

110TH CONGRESS  
1ST SESSION

# S. 478

To amend the Federal Election Campaign Act of 1971 to replace the Federal Election Commission with the Federal Election Administration, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2007

Mr. MCCAIN (for himself and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To amend the Federal Election Campaign Act of 1971 to replace the Federal Election Commission with the Federal Election Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Federal Election Administration Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL ELECTION ADMINISTRATION

- Sec. 101. Establishment of the Federal Election Administration.  
 Sec. 102. Executive schedule positions.  
 Sec. 103. GAO examination of enforcement of campaign finance laws by the  
 Department of Justice.  
 Sec. 104. GAO study and report on appropriate funding levels.  
 Sec. 105. Conforming amendments.  
 Sec. 106. Authorization of appropriations.

#### TITLE II—TRANSITION PROVISIONS

- Sec. 201. Transfer of functions of Federal Election Commission.  
 Sec. 202. Transfer of property, records, and personnel.  
 Sec. 203. Repeals.  
 Sec. 204. Conforming amendments.  
 Sec. 205. Effective date.

## 1       **TITLE I—FEDERAL ELECTION** 2                               **ADMINISTRATION**

### 3       **SEC. 101. ESTABLISHMENT OF THE FEDERAL ELECTION AD-** 4                               **MINISTRATION.**

5               (a) IN GENERAL.—Title III of the Federal Election  
 6 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended  
 7 by adding at the end the following new subtitle:

### 8                               **“Subtitle B—Administrative** 9   **Provisions**

#### 10       **“CHAPTER 1—ESTABLISHMENT OF THE** 11       **FEDERAL ELECTION ADMINISTRATION**

#### 12       **“SEC. 351. ESTABLISHMENT OF THE FEDERAL ELECTION** 13                               **ADMINISTRATION.**

14               “(a) IN GENERAL.—There is established the Federal  
 15 Election Administration (in this Act referred to as the  
 16 ‘Administration’).

1           “(b) INDEPENDENT ESTABLISHMENT.—The Admin-  
2   istration shall be an independent establishment (as defined  
3   in section 104 of title 5, United States Code).

4           “(c) PURPOSE.—The Administration shall admin-  
5   ister, seek to obtain compliance with, enforce, and formu-  
6   late policy in a manner that is consistent with the lan-  
7   guage and intent of Congress with respect to the following  
8   statutes:

9           “(1) This Act.

10          “(2) The Presidential Election Campaign Fund  
11   Act under chapter 95 of the Internal Revenue Code  
12   of 1986.

13          “(3) The Presidential Primary Matching Pay-  
14   ment Account Act under chapter 96 of the Internal  
15   Revenue Code of 1986.

16          “(d) EXCLUSIVE CIVIL JURISDICTION.—The Admin-  
17   istration shall have exclusive jurisdiction with respect to  
18   the civil enforcement of the statutes identified in sub-  
19   section (c).

20          “(e) VOTING REQUIREMENT.—All decisions of the  
21   Administration with respect to the exercise of its duties  
22   and powers under this Act, except those expressly reserved  
23   for decision by the Chair, shall be made by a majority vote  
24   of its members.

25          “(f) MEETINGS AND QUORUM.—

1           “(1) MEETINGS.—The Administration shall  
2 meet—

3                   “(A) at least once each month; and

4                   “(B) at the call of the Chair.

5           “(2) QUORUM.—A majority of the members of  
6 the Administration shall constitute a quorum.

7           “(g) SEAL.—The Administration shall procure a  
8 proper seal, with such suitable inscriptions and devices as  
9 the President shall approve. This seal, to be known as the  
10 official seal of the Federal Election Administration, shall  
11 be kept and used to verify official documents, under such  
12 rules and regulations as the Administration may prescribe.  
13 Judicial notice shall be taken of the seal.

14           “(h) PRINCIPAL OFFICE.—The principal office of the  
15 Administration shall be in or near the District of Colum-  
16 bia, but the Administration may meet or exercise any of  
17 its powers anywhere in the United States.

18 **“SEC. 352. COMPOSITION OF THE FEDERAL ELECTION AD-**  
19 **MINISTRATION.**

20           “(a) IN GENERAL.—The Administration shall be  
21 composed of 3 members, 1 of whom shall serve as the  
22 Chair of the Administration. No member of the Adminis-  
23 tration shall—

1           “(1) be affiliated with the same political party  
2 as any other member of the Administration while  
3 serving as a member of the Administration; or

4           “(2) have been affiliated with the same political  
5 party as any other member of the Administration at  
6 any time during the 5-year period ending on the  
7 date on which such individual is nominated to be a  
8 member of the Administration.

9           “(b) APPOINTMENT.—

10           “(1) IN GENERAL.—Each member of the Ad-  
11 ministration shall be appointed by the President, by  
12 and with the advice and consent of the Senate.

13           “(2) CHAIR.—The President shall, at the time  
14 of nomination of the first 3 members of the Admin-  
15 istration, designate 1 of the 3 to serve as the Chair.  
16 Any individual appointed to succeed, or to fill the  
17 unexpired term of, that member (or any member  
18 succeeding that member) shall serve as the Chair.

19           “(3) QUALIFICATIONS.—

20           “(A) An individual who is appointed under  
21 paragraph (1) shall—

22           “(i) possess demonstrated integrity,  
23 independence, and public credibility; and

1 “(ii) shall have not less than 5 years  
2 professional experience in law enforcement,  
3 including such experience gained—

4 “(I) in service as a member of  
5 the judiciary;

6 “(II) as a member or an em-  
7 ployee of a Federal, State, or local  
8 campaign finance or ethics enforce-  
9 ment agency; or

10 “(III) as a law enforcement offi-  
11 cial in a Federal or State enforcement  
12 agency or office.

13 “(B) An individual may not be appointed  
14 under paragraph (1) if—

15 “(i) such individual is serving or has  
16 served as a member of the Federal Elec-  
17 tion Commission subject to a term limit; or

18 “(ii) at any time during the 4-year pe-  
19 riod ending on the date of the nomination  
20 of such individual, the individual was—

21 “(I) a candidate, an employee of  
22 a candidate, or an attorney for a can-  
23 didate;

24 “(II) an elected officeholder, an  
25 employee of an elected officeholder, or

1 an attorney for an elected office-  
2 holder;

3 “(III) an officer or employee of a  
4 political party or an attorney for a po-  
5 litical party; or

6 “(IV) employed in a position in  
7 the executive branch of the Govern-  
8 ment of a confidential or policy-deter-  
9 mining character under Schedule C of  
10 subpart C of part 213 of title 5 of the  
11 Code of Federal Regulations.

12 “(c) TERM OF OFFICE.—

13 “(1) IN GENERAL.—

14 “(A) CHAIR.—The Chair of the Adminis-  
15 tration shall be appointed for a term of 10  
16 years.

17 “(B) OTHER MEMBERS.—Subject to sub-  
18 paragraph (C), the 2 members of the Adminis-  
19 tration other than the Chair shall be appointed  
20 for a term of 6 years.

21 “(C) INITIAL APPOINTMENTS.—Of the  
22 members initially appointed under subpara-  
23 graph (B), 1 member shall be appointed for a  
24 term of 3 years.

1           “(2) LIMITATION TO ONE TERM.—A member of  
2 the Administration may only serve 1 term, except  
3 that—

4           “(A) the individual appointed under sub-  
5 paragraph (B) of paragraph (1) who is ap-  
6 pointed for the term described in subparagraph  
7 (C) of such paragraph may be appointed to a  
8 6-year term in addition to the term described in  
9 such subparagraph; and

10           “(B) an individual appointed under para-  
11 graph (4) to fill the remainder of an unexpired  
12 term that has less than  $\frac{1}{2}$  of the term remain-  
13 ing may be appointed to serve another term.

14           “(3) EXPIRED TERMS.—An individual may con-  
15 tinue to serve as a member of the Administration  
16 after the expiration of such individual’s term until  
17 the earlier of—

18           “(A) the date on which such individual’s  
19 successor has taken office; or

20           “(B) 1 year following the date on which  
21 the term of such member expired.

22           “(4) VACANCIES.—An individual appointed  
23 upon a vacancy occurring before the expiration of  
24 the term for which the individual’s predecessor was  
25 appointed shall be appointed only for the unexpired



1 term of the predecessor. Such vacancy shall be filled  
2 in the same manner as the original appointment.

