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Part 1

BIPARTISAN CAMPAIGN FINANCE REFORM ACT OF 1999

AUGUST 5, 1999.—Ordered to be printed

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

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H.R. 417]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 417) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, having considered the same, report unfavorably thereon without recommendation.

DISCUSSION OF THE LEGISLATION

INTRODUCTION

The Committee on House Administration has unfavorably reported H.R. 417, the "Bipartisan Campaign Finance Reform Act". Unfortunately the legislation should be characterized neither as bipartisan nor as reform. True reform would be reform that has a realistic chance of being enacted and taking effect. This legislation has serious constitutional flaws which would in all probability prevent all or part of it from going into effect, even in the unlikely event it is enacted. The legislation imposes unconstitutionally vague and overbroad restrictions on the right of Americans to participate in the political process. It would vastly expand the power of federal bureaucrats to regulate the speech of ordinary Americans, particularly when they wish to be critical of their elected representatives in government.

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The legislation is partisan in its impact on the political process, imposing little restriction on labor unions, a group that overwhelmingly favors one political party, while sharply regulating political party organizations. Because of its partisan bias, the bill has little chance of achieving the broad support necessary for enactment.

The authors of the legislation implicitly recognize its constitutional flaws by including a severability clause that gives the courts the opportunity to pick and choose which portions of the legislation they will permit to take effect. Allowing the Courts, rather than Congress to write legislation is a serious abdication of Congress's Constitutional duty to ensure free and fair elections for federal office.

SHAYS-MEEHAN IS UNCONSTITUTIONAL

An unconstitutional expansion of "express advocacy" communications

Shays/Meehan unconstitutionally limits free speech with a vague definition of express advocacy. It defines express advocacy as language that a reasonable person would consider advocacy, leaving a subjective judgement to be made by regulators. Even the allegedly "exempt" voter guides must not contain this vaguely defined express advocacy. Such vagueness unconstitutionally chills free speech, as numerous court rulings, starting with *Buckley* v. *Valeo* [424 U.S. 1 (1976)] have made abundantly clear. As Laura Murphy, Legislative Director for the American Civil Liberties Union testified before the Committee, under Shays-Meehan, few non-profit groups will risk their tax status or incur costly legal expenses to engage in speech that might be interpreted by FEC regulators to have some effect on the outcome of an election.

The Supreme Court in the *Buckley* decision strongly emphasized that a vague, unclear limit on free speech could not withstand constitutional scrutiny. As the court stated:

> [W]hether words intended and designed to fall short of invitation would miss the mark is a question, both of intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning.
>
> Such a distinction offers no security for fee discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim. 323 U.S. 516, 535 (1945).

Section 206 of H.R. 417 would generally prohibit both non-profit and for-profit corporations and labor unions from making expenditures for public communications, at any time during the year, that are deemed "for the purpose of influencing a federal election," if the sponsoring organization has any of ten broad categories of links to a member of Congress or other candidate, including the mere shar-

ing of vendors. Under Section 206, this prohibition would apply regardless of whether the public communication constitutes express advocacy.

In *Buckley* v. *Valeo,* the Supreme Court distinguished between communications that expressly advocate the election or defeat of a clearly identified candidate and those communications that advocate a position on an issue. The Court found that the latter type of communication, "issue advocacy," is constitutionally protected First Amendment speech and that only speech containing express words of advocacy of election or defeat, "express advocacy," could be subject to regulation [424 U.S. at 40–44]. According to the Court, express advocacy communications include certain words of advocacy of election or defeat, such as, "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," or "reject." [424 U.S. at 44 n. 52]. Moreover, in the 1986 decision, *Federal Election Commission* v. *Massachusetts Citizens for Life, Inc.* (MCFL) [479 U.S. 238, 249–250 (1986)], the Supreme Court further articulated the First Amendment protections of issue advocacy communications and held that only express advocacy communications could be constitutionally regulated. In light of Supreme Court precedent, a prohibition on public communications regardless of whether they constitute express advocacy is an unconstitutionally broad regulation that encompasses First Amendment protected issue advocacy.

Section 201 would redefine "express advocacy" in such a manner that even if a non-profit or for-profit corporation or labor union avoids both direct and indirect coordination with candidates, the group would still be prohibited from making expenditures for broadcast communications that even mention the name or contain the likeness of a candidate within 60 days before the general election, unless certain currently permissible restrictive criteria are met. For example, such communication expenditures could only be made if not funded by several currently permissible funding sources.

By imposing such restrictions, in light of Supreme Court precedent in *Buckley* v. *Valeo* and *Federal Election Commission* v. *Massachusetts Citizens for Life,* H.R. 417 would regulate issue advocacy speech, which the Supreme Court has expressly held to be constitutionally protected under the First Amendment.

Supporters of Shays-Meehan repeatedly attempt to characterize the act of citizens engaging in Constitutionally permissible speech as "sham", "phony", un-American, even criminal. The Supreme Court did not create a loophole in the *Buckley* decision; they specifically endorsed the right of citizens to participate in an open democracy. James Bopp, General Counsel for the James Madison Center for Free Speech testified that the *Buckley* decision authorizes issue advocacy. He stated that the Supreme Court's position in *Buckley* was that "* * * as long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views. They are free. They are authorized. It is constitutionally protected. It is a good thing to talk about the issues."

An unconstitutional presumption of coordination between candidate and speakers

Section 206 would generally prohibit both non-profit and for-profit corporations and labor unions from making expenditures for public communications, at any time during the year, that are deemed "for the purpose of influencing a federal election," if the sponsoring organization has any of ten broad categories of links to a member of Congress or other candidate.

According to the Supreme Court in the 1996 decision, *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission* [518 U.S. 604 (1996)], coordination may not be presumed on the basis of some other type of relationship between the candidate and the speaker. In *Colorado,* the Court expressly rejected the Federal Election Commission's argument that an expenditure by a political party may be presumed to be coordinated with the federal candidate nominated by that party. According to the Court, the constitutional test is whether the specific expenditure was actually the subject of the communication between those conducting the expenditure and the candidate. Ergo, if the Supreme Court has held that coordination cannot be constitutionally presumed between a political party and a candidate, then clearly coordination cannot be constitutionally presumed between a corporation or labor organization engaging in a public communication and a candidate.

Further, the coordination definitions contained in Shays are unconstitutionally vague and over broad. Roger Pilon of the CATO institute testified that the definitions were "inscrutable" and noted their "sheer complexity". The absence of clear standards for what constitutes coordination results in a chilling effect on the core political speech of advocacy groups, citizens and candidates for fear that FEC regulators will be allowed to arbitrarily decide that the ads constitute coordination with a candidate.

An unconstitutional prohibition on first amendment rights of minors

Section 507 would impose a prohibition on minors, age 17 or younger, from making any contributions to candidates or to political parties. As the Supreme Court held in *Buckley* v. *Valeo,* limitations on contributions can pass constitutional muster if they are reasonable and only marginally infringe on First Amendment rights in order to stem actual or apparent corruption resulting from quid pro quo relationships between contributors and candidates [424 U.S. at 20–38]. Moreover, the Supreme Court has held that minors do enjoy First Amendment rights to free speech, albeit less than those afforded to those 18 and older [*Healy* v. *James,* 400 U.S. 169 (1972)]. Indeed, in *Tinker* v. *Des Moines Independent Community School District,* the Supreme Court ruled that teachers as well as students do not relinquish their First Amendment rights to free expression upon entering the school [393 U.S. 503, 506 (1969)].

As a result of Supreme Court precedent, therefore, a complete prohibition on contributions to candidates and political parties by minors is arguably unconstitutional.

An unconstitutional federalization of state and local elections

Shays-Meehan unconstitutionally federalizes state and local elections, not only for parties, but for state and local candidates as well. Every state and local party would be subject to the so-called ban on soft money. State and local candidates may not accept contributions designated or contributed, according to the bill, for the purpose of funding federal election activity. This is vague yet sweeping language. The bill further unconstitutionally limits parties by banning soft money used by parties on pure issue ads that do not mention candidates.

SHAYS-MEEHAN IS UNBALANCED

Shays-Meehan is unconstitutional unbalanced reform that limits parties and independent groups but not unions. It bans party soft money for election year registration and get-out-the vote activities, while allowing union money to be spent on the same activities. While it falsely claims to ban all soft money it leaves open several loopholes: for unions, for party office buildings, for state and local parties, for some party overhead and staff that spend up to 20% of their time on federal activity, for party voter registration in non-election years, and for federal candidates to raise soft money at fundraising events around the country.

