

114TH CONGRESS
2D SESSION

S. 2611

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

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2016

Mr. UDALL introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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 2016”.

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.

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. Treatment of certain regulations.
 Sec. 206. 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 (52 U.S.C. 30101 et seq.) is
 7 amended 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’).

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

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

6 “(1) This Act.

7 “(2) The Presidential Election Campaign Fund
8 Act under chapter 95 of the Internal Revenue Code
9 of 1986.

10 “(3) The Presidential Primary Matching Pay-
11 ment Account Act under chapter 96 of the Internal
12 Revenue Code of 1986.

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

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

22 “(f) MEETINGS AND QUORUM.—

23 “(1) MEETINGS.—The Administration shall
24 meet—

25 “(A) at least once each month; and

1 individual is nominated to be a member of the Administra-
2 tion.

3 “(b) APPOINTMENT.—

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

7 “(2) CHAIR.—The President shall, at the time
8 of nomination of the first 5 members of the Admin-
9 istration, designate 1 of the 5 to serve as the Chair.
10 Any individual appointed to succeed, or to fill the
11 unexpired term of, that member (or any member
12 succeeding that member) shall serve as the Chair.

13 “(3) QUALIFICATIONS.—

14 “(A) IN GENERAL.—The President may
15 select an individual for service as a Member of
16 the Commission if the individual has experience
17 in election law and has a demonstrated record
18 of integrity, impartiality, and good judgment.

19 “(B) ASSISTANCE OF BLUE RIBBON ADVI-
20 SORY PANEL.—

21 “(i) IN GENERAL.—Prior to the regu-
22 larly scheduled expiration of the term of a
23 member of the Commission and upon the
24 occurrence of a vacancy in the membership
25 of the Commission prior to the expiration

1 of a term, the President shall convene a
2 Blue Ribbon Advisory Panel, consisting of
3 an odd number of individuals selected by
4 the President from retired Federal judges,
5 former law enforcement officials, or indi-
6 viduals with experience in election law, ex-
7 cept that the President may not select any
8 individual to serve on the panel who holds
9 any public office at the time of selection.

10 “(ii) RECOMMENDATIONS.—With re-
11 spect to each member of the Commission
12 whose term is expiring or each vacancy in
13 the membership of the Commission (as the
14 case may be), the Blue Ribbon Advisory
15 Panel shall recommend to the President at
16 least one but not more than 3 individuals
17 for nomination for appointment as a mem-
18 ber of the Commission.

19 “(iii) PUBLICATION.—At the time the
20 President submits to the Senate the nomi-
21 nations for individuals to be appointed as
22 members of the Commission, the President
23 shall publish the Blue Ribbon Advisory
24 Panel’s recommendations for such nomina-
25 tions.

1 “(iv) EXEMPTION FROM FEDERAL AD-
2 VISORY COMMITTEE ACT.—The Federal
3 Advisory Committee Act (5 U.S.C. App.)
4 shall not apply to a Blue Ribbon Advisory
5 Panel convened under this subparagraph.

6 “(c) TERM OF OFFICE.—

7 “(1) IN GENERAL.—

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

11 “(B) OTHER MEMBERS.—Subject to sub-
12 paragraph (C), the 4 members of the Adminis-
13 tration other than the Chair shall be appointed
14 for a term of 6 years.

15 “(C) INITIAL APPOINTMENTS.—Of the
16 members initially appointed under subpara-
17 graph (B), 2 members shall be appointed for a
18 term of 3 years.

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

22 “(A) an individual appointed under sub-
23 paragraph (B) of paragraph (1) who is ap-
24 pointed for the term described in subparagraph
25 (C) of such paragraph may be appointed to a

1 6-year term in addition to the term described in
2 such subparagraph; and

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

7 “(3) EXPIRED TERMS.—An individual may con-
8 tinue to serve as a member of the Administration
9 after the expiration of such individual’s term until
10 the earlier of—

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

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

15 “(4) VACANCIES.—An individual appointed
16 upon a vacancy occurring before the expiration of
17 the term for which the individual’s predecessor was
18 appointed shall be appointed only for the unexpired
19 term of the predecessor. Such vacancy shall be filled
20 in the same manner as the original appointment.

21 “(5) PROHIBITING ENGAGEMENT WITH OTHER
22 BUSINESS OR EMPLOYMENT DURING SERVICE.—A
23 member of the Commission shall not engage in any
24 other business, vocation, or employment. Any indi-
25 vidual who is engaging in any other business, voca-

1 tion, or employment at the time of his or her ap-
2 pointment to the Commission shall terminate or liq-
3 uidate such activity not later than 90 days after
4 such appointment.

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

8 **“SEC. 353. STAFF DIRECTOR.**

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

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

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

14 “(2) shall perform such responsibilities as the
15 Administration shall prescribe; and

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

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

22 “(B) procure temporary and intermittent
23 services to the same extent as is authorized by
24 section 3109(b) of title 5, United States Code,
25 but at rates for individuals not to exceed the

1 daily equivalent of the annual rate of basic pay
2 in effect for grade GS-15 of the General Sched-
3 ule (5 U.S.C. 5332).

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

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

10 **“SEC. 354. GENERAL COUNSEL.**

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

13 “(b) RESPONSIBILITIES.—The general counsel
14 shall—

15 “(1) serve as the chief legal officer of the Ad-
16 ministration;

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

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

22 “(4) represent the Administration in any pro-
23 ceeding in court or before an administrative law
24 judge.

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

4 **“SEC. 355. INSPECTOR GENERAL.**

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

9 **“CHAPTER 2—OPERATION OF THE**
10 **FEDERAL ELECTION ADMINISTRATION**

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

12 “(a) CHAIR.—

13 “(1) IN GENERAL.—The Chair shall be the
14 chief administrative officer of the Administration
15 with the authority to administer the Administration
16 and shall, after consultation with the other members
17 of the Administration, have the power to appoint or
18 remove the staff director and to establish the budget
19 of the Administration.

