The original documents are located in Box 9, folder "Federal Election Campaign Act Amendments (5)" of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

March 9, 1976

MEMORANDUM FOR: MAX FRIEDERSDORF

THROUGH: VERN LOEN VL

FROM: TOM LOEFFLER TL.

SUBJECT: Federal Election Reform Legislation

In a memorandum dated March 9, 1976 to all Members and staff of the House Rules Committee, Chairman Madden stated it may be necessary on either Monday, March 15, Wednesday, March 17, or Thursday, March 18, for the Committee to get a bill reported from the House Administration Committee pertaining to the Federal Election Commission.

cc: Charlie Leppert

THE WHITE HOUSE

WASHINGTON

March 12, 1976

MEMORANDUM FOR: MAX FRIEDERSDORF

THROUGH: VERN LOEN V.L.

FROM: TOM LOEFFLER T.L.

SUBJECT: Congressman James Cleveland's Current position on the pending Federal Election legislation

This morning I received an unsolicited telephone call from Bill Joslin, AA to Congressman James Cleveland. Bill stated that the purpose for his call was to inform the White House of the Congressman's reasons for voting to report from the House Administration Committee the FEC legislation.

According to Bill, Cleveland believes that we need to reconstitute the FEC in accordance with the recent Supreme Court decision. The Congressman further believes we must have some control over campaigns and that pending legislation reflects a compromise that strikes a proper balance which can pass the House of Representatives. Bill stated that the Congressman personally felt that the restrictions on SUN PAC are offset by the cutback in the ability of unions to solicit contributions. The bottom line was that Congressman Cleveland just doesn't feel that the bill reported from the House Administration Committee is that bad a piece of legislation.

cc: Charlie Leppert

RED TAG

THE WHITE HOUSE

WASHINGTON

March 12, 1976

MEMORANDUM FOR: MAX L. FRIEDERSDORF

THRU: VERN LOEN VL

FROM: CHARLES LEPPERT, JR. CLJr.

SUBJECT: Federal Election Campaign Act Amendments of 1976, H. R. 12406

Attached is a copy of H. R. 12406 as reported by the House Administration Committee on Thursday, March 11 by a roll call vote of 15 - 9. Rep. Dawson Mathis was the only Democrat present voting not to report the bill.

Following the Committee meeting on March 11, the Minority Members of the Committee met and agreed to the following:

(a) to meet Monday, March 15 at 11:00 a.m. to discuss strategy, specific amendments to be offered on the floor vs. one amendment for a straight extension, the motion to recommit with or without instructions;

(b) that Rep. Chuck Wiggins would be the floor manager of the bill, and;

(c) that Minority views must be filed by noon, Wednesday, March 17.

Thus far all the Minority Members have agreed to sign the minority views subject to a reading of them with the exception of Rep. Jim Cleveland. Cleveland wants to know the Administration's specific objections to the bill. I suggest that we supply him with the specific objections and encourage him to file separate dissenting views if possible.

It was suggested by the Minority Members that if the Administration had language it wanted put into the Minority Views that the language be submitted to Ralph Smith, the Minority Counsel prior to noon, Wednesday, March 17.

Rep. Chuck Wiggins asked that Phil Buchen call him to discuss some specific matters concerning the bill. I called Barry Roth on this and he advised that Buchen would call Wiggins.

House Administration Committee plans to go before the House Rules Committee on March 23 for the purpose of requesting a modified open rule on the bill. Chairman Wayne Hays stated that he wanted to limit the amendments offered to the bill but was willing to meet with the Minority Members of the Committee to discuss and agree on what amendments were to be permitted to be offered in the House during consideration of the bill.

The Minority Members of the Committee have invited any of our Administration people to attend the strategy meeting on Monday, March 15 at 11:00 a.m. The meeting will be in the House Administration Committee room H-330.

cc: Jack Marsh
Barry Roth

RED TAG

March 15, 1976

MEMORANDUM FOR: MAX L. FRIEDERSDORF

THRU: VERN LOEN

FROM: CHARLES LEPPERT, JR.