3 “(5) OTHER ACTIVITIES.—An individual may  
4 not engage in any other business, vocation, or em-  
5 ployment while serving as a member of the Adminis-  
6 tration.

7 “(d) REMOVAL.—A member of the Administration  
8 may be removed by the President only for inefficiency, ne-  
9 glect of duty, or malfeasance in office.

10 **“SEC. 353. STAFF DIRECTOR.**

11 “(a) IN GENERAL.—There shall be in the Adminis-  
12 tration a staff director.

13 “(b) RESPONSIBILITIES.—The staff director—

14 “(1) shall assist the Administration in its ad-  
15 ministration and operations;

16 “(2) shall perform such responsibilities as the  
17 Administration shall prescribe; and

18 “(3) may, with the approval of the Chair—

19 “(A) appoint and fix the pay of such addi-  
20 tional personnel as the staff director considers  
21 appropriate without regard to the provisions of  
22 title 5, United States Code, governing appoint-  
23 ments in the competitive service; and

24 “(B) procure temporary and intermittent  
25 services to the same extent as is authorized by

1 section 3109(b) of title 5, United States Code,  
2 but at rates for individuals not to exceed the  
3 daily equivalent of the annual rate of basic pay  
4 in effect for grade GS-15 of the General Sched-  
5 ule (5 U.S.C. 5332).

6 “(c) APPOINTMENT.—The staff director shall be ap-  
7 pointed by the Chair, after consultation with the other  
8 members of the Administration.

9 “(d) OTHER ACTIVITIES.—An individual may not en-  
10 gage in any other business, vocation, or employment while  
11 serving as the staff director.

12 **“SEC. 354. GENERAL COUNSEL.**

13 “(a) IN GENERAL.—There shall be in the Adminis-  
14 tration a general counsel.

15 “(b) RESPONSIBILITIES.—The general counsel  
16 shall—

17 “(1) serve as the chief legal officer of the Ad-  
18 ministration;

19 “(2) provide legal assistance to the Administra-  
20 tion concerning its programs and policies;

21 “(3) advise and assist the Administration in  
22 carrying out its responsibilities under section 361;  
23 and

1           “(4) represent the Administration in any pro-  
2           ceeding in court or before an administrative law  
3           judge.

4           “(c) APPOINTMENT.—The general counsel shall be  
5           appointed by the Chair, subject to approval by majority  
6           vote of the members of the Administration.

7           **“SEC. 355. INSPECTOR GENERAL.**

8           “‘There shall be in the Administration an inspector  
9           general. The inspector general and the office of inspector  
10          general shall be subject to the Inspector General Act of  
11          1978 (5 U.S.C. App.).

12           **“CHAPTER 2—OPERATION OF THE**  
13          **FEDERAL ELECTION ADMINISTRATION**

14          **“SEC. 361. POWERS OF THE CHAIR AND ADMINISTRATION.**

15          “(a) CHAIR.—

16                 “(1) IN GENERAL.—The Chair shall be the  
17                 chief administrative officer of the Administration  
18                 with the authority to administer the Administration  
19                 and shall, after consultation with the other 2 mem-  
20                 bers of the Administration, have the power to ap-  
21                 point or remove the staff director and to establish  
22                 the budget of the Administration.

23                 “(2) OTHER POWERS.—The Chair has the  
24                 power—

1           “(A) to the fullest extent practicable, to re-  
2           quest the assistance of other agencies and de-  
3           partments of the United States, including the  
4           personnel and facilities of such agencies and de-  
5           partments and the heads of such agencies and  
6           departments may make available to the Chair  
7           such personnel, facilities, and other assistance,  
8           with or without reimbursement;

9           “(B) to appoint, assign, remove, and com-  
10          pensate administrative law judges in accordance  
11          with title 5, United States Code;

12          “(C) to require, by special or general or-  
13          ders, any person to submit, under oath, such  
14          written reports and answers to questions as the  
15          Chair may prescribe;

16          “(D) to administer oaths or affirmations;

17          “(E) to issue and enforce subpoenas in ac-  
18          cordance with section 364;

19          “(F) in any proceeding or investigation, to  
20          order testimony to be taken by deposition be-  
21          fore any person who is designated by the Chair  
22          and has the power to administer oaths and, in  
23          such instances, to compel testimony and the  
24          production of evidence in the same manner as  
25          authorized under subparagraph (E);

1           “(G) to pay witnesses fees and mileage in  
2           accordance with section 364(d); and

3           “(H) to make independent budget requests  
4           to Congress in accordance with section 362.

5           “(b) ADMINISTRATION.—The Administration shall  
6 have the power—

7           “(1) to initiate, defend, or appeal, through the  
8           general counsel, any civil action in the name of the  
9           Administration to enforce the provisions of this Act  
10          and chapters 95 and 96 of the Internal Revenue  
11          Code of 1986;

12          “(2) to assess civil penalties for violations of  
13          this Act and chapters 95 and 96 of the Internal  
14          Revenue Code of 1986;

15          “(3) to issue cease-and-desist orders to prevent  
16          violations of this Act and chapters 95 and 96 of the  
17          Internal Revenue Code of 1986;

18          “(4) to establish procedures and schedules for  
19          agency adjudication that ensure timely enforcement  
20          of this Act and chapters 95 and 96 of the Internal  
21          Revenue Code of 1986;

22          “(5) to render advisory opinions under section  
23          363;

24          “(6) to develop prescribed forms, and to make,  
25          amend, and repeal rules, pursuant to section 365;

1           “(7) to establish procedures for alternative dis-  
2           pute resolution of violations of this Act or of chap-  
3           ters 95 or 96 of the Internal Revenue Code of 1986;

4           “(8) to conduct investigations and hearings ex-  
5           peditiously, to encourage voluntary compliance, and  
6           to report apparent violations to the appropriate law  
7           enforcement authorities; and

8           “(9) to transmit to the President and to Con-  
9           gress not later than June 1 of each year, a report  
10          which states in detail the activities of the Adminis-  
11          tration in carrying out its duties under this Act, and  
12          which includes any recommendations for any legisla-  
13          tive or other action the Administration considers ap-  
14          propriate.

15 **“SEC. 362. INDEPENDENT BUDGET REQUESTS AND LEGIS-**  
16 **LATIVE PROPOSALS.**

17          “(a) EXEMPTION FROM OMB OVERSIGHT.—When-  
18          ever the Chair submits any budget estimate or request to  
19          the President or the Office of Management and Budget,  
20          the Chair shall concurrently transmit a copy of such esti-  
21          mate or request to Congress.

22          “(b) AUTHORITY TO MAKE INDEPENDENT LEGISLA-  
23          TIVE RECOMMENDATIONS.—Whenever the Administration  
24          submits any legislative recommendation, testimony, or  
25          comments on legislation requested by Congress or by any

1 Member of Congress, to the President or the Office of  
2 Management and Budget, the Administration shall con-  
3 currently transmit a copy thereof to Congress or to the  
4 Member requesting the same. No officer or agency of the  
5 United States shall have any authority to require the Ad-  
6 ministration to submit its legislative recommendations,  
7 testimony, or comments on legislation, to any office or  
8 agency of the United States for approval, comments, or  
9 review, prior to the submission of such recommendations,  
10 testimony, or comments to Congress.

11 **“SEC. 363. ADVISORY OPINIONS.**

12 “(a) REQUESTS FOR ADVISORY OPINIONS.—

13 “(1) IN GENERAL.—Not later than 60 days  
14 after the Administration receives from a person a  
15 complete written request concerning the application  
16 of this Act, chapter 95 or 96 of the Internal Rev-  
17 enue Code of 1986, or a rule or regulation pre-  
18 scribed by the Administration, with respect to a spe-  
19 cific transaction or activity by the person, the Ad-  
20 ministration shall render a written advisory opinion  
21 relating to such transaction or activity to the person.

22 “(2) REQUESTS BY CANDIDATES.—If an advi-  
23 sory opinion is requested by a candidate, or any au-  
24 thorized committee of such candidate, during the 60-  
25 day period before any election for Federal office in-

1       volving the requesting party, the Administration  
2       shall render a written advisory opinion relating to  
3       such request not later than 20 days after the Ad-  
4       ministration receives a complete written request.