20 “(2) OTHER POWERS.—The Chair has the
21 power—

22 “(A) to the fullest extent practicable, to re-
23 quest the assistance of other agencies and de-
24 partments of the United States, including the
25 personnel and facilities of such agencies and de-

1 partments and the heads of such agencies and
2 departments may make available to the Chair
3 such personnel, facilities, and other assistance,
4 with or without reimbursement;

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

8 “(C) to require, by special or general or-
9 ders, any person to submit, under oath, such
10 written reports and answers to questions as the
11 Chair may prescribe;

12 “(D) to administer oaths or affirmations;

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

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

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

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

1 “(b) ADMINISTRATION.—The Administration shall
2 have the power—

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

8 “(2) to assess civil penalties for violations of
9 this Act and chapters 95 and 96 of the Internal
10 Revenue Code of 1986;

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

14 “(4) to establish procedures and schedules for
15 agency adjudication that ensure timely enforcement
16 of this Act and chapters 95 and 96 of the Internal
17 Revenue Code of 1986;

18 “(5) to render advisory opinions under section
19 363;

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

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

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

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

12 **“SEC. 362. INDEPENDENT BUDGET REQUESTS AND LEGIS-**
13 **LATIVE PROPOSALS.**

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

19 “(b) AUTHORITY TO MAKE INDEPENDENT LEGISLA-
20 TIVE RECOMMENDATIONS.—Whenever the Administration
21 submits any legislative recommendation, testimony, or
22 comments on legislation requested by Congress or by any
23 Member of Congress, to the President or the Office of
24 Management and Budget, the Administration shall con-
25 currently transmit a copy thereof to Congress or to the

1 Member requesting the same. No officer or agency of the
2 United States shall have any authority to require the Ad-
3 ministration to submit its legislative recommendations,
4 testimony, or comments on legislation, to any office or
5 agency of the United States for approval, comments, or
6 review, prior to the submission of such recommendations,
7 testimony, or comments to Congress.

8 **“SEC. 363. ADVISORY OPINIONS.**

9 “(a) REQUESTS FOR ADVISORY OPINIONS.—

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

19 “(2) REQUESTS BY CANDIDATES.—If an advi-
20 sory opinion is requested by a candidate, or any au-
21 thorized committee of such candidate, during the 60-
22 day period before any election for Federal office in-
23 volving the requesting party, the Administration
24 shall render a written advisory opinion relating to

1 such request not later than 20 days after the Ad-
2 ministration receives a complete written request.

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

12 “(c) RELIANCE ON ADVISORY OPINIONS.—

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

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

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

24 “(2) PROTECTION FROM LIABILITY.—Notwith-
25 standing any other provisions of law, any person

1 who relies upon any provision or finding of an advisory
2 sory opinion in accordance with the provisions of
3 paragraph (1) and who acts in good faith in accordance
4 with the provisions and findings of such advisory
5 sory opinion shall not, as a result of any such act,
6 be subject to any sanction provided by this Act or
7 by chapter 95 or 96 of the Internal Revenue Code
8 of 1986.

9 “(d) NOTICE AND COMMENT.—

10 “(1) PUBLICATION OF REQUESTS.—The Administration
11 shall make public any request made under
12 subsection (a) for an advisory opinion.

13 “(2) OPPORTUNITY TO COMMENT.—

14 “(A) WRITTEN COMMENTS.—Before rendering an advisory
15 opinion, the Administration shall accept written comments
16 submitted by any interested party within the 10-day period
17 following the date on which the request is made
18 public.

19
20 “(B) TESTIMONY.—To the extent that the
21 Commission provides an opportunity for a person
22 requesting an advisory opinion under this
23 section (or counsel for such person) to appear
24 before the Commission to present testimony in
25 support of the request, and the person (or coun-

1 sel) accepts such opportunity, the Commission
2 shall provide a reasonable opportunity for an
3 interested party who submitted written com-
4 ments under subparagraph (A) in response to
5 the request (or counsel for such interested
6 party) to appear before the Commission to
7 present testimony in response to the request.

8 “(e) JUDICIAL REVIEW.—

9 “(1) IN GENERAL.—Any person adversely af-
10 fected by an advisory opinion rendered by the Ad-
11 ministration may obtain judicial review of such advi-
12 sory opinion by filing a petition in the United States
13 Court of Appeals for the District of Columbia Cir-
14 cuit.

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

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

20 “(a) ISSUANCE BY THE CHAIR.—If the Administra-
21 tion is conducting an investigation pursuant to section 371
22 or 372, the Chair shall, on behalf of the Administration,
23 have the power to require by subpoena the attendance and
24 testimony of witnesses and the production of all documen-

1 tary evidence relating to the execution of the Administra-
2 tion's duties.

3 “(b) ISSUANCE BY AN ADMINISTRATIVE LAW
4 JUDGE.—Any administrative law judge presiding over an
5 enforcement action pursuant to section 373 shall have the
6 power to require by subpoena the attendance and testi-
7 mony of witnesses and the production of all documentary
8 evidence relating to the administrative law judge's duties.

9 “(c) ISSUANCE AND ENFORCEMENT OF SUB-
10 POENAS.—

11 “(1) ISSUANCE.—Subpoenas issued under sub-
12 section (a) or (b) shall bear the signature of the
13 Chair or an administrative law judge, respectively,
14 and shall be served by any person or class of persons
15 designated by the Chair or administrative law judge
16 for that purpose.

17 “(2) ENFORCEMENT.—In the case of contu-
18 macy or failure to obey a subpoena issued under
19 subsection (a) or (b), the Federal district court for
20 the judicial district in which the subpoenaed person
21 resides, is served, or may be found may issue an
22 order requiring such person to appear at any des-
23 ignated place to testify or to produce documentary
24 or other evidence. Any failure to obey the order of

1 the court may be punished by the court as a con-
2 tempt of that court.

3 “(d) WITNESS ALLOWANCES AND FEES.—Section
4 1821 of title 28, United States Code, shall apply to wit-
5 nesses requested or subpoenaed to appear at any hearing
6 of the Administration. The per diem and mileage allow-
7 ances for witnesses shall be paid from funds available to
8 pay the expenses of the Administration.

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

12 **“SEC. 365. RULEMAKING AUTHORITY.**

13 “(a) IN GENERAL.—The Administration may, pursu-
14 ant to the provisions of chapter 5 of title 5, United States
15 Code, prescribe such rules and regulations as the Adminis-
16 tration deems necessary to carry out the provisions of this
17 Act and chapters 95 and 96 of the Internal Revenue Code
18 of 1986, including the authority to promulgate rules of
19 practice and procedure for agency adjudications.