Roger Pilon of the Cato Institute and James Miller of Citizens for a Sound Economy both testified before the Committee that Shays-Meehan will result in an increase in the advantage that incumbents have over challengers. The bill will make it difficult for challengers to raise money and will make elections less competitive, the consequence of which is a less healthy democracy.

Additionally, the restrictions on candidates' and issue groups' ability to speak under the year round restrictions on issue advocacy and 120 days-an-election-year black out periods do not apply to the media. the institutional media will continue to be able to mention candidates' names and attempt to influence elections at any time they choose. The result will be that the media will have a greater ability to influence the outcomes of elections than candidates or their constituents. As Laura Murphy, Legislative Director for the American Civil Liberties Union testified, "* * * why should these kinds of restrictions apply to issue advocacy groups when we would never dare apply them to the media? Isn't speech, speech?"

SHAYS-MEEHAN WILL LEAD TO SERIOUS, UNFORESEEN CONSEQUENCES

The bill will lead to greatly expanded bureaucracy at the Federal Election Commission (FEC). New ambiguous definitions of express advocacy and coordination will lead to larger FEC caseload and numerous Court challenges.

Even more troubling is the bill's severability clause. The Federal Election Campaign Act (FECA), passed by Congress in 1974 with a severability clause, was subsequently altered by the courts, which changed the language and interpretation of the FECA. The most important decision was (*Buckley* v. *Valeo* (1976). The Court in *Buckley* held that expenditure limitations, limitations on independent expenditures by individuals and groups, and limitations expenditure of personal funds by a candidate were "constitutionally

infirm." These sections of the original Act were struck down. In part, this has led to the current system that no one intended to develop as it has. Yet Shays-Meehan repeats this mistake specifically incorporating a severability clause. No less an authority on campaign finance practices than our colleague, Representative Martin Frost, stated that "a non-severability provision * * * would prevent the gradual erosion of the reform regime as has happened during the past two decades." (The New Democrat May/June 1997)

SUMMARY OF THE LEGISLATION

SECTION-BY-SECTION DESCRIPTION

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Section 101. Restricting soft money of political parties

(a) Prohibits national committees of political parties from soliciting, receiving, or directing a contribution, donation, or transfer of funds, or spending any funds, that are not subject to the contribution limitations, source prohibitions and reporting requirements of the Federal Election Campaign Act (FECA).

(b) Requires that any funds spent by State, district, and local political parties for federal election activity be subject to FECA limits.

(c) Defines *federal election activity* as: voter registration activity within 120 days of a federal election; voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for federal office appears on the ballot (regardless of whether a candidate for state or local office also appears on the ballot); and a communication that refers to a clearly identified candidate for federal office (regardless of whether a candidate for state or local office is also mentioned or identified) and is made for the purpose of influencing a federal election (regardless of whether the communication is express advocacy).

(d) Excludes from *federal election activity* an amount expended or disbursed by a state, district, or local committee of a political party for: campaign activity conducted solely on behalf of a clearly identified candidate for state or local office; a contribution to a candidate for state or local office, provided the contribution is not designated or used for a federal election activity; the costs of a state, district, or local political convention; the costs of grassroots campaign materials, i.e., buttons, bumper stickers, signs, etc.) that name only a candidate for state or local office; the non-federal share of a state, district, or local party committee's administrative and overhead expenses subject to FEC guidelines; and the cost of constructing or purchasing an office facility or equipment for a state, district or local committee.

(e) Subjects amounts spent by a political party committee, or by an agent or officer thereof, to raise funds that are used to pay the costs of a federal election activity, to the limitations, prohibitions, and reporting requirements of the FECA.

(f) Prohibits a national, state, district, or local political party committee from soliciting funds for, or making or directing donations to, a non-profit organization.

(g) Prohibits a candidate or federal office holder, or agent thereof, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more federal candidates, from soliciting, receiving, directing, transferring, or spending funds for a federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the FECA. (Exempts the solicitation or receipt of funds by a candidate for a state or local office if the funds are permitted under state law in connection with a state election, other than a federal election activity. Also exempts candidates who attend, speak, or are featured guests at fundraising events sponsored by a state, district, or local political party committee.)

Section 102. Increasing contribution limits for political party state committees and aggregate contribution limit for individuals

(a) Increases limits on individual contributions to state committees of political parties from $5,000 to $10,000 per year.

(b) Increases aggregate individual contribution limits from $25,000 to $30,000 per year.

Section 103. Changing reporting requirements

(a) Requires the national committee of a political party, any national congressional campaign committee of a political party, any subordinate committee of either, to report all receipts and disbursements during the reporting period.

(b) Requires state party committees to report all receipts and disbursements for federal election activities.

(c) Require a political committee to separately itemize its reporting of receipts or disbursements from any person aggregating in excess of $200 for a calendar year.

(d) Repeals the "building fund" exemption to the definition of "contribution."

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Section 201. Definitions

(a) Defines *independent expenditure* as expenditure by a person for a communication that is express advocacy and that is not coordinated.

(b) Defines *express advocacy* as a communication that advocates the election or defeat of a candidate by: containing a phrase such as "vote for," "re-elect," "support," "defeat," "reject," or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates; referring to one or more clearly identified candidates in a paid radio or TV advertisement that is broadcast within 60 days preceding the date of an election of the candidate (only applies to general election in the presidential or vice presidential race); or expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates.

(c) Exempts from express advocacy; a printed communication that is a voting record or guide that: presents information in an

educational manner solely about the voting record or position on a campaign issue of one or more candidates; is not coordinated; does not contain a phrase such as "vote for," "re-elect," "support," "defeat," or "reject," or words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.

(d) Defines *expenditure* to include payments by a political committee for a communication that refers to a clearly identified candidate, for the purpose of influencing a federal election (regardless of whether it is express advocacy).

Section 202. Determining express advocacy without regard to background music

(a) Excludes instrumental musical background of advertisements from being taken into account in determining whether the ad contains express advocacy.

Section 203. Civil penalty

(a) Prohibits conciliation agreements in cases in which FEC has found probable cause of knowing and willful violations of independent expenditure disclosure rules.

Section 204. Adding reporting requirements for certain independent expenditures

(a) Requires anyone who makes an independent expenditure of $1,000 or more within 20 days of an election to file an FEC report within 24 hours, with additional reports required within 24 hours of additional expenditures of $1,000 or more.

(b) Requires anyone who makes independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election to file a report describing the expenditure within 48 hours, with additional reports must be filed for every additional expenditure of $10,000 within 48 hours.

(c) Requires the reports must be filed with the FEC and contain the name of each candidate whom an expenditure is intended to support or oppose.

Section 205. Independent versus coordinated expenditures by party

(a) Prohibits a political party committee from making both coordinated expenditures and independent expenditures on behalf of a nominated candidate.

(b) Requires a party committee, before making a coordinated expenditure, to file a certification that the committee has not and will not make any independent expenditure with respect to the candidate during the same election cycle.

(c) Considers all political committees established by a national party and by a state party to be a single political committee for purposes of this section.

Section 206. Creating rules regarding coordination with candidates

(a) Defines *contribution* to include anything of value provided in coordination with a candidate for the purpose of influencing a federal election whether or not it is express advocacy.

(b) Defines *coordinated activity* as anything of value provided in coordination with a candidate (or party or agent) to influence a federal election, regardless of whether it contains express advocacy, including payments: in cooperation or consultation with, or at request or suggestion of, a candidate, party, or agent; using candidate-prepared materials; based on information provided by candidate's campaign for purposes of expenditure; by a spender who during that election cycle has raised funds or acted in an official position for a candidate; by a spender who has used the same consultants as an affected candidate during election cycle, directly or through party; for communications about campaign plans, directly or through party; for in-kind professional services, directly or through party, other than for voter guide mailings; and in coordination with a candidate to influence election regardless of whether the communication contains express advocacy (but exempts lobbying contacts from consideration as coordination with candidates).

TITLE III—DISCLOSURE

Section 301. Filing of reports using computers and FAX machines

(a) Requires FEC to promulgate regulations that require campaign committees (meeting a minimum expenditure threshold) to file electronically with the FEC.