SUBJECT: H.R. 12406, Federal Election Campaign Act Amendments of 1976

The Minority Members of the House Administration Committee met this morning at 11:00 a.m. The meeting was chaired by Rep. Chuck Wiggins (R-Calif.).

The following decisions were made:

1. A total of six amendments will be offered to the bill, three motions to strike (see Amendments 2, 9 and 11 attached) and three substantive amendments (see Amendments 4, 5 and 10 attached and amendment 10 to include No. 8).

2. The Minority will request that the modified open rule include a motion to recommit and permit the offering of a substitute to H.R. 12406. The provisions of the substitute to be worked out; and,

3. A copy of the Minority views will be made available to us for comment.

The above are subject to change pending the meeting between Rep. Chuck Wiggins and Rep. Wayne Hays.

cc: Jack Marsh
Tom Loeffler

FRENZEL AMENDMENTS

NO 1. Amendment giving contract power authority to FEC.

STK - 2. Amendment to strike Advisory Opinion section

NO 3. Amendment to strike enforcement section except for the requiring of a sworn affidavit for complaint and criminal penalties for a falsely sworn complaint.

AMEND - 4. Amendment to delete Mathias amendment re office employees (handled by # 3).

AMEND - 5. Amendment to strike "in whole or in part" and preferential rule.

NO 6. Amendment to reinstate filings with Secretaries of State.

NO 7. Amendment to restore right to give political parties up to $25,000.

SEE -10- 8. Amendment to redefine "executive officer" from Wiggins substitute.

STK- 9. Amendment to remove termination section.

AMEND - 10. Amendment requiring RAE disclosures of PAC expenditures. - INC. - 8.

STK - 11. Amendment to remove $5000 limit on penalties.

NO - 12. Amendment to lower cash contributions.

AMENDMENT OFFERED BY

On Page 15, beginning line 20, strike Section 108 in its entirety

AMENDMENT OFFERED BY

Page 18 beginning line 17, strike all that follows after "Commission".

AMENDMENT OFFERED BY

ITEM VETO AND HOUSE RULES

Page 27, lines 7 through 21. Section 110 of the Committee Bill is amended by striking out subsection which appears on page 27, at lines 7 through 21.

AMENDMENT OFFERED BY

On page 29, lines 7 and 8, immediately after Section 105, strike "is further amended by striking section 316 as redesignated by section 105".

AMENDMENT OFFERED BY

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

Page 29, line 16, strike out the comma after "$1,000" and insert in lieu thereof a period. Strike out the rest of the sentence from line 14 up to and including line 16.

AMENDMENT OFFERED BY

On page 41, line 3, strike "and who has policymaking or supervisory responsibilities" and insert the following; "and who is not a member of a labor organization."

AMENDMENT OFFERED BY

Page 47, beginning line 16, strike Section 409 in its entirety.

Amendment by Mr. Wiggins

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

Page 39, line 6 strike out everything after the comma beginning with the words "but shall not" up to and including the words "except that" on line 15 and insert in lieu thereof the following:

"but shall not include --

(1) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act;

(2) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, or by a labor organization aimed at its members and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act;

(3) the establishment, administration, and solicitiation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: "except that"

AMENDMENT OFFERED BY

TO

H.R. 12015

On Page 45, lines 18 and 19, strike the folowing language; "having a value in the aggregate of $5,000 or more during a calendar year".

AMENDMENT OFFERED BY

On Page 44, line 21, strike ", exceeds $250," and insert in lieu thereof the following, ", exceeds $100".