20 “(b) AUTHORITY TO PROMULGATE INDEPENDENT
21 REGULATIONS.—Whenever the Administration promul-
22 gates any regulation, it shall not be required to submit
23 such regulation for review or approval to the President
24 or the Office of Management and Budget.

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

5 “(d) FORMS.—

6 “(1) IN GENERAL.—The Administration shall
7 prescribe forms necessary to implement this Act and
8 chapters 95 and 96 of the Internal Revenue Code of
9 1986.

10 “(2) PUBLIC PROTECTION.—Any forms pre-
11 scribed by the Administration under paragraph (1),
12 and any information-gathering activities of the Ad-
13 ministration under this Act, shall not be subject to
14 the provisions of section 3512 of title 44, United
15 States Code.

16 “(e) RELIANCE UPON RULES AND REGULATIONS.—
17 Notwithstanding any other provision of law, any person
18 who relies upon any rule or regulation prescribed by the
19 Administration in accordance with the provisions of this
20 section and who acts in good faith in accordance with such
21 rule or regulation shall not, as a result of such act, be
22 subject to any sanction provided by this Act or by chapter
23 95 or 96 of the Internal Revenue Code of 1986.

24 “(f) CONSULTATION WITH IRS.—In prescribing
25 rules, regulations, and forms under this section, the Ad-

1 ministration and the Secretary of the Treasury shall con-
2 sult and work together to promulgate rules, regulations,
3 and forms which are mutually consistent. The Administra-
4 tion shall report to Congress annually on the steps it has
5 taken to comply with this subsection.

6 “(g) JUDICIAL REVIEW.—

7 “(1) IN GENERAL.—Any person adversely af-
8 fected by a rule, regulation, or form promulgated by
9 the Administration may obtain judicial review of
10 such rule, regulation, or form by filing a petition in
11 the United States Court of Appeals for the District
12 of Columbia Circuit.

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

17 “(h) RULE AND REGULATION DEFINED.—In this
18 Act, the terms ‘rule’ and ‘regulation’ mean a provision or
19 series of interrelated provisions stating a single, separable
20 rule of law.

21 **“SEC. 366. LITIGATION AUTHORITY.**

22 “(a) IN GENERAL.—Notwithstanding sections 516
23 and 518 of title 28, United States Code, and section 3106
24 of title 5, United States Code, the Administration is au-
25 thorized to bring, appear in, defend against, and appeal

1 any action instituted under this Act or chapter 95 or 96
2 of the Internal Revenue Code of 1986, in any court ei-
3 ther—

4 “(1) by attorneys employed by the Administra-
5 tion; or

6 “(2) by counsel whom it may appoint, on a tem-
7 porary basis as may be necessary for such purpose,
8 without regard to the provisions of title 5, United
9 States Code, governing appointments in the competi-
10 tive service, and whose compensation it may fix
11 without regard to the provisions of chapter 51 and
12 subchapter III of chapter 53 of such title.

13 “(b) COMPENSATION OF APPOINTED COUNSEL.—
14 The compensation of counsel appointed on a temporary
15 basis under subsection (a)(2) shall be paid out of any
16 funds otherwise available to pay the compensation of em-
17 ployees of the Administration.

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

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

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

23 “(1) prepare, publish, and furnish to all persons
24 required to file reports and statements under this

1 Act a manual recommending uniform methods of
2 bookkeeping and reporting;

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

5 “(3) within 48 hours after the time of the re-
6 ceipt by the Administration of reports and state-
7 ments filed with the Administration, make them
8 available for public inspection, and copying, at the
9 expense of the person requesting such copying, ex-
10 cept that any information copied from such reports
11 or statements may not be sold or used by any person
12 for the purpose of soliciting contributions or for
13 commercial purposes, other than using the name and
14 address of any political committee to solicit contribu-
15 tions from such committee;

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

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

1 “(B) compile, maintain, and revise a separate
2 cumulative index of reports and statements filed by
3 multicandidate committees, including in such index a
4 list of multicandidate committees; and

5 “(C) compile and maintain a list of multi-
6 candidate committees, which shall be revised and
7 made available monthly;

8 “(6) prepare and publish periodically lists of
9 authorized committees which fail to file reports as
10 required by this Act; and

11 “(7) serve as a national clearinghouse for the
12 compilation of information and review of procedures
13 with respect to the administration of Federal elec-
14 tions.

15 “(b) PSEUDONYMS.—For purposes of subsection
16 (a)(3), a political committee may submit 10 pseudonyms
17 on each report filed in order to protect against the illegal
18 use of names and addresses of contributors, but only if
19 such committee attaches a list of such pseudonyms to the
20 appropriate report. The Administration shall exclude these
21 lists from the public record.

22 “(c) CONTRACTS.—The Administration may enter
23 into contracts for the purpose of performing the duties
24 described in subsection (a).

1 “(d) AVAILABILITY OF REPORTS.—Reports or other
2 information described in subsection (a) shall be available
3 to the public, except that—

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

7 “(2) information made available as a result of
8 the application of paragraph (7) of such subsection
9 shall be made available to the public only upon the
10 payment of the cost thereof.

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

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

16 “(b) PRIORITY.—All audits and field investigations
17 concerning the verification for, and receipt and use of, any
18 payments received by a candidate or committee under
19 chapter 95 or 96 of the Internal Revenue Code of 1986
20 shall be given priority.

21 “(c) AUDITS AND FIELD EXAMINATIONS WHERE
22 THRESHOLDS NOT MET.—

23 “(1) INTERNAL REVIEW.—The Administration
24 shall conduct an internal review of reports filed by
25 selected committees to determine if the reports filed

1 by a particular committee meet the threshold re-
2 quirements for substantial compliance with the Act.
3 Such thresholds for compliance shall be established
4 by the Administration.

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

16 “(d) RANDOM AUDITS.—

17 “(1) IN GENERAL.—In addition to any audits
18 conducted under subsection (c), the Administration
19 may, subject to paragraph (2), conduct audits of any
20 committee selected at random to ensure compliance
21 with this Act. The selection of any committee under
22 this paragraph shall be based on standards and pro-
23 cedures adopted by the Administration, except that
24 in any calendar year such audits may be initiated

1 against no more than 3 percent of all authorized
2 candidate campaign committees.