(b) Requires FEC to post reports on the Internet within 24 hour of receipt.

Section 302. Prohibiting contribution deposit with incomplete information

(a) Requires campaign committees to verify that contributor information is complete before depositing any check of $200 or more.

Section 303. Allowing random audits

(a) Authorizes the FEC to conduct random audits and investigations of congressional campaigns, within 12 months after the election.

Section 304. Changing reporting requirements for contributions of $50 or more

(a) Decreases the threshold for contributor disclosure from $200 to $50 (only for name and address).

Section 305. Setting rules for use of candidates' names

(a) Requires a candidate's name in the name of an authorized committee.

(b) Prohibits an unauthorized political committee from including the name of any candidate in its name.

(c) Prohibits the name of any candidate from being used in any activity on behalf of the committee in such a context as to suggest that the use of his/her name have been authorized (not applicable to a national, state, or local party committee).

Section 306. Prohibiting false representation to solicit contributions

(a) Prohibits a person from soliciting contributions by falsely representing him/herself as a candidate or as a representative of a candidate, a political committee, or a political party.

Section 307. Requiring reports of soft money by persons other than political parties

(a) Requires unions, corporations, and other groups or entities—other than party committees or religious organizations—to file monthly statements on all exempt activities (but only internal communications referring to federal candidates), once $50,000 has been spent in a calendar year on federal election activities.

(b) Requires disbursement made within 20 days of an election to be reported within 24 hours, statements to include the total disbursement, the name and address of the person or entity to whom the disbursement was made if the amount is in excess of $200, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.

(c) Defines generic campaign activity as that which promotes a political party and does not promote a candidate or non-federal candidate.

Section 308. Augmenting disclaimers on campaign advertising

(a) Requires any campaign communication to include a statement about who is responsible for the content of the advertisement, with minimum requirements for the size, length, or visibility of such disclaimer.

TITLE IV—PERSONAL WEALTH OPTION

Section 401. Setting a voluntary limit on spending from candidate's personal funds

(a) Defines "eligible" House or Senate candidate as one who files a declaration that the candidate will not spend or make loans of more than $50,000 from personal (including immediate family) wealth per election.

Section 402. Adding a condition for political party coordinated expenditures

(a) Prohibits party committees from making coordinated expenditures on behalf of a candidate who is not an eligible House or Senate candidate.

TITLE V—MISCELLANEOUS

Section 501. Codifying the Beck decision

(a) Requires unions to annually give reasonable notice to dues-paying non-members of rights to disallow political use of their funds and to inform them of procedures to file such objections.

(b) Requires a labor organization, upon the filing of an objection, to reduce the payments the individual makes by a reasonable proportion that reflects its expenditures supporting political activities unrelated to collective bargaining.

(c) Defines "expenditures supporting political activities" as expenditures in connection with a federal, state, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.

Section 502. Specifying permissible uses of contributed funds

(a) Codifies regulations on permissible uses of contributed funds and specifies the prohibition on the use of campaign funds for personal purposes.

Section 503. Limiting congressional use of the franking privilege

(a) Prohibits franked mass mailings during the 180 days preceding a general election and 90 days preceding a primary election.

Section 504. Strengthening the prohibition of fundraising on federal property

(a) Prohibits and penalizes officers and employees of the federal government, from soliciting a campaign donation, including soft money, while in any room or building occupied in the discharge of official duties by an officer or employee of the U.S.; imposes a fine of up to $5,000 and up to three years in prison for violations.

Section 505. Penalties for violations

(a) Increases civil penalties for violations of election laws.
(b) Adds automatic, scheduled penalties for late filing.
(c) Provides for equitable remedies in conciliation agreements.

Section 506. Strengthening the foreign money ban

(a) Prohibits a foreign national, directly or indirectly, from making a donation, including soft money, in connection with a federal, state, or local election to a political committee, a candidate for federal office, or a committee of political party.
(b) Prohibits the solicitation, acceptance, or receipt of a contribution or donation from a foreign national.
(c) Prohibits plea of "willful blindness" as a defense against charge of violating foreign national fundraising ban, if recipient should have known that contribution was from foreign national.

Section 507. Prohibiting contributions by minors

(a) Prohibits individuals 17 years old or younger from making campaign contributions.

Section 508. Expediting enforcement procedures

(a) Allows FEC to order expedited procedures in cases where there is clear and convincing evidence that a violation has occurred, is occurring, or is about to occur.
(b) Allows FEC to refer possible violations to the Attorney General at any time.

Section 509. Initiating enforcement procedures

(a) Changes standard for initiating enforcement proceedings from "reason to believe" to "reason to investigate."

Section 510. Protecting equal participation of eligible voters in campaigns and elections

(a) Ensures that nothing in this act may be construed to prohibit any eligible voter from contributing or spending money with regard to federal elections, including through a separated segregated fund through his or her union or employer.

Section 511. Increasing penalty for violation of foreign contribution ban

(a) Increases penalties for violating foreign national ban of up to 10 years in prison, up to $1 million in fines, or both.

Section 512. Expediting court review of certain alleged violations

(a) Allows candidates to institute civil actions for suspected violations in last 90 days of election, with expedited court review procedures.

Section 513. Conspiracy to violate presidential campaign spending limits

(a) Prohibits presidential candidates who are receiving public funds from conspiring to evade spending limits by additional fundraising from private sources.

(b) Imposes fines of up to $1 million, up to 3 years in prison, or both, for candidates found guilty of such conspiracy.

Section 514. Depositing certain contributions and donations to be returned in Treasury escrow account

(a) Provides that contributions over $500 that a committee intends to return (after 90 days of receipt) be placed in an FEC escrow account, pending investigation of possible violations.

(b) Provides that money in the account would be used toward fines, penalties, and investigation costs.

(c) Provides that contributions in an escrow account would be returned to donors if no reason to believe a violation occurred is found within 180 days of deposit.

Section 515. Establishing an FEC clearinghouse of information on political activities

(a) Establishes a clearinghouse of public information within the FEC to provide the public with information regarding political and lobbying activities of foreign principals and agents.

Section 516. Enforcing spending on presidential and vice presidential candidates who receive public funding

(a) Requires presidential candidates receiving public financing to certify that they will not solicit soft money for their federal election activities.

TITLE VI—INDEPENDENT COMMISSION ON CAMPAIGN FINANCE REFORM

Section 601. Establishing and stating the purpose of commission

(a) Establishes a commission to study the laws relating to the financing of political activity and to report and recommend legislation to reform those laws.

Section 602. Specifying membership of commission

(a) Specifies that Commission shall consist of 12 members, appointed by the President within 15 days, who are not Members of Congress and who are specially qualified to serve by reason of education, training or experience. The Speaker, the Senate Majority Leader, the House Minority Leader and the Senate Minority Leader will each have 3 appointments, one of which must be a "political independent." No more than 4 members of the Commission may be of the same political party.

(b) Authorizes President to designate one member of Commission as chair.

(c) Sets term of members as the life of the Commission.

(d) Specifies that any vacancies shall be filled in the same manner in which the original appointment was made.

Section 603. Powers of the commission

(a) Directs Commission to hold hearings, take testimony and receive evidence. Requires that a substantial number of the Commission's meetings must be open, with significant opportunities for testimony from the general public.

(b) Specifies that 7 members of the Commission shall constitute a quorum, but 9 members must approve the recommended legislation.

Section 604. Administrative provisions

(a) Sets the pay rate for members of the Commission.

(b) Requires the Commissioners to appoint a staff director and provides for additional staff and consultants.

Section 605. Requiring final report and recommended legislation

(a) Requires the Commission to report and recommend legislation no later than 180 days after the adjournment of the 106th Congress.

(b) Requires the Commission to consider the following goals with regard to its recommendations: encouraging fair and open elections that provide voters with meaningful information about candidates and issues; eliminating the disproportionate influence of special interest financing of federal elections; and creating a more equitable electoral system for challengers and incumbents.

Section 606. Expediting congressional consideration of legislation

(a) Requires the recommended legislation to proceed to the floor under the same process outlined in the Defense Base Closure and Realignment Act of 1990.

(b) Limits debate to 10 hours in the House and in the Senate.

Section 607. Terminating the commission

(a) Disbands the Commission 90 days after the date that it issues its report.

