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MAR 19 1976

THE WHITE HOUSE
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TO: Jack Marsh

FROM: CHARLES LEPPERT

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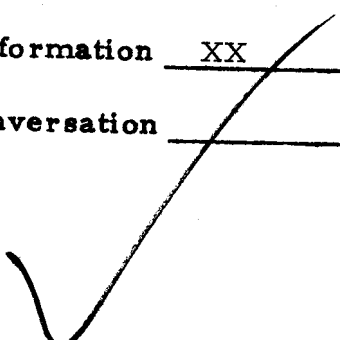

94th Congress, 2d Session - - - - - - - - House Report No. 94-917

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

REPORT

OF THE

COMMITTEE ON HOUSE ADMINISTRATION

TOGETHER WITH

MINORITY VIEWS, SEPARATE VIEWS, SUPPLEMENTAL VIEWS AND ADDITIONAL VIEWS

TO ACCOMPANY

H.R. 12406

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

MARCH 17, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

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COMMITTEE ON HOUSE ADMINISTRATION

Ninety-Fourth Congress

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2d Session } { No. 94-917

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

MARCH 17, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAYS of Ohio, from the Committee on House Administration, submitted the following

REPORT

together with

MINORITY VIEWS, SEPARATE VIEWS, SUPPLEMENTAL VIEWS AND ADDITIONAL VIEWS

[To accompany H.R. 12406]

The Committee on House Administration. to whom was referred the bill (H.R. 12406) 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 advice and consent of the Senate, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

On March 11, 1976, a quorum being present, the Committee adopted by recorded vote of 15 ayes and 9 nays, a motion to report H.R. 12406 without amendment.

The Oversight Subcommittee of the Committee on House Administration has not submitted any findings with respect to this bill. No other special oversight findings were necessitated as a result of consideration of this bill.

No budget statement is submitted.

No estimate or comparison was received from the Director of the Congressional Budget Office as referred to in subdivision (C) of clause 2(1)(3) of Rouse Rule XI.

No findings of recommendations of the Committee on Government Operations were received as referred to in subdivision (d) of clause 2 (1)(3) of House Rule XI.

The enactment of H.R. 12406 is not expected to have an inflationary impact on prices and costs in the operation of the national economy, especially during the current serious recession. Specific language in the bill provides that no moneys shall be made available from any

other source if there are insufficient moneys in the Presidential Election Campaign fund.

This bill provides for a Federal Election Commission appointed in accordance with the requirements of the Constitution as stated by the Supreme Court of the United States in *Buckley* v. *Valeo*, (Nos. 75–436, 75–437), decided January 30, 1976. Among other things, the bill also gives the Commission exclusive primary jurisdiction for the civil enforcement of the Act and of the public financing of presidential campaigns.

The Committee on House Administration first held discussion sessions and then held mark-up sessions on February 23, 24 and 25 and March 1, 2, 3, 4, 8, 9 and 10, 1976, authorized the minority to submit their views by noon March 17, 1976, and ordered H.R. 12406 be reported to the House of Representatives.

Purpose of the Bill

In *Buckley, et al.* v. *Valeo, et al.* (Nos. 75–436 and 75–437; January 30, 1976), the Supreme Court of the United States upheld against constitutional challenge the contribution limitations, the recordkeeping and disclosure requirements, and the provisions for public financing of Presidential elections and conventions embodied in the Federal Election Campaign Act of 1971, and the Federal Election Campaign Act Amendments of 1974. The Court, however, ruled that certain of the expenditure limitations imposed by the Act contravene the First Amendment, and that the Federal Election Commission could not exercise the full range of administrative and enforcement powers granted to it because the method provided for appointing the Commissioners did not comport with the requirements of Art. II, §2, cl. 2 (the Appointment Clause). The Court stayed the latter ruling for a period of 50 days to avoid interrupting enforcement of the Act while the Congress considers what legislative action is warranted.

The Federal Election Campaign Act, as amended, created a comprehensive, integrated scheme for the regulation of campaigns for Federal office. After the *Buckley* decision, the congressional design does not remain fully intact. Moreover, the initial administration of the Act by the Federal Election Commission has revealed certain procedural and substantive problems in the Act that were not fully anticipated. To assure that the 1976 Federal elections are conducted under fair, uniform, and enforceable rules, it is therefore necessary to fill the most important gaps in the law revealed by the Supreme Court's decision, and by the actions of the Commission; and to do so while meeting, insofar as possible, the time constraints imposed by the Court. That is the purpose of H.R. 12406 as reported to the House of Representatives by the Committee on House Administration.

Prior to turning to the section-by-section explanation of H.R. 12406, it appears helpful to first state the basic principles that have guided the Committee and that are embodied in the bill, and to then address certain other issues treated in the bill.

First, to meet the requirements of Art. II, § 2, cl. 2 of the Constitution, H.R. 12406 modifies the present law to provide that the six full members of the Federal Election Commission shall be appointed by the President of the United States by and with the advice and consent of the Senate. (The Secretary of the Senate and the Clerk of the House of Representatives are to serve on an ex-officio basis and without the right to vote.)

