

TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO
PROHIBIT THE USE OF PUBLIC FUNDS FOR POLITICAL
PARTY CONVENTIONS

DECEMBER 12, 2013.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mrs. MILLER of Michigan, from the Committee on House
Administration, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 94]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 94) to amend the Internal Revenue Code of 1986 to prohibit the use of public funds for political party conventions, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND AND NEED FOR THE LEGISLATION

The Presidential Election Campaign Fund, established by Congress, was first used in the Presidential campaign of 1976. It provides taxpayer support for presidential campaigns in three forms: payments to candidates in primary elections to match qualifying individual donations, fixed grants to candidates in general elections who agree to forego individual donations and fixed grants to major parties to fund presidential nominating conventions.

The PECF is financed by allowing taxpayers to check a box on their tax returns designating an amount for the Fund. The amount was originally set at \$1 per individual and subsequently increased to \$3 per individual. If the taxpayer checks the box, that amount of their individual tax liability is directed to PECF. Checking the

box does not change the amount of tax paid, so the PECF reduces Treasury funds available for other purposes.

The number of taxpayers who indicated their support for taxpayer financial of presidential campaigns by checking the box to divert funds to PECF peaked in 1980 at 28.7 percent. It has declined consistently since then, to 5.1 percent in 2012. Support for the PECF by candidates also has declined. In 2000 major candidates began rejecting the PECF matching funds during the primary campaign in order to avoid the restrictions that accompanied them. In 2008 then-candidate Obama rejected PECF funds in the primary election and also became the first major party candidate to reject the general election grant. In 2012 only three candidates (Gary Johnson, Buddy Roemer and Jill Stein) applied for PECF funds. Neither major party candidate accepted the PECF grant in the general election.

With the decline in candidate participation to nearly zero, the remaining use of the PECF is to provide grants to major party's to conduct their presidential nominating conventions. In 2012 each major party received approximately \$18 million for its convention. In addition to the \$36 million total from PECF, the parties raised approximately \$80 million in private funds.

Reports prepared by Senator Coburn using records from the Federal Election Commission showed that the conventions held in 2008 spent over \$2 million for travel expenses, almost as much for catering and over \$6 million for salaries. The reports also show payments for gift bags, flowers and entertainment. At a time when budgets are being cut in important programs across the federal government, diverting taxpayer resources to these costs is not appropriate.

During the consideration of H.R. 94, Representative Brady offered an amendment that would repeal the taxpayer financing of party nominating conventions and allow parties to raise funds for conventions and other purposes in a separate account subject to the limitations on sources and amounts that currently apply to the parties. Representative Brady withdrew the amendment and the Chairman agreed to work with him to seek agreement on legislative language. No agreement has been achieved but additional discussions on the approach embodied in Representative Brady's amendment may occur prior to the bill being considered by the House.

INTRODUCTION AND REFERRAL

On January 3, 2013, Congressman Tom Cole of Oklahoma introduced H.R. 94, which was referred to the Committee on House Administration.

HEARINGS

There were no legislative hearings held on H.R. 94.

COMMITTEE CONSIDERATION

On June 4, 2013, the Committee on House Administration met to consider H.R. 94. The Committee ordered the bill reported favorably to the House without amendment by voice vote with a quorum present.

COMMITTEE RECORD VOTES

In compliance with House Rule XIII, clause 3(b), requiring 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 Committee states that there were no record votes during the Committee's consideration of H.R. 94.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with House Rule XIII, clause 3(c)(1), the Committee states that the findings and recommendations of the Committee, based on oversight activities under House rule X, clause 2(b)(1), are incorporated into the general discussion section of this report.

STATEMENT OF BUDGET AUTHORITY AND RELATED ITEMS

The bill does not provide new budget authority, new spending authority, new credit authority, or an increase or decrease in revenues or tax expenditures and a statement under House Rule XIII, clause 3(c)(2), and section 308(a)(1) of the Congressional Budget Act of 1974 is not required.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JUNE 26, 2013.

