared by the State or local committee of a political party (BUT not the cost of display through broadcasting stations, newspapers, magazines and other similar types of general political advertising).

Excessive Contributions Illegal. The Act imposes specific dollar limitations on the amount of contributions which individuals and organizations may give to a candidate's campaign. It is illegal for any individual or organization to make a contribution in excess of the legal limit, and it is illegal for any candidate or political committee knowingly to accept such an illegal excessive contribution.

General Rule. As a general rule, no person, including an individual, a political committee or other organization (but see the section below for the exception for multi-candidate political committees), may contribute more than \$1,000 to each stage of a candidate's campaign for nomination for election, or election to Federal office. For example, an individual could contribute \$1,000 to a Congressional candidate's campaign for nomination for election in a primary election, \$1,000 to a Congressional candidate's campaign for nomination in a runoff primary election and \$1,000 to a Congressional candidate's campaign for election in a general election (i.e., each of these stages of the electoral process is considered a separate election in Congressional campaigns). In the case of a Presidential election, however, the Act provides for only two election stages: (1) the general election and (2) all other phases of the electoral process (i.e., all of the primaries and the nominating convention are considered one stage of the electoral process). The following section deals with the \$25,000 aggregate limitation on contributions by individuals.

Aggregate Limitation on Contributions by Individuals to Candidates and Political Committees. No individual may make contributions aggregating more than \$25,000 in any calendar year to candidates and political committees. An individual who makes no other contributions in a calendar year may contribute up to \$25,000 to a political committee, including, for example, the national committee of a political party, if the contribution to the political committee is in no way earmarked for the use of a particular candidate and if the contribution is in no way earmarked for use in a calendar year other than the year in which it is made. (Contributions to a single-candidate political committee are

necessarily earmarked for the use of that candidate.) For example, in 1975 Mr. X could contribute \$25,000 to the national committee of a political party if he makes no contributions to Federal candidates or to other political committees supporting Federal candidates, if his \$25,000 contribution is in no way earmarked for the use of a particular candidate and if his contribution is in no way earmarked for use in a calendar year other than the year in which it is made. Although the Act is not entirely clear, it is probable that such a 1975 contribution by Mr. X would not prevent him from making an identical contribution in 1976 or, alternatively, from making 25 \$1,000 contributions in 1976 to candidates for Federal office. Clarification of the question of the permissibility of such a 1976 contribution will be sought from the Commission.

If a contribution is made by an individual in 1975 to a candidate for use in a candidate's campaign in 1976, the contribution must count toward the donor's 1976 \$25,000 aggregate limitation. For example, if Mr. A contributes \$1,000 to each of 15 Congressmen in 1975 for a total of \$15,000 with the intention that they use this money in their campaigns for re-election in 1976, then Mr. A may give no more than \$1,000 to each of 10 Congressional candidates in 1976. Because his 1975 contributions were made with respect to the 1976 election, his contributions are deemed to have been made in 1976 and, when combined with his contributions in 1976, equal the maximum \$25,000 allowed for any calendar year. The same rules would apply to contributions made after the calendar year of the election.

Limitations on Multi-Candidate Political Committees. An important exception to the general rule is that a multi-candidate political committee (a committee which has been registered for six months, has received contributions from more than 50 persons and has made contributions to 5 or more candidates for Federal office) may contribute up to \$5,000 to each Congressional or Presidential candidate at each stage of the election campaign (as described in the preceding paragraph) except that State political party organizations may make the \$5,000 contributions without regard to the number of candidates to whom they have contributed. Different subdivisions of the same multi-candidate political committee may each contribute \$5,000 to each stage of a candidate's election campaign ONLY IF the subdivision's decision to make the contribution is not under the control or direction of, and is made independently of, the parent committee and any other subdivision of the parent committee.



Earmarked Contributions. Contributions which are made at the request of a candidate, or to a committee authorized by the candidate, or which are earmarked for a candidate, or otherwise made through an intermediary, are counted as contributions to the candidate by the original donor. Thus the contribution limitations cannot be evaded by secret earmarking and laundering of funds.

Prohibition of Certain Contributions

Contributions by national banks, labor organizations and corporations are prohibited.

Contributions by foreign nationals are prohibited.

Contributions in the name of another are prohibited.

Cash contributions in excess of \$100 are prohibited.

In addition many types of contributions (for example, from government contractors) which were prohibited under prior law are still prohibited.

