

CITIZEN LEGISLATURE AND POLITICAL FREEDOM ACT

—————
AUGUST 5, 1999.—Ordered to be printed
—————

Mr. THOMAS, from the Committee on House Administration,
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 1922]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 1922) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, having considered the same, report without recommendation.

PURPOSE OF THE LEGISLATION

In order to provide the House with an opportunity for debate on a range of approaches to the campaign finance issue, the Committee is submitting without recommendation one of the more thoughtful measures which has garnered substantial support in the 105th and 106th Congresses.

H.R. 1922 features the removal of all contribution limits, an end to the current system of public financing for presidential election campaigns, a requirement for national parties to disclose soft money transfers to state and local parties, mandatory electronic filing and expedited reporting within 90 days of an election, and a waiver of the Federal Election Campaign Act's "best efforts" exception for reporting the identity of those who contribute more than \$200 a calendar year.

SUMMARY OF THE LEGISLATION
SECTION-BY-SECTION DESCRIPTION

Section 1. Title

(a) Entitles bill "Citizen Legislature and Political Freedom Act".

Section 2. Removing limitations on federal election campaign contributions

(a) Abolishes all limits on contributions (to and from candidates, parties, and PACs), after 2000.

Section 3. Terminating taxpayer financing of presidential election campaigns

(a) Ends tax checkoff that finances public funding system, for tax years beginning after 1999.

(b) Ends Presidential Election Campaign Fund and Presidential Primary Matching Payment Account, after 2000.

(c) Provides for transfer of funds remaining after 2000 to the general fund of the Treasury.

Section 4. Requiring disclosure for certain political party soft money expenditures

(a) Requires disclosure of all national party transfers to state and local parties, regardless of whether the funds are otherwise regulated by federal election law.

(b) Requires state and local parties to file copies with the FEC of any disclosure reports required under state and local law.

(c) Makes this section effective for election after January 2001.

Section 5. Promoting expedited availability of FEC reports

(a) Requires electronic filing of reports by all committees.

(b) Requires committees to notify FEC within 24 hours of all donations in last 90 days of an election, including the name of the candidate and office, identification of the contributor, and date of receipt and amount of the contribution.

(c) Requires posting of information contained in disclosure reports within 24 hours on Internet and at FEC.

(d) Makes this section effective on January 1, 2001.

Section 6. Ending "best efforts" exception for information on contributor's identity

(a) Ends "best efforts" exception for identification of contributors, for itemized donations of over \$200.

(b) Makes this section effective after January 2001.

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFERRAL

On May 25, 1999, Mr. Doolittle (for himself, Mr. DeLay, Mrs. Cubin, Mr. Shadegg, Mr. McIntosh, Mr. Sam Johnson of Texas, Mr. Dickey, Mr. Paul, Mrs. Chenoweth, Mr. Largent, Mr. Tancredo, Mr. Taylor of North Carolina, Mr. Peterson of Pennsylvania, Mr. Knollenberg, Mr. Tiahrt, Mr. Skeen, Mr. Barr of Georgia, Mr. Han-

sen, Mr. Crane, Mr. Armev, Mr. Calvert, Mr. Cannon, Mr. Nethercutt, Mr. Lewis of California, Mr. McInnis, Mr. Young of Alaska, Mr. Linder, Mr. Spence, Mr. Dreier, Ms. Pryce of Ohio, Mr. Pombo, Mr. Radanovich, Mr. Lewis of Kentucky, Mr. Traficant, Mrs. Fowler, Mr. Wicker, Mr. Camp, Mr. McKeon, Mr. Collins, Mr. Cunningham, Mr. Baker, Mr. Sessions, Mr. Burton of Indiana, Mr. Cook, Ms. Dunn, Mr. Hunter, Mr. King, Mr. Norwood, Mr. Packard, Mr. Rohrabacher, Mr. Tauzin, Mr. Whitfield, Mr. Gary Miller of California, Mr. McCreery, Mr. Miller of Florida, Mr. Jones of North Carolina, Mr. Hall of Texas, Mr. Coble, Mr. Bliley, Mr. Salmon, Mr. Ballenger, Mr. Mica, Mr. Weldon of Florida, Mr. Sweeny, Mr. Rogan, Mr. Simpson, Mr. Hayes, Mr. Hoekstra, Mr. Callahan, Mr. Everett, and Mr. Herger) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

HEARINGS

The Committee on House Administration held four days of a hearing on Campaign Reform over two months in 1999.

On June 17, 1999, the Committee held the first day of the hearing on Campaign Reform. Members present: Mr. Boehner, Mr. Ehlers, Mr. Mica, Mr. Ewing, Mr. Hoyer, and Mr. Davis. Witnesses: Gilchrest testified on H.R. 593 and 594. Mr. Calvert testified on H.R. 1880. Mr. Sabo testified on H.R. 1171.