Fed Elec

THE WHITE HOUSE
WASHINGTON

Date 3/17/76

TO: Charlie Leppert

FROM: BARRY ROTH BR

ACTION:

_____ Approval/Signature

_____ Comments/Recommendations

_____ For Your Information

REMARKS:

Will you please pass this on to Tom Cooper. We have discussed the minority report and it's OK. They will make other comments on the floor such as disclosure of union ~~contributions~~ expenditures for clearly identifiable candidates.

Barry

THE WHITE HOUSE
WASHINGTON

3-22-76

Neta:

Copy for Max &
Marsh Red Pig to
them on any brush
slip.

Tk.

Chas.

Done

MOSHER: WILL SUPPORT CORRECTIVE AMENDMENT; IF THIS FAILS, HE MAY NOT OPPOSE THE COMMISSION BILL

REPUBLICAN WHIP—ROBERT H. MICHEL

Tally Sheet The Federal Election Comm. bill is expected next week. (a) Will you oppose the Committee bill? (b) If corrective amendments fail, will you support a motion to recommit w/instructions for a straight reconstitution of the Commission? **94th Congress**

Western and Plains (Talcott)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
California	?							
Bell								
Burgener								
Clausen								
Clawson								
Goldwater								
Hinshaw								
Ketchum								
Lagomarsino (ARW)								
McCloskey								
Moorhead								
Rousselot								
Talcott								
Wiggins								
Wilson								
Pettis								
Alaska								
Young								
Arizona								
Conlan								
Rhodes								
Steiger								
Colorado								
Armstrong (ARW)								
Johnson	?							
Idaho								
Hansen								
Symms								
New Mexico								
Lujan	?	?						
Washington	?	?						
Pritchard								
Kansas								
Sebelius								
Shriver								
Skubitz								
Winn								
Nebraska								
McCollister								
Smith								
Thone (ARW)								
North Dakota								
Andrews								
Oklahoma								
Jarman								
South Dakota								
Abdnor								
Pressler								
Total	21	22	0	0	9	8	6	6

Midwestern States (Myers)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Indiana								
Hillis								
Myers								
Iowa								
Grassley								
Michigan								
Broomfield								
Brown								
Cederberg								
Esch								
Hutchinson								
Ruppe								
Vander Jagt								
Minnesota								
Frenzel (ARW)								
Hagedorn								
Quie								
Wisconsin								
Kasten								
Steiger								
Ohio								
Ashbrook								
Brown								
Clancy								
Devine								
Gradison								
Guyer will vote if needed								
Harsha								
Kindness								
Latta								
Miller								
☆Mosher								
Regula								
Stanton								
Whalen								
Wylie								
Illinois								
Anderson								
Crane								
Derwinski								
Erlenborn								
Findley								
Hyde								
Madigan								
McClory								
Michel								
O'Brien								
Railsback								
Total	32	31			5	7	3	2

	A	B	A	B	A	B	A	B
Total pages 1 and 2	92	93	4		26	28	20	22

Election Commisson

REPUBLICAN WHIP—ROBERT H. MICHEL

(a) Will you oppose the Committee bill? (b) If corrective amendments fail, will you support a motion to recommit w/instructions for a ~~straight reconstitution of the Commission?~~

sheet 94th Congress

Border and Southern (Young)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Maryland								
Gude								
Holt								
Bauman								
Missouri								
Taylor (ARW)								
Kentucky								
Carter								
Snyder								
Tennessee								
Beard								
Duncan								
Quillen								
Florida								
Bafalis								
Burke								
Frey								
Kelly								
Young								
North Carolina								
Broyhill								
Martin								
South Carolina								
Spence								
Virginia								
Butler								
Daniel								
Robinson								
Wampler								
Whitehurst (ARW)								
Alabama								
Buchanan								
Dickinson								
Edwards								
Arkansas								
Hammerschmidt								
Louisiana								
Moore								
Treen								
Mississippi								
Cochran								
Lott								
Texas								
Archer								
Collins								
Steelman								
Total	21	23			3	5	4	5