Section 608. Authorizing appropriations

(a) Authorizes appropriations of such sums necessary to establish and run the Commission.

TITLE VII—PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING

Section 701. Prohibiting use of meals and accommodations for political fundrising

(a) Prohibits any person from providing or from offering to provide meals or accommodations at the White House in exchange for money for anything of value.

TITLE VIII—SENSE OF THE CONGRESS REGARDING FUNDRAISING ON FEDERAL PROPERTY

Section 801. Sense of the Congress regarding applicability of controlling legal authority to fundraising on federal government property

(a) Establishes that it is the sense of the Congress that federal law prohibits the use of federal government property to raise campaign funds.

TITLE IX—PROHIBITING SOLICITATION TO OBTAIN ACCESS TO CERTAIN FEDERAL GOVERNMENT PROPERTY

Section 901. Prohibiting solicitation or acceptance to obtain access to certain federal government property

(a) Prohibits solicitation or receipt of anything of value in consideration of providing anyone with access to Air Force One, Marine One, Air Force Two, Marine Two, the White House or the Vice President's residence.

TITLE X—REIMBURSEMENT OF USE OF AIR FORCE ONE FOR POLITICAL FUNDRAISING

Section 1001. Requiring national parties to reimburse at cost for use of Air Force One for political fundraising

(a) Requires national parties to reimburse federal government at fair market charter rate for the cost of an individual traveling on Air Force One for any travel that includes a fundraising event.

TITLE XI—PROHIBITING THE USE OF WALKING AROUND MONEY

Section 1101. Prohibiting campaigns from providing currency to individuals for purposes of encouraging turnout on date of election

(a) Prohibits political committees or their agents from providing currency directly to any individual for purposes of encouraging the individual to appear at the polling place for the election.

TITLE XII—ENHANCING ENFORCEMENT OF CAMPAIGN LAW

Section 1201. Enhancing enforcement of campaign finance law

(a) Increases criminal penalties for knowing and willful violations of contribution and expenditure limits to mandatory prison term of one to 10 years.

(b) Allows Justice Department to bring criminal actions at any time, without waiting for FEC referral.

TITLE XIII—BAN ON COORDINATED SOFT MONEY ACTIVITIES BY PRESIDENTIAL CANDIDATES

Section 1301. Banning coordination of soft money for issue advocacy by presidential candidates receiving public financing

(a) Prohibits presidential candidates who receive public funding from coordinating with any political party on the subject of issue advertisements, regardless of whether or not the advertisements include express advocacy.

TITLE XIV—POSTING NAMES OF CERTAIN AIR FORCE ONE PASSENGERS ON INTERNET

Section 1401. Requiring that names of passengers on Air Force One and Air Force Two be made available through the Internet

(a) Requires President to post on the Internet the name of any non-government passenger on Air Force One or Two within 30 days after the flight. If the President determines that such disclosure is not in the national security interests, he must submit the information to the chair and ranking member of the House Permanent Select Committee on Intelligence and Senate Select Committee on Intelligence.

TITLE XV—EXPULSION PROCEEDINGS FOR HOUSE MEMBERS RECEIVING FOREIGN CONTRIBUTIONS

Section 1501. Permitting consideration of privileged motion to expel House member accepting illegal foreign contribution

(a) Establishes procedures to consider as a privileged motion expulsion procedures for House members found guilty of accepting foreign contributions.

TITLE XVI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Section 1601. Severability

(a) Provides that if any part or amendment to the FECA is declared unconstitutional, the remainder of the Act and these amendments will be unaffected.

Section 1602. Review of constitutional issues

(a) Provides that appeals regarding rulings on the constitutionality of any provision of this Act may be taken directly to the Supreme Court.

Section 1603. Effective date

(a) 90 days after enactment.

Section 1604. Regulations

(a) Requires the FEC, within 45 days of enactment, to develop regulations necessary to carry out this Act.

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFERRAL

On January 19, 1999, Mr. Shays (for himself, Mr. Meehan, Mr. Wamp, Mr. Levin, Mrs. Roukema, Mr. Dingell, Mr. Franks of New Jersey, Mrs. Maloney of New York, Mr. Leach, Mr. Farr of California, Mr. Houghton, Mr. Bonior, Mr. Greenwood, Mr. Gephardt, Mrs. Morella, Mr. Allen, Mr. Castle, Mr. Hoyer, Mr. Bilbray, Ms. DeLauro, Mr. Boehlert, Mr. Lewis of Georgia, Mr. Ramstad, Mr. Frank of Massachusetts, Mr. Metcalf, Mr. George Miller of California, Mr. Gilchrest, Ms. Rivers, Mr. Sanford, Mrs. Capps, Mr. Porter, Mr. Dooley of California, Mrs. Kelly, Mr. Cardin, Mr. Walsh, Mr. Gejdenson, Mr. Forbes, Mr. Barrett of Wisconsin, Mr. Horn, Mr. Tierney, Mr. Gallegly, Mr. Minge, Mr. Gillmor, Mr. Price of North Carolina, Mr. Gilman, Mr. Kind, Mr. LoBiondo, Mr. Nadler, Mr. Frelinghuysen, Mr. Mascara, Mr. Sherman, Mr. Stark, Mr. Brady of Pennsylvania, Mr. Baldacci, Mr. Moran of Virginia, Mr. Smith of Washington, Mr. Luther, Mr. Maloney of Connecticut, Mr. Waxman, Mr. Pomeroy, Mr. Clement, Mr. Lantos, Mr. Pallone, Mr. Hinchey, Mr. Blumenauer, Mr. Vento, Mr. Wexler, Mr. McGovern, Mr. Markey, Mr. Rothman, Mr. Pascrell, Mr. Kanjorski, Mr. Ackerman, Mr. Davis of Florida, Mr. Holt, Mr. Green of Texas, Mr. Kleczka, Ms. Kilpatrick, Ms. Roybal-Allard, Mrs. Tauscher, Ms. Pelosi, Mr. Spratt, Mr. Hoeffel, Mr. Moore, Mr. Borski, Ms. Baldwin, Mr. Sawyer, Mr. Udall of New Mexico, Ms. Carson, Ms. McCarthy of Missouri, Mr. Hall of Ohio, Ms. Lofgren, Mrs. McCarthy of New York, Mr. Snyder, Mr. Baird, Mr. Gonzalez, and Mrs. Johnson of Connecticut) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Education and the Workforce, Government Reform, the Judiciary, Ways and Means, and Rules, 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: Mr. Gilchrest testified on H.R. 593 and H.R. 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 H.R. 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, Executive 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 unfavorably reported H.R. 417 by recorded vote (6–3) a quorum being present. During the markup no amendments were offered.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE RECORD VOTES

Clause 3(b) of House rule XII 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. The only recorded vote requested during consideration of H.R. 417 occurred on the vote to report the bill unfavorably to the House.

Member	Yes	No	Present
Mr. Thomas	X		
Mr. Boehner	X		
Mr. Ehlers	X		
Mr. Ney	X		
Mr. Mica	X		
Mr. Ewing	X		
Mr. Hoyer		X	
Mr. Fattah		X	
Mr. Davis		X	

Member	Yes	No	Present
Total	6	3	

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 XII 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. 417 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 XII requires each committee report that accompanies a measure providing new budget authority, new spending 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 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:

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. 417, the Bipartisan Campaign Finance reform Act of 1999.

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

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

H.R. 417 would make numerous amendments to the Federal Election Campaign Act of 1971, including:

(1) raising both the total amount that individuals can contribute each year and the amount that can contribute to state committees of political parties;

(2) prohibiting national committees of political parties from soliciting, receiving, directing, transferring, or spending so-called "soft money";

(3) requiring the Federal Election Commission (FEC) to issue regulations requiring political committees to file certain information electronically;

(4) adding new disclosure requirements;

(5) establishing a clearinghouse for information on political activities within the FEC;

(6) increasing the amount of penalties and fines for violations of election laws;

(7) requiring political committees to temporarily deposit with the treasury certain contributions to be returned to the donor pending investigation by the FEC of possible violations;

(8) limiting the Congressional use of the franking privilege; and

(9) establishing an independent commission on campaign finance reform.

Subject to the availability of the appropriated funds, CBO estimates that implementing H.R. 417 would cost the federal govern-

ment less than $5 million in fiscal year 2000, less than $4 million in fiscal year 2001, and less than $3 million each year thereafter. Those amounts include administrative and compliance costs for the FEC, as well as costs to establish the independent commission campaign finance reform and the effects of limiting Congressional use of the franking privilege.