Second, election campaigns are the central expression of this country's democratic ideal. It is therefore essential in this sensitive area that the system of administration and enforcement enacted into law does not provide room for partisan misuse or for administrative action which does not comport with the intent of the enabling statute. At the same time it is recognized that the authorities charged with administering and enforcing the law must have the independence required by the tripartite system of government created by the Constitution. To mediate between these conflicting concerns, H.R. 12406 provides that the Commission shall initiate investigations, bring judicial actions, and take other steps of comparable importance only upon the affirmative vote of four of its six voting members. The four-vote requirement serves to assure that enforcement actions, as to which the Congress has no continuing voice, will be the product of a mature and considered judgment. The bill also provides that when the Commission issues an advisory opinion it shall reduce that opinion to a regulation subject to congressional veto through the procedures presently provided. This amendment is intended to apply to opinions of counsel rendered by the Federal Election Commission. It is the intent of the Committee that the advisory opinions and regulations shall be the only means through which the Commission may establish guidelines and procedures for carrying out the Act. In any case in which the Commission desires that an opinion of counsel shall have any operative effect on any person, the Commission must propose a regulation based on the opinion of counsel. The proposed regulation will then be subject to the congressional review authority set out in section 315(c) of the Act. Those familiar with administrative agencies know that the process at elaborating a statute has a quasi-legislative component. There is no bright line between the process of interstitial law-making through the rendering of opinions as opposed to the promulgation of regulations. That being so, the Committee determined that to prevent the Commission from interpreting the Act in a manner inconsistent with the congressional intent it is necessary to treat on the same basis, situations in which an advisory opinion is issued and those in which a regulation is issued. At the same time H.R. 12406 strengthens the Commission's ability to administer the law by making it plain that FEC has the authority to issue rules and regulations concerning each and every provision of the Act, and not only those relating to disclosure and reporting. These amendments complete the process of assuring that the Commission possesses the means necessary to elaborate the law and that it does do in a manner that comports with the will of Congress as embodied in the Act.

Third, originally the Federal campaign laws were enforced solely through the criminal law. The 1971 Act as amended recognized the inadequacies of that approach and provided also for civil actions through the Federal Election Commission and the Department of Justice. The result was that enforcement responsibility was fragmented, and the line between improper conduct remediable in civil proceedings and conduct punishable as a crime blurred. On the occasion of reconstituting the Federal Election Commission the Committee concluded that it was appropriate to simplify and rationalize the present enforcement system.

H.R. 12406 places its reliance on civil enforcement, except as to substantial violations committed with a specific wrongful intent. The bill distinguishes between violations of the law as to which there is not a

specific wrongful intent which are subject to injunctive relief and civil penalties of up to $5,000 or the amount in question, whichever is greater, and violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law, which are subject to injunctive relief and a civil penalty of $10,000 or twice the amount in question. These civil penalties were not provided for in the 1971 Act or its predecessors. Criminal penalties are reserved for knowing and willful violations involving an amount in excess of $5,000 and are punishable by a fine of up to $25,000 or three times the amount in question, imprisonment of up to one year, or both. The delineation of these different classes of offenses is intended to promote greater unformity and certainty in enforcing the law.

H.R. 12406, following the pattern set in the 1974 Amendments, channels to the Federal Election Commission complaints alleging on any theory, that a person is entitled to relief, because of conduct regulated by this Act, other than complaints directed to the Attorney General and seeking the institution of a criminal proceeding. And, as noted above, the bill also clarifies the point that the Commission has the authority to issue rules and regulatons concerning every facet of the Act and not simply those relating to disclosure. In both particulars, H.R. 12406 advances the goal of expert, uniform, non-partisan administration of the law.

In addition to centralizing civil enforcement authority in the Commission, the bill takes one additional step to limit unjustifiable litigation burdens that might otherwise be imposed on the courts and on individuals against whom a complaint has been filed. The Commission is charged with the duty, upon receiving a complaint, to attempt to conciliate the matter for a specified reasonable period of time.

The phrase "exclusive primary jurisdiction" used to describe the congressional intent to centralize the civil enforcement of the Act in the Federal Election Commission is taken from the Supreme Court's decisions in *San Diego Unions* v. *Garmon*, 359 U.S. 236. There the Court recognized that Congress, in enacting the National Labor Relations Act, "entrusted administration of the labor policy for the nation to a centralized administrative agency, armed with its own procedures, and equipped with its specialized knowledge and cumulative experience" (*Garmon*, 359 U.S. at 242). On that basis the Court stated that all complaints bottomed on an alleged violation of the NLRA are within that Agency's "exclusive competence" (*id* at 245) and that all other tribunals must therefore "yield to the primary jurisdiction of the National Board" (*id*). The Court's ruling in *Garmon* captures the essence not only of the NLRA's administrative scheme, but of this Act's enforcement procedures as well.

