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107TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 107–131, Part 1

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

JULY 10, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H.R. 2356]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform, having considered the same, report unfavorably thereon without recommendation

The Committee on House Administration, to whom was referred the bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, having considered the same, report unfavorably thereon.

DISCUSSION OF THE LEGISLATION

The Committee on House Administration has unfavorably reported H.R. 2356, the "Bipartisan Campaign Finance Reform Act". While the bills bearing the name of our colleagues Mr. Shays and Mr. Meehan have changed and evolved over the years, the core principal underlying their legislation had always been their purported "ban" on soft money. In fact, no bill to ever carry the Shays-Meehan label would have really banned soft money, in as much as restrictions on soft money expenditures were never even sought (except for the constitutionally suspect attempt to restrict issue advertising). Rather, Shays-Meehan and other reform proponents always used the term "ban" to mean a prohibition on donations of soft money to political parties. The true test of what constituted

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"real" reform had always been whether or not soft money was "banned" as that term was defined by reform proponents, i.e. a simple donation ban. H.R. 2356 fails even this meager test. It permits donations of soft money, in amounts up to $10,000 per source, to state and local parties, and it does nothing to stop the flow of soft money to any organization other than a political party. Accordingly, H.R. 2356 fails to ban soft money under any definition.

Though the recognition that political parties play an important role in registering voters and getting them to the polls, and should be able to raise non-federal funds for these purposes, could be regarded as a modest improvement over the complete assault on political parties in previous iterations of Shays-Meehan, the Committee still reported H.R. 2356 unfavorably due to numerous fatal flaws. Though different in many respects from prior versions, the new Shays-Meehan bill remains an unconstitutional, ill-considered piece of legislation. No evidence has been produced to this Committee of a "corruption" problem stemming from soft money contributions to political parties. Even if there had been such a showing, H.R. 2356 does not even attempt to be a narrowly tailored remedy. If it were ever to become law, it would have precisely the opposite effect its proponents intend. Rather than diminish the power of "special interest" groups, it would actually make these groups even more powerful than they are today. Independent advocacy groups, unions and corporations would see their power and influence rise, while our national political parties would be debilitated. The result would be destabilization and factionalism, neither of which is in the best interest of our country.

Under H.R. 2356, for the first time, House and Senate candidates would be treated differently under federal election law, in terms of individual contribution limits. As drafted, H.R. 2356 would allow House candidates to raise only $1,000 per individual per election, while Senate candidates would be permitted to raise $2,000 per individual per election. There is no substantive policy rationale for such disparate treatment of candidates for the two different Houses of Congress. The provision is cynically included for no reason other than its sponsors' belief that it increases their chances of cobbling together a majority on the House floor. No evidence was provided at any point indicating that House Members are more likely to be corrupted by a $1001 donation then our Senate colleagues, yet that would be the only constitutionally acceptable premise for this proposed disparate treatment. It is understandable why our colleagues in the other body would have no problem with such a provision, but it is inconceivable why any House Member would support such an unfair and unbalanced provision.

Additionally, Senate candidates receive more preferential treatment in the form of a "millionaire's amendment" that permits them to raise amounts five times greater than those permitted all other candidates, when faced with an opponent who spends over a certain amount of personal funds on their campaign. House candidates who find themselves in a race against a wealthy opponent receive no such relief. Again, the provision is included only to maximize the bill's chances for passage, there being no policy rationale for such disparate treatment.

CONSTITUTIONALLY PROTECTED ISSUE ADVOCACY

As it has in the past, H.R. 2356 attempts to impose unconstitutional restrictions on protected expression. Those who seek to impose such restrictions argue that they are necessary because unions and corporations are using issue advertisements to influence campaigns in a manner not intended or permitted by the Federal Election Campaign Act.

The bright line test between express and issue advocacy was laid down by the Supreme Court in *Buckley* v. *Valeo*, and it has been reaffirmed repeatedly by lower courts since. Numerous attempts by the Federal Election Commission to expand its regulatory reach over communications which do not expressly advocate the election or defeat of clearly identified federal candidates (the definition of issue ads) have been rejected by the courts.

Those who advocate new restrictions on non-express advocacy communications are frustrated by these court decisions. But it is the First Amendment on which the Supreme Court and other courts rely for the proposition that express terms of advocacy are required for a communication to be subject to government regulation. Those who seek greater regulation seem to view the First Amendment, not as a protection to the citizens from government regulation of political speech, but rather as a "loophole" to be closed in order to expand Congress's ability to regulate elections. Of course, the First Amendment, which begins "Congress shall make no law * * *" was specifically designed to preclude the government from restricting the speech of the people. Some Members of Congress may feel frustrated by the things being said about them, but the First Amendment prevents Congress and its Members from using their powers to restrict, regulate or punish their critics.

It is not as if, in some shortsighted fashion, the Supreme Court failed to foresee the potential electoral impact of this kind of issue advocacy. The decision to leave such communications unrestricted was not an oversight that requires Congressional correction, rather, it was a deliberate refusal to permit government intrusion on protected expression. As the Court said:

> Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order "to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Buckley* v. *Valeo*, 424 U.S. 1, 14 (1976).

The attempt by H.R. 2356 to restrict issue advocacy is an unconstitutional overreach and would likely be struck down by the Court. As this is the only provision in the bill which attempts to restrict how unions, corporations, and advocacy groups spend their organizations' treasury funds, as opposed to donating them, the result will be a political world where "special interest" groups have absolutely unfettered ability to spend soft dollars, while the political parties, forbidden from receiving such funds, will not be able to spend any. Clearly, H.R. 2356 is not a bill that will minimize the influence of "special interests" as such interests are often referenced by the advocates of H.R. 2356.

In addition, H.R. 2356 is not narrowly tailored to address a particular or compelling governmental interest. In fact, disclosure of the identity of sponsors of communications is the only interest identified by the advocates of H.R. 2356 to justify government regulation of speech which the Supreme Court has previously ruled is not subject to government regulation. If indeed disclosure is the compelling governmental interest, the provisions of H.R. 2356 extend far beyond the degree of regulation necessary to achieve the goal. In fact, H.R. 2356 has the ultimate effect of chilling and even precluding certain communications by creating an expansive regulatory system which dictates not only disclosure but also the permissible sources of funding, the timing and content of speech otherwise protected by the First Amendment.

COORDINATION

The expansive definition of behaviors that constitute coordination between citizens, citizens groups and candidates for public office would discourage (if not eliminate) communications between citizens and their elected representatives. Under H.R. 2356, any payment made pursuant to a "general or particular understanding" with an elected official would be treated as a contribution and therefore severely limited. Further, such "coordination" does not even require "collaboration or agreement" to establish coordination. With such a vague and sweeping definition, a simple meeting between an individual and his/her Member of Congress could trigger an FEC investigation into the subject of the meeting and the issues discussed. As Lawrence Gold, Associate General Counsel for the AFL–CIO testified; "In its investigation into alleged coordination, the [FEC] has used its subpoena power to seek to identify, and inquire into the details of virtually every contact between a corporation or union, acting through it officers, directors, members and allies, and a candidate, political party, or anyone else who might be acting on the candidate's behalf."

Unquestionably, this will have a chilling effect on the rights of citizens and citizen groups to speak and associate freely. This provision is in direct conflict with one of the stated goals of the proponents, i.e. that reform will make citizens more willing to become involved in politics. Clearly the opposite is true. People who know that a simple meeting with a Congressman could trigger a costly and burdensome investigation will simply disassociate themselves from politics.