EXPENDITURE LIMITATIONS

(See Chapter I of the Manual)

Definition of Expenditure. An expenditure includes almost any campaign-related transaction or activity performed in support of a candidate's campaign which is not specifically excepted. The following exceptions to the definition of expenditure do not count toward the applicable expenditure limitation:

- (1) any news story, commentary, or editorial distributed through any broadcasting station, newspaper, magazine or other periodical publication not owned or controlled by any political party, political committee or candidate;
- (2) non-partisan get-out-the-vote activity;
- (3) any communication to its members or stockholders by any membership organization or corporation,

not organized primarily for the purpose of influencing a candidate's nomination or election;

(4) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities up to \$500;

(5) unreimbursed payment for travel expenses by an individual volunteer up to \$500;

(6) any communication not made for the purpose of influencing the nomination or election of a candidate;

(7) slate cards, sample ballots and other listings of 3 or more candidates in a State by the State or local committee of a political party (BUT not including display of such a listing through broadcasting stations, newspapers, magazines or other similar types of general public political advertising);

(8) up to 20% of the amount of the candidate's applicable expenditure limitation spent by a candidate (or by an individual or single-candidate committee authorized by the candidate) in connection with the solicitation of contributions; and

(9) any amount spent by a political committee (other than a single-candidate political committee) in connection with the solicitation of contributions (BUT not including the cost of soliciting contributions through broadcasting stations, newspapers, magazines, outdoor advertising facilities and other similar types of general public political advertising).

Limitations on Candidate for President. A candidate for the office of President may spend no more than \$10,000,000 in his primary campaigns and no more than \$20,000,000 in his general election campaign. He may elect to finance these campaigns by means of public financing. Public financing is explained more fully later in this pamphlet.

Limitations on Candidates for Senator, Representative, Delegate and Commissioner. A candidate for nomination for election to the office of Senator or to the office of Representative from a State entitled to only one Representative may spend no more than the greater of 8 cents multiplied by the voting age population of the State (as certified by the Secretary of Commerce) or \$100,000 in each stage of his nomination campaign. In each general election campaign such a candidate may spend no more than the greater of 12 cents multiplied by the voting age population of the State or \$150,000.

A candidate for nomination or election to the office of Representative from a State entitled to more than one Representative, to the office of Delegate from the District of Columbia or to the office of Resident Commissioner may spend no more than \$70,000 in each stage of his campaign for nomination or election.

A candidate for nomination or election to the office of Delegate from Guam or the Virgin Islands may spend no more than \$15,000 in each campaign for nomination or election.

Limitation on Expenditures from Personal Funds of a Candidate or His Immediate Family. Expenditures by a candidate either from his personal funds or from the personal funds of his immediate family in all of his campaigns in any one calendar year are limited to

- (1) \$50,000 in the case of a candidate for the office of President or Vice President;
- (2) \$35,000 in the case of a candidate for election to the office of Senator or the office of Representative from a State entitled to only one Representative; or
- (3) \$25,000 in the case of a candidate for the office of Representative from a State entitled to more than one Representative, the office of Delegate or the office of Resident Commissioner.

If such an expenditure is made in 1975 for use in a campaign in 1976, the expenditure must count toward the candidate's 1976 expenditure limitation.

This provision does not apply to payment of debts incurred in campaigns prior to December 31, 1972. A candidate's immediate family means his spouse, child, parent, grandparent, brother or sister and the spouses of such persons. No candidate or his immediate family may make loans or advances from their personal funds to a candidate's campaign, unless the loan or advance is evidenced by a written instrument fully disclosing the terms of the loan or advance. The outstanding unpaid balance of any such loan or advance must be included in computing the total amount of personal and family expenditures.

Additional Allowable Expenditures by Party Committees. In addition to amounts allowed to be spent pursuant to the above limitations,

(1) the national committee of a political party may spend in a general election for the office of President 2 cents multiplied by the voting age population of the United States (State and county party committees may not make such expenditures on behalf of a Presidential campaign); and

(2) the national committee of a political party and the State committee of a political party (including any expenditures by subordinate committees of a State committee) may each spend

(a) in a general election for the office of Senator or Representative from a State entitled to only one Representative the greater of 2 cents multiplied by the voting age population of the State or \$20,000; or

(b) in a general election for the office of Representative from a State entitled to more than one Representative, the office of Delegate or the office of Resident Commissioner \$10,000.

