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94th CONGRESS
2d SESSION

H.R. 12015

(Original signature of Member)

FILE

IN THE HOUSE OF REPRESENTATIVES

Mr. Hays of Ohio introduced the following bill; which was referred
to the Committee on _____

A BILL

(Insert title of bill here)

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

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

Short Title

Section 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

Federal Election Commission Membership

Sec. 101. (a)(1) The second sentence of section 309(a) (1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as so redesignated by section 105, hereinafter



in this Act referred to as the "Act", is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate."

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as so redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party."

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as so redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed--

"(i) one shall be appointed for a term of
1 year;

"(ii) one shall be appointed for a term of
2 years;

"(iii) one shall be appointed for a term of
3 years;

"(iv) one shall be appointed for a term of
4 years;

"(v) one shall be appointed for a term of
5 years; and

"(vi) one shall be appointed for a term of
6 years;

as designated by the President at the time of appointment,



except that of the members first appointed under this provision, no member affiliated with a political party shall be appointed for a term that expires one year after another member affiliated with the same political party.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment."

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as so redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member."

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.



"(2) Nothing in this Act shall be construed to limit, restrict or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office."

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as so redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".



(d) Section 309 of the Act (2 U.S.C. 437c), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(g) The duties and functions of the Secretary of the Senate and the Clerk of the House of Representatives under this act, as members of the Commission ex officio, shall be limited to--

"(1) the performance of duties under section 315(d); and

"(2) the transmission to the Commission of reports and statements received by the Secretary of the Senate or the Clerk of the House of Representatives under section 315(d)(1)."

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.



P. 6
~~missing~~



(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as so redesignated by section 105, which prohibit any member of the Federal Election Commission from being an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

Re-appointment

Changes in Definitions

Sec. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".



(c) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended--

(1) by striking out "or" at the end of clause (F) and at the end of clause (G);

(2) by inserting "or" immediately after the semicolon at the end of clause (H); and

(3) by inserting immediately after clause (H) the following new clause:

"(I) Any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), except that any such costs shall be reported in accordance with section 304(b)."

(d) Section 301 of the Act (2 U.S.C. 431) is amended--

(1) in paragraph (m) thereof, by striking out "and" at the end thereof;

(2) in paragraph (n) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

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



"(o) 'Act' means the Federal Election Campaign Act of 1971, as amended, by the Federal Election Campaign Act Amendments of 1974 and this Act.

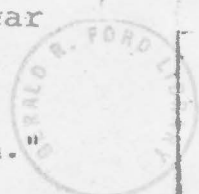
Organization of Political Committees

Sec. 103. Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

Reports by Political Committees and Candidates

Sec. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following:

"; provided further that in any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the 10th day following the close of any calendar quarter in which the candidate and his authorized committees received contributions and made expenditures totaling in excess of \$10,000, and such reports shall be complete as of the close of such calendar quarter: except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph."



(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended as follows:

"Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended--

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of \$100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditures involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate."



(d) Section 304(e) of the Act (2 U.S.C. 434(c)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of \$100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of \$100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any expenditure including but not limited to those described in subsection (b)(13) of \$1,000 or more made after the fifteenth day, but more than 48 hours, before any election shall be reported within 48 hours of such expenditure.



"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately including but not limited to those reported under subsection (b)(13) made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis."



Reports by Certain Persons

Sec. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

Campaign Depositories

Sec. 106. The second sentence of section 308(a) (1) of the Act (2 U.S.C. 437b(a)(1)), as so redesignated by section 105, is amended by inserting "single" immediately before "checking".

Powers of Commission

Sec. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as so redesignated by section 105, is amended--

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).



(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as so redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)); or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act."

Advisory Opinions

Sec. 108. (a) Section 312(a) of the Act (2 U.S.C. 437f(a)), as so redesignated by section 105, is amended to read as follows:

"Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, the Democratic Caucus and the Republican Conference of each



House of the Congress, or any political committee, and the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this chapter or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954."