5       “(b) RULEMAKING REQUIRED.—Any rule of law  
6       which is not stated in this Act or in chapter 95 or 96  
7       of the Internal Revenue Code of 1986 may be initially pro-  
8       posed by the Administration only as a rule or regulation  
9       pursuant to procedures established in section 365. No  
10      opinion of an advisory nature may be issued by the Admin-  
11      istration or any other officer or employee of the Adminis-  
12      tration except in accordance with the provisions of this  
13      section.

14      “(c) RELIANCE ON ADVISORY OPINIONS.—

15              “(1) IN GENERAL.—Any advisory opinion ren-  
16      dered by the Administration under subsection (a)  
17      may be relied upon by—

18                      “(A) any person involved in the specific  
19                      transaction or activity with respect to which  
20                      such advisory opinion is rendered; and

21                      “(B) any person involved in any specific  
22                      transaction or activity which is indistinguish-  
23                      able in all its material aspects from the trans-  
24                      action or activity with respect to which such ad-  
25                      visory opinion is rendered.



1           “(2) PROTECTION FROM LIABILITY.—Notwith-  
2 standing any other provisions of law, any person  
3 who relies upon any provision or finding of an advi-  
4 sory opinion in accordance with the provisions of  
5 paragraph (1) and who acts in good faith in accord-  
6 ance with the provisions and findings of such advi-  
7 sory opinion shall not, as a result of any such act,  
8 be subject to any sanction provided by this Act or  
9 by chapter 95 or 96 of the Internal Revenue Code  
10 of 1986.

11           “(d) PUBLICATION OF REQUESTS.—The Administra-  
12 tion shall make public any request made under subsection  
13 (a) for an advisory opinion. Before rendering an advisory  
14 opinion, the Administration shall accept written comments  
15 submitted by any interested party within the 10-day pe-  
16 riod following the date on which the request is made pub-  
17 lic.

18           “(e) JUDICIAL REVIEW.—

19           “(1) IN GENERAL.—Any person adversely af-  
20 fected by an advisory opinion rendered by the Ad-  
21 ministration may obtain judicial review of such advi-  
22 sory opinion by filing a petition in the United States  
23 Court of Appeals for the District of Columbia Cir-  
24 cuit.

1           “(2) SCOPE OF REVIEW.—For purposes of con-  
2           ducting the judicial review described in paragraph  
3           (1), the provisions of section 706 of title 5, United  
4           States Code, shall apply.

5   **“SEC. 364. ISSUANCE AND ENFORCEMENT OF SUBPOENAS.**

6           “(a) ISSUANCE BY THE CHAIR.—If the Administra-  
7           tion is conducting an investigation pursuant to section 371  
8           or 372, the Chair shall, on behalf of the Administration,  
9           have the power to require by subpoena the attendance and  
10          testimony of witnesses and the production of all documen-  
11          tary evidence relating to the execution of the Administra-  
12          tion’s duties.

13          “(b) ISSUANCE BY AN ADMINISTRATIVE LAW  
14          JUDGE.—Any administrative law judge presiding over an  
15          enforcement action pursuant to section 373 shall have the  
16          power to require by subpoena the attendance and testi-  
17          mony of witnesses and the production of all documentary  
18          evidence relating to the administrative law judge’s duties.

19          “(c) ISSUANCE AND ENFORCEMENT OF SUB-  
20          POENAS.—

21                 “(1) ISSUANCE.—Subpoenas issued under sub-  
22                 section (a) or (b) shall bear the signature of the  
23                 Chair or an administrative law judge, respectively,  
24                 and shall be served by any person or class of persons

1 designated by the Chair or administrative law judge  
2 for that purpose.

3 “(2) ENFORCEMENT.—In the case of contu-  
4 macy or failure to obey a subpoena issued under  
5 subsection (a) or (b), the Federal district court for  
6 the judicial district in which the subpoenaed person  
7 resides, is served, or may be found may issue an  
8 order requiring such person to appear at any des-  
9 ignated place to testify or to produce documentary  
10 or other evidence. Any failure to obey the order of  
11 the court may be punished by the court as a con-  
12 tempt of that court.

13 “(d) WITNESS ALLOWANCES AND FEES.—Section  
14 1821 of title 28, United States Code, shall apply to wit-  
15 nesses requested or subpoenaed to appear at any hearing  
16 of the Administration. The per diem and mileage allow-  
17 ances for witnesses shall be paid from funds available to  
18 pay the expenses of the Administration.

19 “(e) JURISDICTION.—Subpoenas for witnesses who  
20 are required to attend a Federal district court may run  
21 into any other district.

22 **“SEC. 365. RULEMAKING AUTHORITY.**

23 “(a) IN GENERAL.—The Administration may, pursu-  
24 ant to the provisions of chapter 5 of title 5, United States  
25 Code, prescribe such rules and regulations as the Adminis-

1 tration deems necessary to carry out the provisions of this  
2 Act and chapters 95 and 96 of the Internal Revenue Code  
3 of 1986, including the authority to promulgate rules of  
4 practice and procedure for agency adjudications.

5 “(b) AUTHORITY TO PROMULGATE INDEPENDENT  
6 REGULATIONS.—Whenever the Administration promul-  
7 gates any regulation, it shall not be required to submit  
8 such regulation for review or approval to the President  
9 or the Office of Management and Budget.

10 “(c) CONDUCT OF ACTIVITIES.—The Administration  
11 shall prepare written rules for the conduct of its activities,  
12 including procedures for the conduct of enforcement ac-  
13 tions under sections 371, 372, and 373.

14 “(d) FORMS.—

15 “(1) IN GENERAL.—The Administration shall  
16 prescribe forms necessary to implement this Act and  
17 chapters 95 and 96 of the Internal Revenue Code of  
18 1986.

19 “(2) PUBLIC PROTECTION.—Any forms pre-  
20 scribed by the Administration under paragraph (1),  
21 and any information-gathering activities of the Ad-  
22 ministration under this Act, shall not be subject to  
23 the provisions of section 3512 of title 44, United  
24 States Code.

1       “(e) RELIANCE UPON RULES AND REGULATIONS.—  
2 Notwithstanding any other provision of law, any person  
3 who relies upon any rule or regulation prescribed by the  
4 Administration in accordance with the provisions of this  
5 section and who acts in good faith in accordance with such  
6 rule or regulation shall not, as a result of such act, be  
7 subject to any sanction provided by this Act or by chapter  
8 95 or 96 of the Internal Revenue Code of 1986.

9       “(f) CONSULTATION WITH IRS.—In prescribing  
10 rules, regulations, and forms under this section, the Ad-  
11 ministration and the Secretary of the Treasury shall con-  
12 sult and work together to promulgate rules, regulations,  
13 and forms which are mutually consistent. The Administra-  
14 tion shall report to Congress annually on the steps it has  
15 taken to comply with this subsection.

16       “(g) JUDICIAL REVIEW.—

17               “(1) IN GENERAL.—Any person adversely af-  
18 fected by a rule, regulation, or form promulgated by  
19 the Administration may obtain judicial review of  
20 such rule, regulation, or form by filing a petition in  
21 the United States Court of Appeals for the District  
22 of Columbia Circuit.

23               “(2) SCOPE OF REVIEW.—For purposes of con-  
24 ducting the judicial review described in paragraph

1 (1), the provisions of section 706 of title 5, United  
2 States Code, shall apply.

3 “(h) **RULE AND REGULATION DEFINED.**—In this  
4 Act, the terms ‘rule’ and ‘regulation’ mean a provision or  
5 series of interrelated provisions stating a single, separable  
6 rule of law.

7 **“SEC. 366. LITIGATION AUTHORITY.**

8 “(a) **IN GENERAL.**—Notwithstanding sections 516  
9 and 518 of title 28, United States Code, and section 3106  
10 of title 5, United States Code, the Administration is au-  
11 thorized to bring, appear in, defend against, and appeal  
12 any action instituted under this Act or chapter 95 or 96  
13 of the Internal Revenue Code of 1986, in any court ei-  
14 ther—

15 “(1) by attorneys employed by the Administra-  
16 tion; or

17 “(2) by counsel whom it may appoint, on a tem-  
18 porary basis as may be necessary for such purpose,  
19 without regard to the provisions of title 5, United  
20 States Code, governing appointments in the competi-  
21 tive service, and whose compensation it may fix  
22 without regard to the provisions of chapter 51 and  
23 subchapter III of chapter 53 of such title.

24 “(b) **COMPENSATION OF APPOINTED COUNSEL.**—  
25 The compensation of counsel appointed on a temporary

1 basis under subsection (a)(2) shall be paid out of any  
2 funds otherwise available to pay the compensation of em-  
3 ployees of the Administration.