Hon. CANDICE MILLER,
*Chairman, Committee on House Administration,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 94, a bill to amend the Internal Revenue Code of 1986 to prohibit the use of public funds for political party conventions.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Maggie Morrissey and Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 94—A bill to amend the Internal Revenue Code of 1986 to prohibit the use of public funds for political party conventions

Summary: H.R. 94 would amend federal law to prohibit the use of public funds for political campaign conventions. By eliminating that option, CBO estimates that enacting H.R. 94 would reduce direct spending by \$126 million over the 2014–2023 period. In addition, the legislation would affect direct spending and federal penalties related to campaign financing (some of which are recorded in the budget as revenues and are available to be spent without further appropriation); CBO estimates, however, that any such effects

would not be significant. Because the bill would affect direct spending and revenues, pay-as-you-go procedures apply. The staff of the Joint Committee on Taxation (JCT) estimates that enacting the legislation would have no impact on federal income tax revenues.

JCT has determined that H.R. 94 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 94 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2014–2018	2014–2023	
	CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	-40	0	0	0	-42	0	0	0	-44	-40	-126	0

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted before the end of 2013. We estimate that enacting the bill would reduce direct spending but would have no significant effect on revenues (including penalties).

The Presidential Election Campaign Fund (PECF) provides money for Presidential election campaigns including political party conventions. The fund is financed by taxpayers who voluntarily designate on their income tax returns that a portion of their annual tax liability (\$3 for individual income tax filers and \$6 for joint returns) be credited to the PECF. The voluntary earmarking of a portion of a taxpayer's liability does not affect the amount of tax owed to the federal government or the amount of any refund owed to that taxpayer. Use of the fund has gradually diminished in recent years along with the amounts credited to the fund. In 2012, \$35 million was credited to the fund and during the most recent Presidential campaign, spending from the PECF totaled \$36 million for political conventions organized by the two major political parties. In addition, the two major party candidates did not accept public funding for their campaigns and other candidates received a little more than \$1 million for their campaigns.

CBO estimates that eliminating the use of the PECF to fund political campaign conventions would reduce direct spending by \$126 million over the 2014–2023 period. That estimate is based on PECF spending on political conventions over the last two Presidential election cycles.

Reducing the use of the PECF could reduce the administrative costs that the Federal Election Commission incurs to oversee the use of amounts drawn from that fund during Presidential election campaign cycles. However, because of the diminished use of the funds in recent years, CBO expects any such savings would be insignificant.

Enacting H.R. 94 could affect federal revenues by decreasing the collection of fines for violating campaign finance law. Such collections are recorded in the budget as revenues and, in certain cases, such amounts may be spent without further appropriation. CBO estimates that any net changes in revenues and associated direct

spending would be insignificant because of the small number of possible violations.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. Enacting the legislation would have no significant effect on revenues (including penalties).

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 94, AS ORDERED REPORTED BY THE COMMITTEE ON HOUSE ADMINISTRATION ON JUNE 4, 2013

	By fiscal year, in millions of dollars—													2013– 2018	2013– 2023
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023				
NET INCREASE OR DECREASE (–) IN THE [ON-BUDGET] DEFICIT															
Statutory Pay-As-You-Go Im- pact	0	0	–40	0	0	0	–42	0	0	0	–44	–40	–126		

Intergovernmental and private-sector impact: H.R. 94 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On June 21, 2013, CBO transmitted a cost estimate for H.R. 95, a bill to reduce federal spending and the deficit by terminating taxpayer financing of Presidential election campaigns and party conventions, as ordered reported by the Committee on House Administration on June 4, 2013. On May 13, 2013, CBO transmitted a cost estimate for H.R. 2019, the Kids First Research Act of 2013, as introduced on May 16, 2013. The three bills would affect the Presidential Election Campaign Fund. H.R. 95 and H.R. 2019 have identical provisions that would eliminate the PECF, while under H.R. 94, spending for presidential party conventions would end but other spending could continue. Those differences are reflected in the CBO cost estimates.