The First Amendment not only protects political speech but also the right of the citizens to petition their government for redress of grievances. H.R. 2356 ignores this protected right afforded the people by the First Amendment and would convert such activities to potentially incriminating evidence of illegal political campaign activity through "coordination".

The definition of "coordination" is largely left to the Federal Election Commission, other than directing the Commission to define "coordination" expansively and with utter disregard for the applicable decisions of the Supreme Court and other federal courts over the past twenty-five years. Such important definitions should not and cannot be delegated by the Congress with nothing more than a list of the factors the Federal Election Commission should consider, with no legislative guidance as to the decision the Commis-

sion is to make with respect to each of the factors. H.R. 2356 also repeals the regulations adopted by the Federal Election Commission on the subject of "coordination" which resulted from a decision of the federal district court in *FEC* v. *Christian Coalition.* In other words, H.R. 2356 specifically directs the federal agency charged with enforcing the law to promulgate regulations on a subject in direct contravention of an order of the federal court to that agency. Such disregard of the law is not appropriate by either the agency or the Congress.

SUMMARY OF THE LEGISLATION

SECTION-BY-SECTION DESCRIPTION

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties

• Prohibits national party committees (including an officer or agent acting on their behalf and entities they directly or indirectly establish, finance, maintain, or control) from soliciting, receiving, directing, transferring, or spending money that is not regulated by federal election law (soft money).

• In general, prohibits soft money spending for a *federal election activity* by state and local party committees (including an officer or agent acting on their behalf and entities they directly or indirectly establish, finance, maintain, or control) or by a group of state or local candidates or officials.

• Allows state and local parties to use some funds raised in accord with state law (soft money) for voter registration drives in the last 120 days of a federal election, voter identification efforts, get-out-the-vote drives (GOTV), and generic activities, if they: match soft money equally with hard money (i.e., a 50–50 allocation formula); do not refer to a clearly identified federal candidate; do not pay for broadcast, cable, or satellite communications (unless they refer solely to state and local candidates); receive no donations from any person (including an entity established, financed, maintained, or controlled by that person) in amounts greater than $10,000 a year for such activities; and use only funds raised by the state, district, or local party expressly for such purposes and include no funds transferred from other party committees (and agents or officers acting on their behalf or entities they directly or indirectly establish, finance, maintain, or control). Prohibits any funds for special soft money accounts from being solicited, received, directed, transferred, or spent in the name of national parties or federal candidates or officials or by joint fundraising activities by two or more party committees.

• Defines *federal election activity* to include: (1) voter registration drives in the last 120 days of a federal election; (2) voter identification, GOTV, and generic activity in connection with an election in which a federal candidate is on the ballot; (3) *public communications* that refer to a clearly identified federal candidate and promote, support, attack, or oppose a candidate for that office (regardless of whether it expressly advocates a vote for or against); or (4) services by a state or local party employee who spends at least 25% of paid time in a month on activities in connection with a federal election.

• Defines *generic campaign activity* as one that promotes a party but not a federal or non-federal candidate.

• Defines *public communications* as communications by broadcast, cable, satellite, newspaper, magazine, outdoor advertising, mass mailing (over 500 identical or substantially similar pieces mailed within 30 days of each other), or phone bank (over 500 identical or substantially similar calls made within 30 days of each other).

• Allows state parties to spend soft money on activities exclusively devoted to non-federal elections.

• Prohibits party committees from using soft money to raise funds for use at least in part on federal election activities.

• Prohibits party committees (and officers or agents acting in their behalf and entities they directly or indirectly establish, finance, maintain, or control) from raising money for, or giving to, Internal Revenue Code § 501(c) or § 527 tax-exempt organizations (other than political committees as defined by federal election law).

• Prohibits federal candidates, officeholders, agents, or entities they directly or indirectly establish, maintain, finance, or control from raising soft money in connection with a federal election (including any *federal election activity*) or any money from sources beyond federal limits and prohibitions in non-federal elections (unless candidate or official is also a state or local candidate, raising funds for that campaign).

• Allows federal candidates and officials to raise money for tax-exempt organizations engaged primarily in voter registration and GOTV, subject to a limit of $10,000 per donor (i.e., limit on individual contributions to state party committee under this bill).

• Does not restrict ability of federal candidates and officials to raise money to influence state reapportionment decisions.

Sec. 102. Increased contribution limits for state committees of political parties and aggregate contribution limit for individuals

• Raises limit on individual contributions to a state party committee to $10,000 per year.

• Raises aggregate individual limit to $30,000 per year (*superceded by $37,500 limit in sec. 308).

Sec. 103. Reporting requirements

• Codifies FEC regulations on disclosure of all national party activity-federal and non-federal.

• Requires disclosure by state and local parties of spending on *federal election activities,* including any soft money permitted to be used for such activities.

• Ends building fund exemption.

TITLE II—NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A—Electioneering Communications

Sec. 201. Disclosure of electioneering communications

• Requires disclosure of *electioneering communications* by any spender exceeding an aggregate of $10,000 per year in such disbursements (including contracts to disburse), within 24 hours of the first and each subsequent $10,000 disbursement.

• Requires disclosure to include: identification of spender, custodian of books, and any entity exercising control over activity; principal place of business (if not an individual); amount of disbursements of over $200 and identification of recipient; identification of donors of $1,000 or more (either to a separate segregated fund devoted exclusively to such activities or, if none, to organization itself); and notation as to election and candidates to which communications pertain.

• Defines *electioneering communication* as a broadcast, cable, or satellite advertisement that refers to a clearly identified federal candidate, made within 60 days of a general election or 30 days of a primary, and, if not for President or Vice President, is targeted to relevant electorate (i.e., communication is received by 50,000 or more persons in state, for Senate elections, or district, for House elections); exempts news events, *expenditures, independent expenditures,* debates, and others who may be exempted by FEC.

• If definition of *electioneering communication* is ruled unconstitutional, provides alternate definition (based on 1987 9th Circuit ruling in *FEC* v. *Furgatch*): a broadcast, cable, or satellite communication that promotes, supports, attacks, or opposes a candidate, regardless of whether it expressly advocates a vote for or against a candidate, and is suggestive of no plausible meaning other than an exhortation to vote for or against a candidate); nothing in provision alters 11 CFR 100.22(b), FEC regulation defining express advocacy.

Sec. 202. Coordinated communications as contributions

• Treats an *electioneering communication* that is coordinated with a candidate, agent, or party as a contribution to and expenditure by candidate or party.

Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications

• Bans funding of *electioneering communications* with funds from union or certain corporate funds; but exempts Internal Revenue Code § 501(c)(4) or § 527 tax-exempt corporations making *electioneering communications* with funds solely donated by individuals who are citizens or permanent resident aliens.

Sec. 204. Rules relating to certain targeted electioneering communications

• Removes exemption for § 501(c)(4) or § 527 tax-exempt corporations making targeted *electioneering communications*.

Subtitle B—Independent and Coordinated Expenditures

Sec. 211. Definition of independent expenditure

• Defines independent expenditure as an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate, and that is not made in concert or cooperation with, at request or suggestion of, or pursuant to any particular or general understanding with candidate, party, or agent.

Sec. 212. Reporting requirements for certain independent expenditures

• Requires a 48 hour notice of independent expenditures of $10,000 or more, up to 20 days before an election (and 24 hour notice of expenditures above $1,000 in last 20 days, same as currently).