New England and Mid-Atlantic (McDade)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Connecticut								
McKinney								
Sarasin								
Delaware								
duPont								
Maine								
Cohen								
Emery								
Massachusetts								
Conte (ARW)								
Heckler								
New Hampshire								
Cleveland								
New Jersey								
Fenwick								
Forsythe								
Rinaldo								
Vermont								
Jeffords								
New York								
Conable								
Fish								
Gilman								
Hastings								
Horton								
Kemp								
Lent								
McEwen								
Mitchell (ARW)								
Peyser								
Walsh								
Wydler								
Pennsylvania								
Biester D/T								
Coughlin								
Eshleman								
Goodling								
Heinz								
Johnson (ARW)								
McDade								
Myers Probably								
Schneebeli								
Schulze								
Shuster								
Total	13	17	4		9	8	8	9

(Rev. Feb. 1975)

47-029-b GPO

File

CHAIRMAN · BARBER B. CONABLE, JR.

Republican Policy Committee
U.S. HOUSE OF REPRESENTATIVES
1620 LONGWORTH BUILDING
WASHINGTON, D.C. 20515
202/225-6168

94th Congress
Second Session

March 22, 1976
Statement #8
H.R. 12406

FEDERAL ELECTION COMMISSION: AN INCUMBENT PROTECTION AGENCY?

The January 30 Supreme Court decision held that the Federal Election Commission (FEC) was unconstitutionally structured for the purpose of administering federal election financing and gave Congress 30 days and then 20 days more to restructure the FEC along constitutional lines. Instead of acting, Congress has turned the Court decision into a field day for undoing election reform in the midst of a Presidential and Congressional election year.

The Republican Policy Committee believes the FEC should be simply and promptly reconstituted on a constitutional basis. Later -- after the heat of election fever has waned, after Congress has fully assessed the strengths and flaws of the campaign laws in operation throughout an entire election cycle, and after those candidates whose fate will be decided in eight months have been elected or defeated -- then Congress should undertake a complete review and evaluation of the campaign law and make whatever changes are appropriate.

Republicans acknowledge the need for further, well-considered election reforms, but the bill coming to the Floor this week, H.R. 12406, amounts to a blatant escalation of dirty tricks.

Only the first two pages of this lengthy bill deal with reconstituting the FEC. We oppose the remaining 56 pages of the bill which --

1) further corrode a campaign law already biased toward protecting incumbents,

2) strip the independence of the FEC by giving Congress authority to item veto FEC advisory opinions,

3) give special advantage to labor union political action committees, and

4) make dozens of other changes to weaken or negate the 1974 campaign reforms, including increasing allowable contributions of cash from $100 to $250.

The key issue for the Republican Minority is how large a price are we willing to pay for reconstituting the FEC on a constitutional basis. Chairman Hays of the House Administration Committee has made no secret of his bitter opposition to the FEC. By linking 56 pages of anti-reform features to the reconstitution of the FEC, he has deftly created a situation designed either to yield a veto or to impose conditions he knows the Minority could not possibly accept in a system already designed to protect incumbents. Either way the result is the virtual undoing of the post-Watergate election reforms.

That the 94th Congress, which has sought to identify itself with an anti-corruption backlash, would enact such a measure crafted solely by and for incumbents, without hearings or consultation with outside experts, witnesses, party officials or challengers, demonstrates an amazing contempt for the political process and for the electorate that sent Members to Washington to clean up the system.

The Republican Policy Committee urges the rejection of these anti-reform amendments in the House, in Conference, and if necessary, after a veto. We continue to favor a simple reconstitution of the FEC as the only suitable action at this point in the election year.

March 23, 1976

File

Administration Position on H.R. 12406

The Administration strongly opposes H.R. 12406 because it proposes numerous and substantial changes in a complex Federal Election law in excess of the simple amendments urgently required to reconstitute the Federal Election Commission in accordance with the Supreme Court's decision in Buckley v. Valeo. Hasty passage of complex legislation in the absence of cautious and deliberate scrutiny of its long-term implications is undesirable in terms of the public interest to be served.