On June 29, 1999, the Committee held the second day of the hearing on Campaign Reform. Members present: Mr. Thomas, Mr. Boehner, Mr. Ney, Mr. Mica, Mr. Ewing, Mr. Hoyer, Mr. Fattah, and Mr. Davis. Witnesses: Mr. Shays testified on H.R. 417, Mr. Hutchinson testified on H.R. 1867, Mr. Regula testified on H.R. 1641, Ms. Mink testified on H.R. 399 and H.R. 400, Mr. Gillmor testified on H.R. 1778 (sharing time with Mr. Tanner), and Mr. Andrews testified on H.R. 331.

On July 13, 1999, the Committee held the third day of the hearing on Campaign Reform. Members present: Mr. Boehner, Mr. Ney, Mr. Ewing, Mr. Hoyer, and Mr. Davis. Witnesses: Mr. Dreier submitted written testimony on H.R. 32, Mr. Doolittle testified on H.R. 1922, Mr. Burton testified on 1747, Mr. Bereuter testified on H.R. 69, Mr. Pitts testified on H.R. 223, Mr. Goodling testified on H.R. 2467, Mr. Price testified on H.R. 227, Mr. Paul testified on H.R. 2026 and H.R. 2027, and Mr. Watkins testified on H.R. 696.

On July 22, 1999, the Committee held the fourth day of the hearing on Campaign Reform. Members present: Mr. Thomas, Mr. Boehner, Mr. Ehlers, Mr. Hoyer, Mr. Fattah, and Mr. Davis. Witnesses: Roger Pilon, Director, Center for Constitutional Studies, CATO Institute; Laura Murphy, Legislative Director, American Civil Liberties Union; Don Simon, Acting President, Common Cause; Jim Miller, Author of Monopoly Politics, Former Director OMB; Burt Neuborne, Director, Brennan Center for Law and Justice; James Bopp, James Madison Center for Free Speech; Bob Dahl, Fair Government Foundation; Paul Sullivan, Americans Back in Charge Foundation; David O'Steen, Exective Director, National

Right to Life Committee; Cheryl Perrin, Executive Director, Campaign for America; Amy Kauffman, Research Fellow, Hudson Institute; and Kathleen Hall Jamieson, Dean, the Annenberg School of Communication.

MARKUP

On Monday August 2, 1999 the Committee met to mark up H.R. 2668, H.R. 417, H.R. 1867, and H.R. 1922. The Committee reported H.R. 1922 without recommendation by a show of hands a quorum being present. During the markup one amendment was offered by Mr. Fattah to H.R. 1922 (Doolittle) to add the language of H.R. 2668 to H.R. 1922. Rejected by a show of hands.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE RECORD VOTES

Clause 3(b) of House rule XIII requires the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report. No recorded votes were requested during consideration of H.R. 1922.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

OVERSIGHT FINDINGS OF COMMITTEE ON GOVERNMENT REFORM

The Committee states, with respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives that the Committee on Government Reform and Oversight did not submit findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII, the Committee states that Article 1, Section 4 of the U.S. Constitution grants Congress the authority to make laws governing the time, place and manner of holding Federal elections.

FEDERAL MANDATES

The Committee states, with respect to section 423 of the Congressional Budget Act of 1974, that the bill does not include any significant Federal mandate.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee

states that H.R. 1922 is not intended to preempt any state or local law.

STATEMENT ON BUDGET AUTHORITY AND RELATED ITEMS

The bill does not provide new budget authority.

COMMITTEE COST ESTIMATE

Clause 3(c)(2) of rule XIII requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 3(d)(2) of rule XIII requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 4, 1999.

Hon. WILLIAM M. THOMAS,
*Chairman, Committee on House Administration,
House of Representatives, Washington DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1922, the Citizen Legislature and Political Freedom Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs) and John Harris (for the private-sector impact).

Sincerely,

DAN. L. CRIPPEN, *Director.*

Enclosure.

Following the 2000 election cycle, H.R. 1922 would eliminate the Presidential Election Campaign Fund (PECF) and remove limitations on the amount of contributions individuals can make to candidates in federal elections. The bill also would require additional disclosure for certain expenditures of so-called "soft money" by political parties and require increased electronic filing by political

committees with the Federal Election Commission (FEC). Finally, the bill would require that political committees report within 24 hours all contributions received during the 90 days preceding an election.

By eliminating any public funding for the quadrennial presidential election campaign, CBO estimates that H.R. 1922 would decrease direct spending by \$260 million over the 1999–2004 period and by \$585 million over the 1999–2009 period. Implementing the bill would affect the collection of fines and penalties, but CBO estimates that the annual change in governmental receipts would not be significant. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

Subject to the availability of appropriated funds, CBO estimates that implementing H.R. 1922 would cost the FEC about \$1 million in fiscal year 2000. In future years, the bill might increase or decrease costs to the FEC. We estimate that the net change in costs would be less than \$2 million a year.