Sec. 213. Independent versus coordinated expenditures by party

• Prohibits parties from making both independent and coordinated expenditures for a general election candidate.

Sec. 214. Coordination with candidates or political parties

• Includes in definition of *contribution* any coordinated expenditure or other disbursement made in connection with candidate's campaign, and expenditures or disbursements made in coordination with party, regardless of whether communication contains express advocacy.

• Treats an *electioneering communication* that is coordinated with a candidate, agent, or party as a contribution to and expenditure by candidate or party.

• Defines *coordinated expenditure or other disbursement* as a payment made in concert or cooperation with, at request or suggestion of, or pursuant to any particular or general understanding with candidate or party.

• Repeals new FEC rules, and directs FEC to promulgate new regulations within 90 days of enactment on coordination; specifies new rules will not require explicit collaboration or agreement to establish coordination; specifies rules will address issues of: republication of campaign material, common vendors, prior employment status, and substantial discussion with candidate or party.

TITLE III—MISCELLANEOUS

Sec. 301. Use of contributed amounts for certain purposes

• Codifies FEC regulations on permissible uses for campaign funds.

• Retains ban on personal use.

Sec. 302. Prohibition of fundraising on federal property

• Bans solicitation or receipt of contributions, including soft money, by federal officials and from anyone, who is located in any federal government building used to discharge official duties.

Sec. 303. Strengthening foreign money ban

• Bans direct or indirect contributions from foreign nationals (including soft money), or their solicitation or receipt, or any promise to make such donations, in connection with any U.S. election, to any party committee, or for any expenditure, independent expenditure, or *electioneering communication* (retains permanent resident alien exemption).

Sec. 304. Modification of individual contribution limits in response to expenditures from personal funds

• *In Senate elections:* raises limits on individual and party support for a Senate candidate whose opponent exceeds designated

level of spending from personal funds (as defined) in campaign; creates threshold of $150,000 + 4 ¢ times number of eligible voters in state; if *opposition personal funds amount* (personal spending of candidate minus that of opponent) exceeds threshold amount: (a) by 2–4 times, then limit on individual contributions to opponent is tripled; (b) by 4–10 times, then limit on individual contributions to opponent is raised 6-fold; and (c) by 10 times, then limit on individual contributions to opponent is raised 6-fold and limit on party coordinated expenditures for opponent is removed; aggregate individual limit would be raised to extent of increased contribution limits; limits would be raised only to extent of 110% of total *opposition personal funds amount.*

• *In all elections:* limits repayment of candidate loans to $250,000, from amounts contributed after election.

Sec. 305. Television media rates

• Changes basis for lowest unit rate for TV, cable, and satellite broadcast time (applicable in last 45 days of a primary and 60 days of a general election) to comparison with the same amount of time for the same period during prior 180 days.

• Requires such rates to be available to national parties buying time for "coordinated expenditures" on behalf of their candidates.

• Makes lowest unit rate time on broadcast TV, cable, or satellite non-preemptible, unless for circumstances beyond broadcaster's control.

• Provides for random audits by FCC to ensure compliance by broadcasters.

Sec. 306. Limitation on availability of lowest unit charge for federal candidates attacking opposition

• Requires federal candidate broadcast ads sold at lowest unit rate and that include direct reference to opponents to include candidate photo or image on TV and a statement of candidate approval (printed on TV and spoken by candidate on radio).

Sec. 307. Software for filing reports and prompt disclosure of contributions

• Requires FEC to promulgate standards for and to provide standardized software for filing reports electronically; requires candidates' use of such software; and requires FEC to post information received electronically on Internet as soon as practicable.

Sec. 308. Modification of contribution limits

• *In Presidential and Senate elections:* raises limit on individual contributions to candidates to $2,000 per candidate, per election (*in House elections:* retains $1,000 limit).

• Raises limit on individual contributions to national party committees to $25,000 per year.

• Raises aggregate individual limit on all contributions to federal candidates, PACs, and parties to $37,500 per year (*superceding $30,000 limit in sec. 102).

• Raises special limit on combined contributions to Senate candidates by national and senatorial party committees to $35,000 in year of election.

• Provides for indexing for inflation of limits on individual contributions to candidates and national parties, on aggregate annual individual contributions, and on party contributions to Senate candidates, in odd-numbered years beginning in 2003, with 2001 as the base year and all amounts rounded to the nearest $100.

Sec. 309. Donations to presidential inaugural committee

• Requires disclosure to FEC of donations of over $200 to presidential inaugural committees within 90 days of event.
• Bans foreign national donations to inaugural committees.

Sec. 310. Prohibition on fraudulent solicitation of funds

• Prohibits fraudulent misrepresentation in the solicitation of campaign funds.

Sec. 311. Study and report on clean money, clean elections laws

• Directs GAO to study and report to Congress statistics for and effects of public funding systems in Arizona and Maine.

Sec. 312. Clarity standards for identification of sponsors of election-related advertising

• Requires sponsorship identification on all election-related advertising (including *electioneering communications*) by political committees and enhanced visibility of such identification in the communication.

Sec. 313. Increase in penalties

• Increases criminal penalties for knowing and willful violations involving contributions, expenditures, or donations in amounts aggregating from $2,000 to $25,000 in a year: a fine under Title 18 or up to one year in prison, or both.
• Increases criminal penalties for knowing and willful violations involving amounts aggregating $25,000 or more: a fine under Title 18 or up to five years in prison, or both.

Sec. 314. Statute of limitations

• Changes statute of limitations for criminal violations of federal election law, from three to five years.

Sec. 315. Sentencing guidelines

• Directs U.S. Sentencing Commission to promulgate guidelines and make legislative or administrative recommendations regarding penalties for violating federal election law, per specified considerations.

Sec. 316. Increase in penalties imposed for violations of conduit contribution ban

• Imposes specific penalties for knowing and willful violations of ban on contributions made in the name of another: (a) in civil cases: between 300% of violation amount and the greater of $50,000 or 1000% of violation amount; and (b) in criminal cases: two years in prison for up to $25,000 violation amount, or fine of between 300% of violation amount and the greater of $50,000 or 1000% of violation amount, or prison and fine.

Sec. 317. Restriction on increased contribution limits by taking into account candidate's available funds

• *In Senate elections:* in calculating *opposition personal funds amount*, considers candidate warchests, by including *gross receipts advantage* of candidate opposed by wealthy candidate (i.e., 50% of gross receipts of candidate minus 50% of gross receipts of wealthy opponent, as of June 30 and Dec. 31 of year before election).

Sec. 318. Clarification of right of nationals of the United States to make political contributions

• Clarifies that ban on contributions and donations from foreign nationals does not include U.S. nationals.

Sec. 319. Prohibition of contribution by minors

• Prohibits contributions to candidates and donations to party committees by individuals 17 years of age and younger.

Sec. 320. Definition of contributions made through intermediary or conduit for purposes of applying contribution limits

• Considers contributions solicited by a candidate to support his or her election and arranged or suggested to be spent by or through an intermediary or conduit to assist that candidate's election as a contribution to the candidate.

Sec. 321. Prohibiting authorized committees from forming joint fundraising committees with political party committees

• Prohibits federal candidates' authorized committees from forming joint fundraising committees with any party committee.

Sec. 322. Regulations to prohibit efforts to evade requirements

• Requires FEC to promulgate regulations to prohibit efforts to evade or circumvent limitations, prohibitions, and reporting requirements of federal election law.