Provisions of H.R. 12406 strongly opposed by the Administration include the following:

-- Sections 110(b) and 304, in continuing the current requirement that all proposed regulations of the Commission be subject either "in whole or in part" to a one-house veto, is in violation of the constitutional doctrine of separation of powers regarding the regulations of an independent agency performing Executive functions. Further, this creates uncertainty as to the continued validity of advisory opinions rendered by the Commission if the regulation later promulgated is disapproved in whole or in part by Congress.

-- Sections 109 and 111, in requiring that the Commission gain voluntary compliance, imposes unnecessary burdens on the Commission which could inhibit it from taking prompt and appropriate action in court.

-- Sections 109 and 112 weaken the penalties provided in present law, i.e., the estoppel to civil litigation upon conciliation creates in practice a similar defense against criminal prosecution by the Department of Justice; reduction of felonies to misdemeanors substantially lessens current deterrents to violation.

-- Section 112 (326), which increases the current limitation on each contribution from $100 for each election to $250, invites, in an election year, certain distrust by the public-at-large of the motivation for such an increase.

-- Section 112 (321) prohibits the solicitation by both corporate and union Political Action Committees of an estimated 70 million non-union employees, thereby limiting participation of a substantial majority of employees from one form of participation in the political process.

The Administration urges prompt enactment of its proposal to ensure the continued life of the Federal Election Commission.

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R.12406) to ..... After general debate which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered as having been read for amendment. No amendment, including any amendment in the nature of a substitute for said bill, shall be inorder to the bill in the Committee of the Whole or in the House except the following:

(1) Amendments recommended by the Committee on House Administration (which amendments shall not be subject to amendment);

(2) the amendments printed on page H2053 of the Congressional Record of March 17, 1976, by Representative Hays of Ohio (which amendments shall be considered en bloc and shall not be subject to amendment);

(3) amendments striking out any section of the bill other than the sections recodifying and redrafting provisions formerly contained in Title 18, United States Code (which amendments shall not be subject to amendment);

(4) the text of the bill H.R.11736 if offered as an amendment in the nature of a substitute for H.R.12406 (which amendment shall not be subject to amendment);

(5) an amendment striking out the provisions on page 18 of the bill after the word "Commission." on line 17 through line 25 (which amendment shall not be subject to amendment);

(6) amendments en bloc striking out the provisions on page 27, lines 7 through 21 and striking out section 304 of the bill (which amendments shall not be subject to amendment);

(7) an amendment striking out the period on page 45, line 2 and inserting in lieu thereof ", imprisonment for not more than 1 year, or both." (which amendment shall not be subject to amendment);

(8) an amendment striking out the figure "$250" on page 44, line 21 and inserting in lieu thereof "$100" (which amendment shall not be subject to amendment);

(9) an amendment striking out the figure "$5,000" on page 45, line 19 and inserting in lieu thereof "$2,500" (which amendment shall not be subject to amendment);

Options for Clause 9 - Frenzel Request

Strike clause 9 and insert:

(9) an amendment striking out the figure "$5,000" on page 45, line 19 and insert in lieu thereof "$1,000" (which amendment shall not be subject to amendment);

Alternative

Strike clause 9 and insert:

(9) an amendment striking out the figure"$5000" on page 45, line 19 and inserting in lieu thereof "$2,500" (which amendment shall only be subject to amendment striking the figure "$5,000" and inserting in lieu thereof "$1,000");

(10) an amendment striking out everything after the comma on page 39, line 6 through line 15 and inserting the following provisions:

"but shall not include ---

(A) communications by a corporation to its stockholder and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act;

(B) non partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act;

(C) the establishment, administration, and solicitatio of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: "except that" (which amendment shall not be subject to amendment);