3 “(2) APPLICABLE RULES.—

4 “(A) IN GENERAL.—If the Administration
5 selects a committee for audit under paragraph
6 (1), the Administration shall promptly notify
7 the committee of the selection and commence
8 the audit within 30 days of the selection.

9 “(B) SPECIAL RULES FOR AUTHORIZED
10 COMMITTEES.—If the committee selected under
11 paragraph (1) is an authorized committee of a
12 candidate, the audit—

13 “(i) shall be commenced and actively
14 undertaken within 6 months of the election
15 for which the committee is authorized; and

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

18 “(3) EXCEPTION.—This subsection shall not
19 apply to an authorized committee of a candidate for
20 President or Vice President subject to audit under
21 section 9007 or 9038 of the Internal Revenue Code
22 of 1986.

23 **“SEC. 369. CONGRESSIONAL OVERSIGHT.**

24 “Nothing in this Act shall be construed to limit, re-
25 strict, or diminish any investigatory, informational, over-

1 sight, supervisory, or disciplinary authority or function of
2 Congress or any committee of Congress with respect to
3 elections for Federal office.

4 **“CHAPTER 3—ENFORCEMENT**

5 **“SEC. 371. INITIATION OF ENFORCEMENT ACTIONS BY AD-**
6 **MINISTRATION.**

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

13 “(b) BASIS FOR FINDINGS.—The Administration
14 may make a finding under subsection (a) based on any
15 information available to the Administration, including the
16 filing of a complaint under section 372.

17 “(c) NOTICE AND OPPORTUNITY TO DEMONSTRATE
18 NO VIOLATION.—Prior to initiating an enforcement action
19 under subsection (a), the Administration shall give any
20 person under investigation notice and the opportunity to
21 demonstrate that there are no reasonable grounds to be-
22 lieve a violation has occurred or is about to occur, but the
23 Administration’s decision on such matter shall not be sub-
24 ject to judicial review.

1 **“SEC. 372. COMPLAINT TO INITIATE ENFORCEMENT AC-**
2 **TION.**

3 “(a) **FILING OF COMPLAINT.**—

4 “(1) **IN GENERAL.**—Any person may file a com-
5 plaint with the Administration alleging a violation of
6 this Act or of chapter 95 or 96 of the Internal Rev-
7 enue Code of 1986.

8 “(2) **TECHNICAL REQUIREMENTS.**—A complaint
9 filed under paragraph (1) shall be—

10 “(A) in writing, signed, and sworn to by
11 the person filing such complaint;

12 “(B) notarized; and

13 “(C) made under penalty of perjury and
14 subject to the provisions of section 1001 of title
15 18, United States Code.

16 “(3) **ACTION BY THE ADMINISTRATION.**—Sub-
17 ject to paragraph (4), based on the allegations in a
18 complaint filed under paragraph (1), and such inves-
19 tigation the Administration deems necessary and
20 appropriate, the Administration may—

21 “(A) initiate a civil enforcement action
22 under section 373 if the Administration finds
23 reasonable grounds to believe a violation has oc-
24 curred or is about to occur; or

25 “(B) dismiss the complaint.

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

6 “(5) RECOVERY OF COSTS.—Any person who
7 has filed a complaint under paragraph (1) shall be
8 entitled to recover from the Administration up to
9 \$1,000 of the costs incurred in preparing and filing
10 the complaint if, based on the complaint, the Admin-
11 istration—

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

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

17 “(b) NOTICE AND OPPORTUNITY TO DEMONSTRATE
18 NO VIOLATION.—Prior to initiating an enforcement action
19 under subsection (a)(3)(A), the Administration shall give
20 any person named in a complaint notice and an oppor-
21 tunity to demonstrate that there are no reasonable
22 grounds to believe a violation described in such subsection
23 has occurred or is about to occur, but the Administration’s
24 determination under subsection (a)(3) shall not be subject
25 to judicial review in an action brought by such person.

1 “(c) FAILURE BY THE ADMINISTRATION TO TAKE
2 TIMELY ACTION.—

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

4 “(A) dismisses a complaint filed under
5 subsection (a); or

6 “(B) fails to initiate a civil enforcement ac-
7 tion under section 373 within 180 days of the
8 filing of such a complaint, the person filing the
9 complaint under subsection (a) may seek judi-
10 cial review of the Administration’s dismissal, or
11 failure to act, in Federal district court in the
12 District of Columbia or in the district in which
13 such person resides.

14 “(2) SCOPE OF REVIEW.—The court shall re-
15 view the Administration’s dismissal of the complaint
16 or failure to act in accordance with the provisions of
17 section 706 of title 5, United States Code.

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

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

23 “(a) IN GENERAL.—The Administration shall have
24 the authority to impose a civil monetary penalty under sec-
25 tion 375, issue a cease-and-desist order under section 376,

1 or do both, if the Administration finds, by an order made
2 on the record after notice and an opportunity for hearing
3 before an administrative law judge pursuant to subchapter
4 II of chapter 5 of title 5, United States Code, that a per-
5 son has violated (or, in the case of a cease-and-desist
6 order, has violated or is about to violate) this Act or chap-
7 ter 95 or 96 of the Internal Revenue Code of 1986. The
8 general counsel shall represent the Administration in any
9 proceeding before an administrative law judge.

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

11 “(1) NOTICE.—If the Administration finds
12 under section 371 or 372 that there are reasonable
13 grounds to believe a violation has occurred or is
14 about to occur, the Administration shall serve writ-
15 ten notice of the charges on each respondent, and
16 shall conduct such further investigation as the Ad-
17 ministration deems necessary and appropriate.

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

23 “(3) EFFECT OF FAILURE TO REQUEST A
24 HEARING.—If no hearing is requested, the Adminis-
25 tration shall make a finding on the charges, and

1 shall issue whatever relief the Administration deems
2 appropriate under sections 375 and 376.