H.R. 1922 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. The bill would impose new private-sector mandates as defined in UMRA, but CBO estimates that there would be no net costs for complying with those mandates.

Estimated cost to the Federal Government

CBO estimates that implementing H.R. 1922 would decrease direct spending, increase governmental receipts, and increase discretionary spending for administrative costs at the FEC. The costs of this legislation fall within budget function 800 (general government).

Direct spending

H.R. 1922 would eliminate the PECF after the 2000 election cycle. The PECF finances a large share of the costs of Presidential election campaigns. It matches dollar-for-dollar contributions of up to \$250 made by individuals to eligible primary candidates, provides payments to major political parties to cover the costs of their nominating conventions, and provides payments to eligible nominated candidates to cover campaign costs associated with the general election. Taxpayers finance the fund by voluntarily designating on their income tax forms a portion of their annual tax liability—\$3 for individual filers and \$6 for joint returns—to be paid into the PECF. The voluntary earmarking of a portion of taxpayers' tax liability does not affect the amount of taxes owed to the federal government or the amount of any refund owed taxpayers. Thus, the fund is not a source of income for the federal budget. In 1998, taxpayers designated \$63.3 million for deposit in the PECF; for the 1996 Presidential campaign cycle, the fund made payments of \$234 million to eligible candidates and political parties.

Based on our estimate of the amount of voluntary designations that taxpayers will make for tax years 1999 and 2000 and the amount of public funding that will be required for the 2004 and 2008 Presidential election cycles, CBO estimates that eliminating the PECF would decrease direct spending by \$585 million over the

1999–2009 period. That amount includes reductions in outlays of \$269 million and \$298 million, respectively, from not providing public funding for the 2004 and 2008 elections, and a reduction in outlays of \$18 million in 2001 related to the 2000 campaign. (The year-by-year impact on outlays is shown in the pay-as-you-go table in the following section. Budget Authority would decline by \$65 million a year starting in 2001.)

CBO estimates that the fund's current balance plus designations for tax years 1999 and 2000 would be insufficient to fully fund the cost of the 2000 campaign. Current law provides that payments cannot be made to eligible candidates and parties except to the extent that sufficient funds exist in the PEF to make such payments. Thus, the FEC would be required to provide pro-rata payments to first the primary candidates and then the general election candidates to ensure that total payments for the 2000 campaign do not exceed the fund's balance

Governmental receipts

Enacting H.R. 1922 would affect the collection of fines and penalties for violations of campaign finance law. CBO estimates that any change in the amount of annual payments from penalties and fines would not be significant.

Discretionary spending

After the 2000 cycle for federal elections, H.R. 1922 would require that political committees electronically file their reports with the FEC and report daily on any contributions received during the last 90 days of an election, and would require that the FEC process and post such information on its Internet site within 24 hours of receiving it. Based on information from the FEC, and subject to the availability of appropriations, CBO estimates that implementing H.R. 1922 would cost the FEC about \$1 million in fiscal year 2000. This cost would cover the one-time expenses of reconfiguring the FEC's information systems to handle the increased workload from accepting and processing daily reports, as well as writing new regulations implementing the bill's provisions and printing and mailing materials informing candidates and political committees of the new requirements.

In future years, the FEC would have to monitor political parties' compliance with the bill's provisions. Requiring that political parties disclose certain soft money expenditures and that political committees file daily during the last 90 days of an election would add to the FEC's costs, but eliminating limitations on the amount individuals could contribute to federal campaigns would reduce them. Whether the result would be a net increase or decrease in costs is difficult to determine, but CBO estimates that the net change in such costs would be small (less than \$2 million a year).

Pay-as-you-go considerations

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects

in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	0	-18	0	-29	-213	-27	0	-32	-201	-65
Changes in receipts	0	0	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments

H.R. 1922 contains no intergovernmental mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

Estimated impact on the private sector

H.R. 1922 would impose new private-sector mandates on political parties, other political organizations, and candidates for federal office. Section 4 would require the national committees of political parties to include information on the transfer of funds to state and local party organizations in their post-election reports to the Federal Election Commission. Section 4 would also require state and local party organizations to submit copies of their reports to state election authorities to the FEC. Section 5 would require political committees, including party organizations, advocacy groups, and the election committees of candidates for federal office, to submit reports to the FEC in electronic format. The bill would more than offset the costs of these mandates, however, by abolishing existing statutory limits on campaign contributions by individuals. Based on information from the FEC, CBO expects that increased receipts from individuals' contributions would be significantly larger than the cost of the new reporting requirements.