TITLE IV—SEVERABILITY; EFFECTIVE DATE

Sec. 401. Severability

• If any provision of the Act or its amendments, or its application to any person or circumstance, is held unconstitutional, the remainder of the Act and its amendments, and its application to any person or circumstance, shall not be affected by the holding.

Sec. 402. Effective date

• Generally, within 30 days of enactment.

• Provides transition rules for spending of soft money by national parties: (a) allows parties to spend without restriction soft money raised between effective date and 90 days thereafter; (b) until March 31, 2002, national parties may transfer soft money funds to state or local parties or to §501(c) or §527 tax-exempt organizations; and (c) at any time after the effective date, national parties may use such funds to defray costs of construction or purchase of a party office building or facility.

Sec. 403. Judicial review

• Provides for expedited review to the U.S. District Court for D.C. (and exclusive venue) for declaratory judgment and injunctive relief on constitutional grounds; provides direct appeal to the U.S. Supreme Court from any final order or judgment; and provides for expedited consideration by both courts.

• Provides that if any person aggrieved by the statute brings an action for declaratory or injunctive relief, which challenges the constitutionality and names the U.S. as defendant, within 90 days of enactment: (a) action shall be heard by three-judge court in the U.S. District Court for D.C.; (b) copy of complaint shall be delivered promptly to Clerk of the House and Secretary of the Senate; (c) a final decision shall be reviewable only by direct appeal to U.S. Supreme Court; and (d) expedited consideration shall be provided by both courts.

• Further provides that in any action challenging the constitutionality, any Member of the House or Senate shall have the right to intervene.

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

Sec. 501. Internet access to records

• Requires all reports filed with FEC to be posted on Internet and available for inspection within 48 hours, or 24 hours if filed electronically.

Sec. 502. Maintenance of website of election reports

• Requires FEC to maintain central web site of all publicly available election-related reports

Sec. 503. Additional monthly and quarterly disclosure reports

• Requires candidates to file monthly reports in election years and quarterly reports in non-election years

• Requires national party committees to file monthly reports in all years

Sec. 504. Public access to broadcasting records

• Requires broadcasters to maintain and make available for public inspection: records of broadcast time requests by candidates or by other entities whose message relates to political matters of national importance, including messages about a legally qualified candidate, a federal election, or a legislative issue of public importance

• Requires records to include: whether request was accepted; rate charged; date and time message aired; class of time purchased; identification of candidate and office, election, or issue referred to; and identity of purchaser, including officers of any non-candidate entity

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFFERAL

On January 31, 2001, Mr. Shays introduced H.R. 380, which was referred to the Committee on House Administration, and in addition to the Committees on Education and the Workforce, Government Reform, the Judiciary, Ways and Means, and Rules, for a pe-

riod to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On May 22, 2001, the House received S. 27, a bill introduced by Senator McCain and Senator Feingold that had been adopted by the Senate, and was referred to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

On June 28, 2001, Mr. Shays and Mr. Meehan introduced H.R. 2356, which was referred to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

HEARINGS

The Committee on House Administration held five hearings on campaign finance reform over four months in 2001.

On March 17, 2001, the Committee held the first hearing on Campaign Finance Reform. This hearing was a field hearing, held in Phoenix, Arizona. Members present: Mr. Ney, Mr. Ehlers, Mr. Mica, Mr. Linder, Mr. Doolittle. Witnesses: Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union; Lynn Wardle, Professor, J. Reuben Clarke Law School, Brigham Young University; Ann Eschinger, President, Arizona League of Women Voters; Landis Aiden, Citizen Activist; Senator Scott Bundgaard, Arizona State Legislature; Dennis Burke, Executive Director, Arizona Good Government Association; Joseph F. Yuhas, Executive Director, Arizona Restaurant Association; Lee Ann Elliott, Former Chairperson of the Federal Election Commission.

On May 1, 2001, the Committee held its second hearing on Campaign Finance Reform. Members present: Mr. Ney, Mr. Ehlers, Mr. Linder, Mr. Hoyer, Mr. Fattah, Mr. Davis Witnesses: Mr. Gephardt, Mr. DeLay, Mr. Shays, Mr. Meehan, Senator Hagel, Senator McConnell, Senator Feingold.

On June 14, 2001, the Committee held its third hearing on Campaign Finance Reform. Members present were: Mr. Ney, Mr. Mica, Mr. Linder, Mr. Reynolds, Mr. Hoyer and Mr. Davis. Witnesses: James Bopp, Jr., Bopp, James Madison Center for Free Speech; Cleta Mitchell, Foley & Lardner; Joel M. Gora, Professor, Brooklyn Law School, former Associate Legal Director, American Civil Liberties Union; Laurence Gold, Associate General Counsel, AFL–CIO; E. Joshua Rosenkranz, President & CEO, Brennan Center for Justice; Donald J. Simon, General Counsel, Common Cause.

On June 21, 2001, the Committee held its fourth hearing on Campaign Finance Reform. Members present: Mr. Ney, Mr. Ehlers, Mr. Linder and Mr. Hoyer. Witnesses: Mr. Hutchinson testified on H.R. 1150, Mr. Wynn, Mr. Price (NC) testified on H.R. 156, Mr. Terry testified on H.R. 1039, Ms. Mink testified on H.R. 289, Mr. Linder testified on H.R. 1080, Mr. Moore testified on H.R. 365, Mr. Doolittle testified on H.R. 1444, Mr. Tierney testified on H.R. 1637, Mr. Faleomavaega testified on H.R. 1447. Mr Linder introduced the

written testimony of Phil Kent, President, Southeastern Legal Foundation.

On June 28, 2001, the Committee held its fifth hearing on Campaign Finance reform. Members present: Mr. Ney, Mr. Ehlers, Mr. Mica, Mr. Linder, Mr. Doolittle, Mr. Reynolds, Mr. Hoyer, Mr. Fattah, Mr. Davis. Witnesses: Mr. Petri testified on H.R. 150 and H.R. 151, Mr. Bereuter testified on H.R. 35, Mr. Shaw testified on H.R. 1516, Mr. English testified on H.R. 1445, Mr. Calvert testified on H.R. 2122, Mr. Barr and Mr. Gonzalez.

MARKUP

On Thursday, June 28, 2001, the Committee met to mark up H.R. 2360 and H.R. 2356. The Committee unfavorably reported H.R. 2356 by recorded vote (5–3) a quorum being present. No amendments were offered to H.R. 2356.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE RECORD VOTES

Clause 3(b) of House rule XII requires the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report. The only recorded vote requested during consideration of H.R. 2356 occurred on the vote to report the bill unfavorably to the House.

Member	Yes	No	Present
Mr. Ney	X		
Mr. Ehlers	X		
Mr. Mica	X		
Mr. Linder	X		
Mr. Doolittle	X		
Mr. Reynolds	X		
Mr. Hoyer		X	
Mr. Fattah		X	
Mr. Davis		X	
Total	5	3	

COMMITTEE OVERSIGHT FINDINGS

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

OVERSIGHT FINDINGS OF COMMITTEE ON HOUSE ADMINISTRATION

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

CONSTITUTIONAL AUTHORITY

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

FEDERAL MANDATES

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

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 2360 is not intended to preempt any state or local law.