Application and Adjustment of Limitations. Unless otherwise indicated, all the above expenditure limitations apply separately to each stage of the election process. Beginning in January, 1976 the amount of the limitations will be adjusted annually to reflect any increase in the Consumer Price Index.

Attribution of Expenditures. Expenditures which are made at the request of a candidate or by a committee authorized by the candidate are counted as expenditures made by the candidate.

Independent Expenditures. Regardless of all the above expenditure limitations, any person (which includes an individual, any type of political committee or any other group of individuals) may make on his own initiative an independent expenditure (i.e., an expenditure which is not made by a committee authorized by the candidate or his agents and which has not been authorized or requested by the candidate, an authorized committee or his agents) during any calendar year in an aggregate amount not greater than \$1,000 advocating the election or defeat of a particular candidate. The expenditure must be truly independent, spontaneous and in no way approved by the candidate or his representatives. When such expenditures in a calendar year exceed \$100 in the aggregate, the person making the expenditure must file a prescribed report with the Commission. There is no limit on the number of candidates with respect to which such \$1,000 independent expenditures may be made. For example, an individual could make 50 \$1,000 expenditures advocating the election of each of 50 Congressional candidates (for a total of \$50,000) if each of these \$1,000 expenditures qualified as an independent expenditure. Since such expenditures are not contributions, the \$25,000 aggregate limit on contributions does not limit the amount of independent expenditures. The individual would have to report such expenditures to the Commission.

## STATEMENTS AND REPORTS

(See Chapter II of the Manual)

Statement of Organization of Committee. Every political committee must file a statement of organization with the Commission if the committee anticipates receiving contributions or making expenditures in excess of \$1,000 in any calendar year. This statement must be filed within 10 days of the date of anticipation by the committee that it will receive or make \$1,000 worth of contributions or expenditures. In other words, the statement must be filed 10 days from the date of anticipation, not 10 days from the date of the actual receipt or expenditure of the \$1,000.

Reports of Candidate, Principal Campaign Committee and Other Committees. Each candidate for Federal office

must designate a principal campaign committee, even if the candidate does not anticipate receiving contributions from political committees. A multi-candidate political committee may not be a principal campaign committee except that the national committee (a multi-candidate committee) of a political party may be the principal campaign committee for its Presidential candidate in the Presidential general election. The principal campaign committee has the responsibility of receiving and compiling the reports of all other political committees which support the candidate concerning contributions made by such committees to the candidate or expenditures made by them on behalf of the candidate. These reports were formerly filed by each committee with the appropriate supervisory officer. The principal campaign committee must file a complete compilation of such reports, along with its own statement and reports, with the Federal Election Commission. The Clerk of the House and Secretary of the Senate will still receive candidate and principal campaign committee reports concerning candidates for the House and Senate, respectively, but only as custodians for the Commission.

Reports must be filed with the Commission by both the treasurer of each principal campaign committee and by the candidate. The treasurer of each political committee must file reports with the appropriate principal campaign committee. The reports generally must contain all contributions received and expenditures made by the reporting committee or candidate as well as the identification of the person to whom a contribution was made or from whom it was received. Also, the identification of any person to whom expenditures were made must be reported. Furthermore, all guarantors of loans must be disclosed in the reports, as well as the circumstances under which a loan was extinguished.

Reports by Persons Other Than Candidates or Committees. A person who makes contributions or expenditures over \$100, other than by contribution to a candidate or a political committee, must file a report with the Commission. Furthermore, any organization which expends money or commits any act directed to the public for the purpose of influencing an election must also file a report with the Commission disclosing the source of the funds supporting such activity. This requirement forces organizations such as Common Cause and the American Civil Liberties Union to disclose the source of their funds.

Exemption for Members of Congress from Reporting Value of Certain Services in Non-Election Years. In a non-election year, Members of Congress do not have to report the value of photographic, matting and recording services furnished to them in the non-election year by the Senate Recording Studio, the House Recording Studio, an employee of the Senate or House or if such services are paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee or the National Republican Campaign Committee. However, in an election year, they do have to report the value of such recording services furnished to them in that election year.

#### Time for Filing Reports

In an Election Year. Reports must be filed not later than 10 days before the election and must be complete as of 15 days before the election. (This report replaces the 5-day and 15-day reports required by the 1971 Act.) Any reports filed by registered or certified mail must be post-marked not later than 12 days before the election. A report must be filed not later than 30 days after the election and must be complete as of 20 days after the election. Any contribution of \$1,000 or more which is received after the 15th day before an election must be reported to the Commission within 48 hours.