Enacting the bill also would increase collections of fines and penalties, but CBO estimate that the increase in governmental receipts would not be significant. Because the bill would affect receipts, pay-as-you-go procedures would apply.

H.R. 417 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 create new private-sector mandates for national and state-level committees of political parties, federal office holders, and other political organizations and individuals. CBO has not yet completed an estimate of the costs of these mandates, but will provide such an estimate at a later date.

Estimated cost to the Federal Government: Most of the costs of the bill would be discretionary spending incurred by the FEC. Enacting the bill also would increase collections of fines and penalties, but CBO estimates that the increase in governmental receipts would not be significant. The costs of this legislation fall within budget function 800 (general spending).

Discretionary spending

Implementing H.R. 417 would increase costs for the FEC and would necessitate new discretionary spending to establish an independent commission on campaign finance reform. The costs of congressional franking could decline under H.R. 417, but CBO estimates that any such reduction would not be significant.

Federal Election Commission

H.R. 417 would require the FEC to issue regulations requiring political committees with a minimum level of aggregate expenditures to file their reports electronically. The FEC would be required to process and post the information on its Internet site within 24 hours of receiving the information. In addition, the bill would make several changes to how the FEC administers and investigates violations of the Federal Election Campaign Act and would require additional disclosures of contributions and disbursements. The bill would also establish a clearinghouse for information on political activities within the FEC.

Based on the information from the FEC, and subject to the availability of appropriated funds, CBO estimates that the commission would spend about 1 million in fiscal year 2000 to reconfigure its information systems to handle the increase workload form accepting and processing daily reports, to write new regulations implementing the bill's provisions, and to permit and mail materials informing candidates and committees of the new requirements.

In addition, the FEC would have to monitor political parties' compliance with the bill's provisions, as well as comply with the bill's changes in issuing opinions and investigating possible violations. CBO estimates that implementing H.R. 417 would increase

compliance costs by no more than $3 million a year. CBO estimates that the annual costs for FEC to operate the clearinghouse for information on political activities would be negligible.

Independent commission campaign finance reform

H.R. 417 also would establish a commission to study the laws relating to the financing of elections and to recommend legislation to reform those laws. The commission would be composed of 12 members and would have the authority to hire and fire staff. The bill would require the commission to submit its report and recommendations within 180 days following the completion of the 106th Congress. Based on the cost of similar commissions. CBO estimates that the commission would cost around $1 million over fiscal years 2000 and 2001.

Limiting congressional use of the franking privilege

H.R. 417 would prohibit a Member of Congress from sending mass mailings (500 or more pieces of mail identical in content) during the 90 days prior to a primary or during the 180 days prior to a general election unless the Member does not plan to run for any federal office. The prohibition is currently 90 days prior to an election. Because the provision would not limit the total pieces of mail a Member would be allowed to send each year or otherwise reduce a Member's allocation for postage, CBO expects that limiting the time available for sending mass mailing would not have a significant budgetary impact.

Governmental receipts

Enacting H.R. 417 would increase collections of fines and penalties for violation of campaign finance laws. Also, the bill would require that the campaigns deposit certain contributions with the Treasure, which could then be applied toward any fines or penalties. CBO estimates that the additional collections of penalties and fines would not be significant.

Escrow fund

H.R. 417 would require political committees to deposit in an escrow fund at the Treasury any contribution or donation they receive that is equal to or greater than $500 and that the committee has not returned within 90 days of receipt. The contribution would be held pending an investigation by the FEC. Depending on the results of that investigation, the contribution could be returned—with interest—to the donor, applied toward any fines, penalties, or cost associated with the investigation, or some combination of the two. The FEC would have 180 days to complete its investigation. Deposits to or withdrawals from that escrow fund would not be considered budgetary transaction. However the bill specifies that some of the amounts deposited into the escrow fund could be used to offset costs of FEC investigation. Any such use of escrow funds would affect direct spending but CBO expects that the amounts involved would be less then $500,000 a year.

Pay-as-you-go consideration: The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending or receipts. These procedures

would apply to H.R. 417 because it could affect both direct spending and receipts, but CBO estimates that the annual amount of such changes would not be significant.

Estimates impact on state, local, and tribal government: H.R. 417 contains no intergovernmental mandates as defines in UMRA and would impose no costs on state, local, or tribal governments.

Estimates impact on the private sector: The bill would increase new private-sector mandates for national and state-level committees of political parties, federal office-holders, and other political organizations and individuals. CBO has not yet completed an estimate of the costs of these mandates, but will provide an estimate at a later date.

Estimate prepared by: Federal Costs: John R. Righter and Mary Maginniss. 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

* * * * * * *

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this Act:

(1) * * *

* * * * * * *

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

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

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

(iii) coordinated activity (as defined in subparagraph (C)).

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

(i) * * *

* * * * * * *

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

[(ix)] *(viii)* any legal or accounting services rendered to or on behalf of—

(I) * * *

* * * * * * *

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

(1) * * *

* * * * * * *

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

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

(1) * * *

* * * * * * *

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

[(xiv) *(xiii)* any honorarium (within the meaning of section 323 of this Act).

(C) "Coordinated activity" means anything of value provided by a person in coordination with a candidate, an agent of the candidate, or the political party of the candidate or its agent for the purpose of influencing a Federal election (regardless of whether the value being provided is a communication that is express advocacy) in which such candidate seeks nomination or election to Federal office, and includes any of the following:

(i) A payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, the political party of the candidate, or an agent acting on behalf of a candidate, authorized committee, or the political party of the candidate.

(ii) A payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat).

(iii) A payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made.

(iv) A payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position.

(v) A payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions (other than any discussion treated as a lobbying contact under the Lobbying Disclosure Act of 1995 in the case of a candidate holding Federal office or as a similar lobbying activity in the case of a candidate holding State or other elective office) with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made.

(vi) A payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate (including services provided through a political committee of the candidate's political party) in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign.

(vii) A payment made by a person who has directly participated in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate.

(viii) A payment made by a person who has communicated with the candidate or an agent of the candidate (including a communication through a political committee of the candidate's political party) after the declaration of candidacy (including a pollster, media

consultant, vendor, advisor, or staff member acting on behalf of the candidate), about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy.

(ix) The provision of in-kind professional services or polling data (including services or data provided through a political committee of the candidate's political party) to the candidate or candidate's agent.

(x) A payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (ix) for a communication that clearly refers to the candidate or the candidate's opponent and is for the purpose of influencing that candidates's election (regardless of whether the communication is express advocacy).

(D) For purposes of subparagraph (C), the term "professional services" means polling, media advice, fundraising, campaign research or direct mail (except for mailhouse services solely for the distribution of voter guides as defined in section 431(20)(B)) services in support of a candidate's pursuit of nomination for election, or election, to Federal office.

(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

(9)(A) The term "expenditure" includes—

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

(ii) a written contract, promise, or agreement to make an expenditure**[**.**]***; and*

(iii) a payment made by a political committee for a communication that—

(I) refers to a clearly identified candidate; and

(II) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

* * * * * * *

[(17) The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.**]**

(17) INDEPENDENT EXPENDITURE.—

(A) IN GENERAL.—The term "independent expenditure" means an expenditure by a person—

(i) for a communication that is express advocacy; and

(ii) that is not coordinated activity or is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.

* * * * * * *

(20) EXPRESS ADVOCACY.—

(A) IN GENERAL.—The term "express advocacy" means a communication that advocates the election or defeat of a candidate by—

(i) containing a phrase such as "vote for", "re-elect", "support", "cast your ballot for", "(name of candidate) for Congress", "(name of candidate) in 1997", "vote against", "defeat", "reject", or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates;

(ii) referring to one or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

(iii) expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term "express advocacy" does not include a communication which is in printed form or posted on the Internet that—

(i) presents information solely about the voting record or position on a campaign issue of one or more candidates (including any statement by the sponsor of the voting record or voting guide of its agreement or disagreement with the record or position of a candidate), so long as the voting record or voting guide when taken as a whole does not express unmistakable and unambiguous support for or opposition to one or more clearly identified candidates;

(ii) is not coordinated activity or is not made in coordination with a candidate, political party, or agent of the candidate or party, or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent, except that nothing in this clause may be construed to prevent the sponsor of the voting guide from directing questions in writing to a candidate about the candidate's position on issues for purposes of preparing a voter guide or to prevent the candidate from responding in writing to such questions; and

(iii) does not contain a phrase such as "vote for", "reelect", "support", "cast your ballot for", "(name of candidate) for Congress", "(name of candidate) in (year)", "vote against", "defeat", or "reject", or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.