COMMITTEE COST ESTIMATE

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

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

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

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

(CBO ESTIMATE NOT AVAILABLE AT TIME OF FILING)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

FEDERAL ELECTION CAMPAIGN ACT OF 1971

* * * * * * *

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this Act:
(1) * * *

* * * * * * *

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

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

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

(iii) any coordinated expenditure or other disbursement made by any person in connection with a candidate's election, regardless of whether the expenditure or disbursement is for a communication that contains express advocacy; or

(iv) any coordinated expenditure or other disbursement made in coordination with a national committee, State committee, or other political committee of a political party by a person (other than a candidate or a candidate's authorized committee) in connection with an election, regardless of whether the expenditure or disbursement is for a communication that contains express advocacy.

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

(i) * * *

* * * * * * *

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

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

(I) * * *

* * * * * * *

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

(1) * * *

* * * * * * *

[(xi)] *(x)* the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other

candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided,* That such payments are made from contributions subject to the limitations and prohibitions of this Act;

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

(1) * * *

* * * * * * *

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

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

[(xv)**]** *(xiv)* any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(C) For purposes of subparagraph (A)(iii) and (iv), the term "coordinated expenditure or other disbursement" means a payment made in concert or cooperation with, at the request or suggestion of, or pursuant to any general or particular understanding with, such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.

* * * * * * *

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

(17) INDEPENDENT EXPENDITURE.—The term "independent expenditure" means an expenditure by a person—

(A) expressly advocating the election or defeat of a clearly identified candidate; and

(B) that is not made in concert or cooperation with, at the request or suggestion of, or pursuant to any general or particular understanding with, such candidate, the candidate's

authorized political committee, or their agents, or a political party committee or its agents.

* * * * * * *

(20) FEDERAL ELECTION ACTIVITY.—

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

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

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

(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

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

(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

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

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

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

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

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

(22) PUBLIC COMMUNICATION.—The term "public communication" means a communication by means of any broadcast, cable,

or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

(23) MASS MAILING.—The term "mass mailing" means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(24) TELEPHONE BANK.—The term "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(25) ELECTION CYCLE.—The term "election cycle" means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

(26) PERSONAL FUNDS.—The term "personal funds" means an amount that is derived from—

(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

(i) legal and rightful title; or

(ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

(i) a salary and other earned income from bona fide employment;

(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

(iii) bequests to the candidate;

(iv) income from trusts established before the beginning of the election cycle;

(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

(vii) proceeds from lotteries and similar legal games of chance; and

(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

* * * * * * *

(e)(1) * * *

* * * * * * *

(6) No authorized committee of a candidate for Federal office may form a joint fundraising committee with any political committee of a political party.

* * * * * * *

REPORTS

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

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) * * *

* * * * * * *

[(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and]

(iii) additional monthly reports, which shall be filed not later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that monthly reports shall not be required under this clause in November and December and a year end report shall be filed not later than January 31 of the following calendar year.

(B) in any other calendar year [the following reports shall be filed:

[(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

[(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.] *the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.*

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) * * *

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance

with paragraph (2)(A)(ii), and [quarterly reports] *monthly reports* in accordance with paragraph (2)(A)(iii); and

* * * * * * *

(4) All political committees other than authorized committees of a candidate shall file either—

(A)(i) * * *

* * * * * * *

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).

* * * * * * *

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii)[, or the second sentence of subsection (c)(2)]) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6)(A) * * *

(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term "expenditure from personal funds" means—

(I) an expenditure made by a candidate using personal funds; and

(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with—

(I) the Commission; and

(II) each candidate in the same election.

(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

(I) the Commission; and

(II) each candidate in the same election.

(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with—

(I) the Commission; and

(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

(I) the name of the candidate and the office sought by the candidate;

(II) the date and amount of each expenditure; and

(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.

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

* * * * * * *

(8) The requirement for a political committee to file a **[**quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i)**]** *monthly report under paragraph (2)(A)(iii) or paragraph (4)(A)* shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

* * * * * * *

(11)(A) * * *

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

(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.

(12) SOFTWARE FOR FILING OF REPORTS.—

(A) IN GENERAL.—The Commission shall—

(i) promulgate standards to be used by vendors to develop software that—

(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

(III) allows the Commission to post the information on the Internet immediately upon receipt; and

(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

(B) ADDITIONAL INFORMATION.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

(C) REQUIRED USE.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

(D) REQUIRED POSTING.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.

(c)(1) * * *

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

(A) * * *

* * * * * * *

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

[Any independent expenditure (including those described in subsection (b)(6)(B)(iii) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be filed within 24 hours after such independent expenditure is made. Such statement shall be filed with the Secretary or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved. Notwithstanding subsection (a)(5), the time at which the statement under this subsection is received by the Secretary, the Commission, or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.**]**

* * * * * * *

(e) POLITICAL COMMITTEES.—

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

(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—

(A) IN GENERAL.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A).

(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NONFEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY.—Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements made section 323(b)(2)(A) and (B).

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

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

(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.—

(1) STATEMENT REQUIRED.—Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

(B) The principal place of business of the person making the disbursement, if not an individual.

(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence as defined in section 1101(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(2)) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to

be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

(A) IN GENERAL.—(i) The term "electioneering communication" means any broadcast, cable, or satellite communication which—

(I) refers to a clearly identified candidate for Federal office;

(II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term "electioneering communication" means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

(B) EXCEPTIONS.—The term "electioneering communication" does not include—

(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to en-

sure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

(C) TARGETING TO RELEVANT ELECTORATE.—For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is "targeted to the relevant electorate" if the communication can be received by 50,000 or more persons—

(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

(4) DISCLOSURE DATE.—For purposes of this subsection, the term "disclosure date" means—

(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

(7) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.

(g) TIME FOR REPORTING CERTAIN EXPENDITURES.—

(1) EXPENDITURES AGGREGATING $1,000.—

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

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

(2) EXPENDITURES AGGREGATING $10,000.—

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

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

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

(A) shall be filed with the Commission; and

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

(h) REPORTS FROM INAUGURAL COMMITTEES.—The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.

ENFORCEMENT

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

* * * * * * *

(5)(A) * * *

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation *(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1000 percent of the amount involved in the violation).*

(6)(A) * * *

* * * * * * *

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation *(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1000 percent of the amount involved in the violation).*

(b) Before taking any action under subsection (a) against any person who has failed to file a report required under section 304(a)(2)(A)(iii) for the [calendar quarter] *month* immediately preceding the election involved, or in accordance with section 304(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 311(a)(7), publish before the election the name of the person and the report or reports such person has failed to file.

* * * * * * *

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

(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

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

* * * * * * *

(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be—

(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of—

(I) $50,000; or

(II) 1,000 percent of the amount involved in the violation; or

(iii) both imprisoned under clause (i) and fined under clause (ii).

* * * * * * *

[USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

[SEC. 313. Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of the Internal Revenue Code of 1954, or may be used for any other law-

ful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.]

SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

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

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

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

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

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

(b) PROHIBITED USE.—

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

(2) CONVERSION.—For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including—

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

(B) a clothing purchase;

(C) a noncampaign-related automobile expense;

(D) a country club membership;

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

(F) a household food item;

(G) a tuition payment;

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

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

* * * * * * *

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 315. (a)(1) [No person] *Except as provided in subsection (i), no person* shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed [$1,000] *$2,000 (or, in the case of a candidate for Representative in or Delegate or Resident Commissioner to the Congress, $1,000)*;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed [$20,000; or] *$25,000;*

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

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

(3) No individual shall make contributions aggregating more than **[**$25,000**]** *$37,500* in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

* * * * * * *

(7) For purposes of this subsection—

(A) * * *

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

[(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and**]**

(B) a coordinated expenditure or disbursement described in—

(i) section 301(8)(A)(iii) shall be considered to be a contribution to the candidate and an expenditure by the candidate; and

(ii) section 301(8)(A)(iv) shall be considered to be a contribution to, and an expenditure by, the political party committee;

(C) if—

(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and

[(C)**]** *(D)* contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

* * * * * * *

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on be-

half of a particular candidate, [including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate,] *including contributions which are in any way earmarked or otherwise arranged or directed through an intermediary or conduit to such candidate, or solicited by such candidate to support the candidate's election and arranged or suggested by the candidate to be spent by or through an intermediary to support or assist the candidate's election,* shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

* * * * * * *

(c)(1)*(A)* At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. [Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.]

(B) Except as provided in subparagraph (C), in any calendar year after 2002—

(i) a limitation established by subsection (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

(ii) each amount so increased shall remain in effect for the calendar year; and

(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.

(2) For purposes of paragraph (1)—

(A) * * *

(B) the term "base period" [means the calendar year 1974] *means—*

(i) for purposes of subsections (b) and (d), calendar year 1974; and

(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) calendar year 2001.

(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limita-

tions contained in paragraphs (2) [and (3)], *(3), and (4)* of this subsection.

* * * * * * *

(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

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

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

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

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

* * * * * * *

(h) Notwithstanding any other provision of this Act, amounts totaling not more than [$17,500] *$35,000* may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.—

(1) INCREASE.—

(A) IN GENERAL.—Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the "applicable limit") with respect to that candidate shall be the increased limit.

(B) THRESHOLD AMOUNT.—

(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA.—In this subsection, the threshold amount

with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

(I) $150,000; and

(II) $0.04 multiplied by the voting age population.

(ii) VOTING AGE POPULATION.—In this subparagraph, the term "voting age population" means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

(C) INCREASED LIMIT.—Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

(i) 2 times the threshold amount, but not over 4 times that amount—

(I) the increased limit shall be 3 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

(ii) 4 times the threshold amount, but not over 10 times that amount—

(I) the increased limit shall be 6 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(iii) 10 times the threshold amount—

(I) the increased limit shall be 6 times the applicable limit;

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

(D) OPPOSITION PERSONAL FUNDS AMOUNT.—The opposition personal funds amount is an amount equal to the excess (if any) of—

(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS.—

(i) IN GENERAL.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

(ii) GROSS RECEIPTS ADVANTAGE.—For purposes of clause (i), the term "gross receipts advantage" means the excess, if any, of—

(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

(3) DISPOSAL OF EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and

not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

(B) RETURN TO CONTRIBUTORS.—A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans made after the date of enactment of the Bipartisan Campaign Reform Act of 2001 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

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

SEC. 316. (a) * * *

(b)(1) * * *

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

(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term "applicable electioneering communication" means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

(2) EXCEPTION.—Notwithstanding paragraph (1), the term "applicable electioneering communication" does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of such Code) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by indi-

viduals who are United States citizens or nationals or lawfully admitted for permanent residence as defined in section 1101(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(2)). For purposes of the preceding sentence, the term "provided directly by individuals" does not include funds the source of which is an entity described in subsection (a) of this section.

(3) SPECIAL OPERATING RULES.—

(A) DEFINITION UNDER PARAGRAPH (1).—AN ELECTIONEERING COMMUNICATION SHALL BE TREATED AS MADE BY AN ENTITY DESCRIBED IN SUBSECTION (A) IF AN ENTITY DESCRIBED IN SUBSECTION (A) DIRECTLY OR INDIRECTLY DISBURSES ANY AMOUNT FOR ANY OF THE COSTS OF THE COMMUNICATION.

(B) EXCEPTION UNDER PARAGRAPH (2).—A SECTION 501(C)(4) ORGANIZATION THAT DERIVES AMOUNTS FROM BUSINESS ACTIVITIES OR RECEIVES FUNDS FROM ANY ENTITY DESCRIBED IN SUBSECTION (A) SHALL BE CONSIDERED TO HAVE PAID FOR ANY COMMUNICATION OUT OF SUCH AMOUNTS UNLESS SUCH ORGANIZATION PAID FOR THE COMMUNICATION OUT OF A SEGREGATED ACCOUNT TO WHICH ONLY INDIVIDUALS CAN CONTRIBUTE, AS DESCRIBED IN SECTION 304(F)(2)(E).

(4) DEFINITIONS AND RULES.—For purposes of this subsection—

(A) the term "section 501(c)(4) organization" means—

(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(5) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code.

(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS.—

(A) EXCEPTION DOES NOT APPLY.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

(B) TARGETED COMMUNICATION.—For purposes of subparagraph (A), the term "targeted communication" means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(C) DEFINITION.—For purposes of this paragraph, a communication is "targeted to the relevant electorate" if it meets the requirements described in section 304(f)(3)(C).

* * * * * * *

PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

SEC. 318. (a) [Whenever] *Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever* any person makes [an expenditure] *a disbursement* for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, [direct] mailing, or any other type of general public political advertising *or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))*, such communication—

(1) * * *

* * * * * * *

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

* * * * * * *

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

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

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

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

(d) ADDITIONAL REQUIREMENTS.—

(1) AUDIO STATEMENT.—

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

(B) OTHER PERSONS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: "_____ is responsible for the content of this advertising." (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly read-

able manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

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

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

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

[CONTRIBUTIONS BY FOREIGN NATIONALS] *CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS*

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

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

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

(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

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

(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.

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

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

(2) an individual who is not a citizen of the United States *or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)* and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

* * * * * * *

FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

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

(1) * * *

* * * * * * *

(b) FRAUDULENT SOLICITATION OF FUNDS.—No person shall—

(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

(a) NATIONAL COMMITTEES.—

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

(2) APPLICABILITY.—The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

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

(1) IN GENERAL.—Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

(2) APPLICABILITY.—

(A) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party in existence as of the date of the enactment of the Bipartisan Campaign Reform Act of 2001 for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated under regulations prescribed by the Commission which require not less than 50 percent of the amounts expended or disbursed be paid from a Federal allocation account consisting solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act (not including funds specifically authorized to be spent under subparagraph (B)(iii)).

(B) CONDITIONS.—Subparagraph (A) shall only apply if—

(i) the activity does not refer to a clearly identified candidate for Federal office;

(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

(iii) the amounts expended or disbursed which are not from a Federal allocation account described in subparagraph (A) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from—

(I) any other State, local, or district committee of any State party,

(II) the national committee of a political party (including a national congressional campaign committee of a political party),

(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY.—Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts—

(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

(c) FUNDRAISING COSTS.—An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congres-

sional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to—

(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

(e) FEDERAL CANDIDATES.—

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

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

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

(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

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

(2) STATE LAW.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

(3) FUNDRAISING EVENTS.—Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

(4) LIMITATION APPLICABLE FOR PURPOSES OF SOLICITATION OF DONATIONS BY INDIVIDUALS TO CERTAIN ORGANIZATIONS.—In the case of the solicitation of funds by any person described in

paragraph (1) on behalf of any entity described in subsection (d) which is made specifically for funds to be used for activities described in clauses (i) and (ii) of section 301(20)(A), or made for any such entity which engages primarily in activities described in such clauses, the limitation applicable for purposes of a donation of funds by an individual shall be the limitation set forth in section 315(a)(1)(D).