For a Non-Election Year. For a non-election year in which an individual is a candidate for Federal office a report must be filed by January 31 of the following year and must be complete as of December 31 of the non-election year.

Quarterly Reports. Quarterly reports must be filed by any candidate or political committee which receives contributions or makes expenditures in excess of \$1,000 or more in any calendar quarter. These quarterly reports must be complete as of the end of the quarter and filed within 10 days after the end of the quarter.

Report on January 31, 1975. Notwithstanding the 1974 amendments to the 1971 Act, the report which was required to be filed under the 1971 Act by January 31, 1975 must still be filed.

Filing of Reports with States. A copy of the reports filed with the Commission by House, Senate and Presidential candidates and their committees must be filed

with the Secretary of State of the State in which the election takes place. In the case of the Presidential candidate and his committees, copies of these reports must be filed in every State where an expenditure is made on the candidate's behalf. State laws are superseded and preempted. Therefore, candidates for Federal office and political committees which support Federal candidates are not required to file any State reports except for the above-mentioned filing with the applicable Secretary of State.

Penalty for Failure to File Report. In addition to a fine or imprisonment, any person who fails to file a required report with the Commission, or who files a report late, may be disqualified from becoming a candidate for Federal office in a future election.

#### HANDLING OF FUNDS

(See Chapter II of the Manual)

General. Each political committee must have a chairman and a treasurer. The treasurer is responsible for keeping an account of all contributions and expenditures of the political committee as well as preparing and signing the reports filed with the Commission. The treasurer may be criminally liable if any of the requirements relating to reporting, disclosing or handling funds are violated. NO CONTRIBUTION OR EXPENDITURE MAY BE ACCEPTED OR MADE BY A POLITICAL COMMITTEE WHEN THERE IS A VACANCY IN THE POSITION OF CHAIRMAN OR TREASURER OF THE COMMITTEE. Every person who receives a contribution in excess of \$10 on behalf of a political committee must report the contribution to the treasurer within 5 days after receipt or upon demand by the treasurer.

Campaign Depositories. Every authorized political committee must maintain a checking account at a campaign depository (a national or State bank) designated by the candidate. Every unauthorized political committee must maintain a checking account at a campaign depository (a national or State bank) designated by the treasurer of such unauthorized political committee. Every expenditure, except an expenditure to one person for \$100 or less which may



be made from a petty cash fund, must be made by a check drawn on the checking account at the campaign depository. All contributions received by a candidate or a political committee are required to be deposited in the checking account at the candidate or committee's campaign depository.

Use of Excess Funds. If a candidate receives more contributions than he uses in his campaigns for nomination or election he may use these excess funds to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, or he may contribute the funds to a charitable organization described in Section 170(c) of the Internal Revenue Code, or he may use the funds for any other lawful purpose. The same rule governs the disposition of funds received by an individual for the purpose of supporting his activities as a holder of Federal office.

#### FEDERAL ELECTION COMMISSION

(See Chapter III of the Manual)

General. The 1974 Amendments establish an independent Federal Election Commission responsible for administering the Act. The members of the Commission have not yet been appointed. The people responsible for administering the 1971 Act will continue to perform their present duties until the members of the Commission have been appointed.

Powers. Among other powers, the Commission has the power to conduct investigations, to hold hearings, to issue subpoenas, to initiate, defend and appeal civil actions and to refer violations of the Act (including violations of criminal laws) to the Attorney General.

Advisory Opinions. The Commission must issue advisory opinions on the legality of a specific transaction or activity upon the request of any individual holding Federal office, any candidate for Federal office or any political committee. Such requests must be made public by the Commission. If a person for whom an advisory opinion has been rendered acts in good faith in accordance with the opinion, he will be presumed to be in compliance with the Act. If a question arises concerning any of the provisions

of the Act, an advisory opinion should be sought from the Commission. The person requesting such an opinion should not do anything until the Commission gives its approval through an advisory opinion.

Judicial Review. The Commission's acts are subject to judicial review on the initiative of a person aggrieved by a particular act of the Commission. An action testing the constitutionality of the Act may be initiated by the Commission, the national committee of a political party or any individual eligible to vote in a Presidential election. Judicial actions reviewing acts of the Commission or testing the constitutionality of the Act must be expedited by the appropriate courts.

Regulations. The Commission is required to issue regulations, but any regulations proposed by it must be submitted to Congress prior to promulgation and may be vetoed by Congress within 30 legislative days after receipt.