4 “(c) INDEPENDENCE FROM ATTORNEY GENERAL.—  
5 In pursuing an action under this section, the Administra-  
6 tion may act independently of the Attorney General.

7 **“SEC. 367. AVAILABILITY OF REPORTS.**

8 “(a) IN GENERAL.—The Administration shall—

9 “(1) prepare, publish, and furnish to all persons  
10 required to file reports and statements under this  
11 Act a manual recommending uniform methods of  
12 bookkeeping and reporting;

13 “(2) develop a filing, coding, and cross-indexing  
14 system consistent with the purposes of this Act;

15 “(3) within 48 hours after the time of the re-  
16 ceipt by the Administration of reports and state-  
17 ments filed with the Administration, make them  
18 available for public inspection, and copying, at the  
19 expense of the person requesting such copying, ex-  
20 cept that any information copied from such reports  
21 or statements may not be sold or used by any person  
22 for the purpose of soliciting contributions or for  
23 commercial purposes, other than using the name and  
24 address of any political committee to solicit contribu-  
25 tions from such committee;

1           “(4) keep such designations, reports, and state-  
2           ments for a period of 10 years from the date of re-  
3           ceipt and maintain computerized records of such  
4           designations, reports, and statements thereafter;

5           “(5)(A) compile and maintain a cumulative  
6           index of designations, reports, and statements filed  
7           under this Act, publish the index at regular inter-  
8           vals, and make the index available for purchase di-  
9           rectly or by mail;

10          “(B) compile, maintain, and revise a separate  
11          cumulative index of reports and statements filed by  
12          multicandidate committees, including in such index a  
13          list of multicandidate committees; and

14          “(C) compile and maintain a list of multi-  
15          candidate committees, which shall be revised and  
16          made available monthly;

17          “(6) prepare and publish periodically lists of  
18          authorized committees which fail to file reports as  
19          required by this Act; and

20          “(7) serve as a national clearinghouse for the  
21          compilation of information and review of procedures  
22          with respect to the administration of Federal elec-  
23          tions.

24          “(b) PSEUDONYMS.—For purposes of subsection  
25 (a)(3), a political committee may submit 10 pseudonyms



1 on each report filed in order to protect against the illegal  
2 use of names and addresses of contributors, but only if  
3 such committee attaches a list of such pseudonyms to the  
4 appropriate report. The Administration shall exclude these  
5 lists from the public record.

6 “(c) **CONTRACTS.**—The Administration may enter  
7 into contracts for the purpose of performing the duties  
8 described in subsection (a).

9 “(d) **AVAILABILITY OF REPORTS.**—Reports or other  
10 information described in subsection (a) shall be available  
11 to the public, except that—

12 “(1) copies shall be made available without cost,  
13 upon request, to agencies and branches of the Fed-  
14 eral Government; and

15 “(2) information made available as a result of  
16 the application of paragraph (7) of such subsection  
17 shall be made available to the public only upon the  
18 payment of the cost thereof.

19 **“SEC. 368. AUDITS AND FIELD EXAMINATIONS.**

20 “(a) **IN GENERAL.**—The Administration may, in ac-  
21 cordance with the provisions of this section, conduct audits  
22 and field investigations of any political committee required  
23 to file a report under section 304.

24 “(b) **PRIORITY.**—All audits and field investigations  
25 concerning the verification for, and receipt and use of, any

1 payments received by a candidate or committee under  
2 chapter 95 or 96 of the Internal Revenue Code of 1986  
3 shall be given priority.

4 “(c) AUDITS AND FIELD EXAMINATIONS WHERE  
5 THRESHOLDS NOT MET.—

6 “(1) INTERNAL REVIEW.—The Administration  
7 shall conduct an internal review of reports filed by  
8 selected committees to determine if the reports filed  
9 by a particular committee meet the threshold re-  
10 quirements for substantial compliance with the Act.  
11 Such thresholds for compliance shall be established  
12 by the Administration.

13 “(2) AUDITS AND FIELD EXAMINATIONS.—The  
14 Administration may vote to conduct an audit and  
15 field investigation of any committee which it deter-  
16 mines under paragraph (1) does not meet the  
17 threshold requirements established by the Adminis-  
18 tration. Such audits shall be commenced within 30  
19 days of such vote, except that any audit under the  
20 provisions of this subsection of an authorized com-  
21 mittee of a candidate shall be commenced within 6  
22 months of the election for which such committee is  
23 authorized.

24 “(d) RANDOM AUDITS.—

1           “(1) IN GENERAL.—In addition to any audits  
2           conducted under subsection (c), the Administration  
3           may, subject to paragraph (2), conduct audits of any  
4           committee selected at random to ensure compliance  
5           with this Act. The selection of any committee under  
6           this paragraph shall be based on standards and pro-  
7           cedures adopted by the Administration, except that  
8           in any calendar year such audits may be initiated  
9           against no more than 3 percent of all authorized  
10          candidate campaign committees.

11           “(2) APPLICABLE RULES.—

12           “(A) IN GENERAL.—If the Administration  
13           selects a committee for audit under paragraph  
14           (1), the Administration shall promptly notify  
15           the committee of the selection and commence  
16           the audit within 30 days of the selection.

17           “(B) SPECIAL RULES FOR AUTHORIZED  
18           COMMITTEES.—If the committee selected under  
19           paragraph (1) is an authorized committee of a  
20           candidate, the audit—

21           “(i) shall be commenced and actively  
22           undertaken within 6 months of the election  
23           for which the committee is authorized; and

24           “(ii) may examine compliance with  
25           this Act only with respect to that election.

1           “(3) EXCEPTION.—This subsection shall not  
2           apply to an authorized committee of a candidate for  
3           President or Vice President subject to audit under  
4           section 9007 or 9038 of the Internal Revenue Code  
5           of 1986.

6           **“SEC. 369. CONGRESSIONAL OVERSIGHT.**

7           “Nothing in this Act shall be construed to limit, re-  
8           strict, or diminish any investigatory, informational, over-  
9           sight, supervisory, or disciplinary authority or function of  
10          Congress or any committee of Congress with respect to  
11          elections for Federal office.

12           **“CHAPTER 3—ENFORCEMENT**

13          **“SEC. 371. INITIATION OF ENFORCEMENT ACTIONS BY AD-**  
14           **MINISTRATION.**

15          “(a) IN GENERAL.—The Administration may initiate  
16          a civil enforcement action under section 373 if, after con-  
17          ducting an investigation, the Administration finds reason-  
18          able grounds to believe that a violation of this Act or of  
19          chapter 95 or 96 of the Internal Revenue Code of 1986  
20          has occurred or is about to occur.

21          “(b) BASIS FOR FINDINGS.—The Administration  
22          may make a finding under subsection (a) based on any  
23          information available to the Administration, including the  
24          filing of a complaint under section 372.



1 complaint filed under paragraph (1), and such inves-  
2 tigation the Administration deems necessary and  
3 appropriate, the Administration may—

4 “(A) initiate a civil enforcement action  
5 under section 373 if the Administration finds  
6 reasonable grounds to believe a violation has oc-  
7 curred or is about to occur; or

8 “(B) dismiss the complaint.

9 “(4) PROHIBITION OF ANONYMOUS COM-  
10 PLAINTS.—The Commission may not conduct any  
11 investigation or take any other action under this sec-  
12 tion solely on the basis of a complaint of a person  
13 whose identity is not disclosed to the Administration.

14 “(5) RECOVERY OF COSTS.—Any person who  
15 has filed a complaint under paragraph (1) shall be  
16 entitled to recover from the Administration up to  
17 \$1,000 of the costs incurred in preparing and filing  
18 the complaint if, based on the complaint, the Admin-  
19 istration—

20 “(A) makes a finding under section 373(a)  
21 that a person has violated (or is about to vio-  
22 late) the Act; or

23 “(B) enters into a conciliation agreement  
24 with a person under section 373(c).

1           “(b) NOTICE AND OPPORTUNITY TO DEMONSTRATE  
2 NO VIOLATION.—Prior to initiating an enforcement action  
3 under subsection (a)(3)(A), the Administration shall give  
4 any person named in a complaint notice and an oppor-  
5 tunity to demonstrate that there are no reasonable  
6 grounds to believe a violation described in such subsection  
7 has occurred or is about to occur, but the Administration’s  
8 determination under subsection (a)(3) shall not be subject  
9 to judicial review in an action brought by such person.