Estimate prepared by: Federal Spending: Maggie Morrissey and Matthew Pickford; Intergovernmental and Private-Sector Mandates: Joint Committee on Taxation.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

In compliance with House Rule XIII, clause 3(c)(4), the Committee states that the general discussion section of this report includes a statement of the general performance goals and objectives, including outcome-related goals and objectives, for which H.R. 94 authorizes funding.

CONSTITUTIONAL AUTHORITY STATEMENT

Congress has the power to enact this legislation pursuant to Amendment XVI of the U.S. Constitution relating to the collection of income tax and additionally to Article I, Section 4 of the U.S. Constitution granting Congress the authority to make laws governing the time, place and manner of holding Federal elections.

ADVISORY ON EARMARKS

In accordance with House Rule XXI, clause 9, the Committee states that H.R. 94 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

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):

INTERNAL REVENUE CODE OF 1986

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Subtitle H—Financing of Presidential Election Campaigns

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CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

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[Sec. 9008. Payments for presidential nominating conventions.]

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SEC. 9006. PAYMENTS TO ELIGIBLE CANDIDATES.

(a) * * *

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(c) **INSUFFICIENT AMOUNTS IN FUND.**—If at the time of a certification by the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. In any case in which the Secretary determines that there are insufficient moneys in the fund to make payments under subsection (b)**[, section 9008(b)(3),]** and section

9037(b), moneys shall not be made available from any other source for the purpose of making such payments.

* * * * *

[SEC. 9008. PAYMENTS FOR PRESIDENTIAL NOMINATING CONVENTIONS.

[(a) ESTABLISHMENT OF ACCOUNTS.—The Secretary shall maintain in the fund, in addition to any account which he maintains under section 9006(a), a separate account for the national committee of each major party and minor party. The Secretary shall deposit in each such account an amount equal to the amount which each such committee may receive under subsection (b). Such deposits shall be drawn from amounts designated by individuals under section 6096 and shall be made before any transfer is made to any account for any eligible candidate under section 9006(a).

[(b) ENTITLEMENT TO PAYMENTS FROM THE FUND.—

[(1) MAJOR PARTIES.—Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed \$4,000,000.

[(2) MINOR PARTIES.—Subject to the provisions of this section, the national committee of a minor party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under paragraph (1) as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding presidential election.

[(3) PAYMENTS.—Upon receipt of certification from the Commission under subsection (g), the Secretary shall make payments from the appropriate account maintained under subsection (a) to the national committee of a major party or minor party which elects to receive its entitlement under this subsection. Such payments shall be available for use by such committee in accordance with the provisions of subsection (c).

[(4) LIMITATION.—Payments to the national committee of a major party or minor party under this subsection, from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

[(5) ADJUSTMENT OF ENTITLEMENTS.—The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by section 315(b) and section 315(d) of the Federal Election Campaign Act of 1971 are adjusted pursuant to the provisions of section 315(c) of such Act.

[(c) USE OF FUNDS.—No part of any payment made under subsection (b) shall be used to defray the expenses of any candidate or delegate who is participating in any presidential nominating convention. Such payments shall be used only—

[(1) to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

[(2) to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds (other than contributions to defray such expenses received by such committee) used to defray such expenses.

[(d) LIMITATION OF EXPENDITURES.—

[(1) MAJOR PARTIES.—Except as provided by paragraph (3), the national committee of a major party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under subsection (b)(1).

[(2) MINOR PARTIES.—Except as provided by paragraph (3), the national committee of a minor party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under subsection (b)(1).

[(3) EXCEPTION.—The Commission may authorize the national committee of a major party or minor party to make expenditures which, in the aggregate, exceed the limitation established by paragraph (1) or paragraph (2) of this subsection. Such authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee.

[(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.

[(e) AVAILABILITY OF PAYMENTS.—The national committee of a major party or minor party may receive payments under subsection (b)(3) beginning on July 1 of the calendar year immediately preceding the calendar year in which a presidential nominating convention of the political party involved is held.

[(f) TRANSFER TO THE FUND.—If, after the close of a presidential nominating convention and after the national committee of the political party involved has been paid the amount which it is entitled to receive under this section, there are moneys remaining in the account of such national committee, the Secretary shall transfer the moneys so remaining to the fund.