3 “(c) CONCILIATION.—

4 “(1) PROCEDURES FOR ENTERING INTO CON-
5 CILIATION AGREEMENTS.—

6 “(A) IN GENERAL.—If the respondent re-
7 quests a hearing under subsection (b)(2), the
8 Administration shall attempt, for a period that
9 does not exceed 60 days (or 15 days if the hear-
10 ing is requested within 60 days of an election),
11 to correct or prevent such violation by informal
12 methods of conference, conciliation, and persua-
13 sion, and to enter into a conciliation agreement
14 with the respondent. In the case of a hearing
15 that is requested at a time other than within 60
16 days of an election, the period for conciliation
17 shall not be less than 30 days unless an agree-
18 ment is reached before then.

19 “(B) INCLUSION OF CIVIL MONETARY PEN-
20 ALTIES.—A conciliation agreement may include
21 a requirement that the person involved in such
22 conciliation shall pay a civil monetary penalty
23 that does not exceed the amounts set forth in
24 subsection (a) of section 375 or, in the case of
25 a knowing and willful violation, the amounts set

1 forth in subsection (b) of such section. The con-
2 ciliation agreement may also include the re-
3 quirement that the person involved consent to
4 the terms of a cease-and-desist order, as pro-
5 vided in section 376.

6 “(C) REPRESENTATION BY GENERAL
7 COUNSEL.—The general counsel shall represent
8 the Administration in any negotiations for a
9 conciliation agreement and any such concilia-
10 tion agreement shall be subject to the approval
11 of the Administration.

12 “(D) BAR TO FURTHER ACTION.—A con-
13 ciliation agreement, unless violated, is a com-
14 plete bar to any further action by the Adminis-
15 tration.

16 “(2) CONFIDENTIALITY.—No action by the Ad-
17 ministration or any other person, and no informa-
18 tion derived in connection with any conciliation at-
19 tempt by the Administration may be made public by
20 the Administration, without the written consent of
21 the respondent, except that if a conciliation agree-
22 ment is agreed upon and signed by the Administra-
23 tion and the respondent, the Administration shall
24 make such agreement public.

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

17 “(d) HEARING.—At the request of any respondent,
18 a hearing on the charges served under subsection (b)(1)
19 shall be conducted before an administrative law judge, who
20 shall make such findings of fact and conclusions of law
21 as the administrative law judge deems appropriate. The
22 administrative law judge shall also have the authority to
23 impose a civil monetary penalty on the respondent, issue
24 a cease-and-desist order, or both. The decision of the ad-

1 administrative law judge shall constitute final agency action
2 unless an appeal is taken under subsection (e).

3 “(e) APPEAL TO ADMINISTRATION.—

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

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

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

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

15 “(C) the determination of the administra-
16 tive law judge is contrary to law or to the duly
17 promulgated rules or decisions of the Adminis-
18 tration;

19 “(D) a prejudicial error of procedure was
20 committed; or

21 “(E) the decision or the relief ordered is
22 otherwise arbitrary, capricious, or an abuse of
23 discretion.

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

4 “(f) JUDICIAL REVIEW.—

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

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

20 “(3) PETITION FOR JUDICIAL REVIEW.—To ob-
21 tain judicial review under paragraph (1), an ag-
22 grieved party described in such paragraph shall file
23 a petition with the court during the 30-day period
24 beginning on the date on which the order was
25 issued. A copy of such petition shall be transmitted

1 forthwith by the clerk of the court to the Adminis-
2 tration, and thereupon the Administration shall file
3 in the court the record upon which the order com-
4 plained of was entered, as provided in section 2112
5 of title 28, United States Code.

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

7 “(a) NOTIFICATION.—Before taking any action under
8 section 373 against any person who has failed to file a
9 report required under section 304(a)(2)(A)(iii) for the cal-
10 endar quarter immediately preceding the election involved,
11 or in accordance with section 304(a)(2)(A)(i), the Admin-
12 istration shall notify the person of such failure to file the
13 required reports.

14 “(b) OPPORTUNITY FOR RESPONSE.—If a satisfac-
15 tory response is not received within 4 business days after
16 the date of notification, the Administration shall, pursuant
17 to section 367(a)(6), publish before the election the name
18 of the person and the report or reports such person has
19 failed to file.

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

21 “(a) IN GENERAL.—Any person who violates this
22 Act, or chapter 95 or 96 of the Internal Revenue Code
23 of 1986, shall be liable to the United States for a civil
24 monetary penalty for each violation which does not exceed
25 the greater of \$5,000 or an amount equal to any contribu-

1 tion or expenditure involved in such violation. Such pen-
2 alty shall be imposed by the Administration pursuant to
3 section 373.

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

17 “(c) DETERMINATION OF CIVIL MONETARY PEN-
18 ALTY.—In determining the amount of a civil monetary
19 penalty under this section with respect to a violation de-
20 scribed in this section, the Administration or an adminis-
21 trative law judge shall take into account the nature, cir-
22 cumstances, extent, and gravity of the violation and, with
23 respect to the violator, any prior violation, the degree of
24 culpability, and such other matters as justice may require.

25 “(d) REFERRAL TO ATTORNEY GENERAL.—

1 “(1) IN GENERAL.—If the Administration de-
2 termines that a knowing and willful violation of this
3 Act which is subject to section 379, or a knowing
4 and willful violation of chapter 95 or 96 of the Inter-
5 nal Revenue Code of 1986, has occurred or is about
6 to occur, the Administration may refer such appar-
7 ent violation to the Attorney General without regard
8 to any limitations set forth under section 373.

9 “(2) REPORTING BY THE ATTORNEY GEN-
10 ERAL.—Whenever the Administration refers an ap-
11 parent violation to the Attorney General, the Attor-
12 ney General shall report to the Administration any
13 action taken by the Attorney General regarding the
14 apparent violation. Each report shall be transmitted
15 within 60 days after the date the Administration re-
16 fers an apparent violation, and every 30 days there-
17 after until the final disposition of the apparent viola-
18 tion.

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

20 “(a) IN GENERAL.—If the Administration finds,
21 after notice and opportunity for hearing under section
22 373, that any person is violating, has violated, or is about
23 to violate any provision of this Act, or chapter 95 or 96
24 of the Internal Revenue Code of 1986, or any rule or regu-
25 lation thereunder, the Administration may publish any

1 findings and enter an order requiring such person, or any
2 other person that is, was, or would be a cause of the viola-
3 tion due to an act or omission the person knew or should
4 have known would contribute to such violation, to cease
5 and desist from committing or causing such violation and
6 any future violation of the same provision, rule, or regula-
7 tion. Such order may, in addition to requiring a person
8 to cease and desist from committing or causing a violation,
9 require such person to comply (or to take steps to effect
10 compliance) with such provision, rule, or regulation, upon
11 such terms and conditions and within such time as the
12 Administration may specify in such order.