Enforcement. The Commission has the authority to conduct investigations, which must be performed expeditiously, and to use its civil enforcement powers, as well as informal methods of persuasion such as conferences, in attempting to correct a violation. It may also report any violations of criminal laws to the Attorney General for criminal prosecution.

#### MISCELLANEOUS PROVISIONS

(See Chapter IV of the Manual)

Statute of Limitations. The statute of limitations for initiating prosecutions for violation of the Act is three years from the date of the violation.

Use of Frank. It is illegal to use mailings under the frank for the purpose of soliciting campaign contributions.

Honorariums. Federal officers and employees (among others, Senators, Representatives, Delegates and Resident Commissioners) may not accept an honorarium in excess of \$1,000, plus travel and subsistence expenses, or more than \$15,000 total honorariums in any calendar year.

Fraudulent Misrepresentation. Fraudently misrepresenting one's campaign authority is illegal.

Repeal of Limitation. The Campaign Communications Reform Act, which imposed limitations on media expenditures by candidates, has been repealed.

No Tax Deduction for Ads in Convention Programs. The tax deduction for advertising in a national political party convention program has been repealed.

Political Activities of State and Local Employees. State and local officers and employees, whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the Federal government, are no longer prohibited from general participation in political campaigns unless there is a State law prohibiting such activity. Except for elected officials and certain other specifically excepted individuals, however, State and local officers and employees are still prohibited from actually running for election to Federal office, unless all candidates in the election are non-partisan.

Separate Segregated Funds. Corporations and labor organizations, including government contractors, may establish, administer and solicit voluntary contributions to separate segregated funds to be utilized for political purposes.

Effect on State Law. The limitations on contributions and expenditures and the provisions dealing with reporting, disclosing and handling campaign funds supersede and preempt any provision of State law with respect to election to Federal office. State laws which purport to regulate contributions and expenditures in campaigns for Federal office are no longer valid. Furthermore, the only reports which a candidate for Federal office must file with a State are the reports required by the Act to be filed with the Secretary of State in each State in which a Federal election takes place.

## PUBLIC FINANCING

(See Chapter V of the Manual)

General. The public financing aspects of the 1974 Amendments to the Act are not applicable to Congressional elections, but do provide for the total public financing of Presidential general election campaigns and Presidential nominating conventions and the partial public financing of Presidential primary campaigns. The money for this program will come entirely from the Presidential Election Campaign Fund (the "Fund"). The Fund receives its money solely from taxpayers who designate one dollar of their tax payment (two dollars on a joint return) to go into the Fund. This system, which was in existence prior to the enactment of the 1974 Amendments, is popularly known as the checkoff system. The money in the Fund will be used for public financing of Presidential primary and general elections and national nominating conventions.

Presidential Nominating Conventions. The national committee of a major party is entitled to \$2,000,000 from the Fund in order to defray the expenses of its Presidential nominating convention. The national committee is not required to accept this money but may choose to raise its own funds privately. However, if it chooses to use private financing, it is still limited to spending \$2,000,000. The \$2,000,000 limit will be increased on a yearly basis to reflect increases in the Consumer Price Index. (This increase is similar to the increase in the spending limits on candidates mentioned earlier in this pamphlet.)

The Commission is authorized by the Act to promulgate rules and regulations defining expenses which may be incurred by a national committee in conducting its convention.

The national committee of a minor party may also elect to use public financing for its convention, but it is entitled only to a percentage of the major party entitlement. The minor party may raise the remainder up to the major party entitlement through private contributions. The percentage is based on the percentage of the popular vote received by the minor party candidate in the previous Presidential election.

Financing of national nominating conventions has priority over financing of the Presidential general election and Presidential primaries in the event the Fund does not have sufficient money to finance fully all of its obligations.

Presidential General Election Campaigns. Candidates for President may choose to finance publicly their Presidential general election campaigns. These moneys are paid out of the Fund to the candidates. Major party candidates are entitled to \$20,000,000, the applicable expenditure limitation (subject to yearly increases based on the Consumer Price Index). If a candidate elects to fund his campaign privately, he is, nevertheless, subject to the applicable contribution and expenditure limitations. Also, a candidate must either totally accept public financing or totally reject it. He cannot use partial public financing, unless the Fund does not have sufficient money available to give him his full entitlement. In that case, the candidate is permitted to raise the remainder from private sources and is allotted a 20 percent exemption for fund-raising costs.