(5) TREATMENT OF AMOUNTS USED TO INFLUENCE OR CHALLENGE STATE REAPPORTIONMENT.—Nothing in this subsection shall prevent or limit an individual described in paragraph (1) from soliciting or spending funds to be used exclusively for the purpose of influencing the reapportionment decisions of a State or the financing of litigation which relates exclusively to the reapportionment decisions made by a State.

(f) STATE CANDIDATES.—

(1) IN GENERAL.—A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

(2) EXCEPTION FOR CERTAIN COMMUNICATIONS.—Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both.

PROHIBITION OF CONTRIBUTIONS BY MINORS

SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.

REGULATIONS TO PROHIBIT EFFORTS TO EVADE REQUIREMENTS

SEC. 325. The Commission shall promulgate regulations to prohibit efforts to evade or circumvent the limitations, prohibitions, and reporting requirements of this Act.

TITLE IV—GENERAL PROVISIONS

* * * * * * *

PERIOD OF LIMITATIONS

SEC. 406. (a) No person shall be prosecuted, tried, or punished for any violation of title III of this Act, unless the indictment is found or the information is instituted within [3] *5* years after the date of the violation.

* * * * * * *

SECTION 607 OF TITLE 18, UNITED STATES CODE

§ 607. Place of solicitation

[(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal

Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.]

(a) PROHIBITION.—

(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

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

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

SECTION 315 OF THE COMMUNICATIONS ACT OF 1934

SEC. 315. FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE.

(a) *IN GENERAL.*—If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided,* That such licensee shall have no power of censorship over the material broadcast under the provision of this section. No obligation is hereby imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

(1) * * *

* * * * * * *

[(b) The charges]

(b) CHARGES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

[(1)] *(A) subject to paragraph (3),* during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

[(2)] *(B)* at any other time, the charges made for comparable use of such station by other users thereof.

(2) TELEVISION.—The charges made for the use of any television broadcast station, or by a provider of cable or satellite television service, to any person who is a legally qualified candidate for any public office in connection with the campaign of such candidate for nomination for election, or election, to such office, or to a national committee of a political party making expenditures under section 315(d) of the Federal Election Campaign Act of 1971 on behalf of such candidate in connection with such campaign, shall not exceed, during the periods referred to in paragraph (1)(A), the lowest charge of the station (at any time during the 180-day period preceding the date of the use) for the same amount of time for the same period.

(3) CONTENT OF BROADCASTS.—

(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) or (2) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) or (2) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

(i) a clearly identifiable photographic or similar image of the candidate; and

(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the

candidate is seeking, and indicates that the candidate has approved the broadcast.

(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

(F) DEFINITIONS.—For purposes of this paragraph, the terms "authorized committee" and "Federal office" have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

(c) PREEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a licensee shall not preempt the use of a television broadcast station, or a provider of cable or satellite television service, by an eligible candidate or political committee of a political party who has purchased and paid for such use pursuant to subsection (b)(2).

(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a television broadcast station, or a provider of cable or satellite television service, is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program may also be preempted.

(d) RANDOM AUDITS.—

(1) IN GENERAL.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct random audits of designated market areas to ensure that each television broadcast station, and provider of cable or satellite television service, in those markets is allocating television broadcast advertising time in accordance with this section and section 312.

(2) MARKETS.—The random audits conducted under paragraph (1) shall cover the following markets:

(A) At least 6 of the top 50 largest designated market areas (as defined in section 122(j)(2)(C) of title 17, United States Code).

(B) At least 3 of the 51–100 largest designated market areas (as so defined).

(C) At least 3 of the 101–150 largest designated market areas (as so defined).

(D) At least 3 of the 151–210 largest designated market areas (as so defined).

(3) BROADCAST STATIONS.—Each random audit shall include each of the 3 largest television broadcast networks, 1 independent network, and 1 cable network.

(e) POLITICAL RECORD.—

(1) IN GENERAL.—A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that—

(A) is made by or on behalf of a legally qualified candidate for public office; or

(B) communicates a message relating to any political matter of national importance, including—

(i) a legally qualified candidate;

(ii) any election to Federal office; or

(iii) a national legislative issue of public importance.

(2) CONTENTS OF RECORD.—A record maintained under paragraph (1) shall contain information regarding—

(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

(B) the rate charged for the broadcast time;

(C) the date and time on which the communication is aired;

(D) the class of time that is purchased;

(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

(3) TIME TO MAINTAIN FILE.—The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.

[(c)**]** *(f) DEFINITIONS.*—For purposes of this section—

(1) the term "broadcasting station" includes a community antenna television system*, a television broadcast station, and a provider of cable or satellite television service*; and

(2) the term "licensee" and "station licensee" when used with respect to a community antenna television system mean the operator of such system.

[(d)**]** *(g) REGULATIONS.*—The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

TITLE 36, UNITED STATES CODE

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SUBTITLE I—PATRIOTIC AND NATIONAL OBSERVANCES AND CEREMONIES

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CHAPTER 5—PRESIDENTIAL INAUGURAL CEREMONIES

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§ 510. Disclosure of and prohibition on certain donations

(a) IN GENERAL.—A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

(b) DISCLOSURE.—

(1) IN GENERAL.—Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

(2) CONTENTS OF REPORT.—A report filed under paragraph (1) shall contain—

(A) the amount of the donation;

(B) the date the donation is received; and

(C) the name and address of the person making the donation.

(c) LIMITATION.—The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))).

[§ 510.] *§ 511.* Authorization of appropriations

(a) AUTHORIZATION.—Necessary amounts are authorized to be appropriated—

(1) * * *

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MINORITY VIEWS OF STENY H. HOYER, CHAKA FATTAH, AND JIM DAVIS

The "Bipartisan Campaign Reform Act of 2001" (H.R. 2356), sponsored by Rep. Christopher Shays and Rep. Martin Meehan, is a serious, comprehensive proposal that addresses two of the most serious ills infecting American political campaigns today: (1) unregulated soft money contributions and (2) undisclosed issue advocacy.

There simply is too much special-interest money from too few sources flowing into party committees in the form of soft money, and onto the airwaves in the form of thinly disguised political advertisements paid for with unrestricted dollars from entities that are permitted, under today's broken campaign finance regime, to disclose as much or as little about their operations as they choose. Many of these entities are barred by the Federal Election Campaign Act (FECA) from raising and spending any money to influence federal campaigns. Increased reliance on soft money shows no signs of abating, and is of particular concern.

On June 28, 2001, the Committee Majority chose to report H.R. 2356 with an unfavorable recommendation. Given that nearly identical legislation passed the House of Representatives by strong bipartisan majorities in 1998 and 1999, we find it unfortunate that Committee Majority acted as it did.

We urge our colleagues in both parties to ignore the Committee's unfavorable recommendation and judge H.R. 2356 on one simple strength: its ambition to require that all activities aimed at influencing federal elections be paid for only with fully disclosed and reasonably limited amounts of money known as "hard money" and to eliminate the most pernicious factor in today's political system, the unlimited, largely undisclosed money known as "soft money."

SOFT MONEY

H.R. 2356 is the only bill reported by the Committee that contains a comprehensive ban on soft money. Simply put, Shays-Meehan not only limits but outlaws all soft money contributions to the national parties, ensuring that every penny collected by the parties conforms with FECA. In practice, no individual, however wealthy, could contribute more than $75,000 in a two-year election cycle to influence federal elections under Shays-Meehan. No corporation or union that has exploited the soft money loophole to get around FECA's prohibition on direct giving would be permitted to influence federal campaigns except through a federally regulated political action committee.