13 “(b) TEMPORARY ORDER.—Whenever the Adminis-
14 tration determines that an alleged violation or threatened
15 violation specified in the notice initiating a civil enforce-
16 ment action under section 373, or the continuation there-
17 of, is likely to result in violation of this Act, or of chapter
18 95 or 96 of the Internal Revenue Code of 1986, and sub-
19 stantial harm to the public interest, the Administration
20 may apply to the Federal district court for the district in
21 which the respondent resides or has its principal place of
22 business, in which the alleged or threatened violation oc-
23 curred or is about to occur, or for the District of Colum-
24 bia, for a temporary restraining order or a preliminary
25 injunction requiring the respondent to cease and desist

1 from the violation or threatened violation and to take such
2 action to prevent the violation or threatened violation. The
3 Administration may apply for such order without regard
4 to any limitation under section 373.

5 **“SEC. 377. COLLECTION.**

6 “If any person fails to pay an assessment of a civil
7 penalty—

8 “(1) after the order making the assessment has
9 become a final order and such person has not timely
10 filed a petition for judicial review of the order in ac-
11 cordance with section 373(f)(3) or if the order of the
12 Administration is upheld after judicial review; or

13 “(2) after a court in an action brought under
14 section 373(c)(3) has entered a final judgment no
15 longer subject to appeal in favor of the Administra-
16 tion,

17 the Attorney General shall recover the amount assessed
18 (plus interest at currently prevailing rates from the date
19 of the expiration of the 30-day period referred to in section
20 373(f)(3) or the date of such final judgment, as the case
21 may be) in an action brought in any appropriate district
22 court of the United States. In such an action, the validity,
23 amount, and appropriateness of such penalty shall not be
24 subject to review.

1 **“SEC. 378. CONFIDENTIALITY.**

2 “(a) PRIOR TO A FINDING OF REASONABLE
3 GROUNDS.—Any proceedings conducted by the Adminis-
4 tration prior to a finding that there are reasonable
5 grounds to believe a violation of the law has occurred or
6 is about to occur, including any investigation pursuant to
7 section 371 or pursuant to a complaint filed under section
8 372, shall be confidential and none of the Administration’s
9 records concerning the complaint shall be made public, ex-
10 cept that the person filing a complaint pursuant to section
11 372 is permitted to make such complaint public.

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

17 “(1) the finding of the Administration as well
18 as any complaint filed under section 372, any notice
19 of charges, and any answer or similar documents
20 filed with the Administration shall be made public;
21 and

22 “(2) all proceedings conducted before an admin-
23 istrative law judge under section 373, and all docu-
24 ments used during such proceedings, shall be made
25 public.

1 “(c) AFTER DISMISSAL OF A COMPLAINT OR CON-
2 CLUSION OF PROCEEDINGS FOLLOWING A FINDING OF
3 REASONABLE GROUNDS.—Subject to subsection (d), fol-
4 lowing the Administration’s dismissal of a complaint filed
5 under section 372 or the termination of proceedings fol-
6 lowing a finding of reasonable grounds under section 371
7 or 372, the Administration shall, not later than the date
8 that is 30 days after such dismissal or termination, make
9 public—

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

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

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

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

21 Subject to subsection (d), the affirmative disclosure re-
22 quirement of this subsection is without prejudice to the
23 right of any person to request and obtain records relating
24 to an investigation under section 552 of title 5, United
25 States Code.

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

3 “(1) IN GENERAL.—The Administration shall
4 issue regulations providing for the protection of in-
5 formation the disclosure of which under subsection
6 (b) or (c) would impair any person’s constitutionally
7 protected right of privacy, freedom of speech, or
8 freedom of association. The Administration shall
9 also issue regulations addressing the application of
10 exemptions from disclosure contained in section 552
11 of title 5, United States Code, to records comprising
12 the Administration’s investigative files. Such regula-
13 tions shall consider the need to protect any person’s
14 constitutionally protected rights to privacy, freedom
15 of speech, and freedom of association, as well as the
16 need to make information about the Administra-
17 tion’s activities and decisions widely accessible to the
18 public.

19 “(2) PETITION TO MAINTAIN CONFIDEN-
20 TIALITY.—

21 “(A) IN GENERAL.—Any person who would
22 be adversely affected by any disclosure of infor-
23 mation about the person made pursuant to sub-
24 section (b) or (c), or by the conduct in public
25 of a hearing or other proceeding conducted pur-

1 suant to section 373, shall have the right to pe-
2 tition the Administration to maintain the con-
3 fidentiality of such information or such pro-
4 ceeding on the ground that such information
5 falls within the scope of any exemption from
6 disclosure contained in section 552 of title 5,
7 United States Code, or is prohibited from dis-
8 closure under the Administration’s regulations,
9 the Constitution, or any other provision of law.
10 Upon the receipt of such petition, the Adminis-
11 tration shall make a prompt determination
12 whether the information should be kept con-
13 fidential, and shall withhold such information
14 from disclosure pending this determination. The
15 Administration shall notify the petitioner in
16 writing of the determination.

17 “(B) REGULATIONS.—The Administration
18 shall prescribe regulations governing the consid-
19 eration of petitions under this paragraph. Such
20 regulations shall provide for public notice of the
21 pendancy of any petition filed under subpara-
22 graph (A) and the right of any interested party
23 to respond to or comment on such petition.

24 “(e) PENALTIES.—Any member or employee of the
25 Administration, or any other person, who violates the pro-

1 visions of this section shall be fined not more than \$2,000.
2 Any such member, employee, or other person who know-
3 ingly and willfully violates the provisions of this section
4 shall be fined not more than \$5,000.

5 **“SEC. 379. CRIMINAL PENALTIES.**

6 “(a) KNOWING AND WILLFUL VIOLATIONS.—Any
7 person who knowingly and willfully commits a violation of
8 any provision of this Act that involves the making, receiv-
9 ing, or reporting of any contribution, donation, or expendi-
10 ture—

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

15 “(2) aggregating \$2,000 or more (but less than
16 \$25,000) during a calendar year shall be fined under
17 such title, or imprisoned for not more than 1 year,
18 or both.