(11) the text of the bill H.R.12780 (this is the Burton bill introduce on March 25, 1976, which incorporates the Wirth amendments and would replac the original request that H.R.9100 as amended, be made in order) if offered as an amendment inserting additional sections in Title III of said bill. which amendment shall be in order any rule of the House to the contrary not withstanding

Amendments to the text of H.R. 12780

(a) Solarz amendment in the nature of a substitute to the text of H.R. 12780 which amendment shall be in order any rule of the House to the contrary notwithstanding (which shall not be subject to amendment)

(b) Wirth amendment immediately after section 9057 (c) of the Internal Revenue Code of 1954, as added by the amendment offered by Mr. Phillip Burton insert the following: (on page 14, line 24 of H.R. 12780 as introduced by Burton)

(12) an amendment to section 101 of the bill by Representative Dodd (which amendment shall not be subject to amendment);

(Dodd amendment would increase membership from 6 to 8 with two members not affiliated with any political party.)

(13) an amendment striking the word "by" on page 29, line 7, and striking all of line 8 (which amendment shall not be subject to amendment);

(Frenzel request would re-insert Section 317 of the Act requiring the filing of certain reports with the respective Secretaries of State. This section was deleted in the House Administration bill.)

(14) an amendment inserting after the word "opinion" on page 17, line 4, "of general applicability" and on page 17, line 9, striking all after the word "Commission." through line 14 (which amendment shall not be subject to amendment);

(Long, La., request in section on advisory opinions that where there is a specific non-general request for an opinion, it may be rendered immediately by the FEC without the delay which would occur if such an opinion had to be first submitted to Congress.)

Provided, that it shall be in order to debate pending amendments or the bill under the five-minute rule by offering pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committe shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

REPUBLICAN WHIP—ROBERT H. MICHEL

#29 WH

Tally Sheet The Federal Election Comm. bill is expected next week. (a) Will you oppose the Committee bill? (b) If corrective amendments fail, will you support a motion to recommit w/instructions for a straight reconstitution of the Commission? **94th Congress**

Western and Plains (Talcott)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
California								
Bell	?							
Burgener								
Clausen								
Clawson								
Goldwater								
Hinshaw								
Ketchum								
Lagomarsino (ARW)								
McCloskey								
Moorhead								
Rousselot								
Talcott								
Wiggins								
Wilson								
Pettis								
Alaska								
Young								
Arizona								
Conlan								
Rhodes								
Steiger								
Colorado								
Armstrong (ARW)								
Johnson	?							
Idaho								
Hansen								
Symms								
New Mexico								
Lujan	?	?						
Washington	?	?						
Pritchard								
Kansas								
Sebelius								
Shriver								
Skubitz								
Winn								
Nebraska								
McCollister								
Smith								
Thone (ARW)								
North Dakota								
Andrews								
Oklahoma								
Jarman								
South Dakota								
Abdnor								
Pressler								
Total (36)	23	25	0	0	8	7	5	4

Midwestern States (Myers)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Indiana								
Hillis								
Myers								
Iowa								
Grassley								
Michigan								
Broomfield								
Brown								
Cederberg								
Esch								
Hutchinson								
Ruppe								
Vander Jagt								
Minnesota								
Frenzel (ARW)								
Hagedorn								
Quie								
Wisconsin								
Kasten								
Steiger								
Ohio								
Ashbrook								
Brown								
Clancy								
Devine								
Gradison								
Guyer will vote if needed								
Harsha								
Kindness								
Latta								
Miller								
*Mosher								
Regula								
Stanton								
Whalen								
Wylie								
Illinois								
Anderson								
Crane								
Derwinski								
Erlenborn								
Findley								
Hyde								
Madigan								
McClory								
Michel								
O'Brien								
Railsback								
Total (41)	32	31	1		6	8	2	2

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Total pages 1 and 2	98	100	5	0	26	29	15	15