A minor party Presidential candidate is also entitled to public funds to defray his qualified campaign expenses incurred in the general election campaign. Such a candidate will not receive the full amount paid to the major party candidate but rather a percentage thereof based on the popular vote received by the minor party's candidate in the preceding Presidential general election. A candidate of a new or minor party may receive a partial reimbursement after the election if he receives over 5% of the popular vote in the general election.

If the Fund does not have sufficient money to provide public financing to all of the candidates who choose public financing, the Secretary of the Treasury, who disburses the money after certification by the Commission, will distribute the money on a pro rata basis. The Presidential general election is next in line for public funding after the nominating convention. The general election must be completely funded before moneys are disbursed for Presidential primary campaigns.

Presidential Primary Campaigns. The public funding of Presidential primary campaign expenses is basically a

matching program. Before a candidate qualifies for any money from the Fund, he must declare his candidacy and then raise \$100,000 by means of private contributions (sometimes called the "threshold requirement"). This \$100,000 must be raised by contributions of \$5,000 or more from at least twenty states and only contributions of \$250 or less will be counted in totaling the qualifying figure.

After the candidate has qualified, the threshold requirement and each succeeding contribution of \$250 or less to the candidate will be matched by a similar contribution from the Fund. During this period, a candidate may accept contributions of up to \$1000 from individuals and up to \$5,000 from multi-candidate political committees, but only the first \$250 will be matched with public funds. Only money raised after January 1, 1975 will count in determining the qualifying figure or will be matched by dollars from the Fund.

The maximum that a Presidential candidate may spend in defraying expenses incurred for his primary campaign is \$10,000,000 (subject to annual adjustments based on increases in the Consumer Price Index). Furthermore, he may not spend in any one State more than twice the expenditure limitation imposed on a candidate for Senator from that State. Half of the \$10,000,000 limit (\$5,000,000) may be received from the Fund. Also, a candidate is accorded a 20 percent fund-raising allowance for the money which he must raise privately. Therefore, he may spend an additional \$1,000,000 (20 percent of \$5,000,000) to defray his fund-raising costs.

The Presidential primaries have the lowest priority if the Fund does not have sufficient money to finance totally the nominating conventions, the general election and the primaries. Once allowance has been made for the nominating convention and the general election expenses, then money in the Fund will be supplied to the qualified primary candidates. A candidate may elect not to seek any public funds for his primary campaigns. In such a case he may raise his money through private contributions, but he will be limited to spending \$10,000,000 and his fund-raising exemption will be \$2,000,000.

Commission Supervision. The Commission is the watchdog over the use of public money for all of the above public financing functions. It will perform examinations and audits to make certain that the political parties and candidates have used the public funds to defray expenses which were properly incurred. It will also promulgate regulations to define what are qualified campaign expenses and qualified convention expenses.

Political parties and candidates have further reporting requirements under the public financing provisions, and criminal penalties may be imposed on persons who use public money for unauthorized purposes.

Disbursement of Funds. Public funds for financing national nominating conventions of political parties will not be disbursed prior to July 1, 1975. Money for financing Presidential primaries and Presidential general elections will not be disbursed prior to January 1, 1976.

## FEDERAL TAX CONSIDERATIONS

Under the new tax regulations, all political organizations with taxable income of over \$100 must file an 1120 corporation tax return and pay any taxes due. IRS rulings specifically mention three kinds of income which are taxable to political organizations: (1) interest, (2) dividends, (3) net gains from the sale of appreciated property sold after August 1, 1973. The only other kind of income which is taxable to a political organization is business income which is obviously unrelated to politics (i.e., rental income, etc). The law specifically allows each political organization a \$100 exemption from these forms of income. Thus, those political organizations which have income from the sources mentioned above totaling \$100 or less do not have to file tax returns or pay taxes. The other important provisions in the new tax laws affecting political organizations are as follows:

1. Effective May 7, 1974, the \$3,000 gift tax limit no longer applies to political contributions.
2. Beginning with the 1975 calendar year, the amount of political contributions (including contributions to a newsletter fund established by an individual who holds, has been elected to, or is a candidate for public office) which can be deducted on federal income tax returns has been increased to: \$50 credit or \$200 deduction on joint returns and \$25 credit or \$100 deduction on individual returns.
3. Section 276C of the IRS Code has been repealed. Thus, corporations are no longer allowed a tax deduction for advertising in convention programs of national political conventions.