10           “(c) FAILURE BY THE ADMINISTRATION TO TAKE  
11 TIMELY ACTION.—

12           “(1) IN GENERAL.—If the Administration—

13                   “(A) dismisses a complaint filed under  
14 subsection (a); or

15                   “(B) fails to initiate a civil enforcement ac-  
16 tion under section 373 within 180 days of the  
17 filing of such a complaint, the person filing the  
18 complaint under subsection (a) may seek judi-  
19 cial review of the Administration’s dismissal, or  
20 failure to act, in Federal district court in the  
21 District of Columbia or in the district in which  
22 such person resides.

23           “(2) SCOPE OF REVIEW.—The court shall re-  
24 view the Administration’s dismissal of the complaint

1 or failure to act in accordance with the provisions of  
2 section 706 of title 5, United States Code.

3 “(3) COURT ORDERS.—The court may order  
4 the Administration to initiate an enforcement action  
5 or to conduct a further investigation of the com-  
6 plaint within a time set by the court.

7 **“SEC. 373. CIVIL ENFORCEMENT ACTIONS.**

8 “(a) IN GENERAL.—The Administration shall have  
9 the authority to impose a civil monetary penalty under sec-  
10 tion 375, issue a cease-and-desist order under section 376,  
11 or do both, if the Administration finds, by an order made  
12 on the record after notice and an opportunity for hearing  
13 before an administrative law judge pursuant to subchapter  
14 II of chapter 5 of title 5, United States Code, that a per-  
15 son has violated (or, in the case of a cease-and-desist  
16 order, has violated or is about to violate) this Act or chap-  
17 ter 95 or 96 of the Internal Revenue Code of 1986. The  
18 general counsel shall represent the Administration in any  
19 proceeding before an administrative law judge.

20 “(b) NOTICE AND REQUEST FOR HEARING.—

21 “(1) NOTICE.—If the Administration finds  
22 under section 371 or 372 that there are reasonable  
23 grounds to believe a violation has occurred or is  
24 about to occur, the Administration shall serve writ-  
25 ten notice of the charges on each respondent, and



1 shall conduct such further investigation as the Ad-  
2 ministration deems necessary and appropriate.

3 “(2) REQUEST FOR HEARING.—Each respond-  
4 ent shall have an opportunity to request, prior to the  
5 date that is 30 days after the date on which the no-  
6 tice is received, a hearing on the charges before an  
7 administrative law judge.

8 “(3) EFFECT OF FAILURE TO REQUEST A  
9 HEARING.—If no hearing is requested, the Adminis-  
10 tration shall make a finding on the charges, and  
11 shall issue whatever relief the Administration deems  
12 appropriate under sections 375 and 376.

13 “(c) CONCILIATION.—

14 “(1) PROCEDURES FOR ENTERING INTO CON-  
15 CILIATION AGREEMENTS.—

16 “(A) IN GENERAL.—If the respondent re-  
17 quests a hearing under subsection (b)(2), the  
18 Administration shall attempt, for a period that  
19 does not exceed 60 days (or 15 days if the hear-  
20 ing is requested within 60 days of an election),  
21 to correct or prevent such violation by informal  
22 methods of conference, conciliation, and persua-  
23 sion, and to enter into a conciliation agreement  
24 with the respondent. In the case of a hearing  
25 that is requested at a time other than within 60

1 days of an election, the period for conciliation  
2 shall not be less than 30 days unless an agree-  
3 ment is reached before then.

4 “(B) INCLUSION OF CIVIL MONETARY PEN-  
5 ALTIES.—A conciliation agreement may include  
6 a requirement that the person involved in such  
7 conciliation shall pay a civil monetary penalty  
8 that does not exceed the amounts set forth in  
9 subsection (a) of section 375 or, in the case of  
10 a knowing and willful violation, the amounts set  
11 forth in subsection (b) of such section. The con-  
12 ciliation agreement may also include the re-  
13 quirement that the person involved consent to  
14 the terms of a cease-and-desist order, as pro-  
15 vided in section 376.

16 “(C) REPRESENTATION BY GENERAL  
17 COUNSEL.—The general counsel shall represent  
18 the Administration in any negotiations for a  
19 conciliation agreement and any such concilia-  
20 tion agreement shall be subject to the approval  
21 of the Administration.

22 “(D) BAR TO FURTHER ACTION.—A con-  
23 ciliation agreement, unless violated, is a com-  
24 plete bar to any further action by the Adminis-  
25 tration.

1           “(2) CONFIDENTIALITY.—No action by the Ad-  
2           ministration or any other person, and no informa-  
3           tion derived in connection with any conciliation at-  
4           tempt by the Administration may be made public by  
5           the Administration, without the written consent of  
6           the respondent, except that if a conciliation agree-  
7           ment is agreed upon and signed by the Administra-  
8           tion and the respondent, the Administration shall  
9           make such agreement public.

10           “(3) VIOLATION OF CONCILIATION AGREE-  
11           MENT.—In any case in which a person has entered  
12           into a conciliation agreement with the Administra-  
13           tion under paragraph (1), the Administration may  
14           institute a civil action for relief if the Administration  
15           believes the person has violated any provision of  
16           such conciliation agreement. Such civil action shall  
17           be brought in the Federal district court for the dis-  
18           trict in which the respondent resides or has its prin-  
19           cipal place of business, or for the District of Colum-  
20           bia. Such court shall have jurisdiction to issue any  
21           relief appropriate under sections 375 and 376. For  
22           the Administration to obtain relief in any such ac-  
23           tion, the Administration need only establish that the  
24           person has violated, in whole or in part, any require-  
25           ment of such conciliation agreement.

1       “(d) HEARING.—At the request of any respondent,  
 2 a hearing on the charges served under subsection (b)(1)  
 3 shall be conducted before an administrative law judge, who  
 4 shall make such findings of fact and conclusions of law  
 5 as the administrative law judge deems appropriate. The  
 6 administrative law judge shall also have the authority to  
 7 impose a civil monetary penalty on the respondent, issue  
 8 a cease-and-desist order, or both. The decision of the ad-  
 9 ministrative law judge shall constitute final agency action  
 10 unless an appeal is taken under subsection (e).

11       “(e) APPEAL TO ADMINISTRATION.—

12               “(1) RIGHT TO APPEAL.—The general counsel  
 13 and each respondent shall each have a right to ap-  
 14 peal to the Administration from any final determina-  
 15 tion made by an administrative law judge.

16               “(2) REVIEW OF ALJ DETERMINATIONS.—In  
 17 the event of an appeal under paragraph (1), the Ad-  
 18 ministration shall review the determination of the  
 19 administrative law judge to determine whether—

20                       “(A) a finding of material fact is not sup-  
 21 ported by substantial evidence;

22                       “(B) a conclusion of law is erroneous;

23                       “(C) the determination of the administra-  
 24 tive law judge is contrary to law or to the duly

1 promulgated rules or decisions of the Adminis-  
2 tration;

3 “(D) a prejudicial error of procedure was  
4 committed; or

5 “(E) the decision or the relief ordered is  
6 otherwise arbitrary, capricious, or an abuse of  
7 discretion.

8 “(3) FINAL AGENCY ACTION.—The decision of  
9 the Administration shall constitute final agency ac-  
10 tion.

11 “(f) JUDICIAL REVIEW.—

12 “(1) IN GENERAL.—Any party aggrieved by a  
13 final agency action and who has exhausted all ad-  
14 ministrative remedies, including requesting a hearing  
15 before an administrative law judge and appealing an  
16 adverse decision of an administrative law judge to  
17 the Administration, may obtain judicial review of  
18 such action in the United States Court of Appeals  
19 for any circuit wherein such person resides or has its  
20 principal place of business, or in the United States  
21 Court of Appeals for the District of Columbia Cir-  
22 cuit.

23 “(2) SCOPE OF REVIEW.—For purposes of con-  
24 ducting the judicial review described in paragraph

1 (1), the provisions of section 706 of title 5, United  
2 States Code, shall apply.

3 “(3) PETITION FOR JUDICIAL REVIEW.—To ob-  
4 tain judicial review under paragraph (1), an ag-  
5 grieved party described in such paragraph shall file  
6 a petition with the court during the 30-day period  
7 beginning on the date on which the order was  
8 issued. A copy of such petition shall be transmitted  
9 forthwith by the clerk of the court to the Adminis-  
10 tration, and thereupon the Administration shall file  
11 in the court the record upon which the order com-  
12 plained of was entered, as provided in section 2112  
13 of title 28, United States Code.