(C) BACKGROUND MUSIC.—In determining whether any communication by television or radio broadcast constitutes express advocacy for purposes of this Act, there shall not be taken into account any background music not including lyrics used in such broadcast.

(21) GENERIC CAMPAIGN ACTIVITY.—The term "generic campaign activity" means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

* * * * * * *

(e)(1) * * *

* * * * * * *

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

(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

(B) A political committee that is not an authorized committee shall not—

(i) include the name of any candidate in its name; or

(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.

* * * * * * *

(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.

* * * * * * *

REPORTS

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

* * * * * * *

[(11)(A) The Commission shall permit reports required by 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.

[(B) In carrying out subparagraph (A) with respect to filing of reports, the Commission shall provide for one or more methods (other than requiring a signature on the report being filed) for verifying reports filed by means of computer disk or other electronic format or method. Any verification under the preceding sentence shall be treated for all purposes (including penalties for perjury) in the same manner as a verification by signature.

[(C) As used in this paragraph, the term "report" means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.]

(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(b) Each report under this section shall disclose—

(1) * * *

* * * * * * *

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of [$200] *$50* within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution[;], *except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year,*

the identification need include only the name and address of the person;

* * * * * * *

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

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

(A) * * *

* * * * * * *

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

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

(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

(1) EXPENDITURES AGGREGATING $1,000.—

(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

(2) EXPENDITURES AGGREGATING $10,000.—

(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an

additional $10,000 with respect to the same election as that to which the initial report relates.

(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

(A) shall be filed with the Commission; and

(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.

(e) POLITICAL COMMITTEES.—

(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (2)(B)(v) of section 323(b).

(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).

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

(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

(1) IN GENERAL.—A person, other than a political committee of a political party or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

(A) on a monthly basis as described in subsection (a)(4)(B); or

(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

(2) ACTIVITY.—The activity described in this paragraph is—

(A) Federal election activity;

(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

(C) an activity described in subparagraph (B) or (C) of section 316(b)(2).

(3) APPLICABILITY.—This subsection does not apply to—

(A) a candidate or a candidate's authorized committees; or

(B) an independent expenditure.

(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

(A) the aggregate amount of disbursements made;

(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

(C) the date made, amount, and purpose of the disbursement; and

(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.

* * * * * * *

ENFORCEMENT

SEC. 309. (a)(1) * * *

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has [reason to believe that] *reason to investigate whether* a person has committed, or is about to commit, a violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

* * * * * * *

(4)(A)(i) Except as provided in [clause (ii)] *clauses (ii) and (iii)*, if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

* * * * * * *

(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A).

(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of **[**$5,000**]** *$10,000* or an amount equal to any contribution or expenditure involved in such violation**[**.**]***, and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).*

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of **[**$10,000 or an amount equal to 200 percent**]** *$20,000 or an amount equal to 300 percent* of any contribution or expenditure involved in such violation.

[(C) If the Commission by an affirmative vote of 4 of its members, determined that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d), or a knowing and willful violation of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).**]**

(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. *In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A).* For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement *or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13).*

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of the Internal Rev-

enue Code of 1954, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, insitute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of [$5,000] *$10,000* or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A) *(except an action instituted in connection with a knowing and willful violation of section 304(c))*, the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of [$5,000] *$10,000* or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty which does not exceed the greater of [$10,000 or an amount equal to 200 percent] *$20,000 or an amount equal to 300 percent* of any contribution or expenditure involved in such violation.

* * * * * * *

(10) For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.

* * * * * * *

(13) PENALTY FOR LATE FILING.—

(A) IN GENERAL.—

(i) MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

(B) FILING AN EXCEPTION.—

(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement

by the Commission under this paragraph in which to file an exception with the Commission.

(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.

(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.

* * * * * * *

(d) Notwithstanding any other provision of this section, if a candidate (or the candidate's authorized committee) believes that a violation described in paragraph (2) has been committed with respect to an election during the 90-day period preceding the date of the election, the candidate or committee may institute a civil action on behalf of the Commission for relief (including injunctive relief) against the alleged violator in the same manner and under the same terms and conditions as an action instituted by the Commission under subsection (a)(6), except that the court involved shall issue a decision regarding the action as soon as practicable after the action is instituted and to the greatest extent possible issue the decision prior to the date of the election involved.

(2) A violation described in this paragraph is a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 relating to—

(A) whether a contribution is in excess of an applicable limit or is otherwise prohibited under this Act; or

(B) whether an expenditure is an independent expenditure under section 301(17).

[(d)] *(e)*(1)(A) [Any person] *Except as provided in subparagraph (D), any person* who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating $2,000 or more during a calendar year [shall be fined, or imprisoned for not more than one year, or both] *shall be imprisoned for not fewer than 1 year and not more than 10 years*. [The amount of this fine shall not exceed the greater of $25,000 or 300 percent of any contribution or expenditure involved in such violation.]

* * * * * * *

(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.

* * * * * * *

(4) In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.

(e) Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may require a person to forfeit to the Treasury any contribution, donation, or expenditure that is the subject of the agreement or action for transfer to the Commission for deposit in accordance with section 326.

* * * * * * *

ADMINISTRATIVE PROVISIONS

SEC. 311. (a) * * *

(b) * * *

(1) IN GENERAL.—The Commission may conduct audits and field investigations of any political committee required to file a report under section 304 of this Act. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of 4 of its members, conduct an audit and field investigation of any committee which does not meet the threshold requirements established by the Commission. Such audit shall be commenced within 30 days of such vote, except that any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within [6] *12* months of the election for which such committee is authorized.

(2) RANDOM AUDITS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The se-

lection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least four members of the Commission.

(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.

* * * * * * *

[USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

[SEC. 313. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of the Internal Revenue Code of 1954, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the Federal Election Campaign Act Amendments of 1979, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.]

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

SEC. 313. (a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

(4) for transfers to a national, State, or local committee of a political party.

(b) PROHIBITED USE.—

(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any

commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

(A) a home mortgage, rent, or utility payment;

(B) a clothing purchase;

(C) a noncampaign-related automobile expense;

(D) a country club membership;

(E) a vacation or other noncampaign-related trip;

(F) a household food item;

(G) a tuition payment;

(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

(I) dues, fees, and other payments to a health club or recreational facility.

* * * * * * *

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 315. (a)(1) No person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; **[**or**]**

(C) to any other political committee *(other than a committee described in subparagraph (D))* in any calendar year which, in the aggregate, exceed $5,000**[**.**]***; or*

(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000.

* * * * * * *

(3) No individual shall make contributions aggregating more than **[**$25,000**]** *$30,000* in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

* * * * * * *

(7) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

[(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

[(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broad-

cast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and**]**

(B) a coordinated activity, as described in section 301(8)(C), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

* * * * * * *

(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) **[**and (3)**]**, *(3), and* (4) of this subsection.

* * * * * * *

(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.

(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for Senator or Representative in or Delegate or Resident Commissioner to the Congress who is not an eligible Congressional candidate (as defined in section 324(a)).

* * * * * * *

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

SEC. 316. (a) * * *

(b)(1) * * *

(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the term "contribution or expenditure" [shall include] *includes a contribution or expenditure, as those terms are defined in section 301, and also includes* any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

* * * * * * *

PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

SEC. 318. (a) [Whenever] *Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever* any person makes [an expenditure] *a disbursement* for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, [direct] mailing, or any other type of general public political advertising, such communication—

(1) * * *

* * * * * * *

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name *and permanent street address* of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

* * * * * * *

(c) Any printed communication described in subsection (a) shall—

(1) be of sufficient type size to be clearly readable by the recipient of the communication;

(2) be contained in a printed box set apart from the other contents of the communication; and

(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

(d)(1) Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

(2) If a communication described in paragraph (1) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

(e) Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: "_____ is responsible for the content of this advertisement." (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

[CONTRIBUTIONS BY FOREIGN NATIONALS]

CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS

SEC. 319. [(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.]