[(g) CERTIFICATION BY COMMISSION.—Any major party or minor party may file a statement with the Commission in such form and manner and at such times as it may require, designating the national committee of such party. Such statement shall include the information required by section 303(b) of the Federal Election Cam-

paign Act of 1971, together with such additional information as the Commission may require. Upon receipt of a statement filed under the preceding sentences, the Commission promptly shall verify such statement according to such procedures and criteria as it may establish and shall certify to the Secretary for payment in full to any such committee of amounts to which such committee may be entitled under subsection (b). Such certifications shall be subject to an examination and audit which the Commission shall conduct no later than December 31, of the calendar year in which the presidential nominating convention involved is held.

[(h) REPAYMENTS.—The Commission shall have the same authority to require repayments from the national committee of a major party or a minor party as it has with respect to repayments from any eligible candidate under section 9007(b). The provisions of section 9007(c) and section 9007(d) shall apply with respect to any repayment required by the Commission under this subsection.]

SEC. 9009. REPORTS TO CONGRESS; REGULATIONS.

(a) REPORTS.—The Commission shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) * * *

(2) the amounts certified by it under section 9005 for payment to the eligible candidates of each political party; *and*

(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required[; and].

[(4) the expenses incurred by the national committee of a major party or minor party with respect to a presidential nominating convention;

[(5) the amounts certified by it under section 9008(g) for payment to each such committee; and

[(6) the amount of payments, if any, required from such committees under section 9008(h), and the reasons for each such payment.]

Each report submitted pursuant to this section shall be printed as a Senate document.

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SEC. 9012. CRIMINAL PENALTIES.

(a) EXCESS EXPENSES.—

(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election. [It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of the expenditure limitation applicable with respect to such committee under section 9008(d), unless the incurring of such expenses is authorized by the Commission under section 9008(d)(3).]

* * * * *

(c) UNLAWFUL USE OF PAYMENTS.—

(1) * * *

【(2) It shall be unlawful for the national committee of a major party or minor party which receives any payment under section 9008(b)(3) to use, or authorize the use of, such payment for any purpose other than a purpose authorized by section 9008(c).】

【(3)】 (2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

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CHAPTER 96—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

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SEC. 9037. PAYMENTS TO ELIGIBLE CANDIDATES.

(a) ESTABLISHMENT OF ACCOUNT.—The Secretary shall maintain in the Presidential Election Campaign Fund established by section 9006(a), in addition to any account which he maintains under such section, a separate account to be known as the Presidential Primary Matching Payment Account. The Secretary shall deposit into the matching payment account, for use by the candidate of any political party who is eligible to receive payments under section 9033, the amount available after the Secretary determines that amounts for payments under section 9006(c) 【and for payments under section 9008(b)(3)】 are available for such payments.

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MINORITY VIEWS

Starting in 1976, both major parties have used public funding to finance their nominating conventions since the creation of the Presidential Election Campaign Fund (PECF). In 2012, the Democratic and Republican convention committees each received approximately \$18 million of public funding for their respective nominating conventions.

The money used for these grants is withdrawn from the Presidential Election Campaign Fund, which in turn is funded by taxpayers who voluntarily elect to contribute \$3.00. Electing to make this contribution has no effect on either a taxpayer's tax liability or on their refund amount. The entirety of the PECF balance is donated voluntarily.

I oppose H.R. 94 in its current form. I believe that using federal funds to underwrite nominating conventions is not the best use of this money but also recognize that taxpayers are fully aware of what it is they are subsidizing, as the system is voluntary. In keeping with the spirit of those that would still like to contribute to convention funding, I offered an amendment to this bill at the markup that would prohibit public funding of nominating conventions while creating a vehicle by which citizens can still contribute. The amendment also banned the use of so-called "soft money" contributions by special interests to convention committees.

I withdrew the amendment at the request of the Chairman upon her offer to work out a legislative fix to accomplish the amendment's goal before the bill receives floor consideration.

ROBERT A. BRADY.