19 “(b) CONTRIBUTIONS OR EXPENDITURES BY NA-
20 TIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZA-
21 TIONS.—In the case of a knowing and willful violation of
22 section 316(b)(3), the penalties set forth in subsection (a)
23 shall apply to each violation involving an amount aggre-
24 gating \$250 or more during a calendar year. Such a viola-

1 tion of section 316(b)(3) may incorporate a violation of
2 section 317(a), 320, or 321.

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

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

14 “(1) imprisoned for not more than 2 years if
15 the amount is less than \$25,000 and subject to im-
16 prisonment under subsection (a) if the amount is
17 \$25,000 or more;

18 “(2) fined not less than 300 percent of the
19 amount involved in the violation and not more than
20 the greater of—

21 “(A) \$50,000; or

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

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

4 “(e) EFFECT OF CONCILIATION AGREEMENTS.—

5 “(1) EVIDENCE OF LACK OF KNOWLEDGE AND
6 INTENT.—In any criminal action brought for a viola-
7 tion of any provision of this Act or of chapter 95 or
8 96 of the Internal Revenue Code of 1986, any de-
9 fendant may evidence their lack of knowledge or in-
10 tent to commit the alleged violation by introducing
11 as evidence a conciliation agreement entered into be-
12 tween the defendant and the Administration under
13 section 373(c)(1) which specifically deals with the
14 act or failure to act constituting such violation and
15 which is still in effect.

16 “(2) CONSIDERATION BY COURTS.—In any
17 criminal action brought for a violation of any provi-
18 sion of this Act or of chapter 95 or 96 of the Inter-
19 nal Revenue Code of 1986, the court before which
20 such action is brought shall take into account, in
21 weighing the seriousness of the violation and in con-
22 sidering the appropriateness of the penalty to be im-
23 posed if the defendant is found guilty, whether—

24 “(A) the specific act or failure to act which
25 constitutes the violation for which the action

1 was brought is the subject of a conciliation
2 agreement entered into between the defendant
3 and the Administration under section 373(c)(1);

4 “(B) the conciliation agreement is in ef-
5 fect; and

6 “(C) the defendant is, with respect to the
7 violation involved, in compliance with the concil-
8 iation agreement.

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

10 “No person shall be prosecuted, tried, or punished
11 for any violation of this Act, unless the indictment is found
12 or the information is instituted within 5 years after the
13 date of the violation.

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

15 “For each fiscal year, there are authorized to be ap-
16 propriated to the Administration such sums as may be
17 necessary for the purpose of carrying out its functions
18 under this Act and under chapters 95 and 96 of the Inter-
19 nal Revenue Code of 1986.”.

20 **SEC. 102. EXECUTIVE SCHEDULE POSITIONS.**

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

24 “Chair, Federal Election Administration.”.

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

4 “Members (other than the Chair), Federal Elec-
5 tion Administration.

6 “Inspector General, Federal Election Adminis-
7 tration.”.

8 **SEC. 103. GAO EXAMINATION OF ENFORCEMENT OF CAM-**
9 **PAIGN FINANCE LAWS BY THE DEPARTMENT**
10 **OF JUSTICE.**

11 (a) EXAMINATION.—The Comptroller General of the
12 United States shall conduct a thorough examination of the
13 enforcement of the criminal provisions of the Federal
14 Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.)
15 and chapters 95 and 96 of the Internal Revenue Code of
16 1986 by the Attorney General.

17 (b) REPORT.—Not later than 1 year after the date
18 of enactment of this Act, the Comptroller General shall
19 submit to the Attorney General and Congress a report on
20 the examination conducted under subsection (a) together
21 with recommendations on how the Attorney General may
22 improve the enforcement of the criminal provisions of the
23 Federal Election Campaign Act of 1971 (52 U.S.C. 30101
24 et seq.) and chapters 95 and 96 of the Internal Revenue
25 Code of 1986, including recommendations on the re-

1 sources that the Attorney General would require to effec-
2 tively enforce such criminal provisions.

3 **SEC. 104. GAO STUDY AND REPORT ON APPROPRIATE**
4 **FUNDING LEVELS.**

5 (a) STUDY.—The Comptroller General of the United
6 States shall conduct an ongoing study on the level of fund-
7 ing that constitutes an adequate level of resources for the
8 Federal Election Administration to competently execute
9 the responsibilities imposed on the Administration by this
10 Act and the amendments made by this Act.

11 (b) REPORT.—Not later than 1 year after the date
12 of enactment of this Act, and once every 2 years there-
13 after, the Comptroller General shall submit to the Director
14 of the Office of Management and Budget and Congress
15 a report on the study conducted under subsection (a) to-
16 gether with recommendations for such legislation and ad-
17 ministrative action as the Comptroller General determines
18 to be appropriate.

19 **SEC. 105. CONFORMING AMENDMENTS.**

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

22 (1) in paragraph (1), by striking “and” after
23 the semicolon;

24 (2) in paragraph (2), by striking the period and
25 inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

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

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

9 (c) COVERAGE OF PERSONNEL UNDER HATCH
10 ACT.—Section 7323(b) of title 5, United States Code, is
11 amended—

12 (1) in paragraph (1), by striking “Federal Elec-
13 tion Commission” and inserting “Federal Election
14 Administration”; and

15 (2) in paragraph (2)(B)(i)(I), by striking “Fed-
16 eral Election Commission” and inserting “Federal
17 Election Administration”.

18 (d) REMOVAL OF EXCLUSION FROM SENIOR EXECU-
19 TIVE SERVICE.—Section 3132(a)(1) of title 5, United
20 States Code, is amended by striking subparagraph (C) and
21 by redesignating subparagraphs (D), (E), and (F) as sub-
22 paragraphs (C), (D), and (E), respectively.