(a) PROHIBITION.—It shall be unlawful for—

(1) a foreign national, directly or indirectly, to make—

(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election, or

(B) a contribution or donation to a committee of a political party; or

(2) a person to solicit, accept, or receive such a contribution or donation from a foreign national.

(b) PROHIBITING USE OF WILLFUL BLINDNESS DEFENSE.—It shall not be a defense to a violation of subsection (a) that the defendant did not know that the contribution originated from a foreign na-

tional if the defendant should have known that the contribution originated from a foreign national, except that the trier of fact may not find that the defendant should have known that the contribution originated from a foreign national solely because of the name of the contributor.

(c) PENALTY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this title any person who violates subsection (a) shall be sentenced to a term of imprisonment which may not be more than 10 years, fined in an amount not to exceed $1,000,000, or both.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any violation of subsection (a) arising from a contribution or donation made by an individual who is lawfully admitted for permanent residence (as defined in section 101(a)(22) of the Immigration and Nationality Act).

[(b)] *(d)* As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

* * * * * * *

FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

SEC. 322. *(a)* No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) * * *

* * * * * * *

(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.

* * * * * * *

SOFT MONEY OF POLITICAL PARTIES

SEC. 323. (a) NATIONAL COMMITTEES.—

(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a po-

litical party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

(2) FEDERAL ELECTION ACTIVITY.—

(A) IN GENERAL.—The term "Federal election activity" means—

(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

(B) EXCLUDED ACTIVITY.—The term "Federal election activity" does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

(iii) the costs of a State, district, or local political convention;

(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the

Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Commissioner of the Internal Revenue Service for determination of tax-exemption under such section).

(e) CANDIDATES.—

(1) IN GENERAL.—A candidate, individual holding Federal office, agent of a candidate or individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more candidates or individuals holding Federal office, shall not—

(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

(2) STATE LAW.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual who is a candidate for a State or local office in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law for any activity other than a Federal election activity.

(3) FUNDRAISING EVENTS.—Notwithstanding paragraph (1), a candidate may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.".

VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT

SEC. 324. (a) ELIGIBLE CONGRESSIONAL CANDIDATE.—

(1) PRIMARY ELECTION.—

(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible primary election Congressional candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

(2) GENERAL ELECTION.—

(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible general election Congressional candidate if the candidate files with the Commission—

(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

(i) the date on which the candidate qualifies for the general election ballot under State law; or

(ii) if under State law, a primary or run-off election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible Congressional candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

(2) SOURCES.—A source is described in this paragraph if the source is—

(A) personal funds of the candidate and members of the candidate's immediate family; or

(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

(c) CERTIFICATION BY THE COMMISSION.—

(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible Congressional candidate.

(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible Congressional candidate.

(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

(d) PENALTY.—If the Commission revokes the certification of an eligible Congressional candidate—

(1) the Commission shall notify the candidate of the revocation; and

(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).

PROHIBITION OF CONTRIBUTIONS BY MINORS

SEC. 325. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.

PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS

SEC. 326. (a) IN GENERAL.—Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office.

(b) NO EFFECT ON GEOGRAPHIC RESTRICTIONS ON CONTRIBUTIONS.—Subsection (a) may not be construed to affect any restriction under this title regarding the portion of contributions accepted by a candidate from persons residing in a particular geographic area.

TREATMENT OF CERTAIN CONTRIBUTIONS AND DONATIONS TO BE RETURNED TO DONORS

SEC. 327. (a) TRANSFER TO COMMISSION.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee, the committee shall transfer the contribution or donation to the Commission if—

(A) the contribution or donation is in an amount equal to or greater than $500 (other than a contribution or donation returned within 60 days of receipt by the committee); or

(B) the contribution or donation was made in violation of section 315, 316, 317, 319, 320, or 325 (other than a contribution or donation returned within 30 days of receipt by the committee).

(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall include with any contribution or donation transferred under paragraph (1)—

(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

(i) deposit the amount in the escrow account established under subparagraph (A); and

(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or used for the same purposes as the donation or contribution on which it is earned.

(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of any contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

(b) USE OF AMOUNTS PLACED IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(3) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code, against the person making the contribution or donation.

(c) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

(1) IN GENERAL.—The Commission shall return a contribution or donation deposited in the escrow account under sub-

section (a)(3) to the person making the contribution or donation if—

(A) within 180 days after the date the contribution or donation is transferred, the Commission has not made a determination under section 309(a)(2) that the Commission has reason to investigate whether that the making of the contribution or donation was made in violation of this Act; or

(B)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

(ii) if the contribution or donation will be used for those purposes, that the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation by the Commission under this subsection shall not be construed as having an effect on the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.

REIMBURSEMENT BY POLITICAL PARTIES FOR USE OF AIR FORCE ONE FOR POLITICAL FUNDRAISING

SEC. 328. (a) IN GENERAL.—If the President, Vice President, or the head of any executive department (as defined in section 101 of title 5, United States Code) uses Air Force One for transportation for any travel which includes a fundraising event for the benefit of any political committee of a national political party, such political committee shall reimburse the Federal Government for the fair market value of the transportation of the individual involved, based on the cost of an equivalent commercial chartered flight.

(b) AIR FORCE ONE DEFINED.—In subsection (a), the term "Air Force One" means the airplane operated by the Air Force which has been specially configured to carry out the mission of transporting the President.

PROHIBITING USE OF CURRENCY TO PROMOTE ELECTION DAY TURNOUT

SEC. 329. It shall be unlawful for any political committee to provide currency to any individual (directly or through an agent of the committee) for purposes of encouraging the individual to appear at the polling place for the election.

SECTION 8 OF THE NATIONAL LABOR RELATIONS ACT

SEC. 8. (a) * * *

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(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not

members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

(i) reasonable personal notice of the objection procedure, a list of the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures; and

(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

(3) DEFINITION.—In this subsection, the term "expenditures supporting political activities unrelated to collective bargaining" means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.

SECTION 3210 OF TITLE 39, UNITED STATES CODE

§ 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials

(a)(1) * * *

* * * * * * *

(6)[(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

[(i) if the mass mailing is postmarked fewer than 60 days (or, in the case of a Member of the House, fewer than 90 days) immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

[(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

[(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

[(II) is postmarked fewer than 90 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member or Member-elect is a candidate for any other public office.]

(A) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.

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TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

Sec.
201. Bribery of public officials and witnesses.
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226. Acceptance or solicitation to obtain access to certain Federal Government property.
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§ 226. Acceptance or solicitation to obtain access to certain Federal Government property

Whoever solicits or receives anything of value in consideration of providing a person with access to Air Force One, Marine One, Air Force Two, Marine Two, the White House, or the Vice President's residence, shall be fined under this title, or imprisoned not more than one year, or both.

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CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

Sec.
592. Troops at polls.
* * * * * * *
611. Voting by aliens.

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§ 607. Place of solicitation

[(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.**]**

(a) PROHIBITION.—

(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value in connection with a Federal, State, or local election while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress *or Executive Office of the President*, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

* * * * * * *

§ 612. Prohibiting use of meals and accommodations at White House for political fundraising

(a) It shall be unlawful for any person to provide or offer to provide any meals or accommodations at the White House in exchange for any money or other thing of value, or as a reward for the provision of any money or other thing of value, in support of any political party or the campaign for electoral office of any candidate.

(b) Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

(c) For purposes of this section, any official residence or retreat of the President (including private residential areas and the grounds

of such a residence or retreat) shall be treated as part of the White House.

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SECTION 9003 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 9003. CONDITION FOR ELIGIBILITY FOR PAYMENTS.

(a) * * *

* * * * * * *

(f) ILLEGAL SOLICITATION OF SOFT MONEY.—No candidate for election to the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless the candidate certifies that the candidate shall not solicit any funds for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.

(f) BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY.—

(1) IN GENERAL.—No candidate for election to the office of President or Vice President who is certified to receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 may coordinate the expenditure of any funds for issue advocacy with any political party unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.

(2) ISSUE ADVOCACY DEFINED.—In this section, the term "issue advocacy" means any activity carried out for the purpose of influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations (without regard to whether the activity is carried out for the purpose of influencing any election for Federal office).