Federal Election Commisson

REPUBLICAN WHIP—ROBERT H. MICHEL

(a) Will you oppose the Committee bill? (b) If corrective amendments fail,

Tally Sheet will you support a motion to recommit w/instructions for a ~~straight reconstitution of the Commission?~~ **94th Congress**

Border and Southern (Young)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Maryland								
Gude	/	/						
Holt	/	/						
Bauman	/	/						
Missouri								
Taylor (ARW)	/	/						
Kentucky								
Carter w/ follow Rhodes	/	/						
Snyder					/	/		
Tennessee								
Beard	/	/						
Duncan	/	/						
Quillen	/	/						
Florida								
Bafalis	/	/						
Burke	/					/		
Frey					/	/		
Kelly					/	/		
Young	/	/						
North Carolina								
Broyhill	/	/						
Martin	/	/						
South Carolina								
Spence	/	/						
Virginia								
Butler	/	/						
Daniel	/	/				/		
Robinson	/	/						
Wampler	/	/						
Whitehurst (ARW)	/	/						
Alabama								
Buchanan	/	/						
Dickinson	/	/						
Edwards	/					/		
Arkansas								
Hammerschmidt	/	/						
Louisiana								
Moore	/	/						
Treen	/	/						
Mississippi								
Cochran	/	/						
Lott	/	/						
Texas								
Archer	/	/						
Collins	/	/						
Steelman	/	/						
Total (33)	30	27			3	6		
	A	B			A	B		

New England and Mid-Atlantic (McDade)

	A Yes	B Yes	A No	B No	A Und.	B Und.	A N/R	B N/R
Connecticut								
McKinney		/			/	/		
Sarasin		/			/			
Delaware								
duPont	/	/						
Maine								
Cohen	/	/						
Emery		/	/					
Massachusetts								
Conte (ARW)					/	/		
Heckler							/	/
New Hampshire								
Cleveland		/	/					
New Jersey								
Fenwick	/	/						
Forsythe	/	/						
Rinaldo					/	/		
Vermont								
Jeffords					/	/		
New York								
Conable					/	/		
Fish	/					/		
Gilman							/	/
Hastings								
Horton					/	/		
Kemp		/	/					
Lent	/	/						
McEwen	/	/						
Mitchell (ARW)	/	/						
Peyser			/					/
Walsh					/	/		
Wydler	/	/						
Pennsylvania								
Biester O/T							/	/
Coughlin								/
Eshleman								/
Goodling								/
Heinz								/
Johnson (ARW)	/	/						
McDade	/	/						
Myers Probably	/	/						
Schneebeli	/	/						
Schulze		/			/			/
Shuster								/
Total (34)	13	17	4		9	8	8	9
	A	B	A	B	A	B	A	B

TL
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THE WHITE HOUSE

WASHINGTON

March 26, 1976

MEMORANDUM FOR: ED SCHMULTS
MAX FRIEDERSDORF

FROM: BARRY ROTH B.R.

SUBJECT: S. 3065

The following is in response to your request for identification of the principle problems raised by S. 3065 to reconstitute the Federal Election Campaign (FEC) and to make certain amendments in the Campaign Act:

1. Section 104(e)(2) of the bill (the so-called Pack Wood Amendment) was modified on the Senate Floor to require that expenditures by a corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with stockholders or members or families shall report such expenditures once they exceed in the aggregate of $1,000.00 per candidate per election.

   This was an increase from the $100.00 figure in the original substitute bill and represents a substantial loophole as unions can refer to numerous candidates and thus spend thousands of dollars in total while continuing to spend less than $1,000.00 per candidate.

   Our preference should be either to return to the $100.00 level or to make the

threshold amount at $1,000.00 for all candidates jointly. Another alternative would be to clarify the types of expenses that would have to be reported, regardless of amount such as cost relating to phone banks, mail solicitation and the like.