(b) Section 312(b) of the Act (2 U.S.C. 437f(b)), as so redesignated by section 105, is amended as follows:

"(b)(1) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this chapter 95 or chapter 96 of the Internal Revenue Code of 1954, with respect to which such advisory opinion is rendered.

"(2)(A) Any advisory opinion rendered by the Commission under subsection (a) shall apply only to the person requesting such advisory opinion and to any other person directly involved in the specific transaction or activity with respect to which such advisory opinion is rendered. The provisions of any such advisory opinion shall be made generally applicable by the Commission in accordance with the provisions of subparagraph (B).



"(B)(1) The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (a), prescribe rules or regulations relating to the transaction or activity involved if the Commission determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion, the Commission may not render more than one advisory opinion relating to the transaction or activity involved.



"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as so redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by subsection (a) shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.



Enforcement

Sec. 109. Section 313 of the Act (2 U.S.C. 437g), as so redesignated by section 105, is amended to read as follows:

"Enforcement

"Sec. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code.

The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

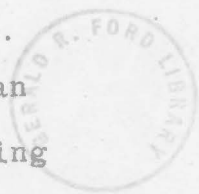
"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such apparent violation and shall make an investigation of such violation in accordance with the provisions of this section.



"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), afford such person a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission, including bringing a civil proceeding under paragraph (B) of this section.



"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation as defined in Section 328 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in paragraph (A) of this section.

"(6) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or Chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall



pay a civil penalty which does not exceed the greater of (A) \$10,000; or (B) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation. The Commission shall make available to the public the results of any conciliation attempt including any conciliation agreement entered into by the Commission and any determination by the Commission that no violation of the Act or Chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred. Any document containing such information, and any such agreement shall be signed by the general counsel of the Commission.



"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) \$10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7) of this subsection, subpoenas for witnesses who are required to attend a United States district court may run into any other district.



"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made--

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.



"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate that person in civil contempt, except that if it believes the violation to be knowing and willful it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals."



Duties of Commission

Sec. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320 | of title 18, United States Code, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".



(b) Section 315(c)(2) of the
as so redesignated by section 105,

(1) by inserting ", in
immediately after "disapprov

(2) by inserting immedi
sentence thereof the followi
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Additional Enforcement Authority

Sec. 111. Section 407(a) of the Act (2 U.S.C. 456(a)) is amended by inserting immediately after "such title III," the following: "the Commission shall make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion. If the Commission fails to correct such failure through such informal methods, then".



Contribution and Expenditure
Limitations

Sec. 112. Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105, is further amended by striking section 316 as redesignated by section 105 and by redesignating section 320 as section 328 and by inserting immediately after section 319 and after section 315 as redesignated by section 105 respectively the following new sections:

"Limitations on Contributions and
Expenditures

"Sec. 320. (a)(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed \$1,000, or to any political committee in any calendar year which exceed, in the aggregate, \$1,000.

"(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed \$5,000; or (B) to any political committee which, in the aggregate, exceed \$5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political



committee' means an organization registered as a political committee under section 303 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established, financed, maintained, or controlled by any person, including any parent, subsidiary, branch, division, department, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; and (B) this paragraph shall not apply to a political committee established, financed, or maintained by the national committee, or to a political committee established, financed, or maintained by the State committee of a political party.

"(3) No individual shall make contributions aggregating more than \$25,000 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 was made, is considered to be made during the calendar year in which such election is held.



"(4) For purposes of this subsection--

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(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

"(C) 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.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each.



election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, 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.

"(b) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury or his delegate may make expenditures in excess of--

"(A) \$10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the greater of 8 cents multiplied by the voting age population of the State (as certified under subsection (f)), or \$100,000; or

"(B) \$20,000,000 in the case of a campaign for election to such office.



"(2) For purposes of this subsection--

"(A) expenditures made by or on behalf 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 expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by--

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) 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 per centum 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 per centum difference. Each amount



so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)--

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items--United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(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 limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (g)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State



who is affiliated with such party which exceeds--

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of--

(i) two cents multiplied by the voting age population of the State (as certified under subsection (g)); or

(ii) twenty thousand dollars; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, \$10,000.