14 **“SEC. 374. NOTIFICATION OF NONFILERS.**

15 “(a) NOTIFICATION.—Before taking any action under  
16 section 373 against any person who has failed to file a  
17 report required under section 304(a)(2)(A)(iii) for the cal-  
18 endar quarter immediately preceding the election involved,  
19 or in accordance with section 304(a)(2)(A)(i), the Admin-  
20 istration shall notify the person of such failure to file the  
21 required reports.

22 “(b) OPPORTUNITY FOR RESPONSE.—If a satisfac-  
23 tory response is not received within 4 business days after  
24 the date of notification, the Administration shall, pursuant  
25 to section 367(a)(6), publish before the election the name

1 of the person and the report or reports such person has  
2 failed to file.

3 **“SEC. 375. CIVIL MONETARY PENALTIES.**

4 “(a) IN GENERAL.—Any person who violates this  
5 Act, or chapter 95 or 96 of the Internal Revenue Code  
6 of 1986, shall be liable to the United States for a civil  
7 monetary penalty for each violation which does not exceed  
8 the greater of \$5,000 or an amount equal to any contribu-  
9 tion or expenditure involved in such violation. Such pen-  
10 alty shall be imposed by the Administration pursuant to  
11 section 373.

12 “(b) KNOWING AND WILLFUL VIOLATIONS.—Any  
13 person who commits a knowing and willful violation of this  
14 Act, or of chapter 95 or 96 of the Internal Revenue Code  
15 of 1986, shall be liable to the United States for a civil  
16 monetary penalty for each violation which does not exceed  
17 the greater of \$10,000 or an amount equal to 200 percent  
18 of any contribution or expenditure involved in such viola-  
19 tion (or, in the case of a violation of section 320, which  
20 is not less than 300 percent of the amount involved in  
21 the violation and is not more than the greater of \$50,000  
22 or 1,000 percent of the amount involved in the violation).  
23 Such penalty shall be imposed by the Administration pur-  
24 suant to section 373.

1       “(c) DETERMINATION OF CIVIL MONETARY PEN-  
2 ALTY.—In determining the amount of a civil monetary  
3 penalty under this section with respect to a violation de-  
4 scribed in this section, the Administration or an adminis-  
5 trative law judge shall take into account the nature, cir-  
6 cumstances, extent, and gravity of the violation and, with  
7 respect to the violator, any prior violation, the degree of  
8 culpability, and such other matters as justice may require.

9       “(d) REFERRAL TO ATTORNEY GENERAL.—

10           “(1) IN GENERAL.—If the Administration de-  
11 termines that a knowing and willful violation of this  
12 Act which is subject to section 379, or a knowing  
13 and willful violation of chapter 95 or 96 of the Inter-  
14 nal Revenue Code of 1986, has occurred or is about  
15 to occur, the Administration may refer such appar-  
16 ent violation to the Attorney General without regard  
17 to any limitations set forth under section 373.

18           “(2) REPORTING BY THE ATTORNEY GEN-  
19 ERAL.—Whenever the Administration refers an ap-  
20 parent violation to the Attorney General, the Attor-  
21 ney General shall report to the Administration any  
22 action taken by the Attorney General regarding the  
23 apparent violation. Each report shall be transmitted  
24 within 60 days after the date the Administration re-  
25 fers an apparent violation, and every 30 days there-



1 after until the final disposition of the apparent viola-  
2 tion.

3 **“SEC. 376. CEASE-AND-DESIST ORDERS.**

4 “(a) IN GENERAL.—If the Administration finds,  
5 after notice and opportunity for hearing under section  
6 373, that any person is violating, has violated, or is about  
7 to violate any provision of this Act, or chapter 95 or 96  
8 of the Internal Revenue Code of 1986, or any rule or regu-  
9 lation thereunder, the Administration may publish any  
10 findings and enter an order requiring such person, or any  
11 other person that is, was, or would be a cause of the viola-  
12 tion due to an act or omission the person knew or should  
13 have known would contribute to such violation, to cease  
14 and desist from committing or causing such violation and  
15 any future violation of the same provision, rule, or regula-  
16 tion. Such order may, in addition to requiring a person  
17 to cease and desist from committing or causing a violation,  
18 require such person to comply (or to take steps to effect  
19 compliance) with such provision, rule, or regulation, upon  
20 such terms and conditions and within such time as the  
21 Administration may specify in such order.

22 “(b) TEMPORARY ORDER.—Whenever the Adminis-  
23 tration determines that an alleged violation or threatened  
24 violation specified in the notice initiating a civil enforce-  
25 ment action under section 373, or the continuation there-

1 of, is likely to result in violation of this Act, or of chapter  
2 95 or 96 of the Internal Revenue Code of 1986, and sub-  
3 stantial harm to the public interest, the Administration  
4 may apply to the Federal district court for the district in  
5 which the respondent resides or has its principal place of  
6 business, in which the alleged or threatened violation oc-  
7 curred or is about to occur, or for the District of Colum-  
8 bia, for a temporary restraining order or a preliminary  
9 injunction requiring the respondent to cease and desist  
10 from the violation or threatened violation and to take such  
11 action to prevent the violation or threatened violation. The  
12 Administration may apply for such order without regard  
13 to any limitation under section 373.

14 **“SEC. 377. COLLECTION.**

15 “If any person fails to pay an assessment of a civil  
16 penalty—

17 “(1) after the order making the assessment has  
18 become a final order and such person has not timely  
19 filed a petition for judicial review of the order in ac-  
20 cordance with section 373(f)(3) or if the order of the  
21 Administration is upheld after judicial review; or

22 “(2) after a court in an action brought under  
23 section 373(c)(3) has entered a final judgment no  
24 longer subject to appeal in favor of the Administra-  
25 tion, the Attorney General shall recover the amount

1        assessed (plus interest at currently prevailing rates  
2        from the date of the expiration of the 30-day period  
3        referred to in section 373(f)(3) or the date of such  
4        final judgment, as the case may be) in an action  
5        brought in any appropriate district court of the  
6        United States. In such an action, the validity,  
7        amount, and appropriateness of such penalty shall  
8        not be subject to review.

9        **“SEC. 378. CONFIDENTIALITY.**

10        “(a) PRIOR TO A FINDING OF REASONABLE  
11        GROUNDS.—Any proceedings conducted by the Adminis-  
12        tration prior to a finding that there are reasonable  
13        grounds to believe a violation of the law has occurred or  
14        is about to occur, including any investigation pursuant to  
15        section 371 or pursuant to a complaint filed under section  
16        372, shall be confidential and none of the Administration’s  
17        records concerning the complaint shall be made public, ex-  
18        cept that the person filing a complaint pursuant to section  
19        372 is permitted to make such complaint public.

20        “(b) AFTER A FINDING OF REASONABLE  
21        GROUNDS.—Except as provided in subsection (d), if the  
22        Administration makes a finding pursuant to section 371  
23        or 372 that there are reasonable grounds to believe that  
24        a violation of law has occurred or is about to occur—

1           “(1) the finding of the Administration as well  
2           as any complaint filed under section 372, any notice  
3           of charges, and any answer or similar documents  
4           filed with the Administration shall be made public;  
5           and

6           “(2) all proceedings conducted before an admin-  
7           istrative law judge under section 373, and all docu-  
8           ments used during such proceedings, shall be made  
9           public.

10          “(c) AFTER DISMISSAL OF A COMPLAINT OR CON-  
11          CLUSION OF PROCEEDINGS FOLLOWING A FINDING OF  
12          REASONABLE GROUNDS.—Subject to subsection (d), fol-  
13          lowing the Administration’s dismissal of a complaint filed  
14          under section 372 or the termination of proceedings fol-  
15          lowing a finding of reasonable grounds under section 371  
16          or 372, the Administration shall, not later than the date  
17          that is 30 days after such dismissal or termination, make  
18          public—

19                 “(1) the complaint, any notice of charges, and  
20                 any answer or similar documents filed with the Ad-  
21                 ministration (unless such information has already  
22                 been made public under subsection (b)(1));

23                 “(2) any order setting forth the Administra-  
24                 tion’s final action on the complaint;

1           “(3) any findings made by the Administration  
2           in relation to the action; and

3           “(4) all documentary materials and testimony  
4           constituting the record on which the Administration  
5           relied in taking its actions.