23 (e) SUBTITLE A.—Title III of the Federal Election
24 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is
25 amended by inserting before section 301 the following:

1 **“Subtitle A—General Provisions”.**
2 **TITLE II—TRANSITION**
3 **PROVISIONS**

4 **SEC. 201. TRANSFER OF FUNCTIONS OF FEDERAL ELEC-**
5 **TION COMMISSION.**

6 There are transferred to the Federal Election Admin-
7 istration established under section 351 of the Federal
8 Election Campaign Act of 1971 (as added by section 101)
9 all functions that the Federal Election Commission exer-
10 cised before the date described in section 205(a).

11 **SEC. 202. TRANSFER OF PROPERTY, RECORDS, AND PER-**
12 **SONNEL.**

13 (a) **PROPERTY AND RECORDS.**—The contracts, liabil-
14 ities, records, property, and other assets and interests of,
15 or made available in connection with, the offices and func-
16 tions of the Federal Election Commission which are trans-
17 ferred by this title are transferred to the Federal Election
18 Administration.

19 (b) **PERSONNEL.**—The personnel employed in con-
20 nection with the offices and functions of the Federal Elec-
21 tion Commission which are transferred by this title are
22 transferred to the Federal Election Administration.

1 **SEC. 203. REPEALS.**

2 (a) PROVISIONS OF THE FEDERAL ELECTION CAM-
3 PAIGN ACT OF 1971.—The following provisions of the
4 Federal Election Campaign Act of 1971 are repealed:

5 (1) Section 306 (52 U.S.C. 30106).

6 (2) Section 307 (52 U.S.C. 30107).

7 (3) Section 308 (52 U.S.C. 30108).

8 (4) Section 309 (52 U.S.C. 30109).

9 (5) Section 310 (52 U.S.C. 30110).

10 (6) Section 311 (52 U.S.C. 30111).

11 (7) Section 314 (52 U.S.C. 30115).

12 (8) Section 406 (52 U.S.C. 30145).

13 (b) OTHER PROVISIONS.—Section 403 of the Bipar-
14 tisan Campaign Reform Act of 2002 (52 U.S.C. 30110
15 note) is repealed.

16 **SEC. 204. CONFORMING AMENDMENTS.**

17 (a) Title III of the Federal Election Campaign Act
18 of 1971 (52 U.S.C. 30101 et seq.) is amended—

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

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

23 (2) by striking “Federal Election Commission”
24 and inserting “Administration” each place it ap-
25 pears; and

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

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

6 (c) Section 207(j)(7)(B)(i) of title 18, United States
7 Code, is amended by striking “the Federal Election Com-
8 mission by a former officer or employee of the Federal
9 Election Commission” and inserting “the Federal Election
10 Administration by a former officer or employee of the Fed-
11 eral Election Commission or the Federal Election Admin-
12 istration”.

13 (d) Section 103 of the Ethics in Government Act of
14 1978 (5 U.S.C. App.) is amended—

15 (1) in subsection (e), by striking “the Federal
16 Election Commission” and inserting “the Federal
17 Election Administration”; and

18 (2) in subsection (k), by striking “the Federal
19 Election Commission” and inserting “the Federal
20 Election Administration”.

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

23 “(3) The term ‘Administration’ means the Fed-
24 eral Election Administration established under sec-

1 tion 351 of the Federal Election Campaign Act of
2 1971.”.

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

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

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

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

15 (g) Section 3(c) of the Voting Accessibility for the
16 Elderly and Handicapped Act (52 U.S.C. 20102(c)) is
17 amended—

18 (1) in paragraph (1)—

19 (A) by striking “Federal Election Commis-
20 sion” and inserting “Federal Election Adminis-
21 tration”; and

22 (B) by striking “Commission” and insert-
23 ing “Administration”; and

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

4 (h) Section 6(a)(9) of the Lobbying Disclosure Act
5 1995 (2 U.S.C. 1605(a)(9)) is amended by striking “the
6 Federal Election Commission” and inserting “the Federal
7 Election Administration”.

8 **SEC. 205. TREATMENT OF CERTAIN REGULATIONS.**

9 (a) REGULATIONS ON DISCLOSURE OF ELECTION-
10 EERING COMMUNICATIONS.—

11 (1) IN GENERAL.—Effective on the date that is
12 90 days after enactment of this Act, the regulations
13 on disclosure of electioneering communications
14 adopted by the Federal Election Commission and
15 published in the Federal Register at page 419 of vol-
16 ume 68 on January 3, 2003, and at page 5057 of
17 volume 68 on January 31, 2003, as amended at
18 page 72913 of volume 72 on December 26, 2007,
19 are repealed.

20 (2) NEW REGULATIONS.—Not later than 90
21 days after the date of the enactment of this Act, the
22 Federal Election Commission shall promulgate new
23 regulations on disclosure of electioneering commu-
24 nications under section 304(f) of the Federal Elec-
25 tion Campaign Act of 1971 (52 U.S.C. 30104(f)).

1 The regulations promulgated under this paragraph
2 shall require the disclosure of the identification of all
3 persons who make a contribution to a person who
4 makes an electioneering communication and shall
5 not limit such disclosure to only to persons who
6 make contributions for the purpose of furthering
7 electioneering communications, or any similar limita-
8 tion on the scope of such disclosure.

9 (b) REGULATIONS ON SOLICITATIONS AT NON-FED-
10 ERAL FUNDRAISING EVENTS.—

11 (1) IN GENERAL.—Effective on the date that is
12 90 days after the date of the enactment of this Act,
13 the regulations on participation by Federal can-
14 didates and officeholders at non-Federal fundraising
15 events adopted by the Federal Election Commission
16 and published in the Federal Register at page 24383
17 of volume 75 on May 5, 2010, are repealed.

18 (2) NEW REGULATIONS.—Not later than 90
19 days after enactment of this Act, the Federal Elec-
20 tion Commission shall promulgate new regulations
21 on participation by Federal candidates and office-
22 holders in non-Federal fundraising events. The regu-
23 lations shall limit the participation by Federal can-
24 didates and officeholders in such events to attend-
25 ing, speaking, or being a featured guest at a fund-

1 raising event for a State, district, or local committee
2 of a political party, and shall not allow Federal can-
3 didates and officeholders to participate in or solicit
4 funds at any other fundraising event where non-Fed-
5 eral funds are raised.

6 **SEC. 206. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as provided in section 205,
8 this title and the amendments made by this title shall take
9 effect on the date that is 6 months after the date of enact-
10 ment of this Act.

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

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