"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nomination for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure."



"Contributions or Expenditures by National
Banks, Corporations or Labor Organizations

Sec. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

(b) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, or dealing with



employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

As used in this section, the phrase 'contribution or expenditure' shall include 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; but shall not include 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; 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; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: Provided, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction: And provided further, That it shall be unlawful for a corporation or a separate segregated fund created by a corporation to solicit contributions from any person other than its



stockholders, executive officers, and their families or for a labor organization or a separate segregated fund created by a labor organization to solicit contributions from any person other than its members and their families: And provided further, That notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations: And provided further, That any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation. For the purposes of this section the term 'executive officer' means an individual employed by a corporation who is paid on a salary rather than hourly basis and who has policy-making and supervisory responsibilities."



"Contributions by Government Contractors"

"Sec. 322. (a) It shall be unlawful for any person who enters --

(1) into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commence of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use: or

(2) or to solicit any such contribution from any such person for any such purpose during any such period.

(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for



election, or election, of any person to Federal office, unless the provisions of section 321 of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

(c) For purposes of this section, the term, labor organization, has the meaning given it by section 321 of this title.



"Publication or Distribution of Political
Statements

"Sec. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising, such communication--

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been so authorized; or

"(2) if not authorized in accordance with paragraph (1), shall clearly and conspicuously, in accordance with regulations prescribed by the Federal Election Commission, state that the communication is not authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization as stated in section 303(b)(2).



"Contributions by Foreign Nationals

"Sec. 324. (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 promises 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 and such contribution from any such 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 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)).



" Prohibition of Contributions in
Name of Another

"Sec. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.



"Limitation on Contributions of Currency

"Sec. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceeds \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.



"Acceptance of Excessive Honorariums

"Sec. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept--

"(1) any honorarium of more than \$1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than \$15,000 in any calendar year."

"Penalty for Violations

"Sec. 328. Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of \$5,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of \$25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than 1 year, or both."



"Fraudulent Misrepresentation of
Campaign Authority

"Sec. 316. No person, being a candidate for Federal office or an employee or agent of such a candidate shall--

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

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



Savings Provision on Repealed Sections

Sec. 113. Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and 112 is further amended by adding the following new section:

"Savings Provision on Repealed Sections

"Sec. 329. Except as otherwise provided by the Act, the repeal by this Act of any section or penalties shall not have the effect to release or extinguish any penalty, forfeiture or liability incurred under such sections or penalties, and such sections or penalties shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture or liability."



Principal Campaign Committees

Sec. 114. Section 302(f) of the Act (2 U.S.C. 432(f)) is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence."

Technical and Conforming Amendments

Sec. 115. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as so redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".



TITLE II--AMENDMENTS TO TITLE 18, UNITED STATES
CODE

Repeal of Certain Provisions

Sec. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 591, 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 591, 608, 610, 611, 612, 613, 614, 615, 616, and 617.



TITLE III--AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

Entitlement of Eligible Candidates for Payments

Sec. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) Expenditures from Personal Funds.--In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, \$50,000. For purposes of this subsection, expenditures from personal funds made by a vice presidential candidate of a major, minor, or new party in a Presidential election shall be considered to be expenditures by the Presidential candidate of such party.

"(e) Definition of Immediate Family.--For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons."



Payments to Eligible Candidates

Sec. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

Review of Regulations

Sec. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended--

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."



(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended--

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."



Eligibility for Payments

Sec. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

Qualified Campaign Expense Limitation

Sec. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended---

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) Expenditure Limitations.---" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000"; and

(4) by adding at the end thereof the following new subsection:



"(b) Definition of Immediate Family.--For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons."

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations."

Technical and Conforming Amendments

Sec. 306. (a) Section 9005(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended--

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the



Federal Election Campaign Act of 1971".

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 28, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".



94th CONGRESS }
2d SESSION } H. R.

A BILL

(Insert title)

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

By Mr. Hays of Ohio

....., 19.....—Referred to the
Committee on