6 Subject to subsection (d), the affirmative disclosure re-  
7 quirement of this subsection is without prejudice to the  
8 right of any person to request and obtain records relating  
9 to an investigation under section 552 of title 5, United  
10 States Code.

11           “(d) CONFIDENTIALITY OF RECORDS AND PRO-  
12 CEEDINGS OTHERWISE SUBJECT TO DISCLOSURE.—

13           “(1) IN GENERAL.—The Administration shall  
14           issue regulations providing for the protection of in-  
15           formation the disclosure of which under subsection  
16           (b) or (c) would impair any person’s constitutionally  
17           protected right of privacy, freedom of speech, or  
18           freedom of association. The Administration shall  
19           also issue regulations addressing the application of  
20           exemptions from disclosure contained in section 552  
21           of title 5, United States Code, to records comprising  
22           the Administration’s investigative files. Such regula-  
23           tions shall consider the need to protect any person’s  
24           constitutionally protected rights to privacy, freedom  
25           of speech, and freedom of association, as well as the

1 need to make information about the Administra-  
2 tion's activities and decisions widely accessible to the  
3 public.

4 “(2) PETITION TO MAINTAIN CONFIDEN-  
5 TIALITY.—

6 “(A) IN GENERAL.—Any person who would  
7 be adversely affected by any disclosure of infor-  
8 mation about the person made pursuant to sub-  
9 section (b) or (c), or by the conduct in public  
10 of a hearing or other proceeding conducted pur-  
11 suant to section 373, shall have the right to pe-  
12 tition the Administration to maintain the con-  
13 fidentiality of such information or such pro-  
14 ceeding on the ground that such information  
15 falls within the scope of any exemption from  
16 disclosure contained in section 552 of title 5,  
17 United States Code, or is prohibited from dis-  
18 closure under the Administration's regulations,  
19 the Constitution, or any other provision of law.  
20 Upon the receipt of such petition, the Adminis-  
21 tration shall make a prompt determination  
22 whether the information should be kept con-  
23 fidential, and shall withhold such information  
24 from disclosure pending this determination. The

1 Administration shall notify the petitioner in  
2 writing of the determination.

3 “(B) REGULATIONS.—The Administration  
4 shall prescribe regulations governing the consid-  
5 eration of petitions under this paragraph. Such  
6 regulations shall provide for public notice of the  
7 pendancy of any petition filed under subpara-  
8 graph (A) and the right of any interested party  
9 to respond to or comment on such petition.

10 “(e) PENALTIES.—Any member or employee of the  
11 Administration, or any other person, who violates the pro-  
12 visions of this section shall be fined not more than \$2,000.  
13 Any such member, employee, or other person who know-  
14 ingly and willfully violates the provisions of this section  
15 shall be fined not more than \$5,000.

16 **“SEC. 379. CRIMINAL PENALTIES.**

17 “(a) KNOWING AND WILLFUL VIOLATIONS.—Any  
18 person who knowingly and willfully commits a violation of  
19 any provision of this Act that involves the making, receiv-  
20 ing, or reporting of any contribution, donation, or expendi-  
21 ture—

22 “(1) aggregating \$25,000 or more during a cal-  
23 endar year shall be fined under title 18, United  
24 States Code, or imprisoned for not more than 5  
25 years, or both; or

1           “(2) aggregating \$2,000 or more (but less than  
2           \$25,000) during a calendar year shall be fined under  
3           such title, or imprisoned for not more than 1 year,  
4           or both.

5           “(b) CONTRIBUTIONS OR EXPENDITURES BY NA-  
6           TIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZA-  
7           TIONS.—In the case of a knowing and willful violation of  
8           section 316(b)(3), the penalties set forth in subsection (a)  
9           shall apply to each violation involving an amount aggre-  
10          gating \$250 or more during a calendar year. Such a viola-  
11          tion of section 316(b)(3) may incorporate a violation of  
12          section 317(a), 320, or 321.

13          “(c) FRAUDULENT MISREPRESENTATION OF CAM-  
14          PAIGN AUTHORITY.—In the case of a knowing and willful  
15          violation of section 322, the penalties set forth in sub-  
16          section (a) shall apply without regard to whether the mak-  
17          ing, receiving, or reporting of a contribution or expendi-  
18          ture of \$1,000 or more is involved.

19          “(d) PROHIBITION OF CONTRIBUTIONS IN NAME OF  
20          ANOTHER.—Any person who knowingly and willfully com-  
21          mits a violation of section 320 involving an amount aggre-  
22          gating more than \$10,000 during a calendar year shall  
23          be—

24                 “(1) imprisoned for not more than 2 years if  
25                 the amount is less than \$25,000 and subject to im-



1       prisonment under subsection (a) if the amount is  
2       \$25,000 or more;

3               “(2) fined not less than 300 percent of the  
4       amount involved in the violation and not more than  
5       the greater of—

6                       “(A) \$50,000; or

7                       “(B) 1,000 percent of the amount involved  
8       in the violation; or

9               “(3) both imprisoned as provided under para-  
10      graph (1) and fined as provided under paragraph  
11      (2).

12      “(e) EFFECT OF CONCILIATION AGREEMENTS.—

13               “(1) EVIDENCE OF LACK OF KNOWLEDGE AND  
14      INTENT.—In any criminal action brought for a viola-  
15      tion of any provision of this Act or of chapter 95 or  
16      96 of the Internal Revenue Code of 1986, any de-  
17      fendant may evidence their lack of knowledge or in-  
18      tent to commit the alleged violation by introducing  
19      as evidence a conciliation agreement entered into be-  
20      tween the defendant and the Administration under  
21      section 373(c)(1) which specifically deals with the  
22      act or failure to act constituting such violation and  
23      which is still in effect.

24               “(2) CONSIDERATION BY COURTS.—In any  
25      criminal action brought for a violation of any provi-

1 sion of this Act or of chapter 95 or 96 of the Inter-  
2 nal Revenue Code of 1986, the court before which  
3 such action is brought shall take into account, in  
4 weighing the seriousness of the violation and in con-  
5 sidering the appropriateness of the penalty to be im-  
6 posed if the defendant is found guilty, whether—

7 “(A) the specific act or failure to act which  
8 constitutes the violation for which the action  
9 was brought is the subject of a conciliation  
10 agreement entered into between the defendant  
11 and the Administration under section 373(c)(1);

12 “(B) the conciliation agreement is in ef-  
13 fect; and

14 “(C) the defendant is, with respect to the  
15 violation involved, in compliance with the concil-  
16 iation agreement.

17 **“SEC. 380. PERIOD OF LIMITATIONS.**

18 “No person shall be prosecuted, tried, or punished  
19 for any violation of this Act, unless the indictment is found  
20 or the information is instituted within 5 years after the  
21 date of the violation.

22 **“SEC. 381. AUTHORIZATION OF APPROPRIATIONS.**

23 “For each fiscal year, there are authorized to be ap-  
24 propriated to the Administration such sums as may be  
25 necessary for the purpose of carrying out its functions

1 under this Act and under chapters 95 and 96 of the Inter-  
2 nal Revenue Code of 1986.”.

3 **SEC. 102. EXECUTIVE SCHEDULE POSITIONS.**

4 (a) EXECUTIVE SCHEDULE LEVEL III POSITION.—  
5 Section 5314 of title 5, United States Code, is amended  
6 by adding at the end the following:

7 “Chair, Federal Election Administration.”.

8 (b) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—  
9 Section 5315 of title 5, United States Code, is amended  
10 by adding at the end the following:

11 “Members (other than the Chair), Federal Elec-  
12 tion Administration.

13 “Staff Director, Federal Election Administra-  
14 tion.

15 “Inspector General, Federal Election Adminis-  
16 tration.”.

17 (c) EXECUTIVE SCHEDULE LEVEL V POSITION.—  
18 Section 5316 of title 5, United States Code, is amended  
19 by adding at the end the following:

20 “General Counsel, Federal Election Administra-  
21 tion.”.