2. Section 110 of the bill establishes a new Section 321 of the Federal Election Campaign Act and is designed to modify the FEC's SUNPAC decision. At present the law permits a corporation to solicit contributions for a separate segregated account from all employees of a corporation.

This bill allows a corporation to solicit only from its stockholders and executive or administrative personnel and their families. The Act provides an exception that all other employees of the corporation may be solicited not more than twice a year, in writing and at their residences.

The new Act also provides that any contribution resulting from this solicitation must be received in a manner that the identity of who has contributed or not contributed cannot be determined.

This last feature results in barring the use of the checkoff for non-management personnel.

I am advised that this is in fact Senator Cannon's intent. This undermines the effectiveness of the solicitation and also requires mailings that may well be too expensive for a corporation to elect to undertake. Furthermore, this creates an anonymity for contributions that is anathema to the thrust of the entire campaign law.

3. This new Section 321(b)(2)(B) also makes it illegal "for an employee to solicit a subordinate employee." At best, this language is ambiguous and could possibly be interpreted to prohibit a non-coercive solicitation of funds by the chief executive officer of a corporation directed to employees or even other officers. On the other hand, it could be argued that the use of the word "employee" does not include management personnel since the statute refers in several instances to officers and employees and at other times to executive or administrative personnel.

   In the absence of any definitive legislation on this point, however, clarification is at a minimum necessary and elimination from the statute preferable.

   An alternative approach would be to structure subparagraphs (B)(C)(D) as guidelines which are used to determine whether or not there has been coercion rather than providing that such activities are per se illegal.

4. Sections 321(b)(4) &(5) are also ambiguous. Subparagraph 4 provides that notwithstanding any other law, any method of soliciting contributions which is permitted to a corporation shall also be permitted to a labor organization.

   Subparagraph 5 provides that any method of soliciting voluntary contributions that a corporation uses, it must make that same method available to the union at cost once it has received a written request for such.

   A question has been raised whether this mandates corporations to provide checkoffs for union PACs. My understanding is that Section 4 was intended not to be mandatory but only to make it clear that such union checkoffs are legal. However, this is an ambiguity that must be clarified. This can be done either in the legislative history

or by changing the word "shall" in sub-paragraph 4 to "may."

Another alternative would be to combine subparagraphs 4 and 5 and then clearly state that the corporation is not required to provide a method for receiving voluntary contributions unless it has itself used that method.

5. Section 110 of the bill also establishes a new Section 320 of the FECA. Sub-section (A)(3) of it provides that ". . . all contributions made by political committees, established, financed, maintained or controlled by any person or persons including any parent subsidiary branch or division, department or affiliate or local unit of such persons or by any group of persons shall be considered to have been made by a single political committee. While some people claim that this fact is intended to prevent the proliferation of both union and corporation PACs, a contrary argument can be made with respect to union PACs.

The key language in this section appears to be "political committees established, financed, maintained or controlled by." It is my understanding that this language tracks a proposed FEC regulation which would have considered local unions to be independent of the national and other locals and thus would consider such contributions as being from separate political committees. Since corporations are by law not independent from themselves, the same argument cannot be made.

This is an important question upon which there should either be clarification or legislative history to indicate that this

currently prohibits the proliferation of union and corporate PACs.

The thrust of these SUNPAC amendments will discourage corporations now in the process of establishing PACs from so doing. It is also quite possible that some existing PACs will be terminated.

There appears to be several alternatives for legislative action in this regard. The first is to press for the Senate bill with the changes described above. Another would be to prohibit the establishment of separate segregated funds by both unions and corporations, thus, ensuring equality through prohibition. A third alternative would be to reject the current Senate bill and push for simple reconstitution as the only timely and equitable method that can be accomplished.

I am advised that the Business Roundtable is contacting its members today to push for simple reconstitution. Ed McCabe, who represented Sun Oil before the FEC on the SUNPAC decision, is also examining this section and will advise us of his views in this regard.