(g) PROHIBITING CONSPIRACY TO VIOLATE LIMITS.—

(1) VIOLATION OF LIMITS DESCRIBED.—If a candidate for election to the office of President or Vice President who receives amounts from the Presidential Election Campaign Fund under chapter 95 or 96 of the Internal Revenue Code of 1986, or the agent of such a candidate, seeks to avoid the spending limits applicable to the candidate under such chapter or under the Federal Election Campaign Act of 1971 by soliciting, receiving, transferring, or directing funds from any source other than such Fund for the direct or indirect benefit of such candidate's campaign, such candidate or agent shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.

(2) CONSPIRACY TO VIOLATE LIMITS DEFINED.—If two or more persons conspire to violate paragraph (1), and one or more of such persons do any act to effect the object of the conspiracy,

each shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.

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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

The "Bipartisan Campaign Finance Reform Act" (H.R. 417) sponsored by Reps. Christopher Shays and Martin Meehan is a serious, comprehensive proposal that would address two of the most serious ills infecting American political campaigns today: unregulated soft money contributions and undisclosed issue advocacy. There simply is too much special-interest money from too few sources flowing into the party committees in the form of soft money, and onto the airwaves in the form of thinly disguised political advertisements paid for with unlimited dollars from unknown sources. Increased reliance on soft money contributions shows no signs of abating, and is of particular concern.

While the Committee Majority chose to report the bill with an unfavorable recommendation, we believe that the Committee process was a tactic designed to delay bringing this bipartisan bill to the House floor for consideration. We note that Rep. Fattah offered the Chairman's FEC reform bill H.R. 2668 as an amendment to the Shays-Meehan bill during the Committee's consideration, which was opposed by the Committee Majority. While we believe that H.R. 2668 is an excellent complement to H.R. 419, we do not believe that the limited housekeeping reforms of H.R. 2668 approximate campaign finance reform. We support H.R. 417 and note that a nearly identical bill offered by Reps. Shays and Meehan overwhelmingly passed the House last year by a vote of 252 to 179. That vote took place only after a discharge petition prompted the House Republican leadership to permit a vote on this issue. A discharge petition was initiated again this year, but did not gain the necessary signatures to force a floor vote.

SOFT MONEY

H.R. 417 is the only bill reported by the Committee that contains a comprehensive ban on unregulated soft money. The very nature of so-called "soft" money—unlimited contributions from corporations and unions that otherwise are prohibited from making direct campaign contributions—illustrates the problem. Soft money includes money from corporations and unions that is not supposed to be influencing federal elections at all. Yet, it has gradually come to be the dominant source of campaign dollars. The Shays-Meehan bill addresses public concerns over soft money by prohibiting soft money contributions to national political parties and curtailing soft money activities conducted by state and local parties.

Soft money contributions to political parties exist solely because of a loophole opened by the Federal Election Commission. With each passing election cycle, soft money contributions to state and national parties have increased in volume until a trickle has turned into a torrent. Between 1994 and 1996 alone, the total amount of soft money contributed to national parties increased

from 101.6 million to 263.5 million. This increase has led to more direct and blatant attempts by contributors to purchase access and influence in the political process, and has driven an ever-increasing dollars race between the party committees. In fact, the amounts of money sought and the increasingly constant appeals for soft dollars have led many leaders in the business world to join the call for reforming the soft money system.

H.R. 417 would prohibit all soft money contributions to the national political parties from corporations, labor unions, and wealthy individuals. It would also halt backdoor soft money contributions to state parties, while at the same time recognizing the importance of the state parties and allowing larger "hard" dollar contributions. According to a letter circulated by the Brennan Center for Justice, and signed by 125 constitutional scholars nationwide, the constitutionality of the comprehensive soft money ban in H.R. 417 is simply not in question. We support the comprehensive soft money ban that is contained only in H.R. 417, and not the competing campaign finance proposals.

ISSUE ADVOCACY

The Shays-Meehan bill also would provide a reasonable solution to the problem of unlimited and undisclosed advertising that fails to qualify as "express advocacy" under federal election law, even though it clearly is designed to influence the outcome of an election. As the result of a series of court decisions since 1993, the term "express advocacy" currently refers only to those communications that include the so-called "magic words," such as "Vote for Candidate X" or "Defeat Candidate Y." There are three consequences when advertising does not meet this express advocacy standard. First, it may be paid for with unlimited amounts of money from any source, including corporations or unions. Second, neither the amount spent nor the source of the funding need be disclosed to the public. And third, the advertising need not carry a truthful disclaimer to inform the voter who actually paid for the communication.

Since 1996, so-called "issue" advertising abuses have exploded. The Annenberg Public Policy Center estimates that between $275 million and $340 million was spent on "issue" advertising in the months prior to the 1998 election. However, no one can be certain of the correct figure since no disclosure is required. Both political parties, as well as a variety of interest groups and unknown groups whose origin and purpose remains a mystery, have used the express advocacy loophole in recent elections to run ads that clearly are designed to advocate candidates. Nonetheless, since these ads stop just short of using the magic words, their sponsors are not subject to public disclosure, the ads need carry no disclaimer and they may be paid for with unlimited dollars from any source.

In her testimony before the Committee on July 22, Kathleen Hall Jamison outlined the problem that unlimited and undisclosed issue advertising creates for voters. Express advocacy "is not a bright line that a reasonable person can differentiate when in practice something that vilifies an individual but doesn't contain the express words of advocacy and closes with an appeal to call appears within a week or two of an election. Reasonably, that message in

that context is interpreted by human beings as express advocacy, even as Buckley calls it something else. Secondly * * * messages are not identifiable for most audiences until they are sourced. And as a result of that, we rarely interpret messages without interpreting the credibility of the source who is bringing us the message. If one assumes that pseudonymous groups are able to communicate to the electorate, one effectively takes away the ability of the electorate to judge the legitimacy of the message that is being offered."

H.R. 417 would modify the statutory definition of "express advocacy" to provide a clear distinction between advertising seeking to persuade voters on issues and "sham" advertising—that is, advertising that clearly is intended to promote the election or defeat of a federal candidate. The Shays-Meehan proposal defines any advertisement that features a clearly identified federal candidate in the 60 days before the election as an "express advocacy" advertisement. This simply means that the advertising must, like all candidate ads, be paid for with hard dollars and be subject to public disclosure.

The solution to this explosion of unsourced, undisclosed political advertising is passage of the moderate, bright line 60-day proposal in H.R. 417. Passage of the 60-day Shays-Meehan proposal would not limit the speech of any group or individual. In fact, it would not require any group or individual spending less than $1,000 to do anything at all. And for those groups and individuals interested in promoting the election or defeat of the candidates of their choice, it would simply require that they play by the same rules that govern the candidates themselves. These modest burdens placed on groups and individuals wishing to engage in express advocacy will not limit their ability to speak, and the disclosure and disclaimer requirements will cast sunlight on political spending by interest groups.

OTHER PROVISIONS

In addition, Shays-Meehan would accomplish several other necessary but less crucial fixes to the campaign finance laws. Notably, it forces wealthy candidates to choose between spending in excess of $50,000 of their own funds or receiving financial assistance from the party. It also takes steps to ensure that public disclosure keeps pace with the age of the Internet by requiring all committees to file electronically and requiring that last-minute contributions be filed and placed online more quickly. Finally, H.R. 417 creates a Commission to further study the issue of campaign finance reform so that in the future when the campaign finance law again needs to be altered to keep up with unforeseen changes and to further ensure the integrity of the electoral process, that change may be accomplished more quickly and with bipartisan support such as that exhibited in the House on the Shays-Meehan proposal last year.

CONCLUSION

The Majority's refused to even consider voting H.R. 417 out of the Committee without recommendation, despite the fact that this same courtesy was granted to H.R. 1867, which is very similar to Shays-Meehan in substance. This distinction reflects a funda-

mental difference in the parties' approaches to campaign finance reform. The Democrats believe that the time has come to curb the ever-increasing amounts of money being used simply to enrich broadcasters and political consultants. At the same time, there is a growing view among the public that there is too much money in politics and that wealthy special interests have too much influence. Along with a bi-partisan group of our colleagues, leaders of the business world, and 125 constitutional scholars we urge the passage of a soft money ban and the enactment of the Shays-Meehan bill.

STENY H. HOYER.
CHAKA FATTAH.
JIM DAVIS.

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