1 **SEC. 103. GAO EXAMINATION OF ENFORCEMENT OF CAM-**  
2 **PAIGN FINANCE LAWS BY THE DEPARTMENT**  
3 **OF JUSTICE.**

4 (a) EXAMINATION.—The Comptroller General of the  
5 United States shall conduct a thorough examination of the  
6 enforcement of the criminal provisions of the Federal  
7 Election Campaign Act of 1971 (2 U.S.C. 431 et seq.)  
8 and chapters 95 and 96 of the Internal Revenue Code of  
9 1986 by the Attorney General.

10 (b) REPORT.—Not later than 1 year after the date  
11 of enactment of this Act, the Comptroller General shall  
12 submit to the Attorney General and Congress a report on  
13 the examination conducted under subsection (a) together  
14 with recommendations on how the Attorney General may  
15 improve the enforcement of the criminal provisions of the  
16 Federal Election Campaign Act of 1971 (2 U.S.C. 431  
17 et seq.) and chapters 95 and 96 of the Internal Revenue  
18 Code of 1986, including recommendations on the re-  
19 sources that the Attorney General would require to effec-  
20 tively enforce such criminal provisions.

21 **SEC. 104. GAO STUDY AND REPORT ON APPROPRIATE**  
22 **FUNDING LEVELS.**

23 (a) STUDY.—The Comptroller General of the United  
24 States shall conduct an ongoing study on the level of fund-  
25 ing that constitutes an adequate level of resources for the  
26 Federal Election Administration to competently execute

1 the responsibilities imposed on the Administration by this  
2 Act.

3 (b) REPORT.—Not later than 1 year after the date  
4 of enactment of this Act, and once every 2 years there-  
5 after, the Comptroller General shall submit to the Director  
6 of the Office of Management and Budget and Congress  
7 a report on the study conducted under subsection (a) to-  
8 gether with recommendations for such legislation and ad-  
9 ministrative action as the Comptroller General determines  
10 to be appropriate.

11 **SEC. 105. CONFORMING AMENDMENTS.**

12 (a) INDEPENDENT AGENCY.—Section 104 of title 5,  
13 United States Code, is amended—

14 (1) in paragraph (1), by striking “and” after  
15 the semicolon;

16 (2) in paragraph (2), by striking the period and  
17 inserting “; and”; and

18 (3) by adding at the end the following new  
19 paragraph:

20 “(3) the Federal Election Administration.”.

21 (b) COVERAGE UNDER INSPECTOR GENERAL ACT.—  
22 Section 8G(a)(2) of the Inspector General Act of 1978 (5  
23 U.S.C. App.) is amended by striking “Federal Election  
24 Commission” and inserting “Federal Election Administra-  
25 tion”.

1 (c) COVERAGE OF PERSONNEL UNDER HATCH  
 2 ACT.—Section 7323(b) of title 5, United States Code, is  
 3 amended—

4 (1) in paragraph (1), by striking “Federal Elec-  
 5 tion Commission” and inserting “Federal Election  
 6 Administration”; and

7 (2) in paragraph (2)(B)(i)(I), by striking “Fed-  
 8 eral Election Commission” and inserting “Federal  
 9 Election Administration”.

10 (d) EXCLUSION FROM SENIOR EXECUTIVE SERV-  
 11 ICE.—Section 3132(a)(1)(C) of title 5, United States  
 12 Code, is amended by striking “Federal Election Commis-  
 13 sion” and inserting “Federal Election Administration”.

14 (e) SUBTITLE A.—Title III of the Federal Election  
 15 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended  
 16 by inserting before section 301 the following:

17 **“Subtitle A—General Provisions”.**

18 **TITLE II—TRANSITION**

19 **PROVISIONS**

20 **SEC. 201. TRANSFER OF FUNCTIONS OF FEDERAL ELEC-**  
 21 **TION COMMISSION.**

22 There are transferred to the Federal Election Admin-  
 23 istration established under section 351 of the Federal  
 24 Election Campaign Act of 1971 (as added by section 101)

1 all functions that the Federal Election Commission exer-  
2 cised before the date described in section 205(a).

3 **SEC. 202. TRANSFER OF PROPERTY, RECORDS, AND PER-**  
4 **SONNEL.**

5 (a) PROPERTY AND RECORDS.—The contracts, liabil-  
6 ities, records, property, and other assets and interests of,  
7 or made available in connection with, the offices and func-  
8 tions of the Federal Election Commission which are trans-  
9 ferred by this title are transferred to the Federal Election  
10 Administration.

11 (b) PERSONNEL.—The personnel employed in con-  
12 nection with the offices and functions of the Federal Elec-  
13 tion Commission which are transferred by this title are  
14 transferred to the Federal Election Administration.

15 **SEC. 203. REPEALS.**

16 The following provisions of the Federal Election  
17 Campaign Act of 1971 are repealed:

18 (1) Section 306 (2 U.S.C. 437c).

19 (2) Section 307 (2 U.S.C. 437d).

20 (3) Section 308 (2 U.S.C. 437f).

21 (4) Section 309 (2 U.S.C. 437g).

22 (5) Section 310 (2 U.S.C. 437h).

23 (6) Section 311 (2 U.S.C. 438).

24 (7) Section 314 (2 U.S.C. 439c).

25 (8) Section 406 (2 U.S.C. 455).

1 **SEC. 204. CONFORMING AMENDMENTS.**

2 (a) Title III of the Federal Election Campaign Act  
3 of 1971 (2 U.S.C. 431 et seq.) is amended—

4 (1) in section 301, by striking paragraph (10)  
5 and inserting the following:

6 “(10) The term ‘Administration’ means the Federal  
7 Election Administration.”;

8 (2) by striking “Federal Election Commission”  
9 and inserting “Administration” each place it ap-  
10 pears; and

11 (3) by striking “Commission” and inserting  
12 “Administration” each place it appears.

13 (b) Section 3502(1)(B) of title 44, United States  
14 Code, is amended by striking “Federal Election Commis-  
15 sion” and inserting “Federal Election Administration”.

16 (c) Section 207(j)(7)(B)(i) of title 18, United States  
17 Code, is amended by striking “the Federal Election Com-  
18 mission by a former officer or employee of the Federal  
19 Election Commission” and inserting “the Federal Election  
20 Administration by a former officer or employee of the Fed-  
21 eral Election Commission or the Federal Election Admin-  
22 istration”.

23 (d) Section 103 of the Ethics in Government Act of  
24 1978 (5 U.S.C. App.) is amended—



1           (1) in subsection (e), by striking “the Federal  
2           Election Commission” and inserting “the Federal  
3           Election Administration”; and

4           (2) in subsection (k), by striking “the Federal  
5           Election Commission” and inserting “the Federal  
6           Election Administration”.

7           (e)(1) Section 9002(3) of the Internal Revenue Code  
8 of 1986 is amended to read as follows:

9           “(3) The term ‘Administration’ means the Fed-  
10          eral Election Administration established under sec-  
11          tion 351 of the Federal Election Campaign Act of  
12          1971.”.

13          (2) Chapter 95 of the Internal Revenue Code of 1986  
14 is amended by striking “Commission” and inserting “Ad-  
15 ministration” each place it appears.

16          (f)(1) Section 9032(3) of the Internal Revenue Code  
17 of 1986 is amended to read as follows:

18          “(3) The term ‘Administration’ means the Fed-  
19          eral Election Administration established under sec-  
20          tion 351 of the Federal Election Campaign Act of  
21          1971.”.

22          (2) Chapter 96 of the Internal Revenue Code of 1986  
23 is amended by striking “Commission” and inserting “Ad-  
24 ministration” each place it appears.

1 (g) Section 3(c) of the Voting Accessibility for the  
2 Elderly and Handicapped Act (42 U.S.C. 1973ee-1(c)) is  
3 amended—

4 (1) in paragraph (1)—

5 (A) by striking “Federal Election Commis-  
6 sion” and inserting “Federal Election Adminis-  
7 tration”; and

8 (B) by striking “Commission” and insert-  
9 ing “Administration”; and

10 (2) in paragraph (2), by striking “Federal Elec-  
11 tion Commission” and inserting “Federal Election  
12 Administration”.

13 **SEC. 205. EFFECTIVE DATE.**

14 (a) IN GENERAL.—This title and the amendments  
15 made by this title shall take effect on the date that is 6  
16 months after the date of enactment of this Act.

17 (b) TERMINATION OF THE FEDERAL ELECTION COM-  
18 MISSION.—Notwithstanding any other provision of, or  
19 amendment made by, this Act, the members of the Federal  
20 Election Commission shall be removed from office on the  
21 date described in subsection (a).

○