Estimate prepared by: Federal costs: John R. Righter; Impact on the private sector: John Harris.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

FEDERAL ELECTION CAMPAIGN ACT OF 1971

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ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

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[(i) When the treasurer] *(i)(1) Except as provided in paragraph (2), when the treasurer* of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or

any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(2) Paragraph (1) shall not apply with respect to information regarding the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year (as required to be provided under subsection (c)(3)).

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REPORTS

SEC. 304. (a)(1) * * *

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

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

(6)(A) Each political committee shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution received by the committee during the period which begins on the 90th day before an election and ends at the time the polls close for such election. This notification shall be made within 24 hours (or, if earlier, by midnight of the day on which the contribution is deposited) after the receipt of such contribution and shall include the name of the candidate involved (as appropriate) and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

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

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(11)(A) The Commission shall [permit reports required by] require reports under this Act to be filed and preserved by means of computer disk or any other appropriate electronic format or method, as determined by the Commission.

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(b) Each report under this section shall disclose—

(1) * * *

* * * * *

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

(A) * * *

* * * * *

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

(i) * * *

* * * * *

(v) any other disbursements; [and]

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 315(b); and

(J) in the case of a political committee of a national political party, all funds transferred to any political committee of a State or local political party, without regard to whether or not the funds are otherwise treated as contributions or expenditures under this title;

* * * * *

(d) If a political committee of a State or local political party is required under a State or local law, rule, or regulation to submit a report on its disbursements to an entity of the State or local government, the committee shall file a copy of the report with the Commission at the time it submits the report to such an entity.

(e)(1) The Commission shall make the information contained in the reports submitted under this section available on the Internet and publicly available at the offices of the Commission as soon as practicable (but in no case later than 24 hours) after the information is received by the Commission.

(2) In this subsection, the term "Internet" means the international computer network of both Federal and non-Federal interoperable packet-switched data networks.

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LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 315. (a)(1) * * *

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(9) The limitations established under this subsection shall not apply to contributions made during calendar years beginning after 2000.

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INTERNAL REVENUE CODE OF 1986

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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**PART VIII—DESIGNATION OF INCOME TAX PAYMENTS
TO PRESIDENTIAL ELECTION CAMPAIGN FUND**

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SEC. 6096. DESIGNATION BY INDIVIDUALS.

(a) * * *

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(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.

**Subtitle H—Financing of Presidential
Election Campaigns**

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**CHAPTER 95—PRESIDENTIAL ELECTION
CAMPAIGN FUND**

Sec. 9001. Short title

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Sec. 9014. Termination

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SEC. 9006. PAYMENTS TO ELIGIBLE CANDIDATES.

(a) * * *

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(d) TRANSFER OF FUNDS REMAINING AFTER 1998.—The Secretary shall transfer all amounts in the fund after December 31, 2000, to the general fund of the Treasury.

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SEC. 9014. TERMINATION.

The provisions of this chapter shall not apply with respect to any presidential election (or any presidential nominating convention) after December 31, 2000, or to any candidate in such an election.

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**CHAPTER 96—PRESIDENTIAL PRIMARY
MATCHING PAYMENT ACCOUNT**

Sec. 9031. Short title

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Sec. 9043. Termination

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SEC. 9043. TERMINATION.

The provisions of this chapter shall not apply to any candidate with respect to any presidential election after December 31, 2000.

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VIEWS OF COMMITTEE MEMBERS

Clause 3(a) of rule XIII requires each committee to afford a two day opportunity for members of the committee to file supplemental, minority, or additional views and to include the views in its report. The Committee on House Administration Minority members have submitted dissenting views.

MINORITY VIEWS

H.R. 1922 neither “reforms” the system, nor opens it up to the light of disclosure. In fact, H.R. 1922 guts those parts of our current system that continue to work well. H.R. 1922 would remove all contribution limits and repeal the Presidential financing system. While the sponsors of H.R. 1922 claim that it promotes disclosure and further opens the system to the light of day, H.R. 1922 provides for no public disclosure of any advertising that does not contain the few “magic” words of express advocacy. This would, in effect, sanction between \$275 million and \$340 million in undisclosed political advertising each cycle. The reality is that H.R. 1922 would represent a return to the pre-Watergate days of unlimited contributions from unknown sources.

We view H.R. 1922 as a misguided bill that shows a lack of respect for the voters, and the American tradition of full and open disclosure. One of the co-sponsors of H.R. 1922, Majority Whip Tom DeLay, recently expressed his contempt for both reform and the voters, telling an audience in Rochester, New York: “Campaign finance reform—no one cares about.” We have confidence that our colleagues and the voters will see that this is not a reform bill, but a backward step. We note that our colleagues voted to report this bill without recommendation, and we are similarly hopeful that it will quickly be voted on and once again defeated on the House floor.

STENY HOYER.
CHAKA FATTAH.
JIM DAVIS.