H.R. 2356's soft money ban contrasts sharply with H.R. 2360, the other bill reported by the Committee, which would place a very high $75,000 annual cap on soft money to the national parties. In a nation where the median income for a family of four is approxi-

mately $59,000, we believe a cap of $75,000 is not a cap at all. To make matters worse, H.R. 2356's "cap" would apply to each of three national committee in the two parties. In theory, a corporation, union, or wealthy individual could give as much as $900,000 in soft money in a two-year election cycle, assuming it sought to curry favor with both parties and contributed the maximum amount to each. Combined with H.R. 2360's proposed increases in hard money contributions, a wealthy individual could contribute as much as $1,335,000 in hard and soft money in a two-year election cycles.

The very nature of soft money—unlimited contributions from the corporations and unions that are prohibited from making direct "hard money" contributions—violates the spirit and intenet of the modern federal election system that traces its origins back to 1907, when Republican President Theodore Roosevelt signed legislation prohibiting corporations and insurance companies from using treasury money to influence federal elections.

Soft money includes money from corporations and unions that is not supposed to be influencing federal elections at all. Yet, it has gradually come to be the dominant form of campaign dollars in the 27 years since Congress last enacted comprehensive campaign finance reform. H.R. 2356 addresses public concerns over soft money by prohibiting soft money contributions to national political parties and curtailing soft money activities conducted by state and local parties.

Soft money contributions to political parties exist solely because of an unfortunate loophole opened by the Federal Election Commission that elections lawyers, political consultants, and wealthy special interests have exploited with unusual skill and sophistication. With each passing election cycle, soft money contributions to state and national parties have increased in volume until a trickle has turned into a torrent. Between 1996 and 2000, the total amount of soft money contributed to national parties grew from approximately $250 million to over $500 million. Given the vast number of uses to which political parties may legally put soft money, and the relative ease with which they can raise soft money compared to hard money, it is not surprising that parties have developed a significant dependence on a handful of super-wealth soft money contributors to finance their political and administrative operations.

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

H.R. 2356 would prohibit all soft money contributions from corporations, labor groups, and wealthy individuals. It would also end virtually all "backdoor" soft money to state, local, and district parties, while recognizing the role that sharply limited soft money can play in legitimate voter turnout and registration efforts at the state and local level. To that end, H.R. 2356 allows soft money contributions to state and local parties to be used for limited voter registration and get-out-the-vote activity, but caps it at $10,000 per donor.

Furthermore, the measure doubles from $5,000 to $10,000 the amount of hard money individuals may contribute to state parties.

In short, under the Shays-Meehan bill, national, state, local, and district parties could continue to raise and spend sufficient resources to register and educate voters, support candidates, and promote broad-based platforms that are central ingredients of a healthy and vital representative-democracy.

ISSUE ADVOCACY

The Shays-Meehan bill also would provide a reasonable solution to the problem of unlimited and undisclosed advertising that fails to qualify as "express advocacy" under federal election law, even though it clearly is designed to influence the outcome of an election. As a result of a series of court decisions, the term "express advocacy" currently refers only to those communications that include the so-called "magic words," such as "vote for candidate X" or "defeat candidate Y."

There are three consequences when advertising does not meet this narrow express advocacy standard: First, it may be paid for with unlimited amounts of money from any source, including corporations and labor groups. Second, neither the amount spent nor the source of the funding need be disclosed to the public. Third, the advertising is not required to carry a truthful disclaimer to inform the voter who actually paid for the communication.

Since 1996, so-called "issue advertising" abuses have exploded. The Annenberg Public Policy Center estimates that between $275 million and $340 million was spent on issue advertising in 1998, the last election year for which data are available. However, no one can be certain of the exact figure since no disclosure is required. Both political parties, as well as a wide range of interest groups and entities whose origin and purpose remain largely a mystery, have exploited issue advocacy in recent elections to run ads that clearly are designed to advocate the election or defeat of specific federal candidates, but evade federal election regulations by avoiding the "magic words." Since these ads stop just short of using the magic words, their sponsors are not subject to full public disclosure, the ads need carry no disclaimer, and they may be paid for with unlimited dollars from any source.

Insufficient disclosure is a serious problem that real reform must address. Messages are not identifiable for most audiences until they are sourced. As a result, viewers rarely interpret messages without interpreting the credibility of the source who is sponsoring the message. As long as pseudonymous groups are able to communicate to the electorate, the ability of the electorate to judge the legitimacy of the message that is being offered is seriously weakened. Voters cannot confidently determine how much credibility to lend a communication when they do not know the source of the communication. In short, without real disclosure of the sources of money funding sham issue ads, the ability of the voters to make informed decisions is severely undermined.

H.R. 2356 addresses the problem by providing a clear distinction between advertising seeking to persuade voters on issues and "sham" issue advertising—advertising that clearly is intended to promote the election or defeat of a federal candidate. It would cre-

ate a new class of ads called "electioneering communications," defined as "broadcast, cable, or satellite ads that mention the name or show the likeness of a clearly identified federal candidate within 60 days of a general or 30 days of a primary, and is targeted at the candidate's state or district." Under this provision, corporations and labor unions would have to finance their ads through their PAC's, and a range of other groups would have to disclose their spending and donors.

It bears emphasizing that passage of the "electioneering communications" provision would in no way abridge the free speech rights of any group or individual. For those groups and individuals interested in promoting the election or defeat of the federal candidates of their choice, it would simply require that they play by the same rules that currently apply to candidates and political action committees. These modest burdens placed on groups and individuals seeking to engage in what most reasonable people already assume is express advocacy will not limit their ability to reach voters. In addition, the increased disclosure and disclaimer requirements will cast sunlight on political spending and fundraising by interest groups, providing voters with valuable information with which to judge their credibility and motives.

OTHER PROVISIONS

Beyond correcting major systemic problems in today's campaign finance system, H.R. 2356 would accomplish several other necessary but less crucial fixes to the campaign finance system.

For example, the measure retains the 1974 $1,000 limit on individual contributions per election to House candidates, while acknowledging that 27 years of inflation has sharply reduced its purchasing power. To account for future inflation, H.R. 2356 indexes this $1,000 limit, a sensible provision that ensures increases in the hard money limit do not outpace the economy as a whole and widen the gap between wealthy contributors and contributors of more modest means.

H.R. 2356 also provides for better and more vigorous enforcement of federal election laws, tougher penalties for those who are found to have knowingly broken the laws, and more rapid disclosure of campaign activities.

CONCLUSION

True campaign finance reform aims to accomplish three goals:

1. Completely end the unregulated, unlimited flow of soft money into the political parties;
2. Require that political advertising that any reasonable viewer would say are designed to influence a federal election be paid for with hard money.
3. Respect the right of organizations to communicate with their members about key issues affecting them.

In our view, H.R. 2356 is the only measure before the House that deserves to be called true reform. We are confident our colleagues on both sides of the aisle will agree. If history is any guide, they will. In 1998 and 1999, a similar Shays-Meehan bill passed 252–179 and 252–177, respectively. We urge our colleague to show this same strong bipartisan support this year and pass H.R. 2356.

STENY H. HOYER.
CHAKA FATTAH.
JIM DAVIS.

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