Together, the requirement of four votes for affirmative action, the broad investigatory powers granted (which are limited only by the requirement that complaints be signed and sworn to and that the Commission shall not act solely on the basis of anonymous information), the conciliation procedure mandated, and the substantial civil remedies provided represent a delicate balance designed to effectively prevent and redress violations, and to winnow out, short of litigation, insubstantial complaints and those matters as to which settlement is both possible and desirable.

Fourth; prior to 1971 the laws regulating Federal campaigns permitted an infinite proliferation of political committees which were ostensibly separate entities but which were in fact a means for advancing a candidate's campaign. That deficiency brought the campaign laws into disrepute and provided an essential predicate for the 1971 and 1974 reforms that the Congress enacted. *Buckley* v. *Valeo's* invalidation of the limitations placed by the 1971 Act, as amended, on individual expenditures and on candidate expenditures promises a repetition of the pre-1971 experience. To prevent that result, while safeguarding the full enjoyment of the First Amendment right of individuals and groups to make expenditures for political expression, H.R. 12406 contains a series of prophylactic measures. These are directed solely at requiring full reporting and disclosure by individuals and groups that make "independent expenditures" (a term defined in the bill in conformity with the *Buckley* Court's definition); and at placing several additional limitations akin to those upheld by the Court on the amount that may be contributed by or to a political committee. In the definition of "independent expenditures," the phrase "at the * * * suggestion of * * * is intended to include direct suggestions made by a candidate or his agent, his campaign manager, his campaign treasurer, or any other person responsible for reporting contributions and expenditures in connection with the campaign of the candidate. It is not the Committee's intent to hold a candidate responsible for suggestions by persons over whom he does not exercise any control. Further, for example, if a candidate or some other person suggests in a speech to a group of persons that everything possible should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition.

Thus, H.R. 12406 provides that an individual or a political committee making independent expenditures in excess of $100 shall be required to report the information presently required of candidate committees for comparable activities and shall be required to certify that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate. The bill also provides that communications by a candidate and his committees utilizing the mass media expressly advocating his election or his opponent's defeat shall clearly and conspicuously state that the communication has been authorized by the candidate, and that such a communication by any other individual or political committee shall state that the communication has not been authorized by a candidate, and shall state also the name of the person making or financing the expenditure for the communication. Both of these provisions are designed to provide additional information to the voting public and to do so in a manner which places comparable reporting and disclosure requirement on candidates, and on individuals and groups making independent expenditures.

The bill also refines and strengthens in three separate respects the contribution limitations contained in the 1971 Act and upheld by the Supreme Court:

To discourage circumvention of the $1,000 limit on contributions by a person to a candidate and his authorized political committees in an election, and of the requirement that independent expenditures be properly identified and truly independent, contributions to a political committee in a calendar year by any person are limited to $1,000. For

the same reasons contributions by a multi-candidate political committee to another political committee are limited to $5,000 in a calendar year.

To prevent corporations, labor organizations, or other persons or groups of persons from evading the contribution limits of H.R. 12406, the bill establishes the following rules:

All of the political committees set up by a single corporation and its subsidiaries would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

All of the political committees set up by a single international union and its local unions would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

All of the political committees set up by the AFL–CIO and all its State and local central bodies would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

All the political committees established by the Chamber of Commerce and its State and local Chambers would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

The anti-proliferation rules just stated would also apply in the case of multiple committees established by a group of persons.

There is an exception to the foregoing rules by which a political committee set up by a national political party, and a political committee set up by each State political party, are to be treated separately for the purposes of H.R. 12406's contribution limitations. However, all political committees set up by a national political party would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations. Moreover, all political committees set up by a State political party or by county or city parties in that State would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations.

Political committees which have engaged in a joint fundraising effort may divide the money so collected between the committees which participate in the effort.

Finally, the bill treats expenditures made in cooperation, consultation, or concert with or at the request or suggestion of a candidate as a contribution in kind to that candidate and provides further that the republication of a candidate's campaign materials shall be regarded as such as a contribution. This provision is designed to draw a line between "independent expenditures" protected by the First Amendment because they are an expression of an individual's views, and expenditures which are disguised contributions to a candidate. The present law strikes the proper balance on political party expenditures in connection with the general election campaign of the parties' candidates. H.R. 12406, therefore, retains the language of the 1971 Act on this subject. A candidate who runs under a political party's banner signifies that his campaign is on behalf of that party. Thus, the limited separate permission for these political party expenditures is plainly designed to encourage a specific type of contribution to such candidates in order to strengthen the party system; that limited permission cannot on any theiory be regarded as dealing with "independent expenditures".

One further provision of H.R. 12406, deserves separate extended comment. The Federal Election Commission, in its Advisory Opinion No. 1975–23 concerning a proposal by the Sun Oil Company to establish a series of separate, segregated political funds, rules that Sun Oil could use its treasury moneys, and contributions generated by treasury moneys, to solicit its employees as well as its stockholders, and ruled further that the corporation could facilitate the making of such contributions by instituting a check-off system. The general rule enacted in 1971 is that "corporations and labor unions [must] confine their activities [of a political nature] to their own stockholders and members, the beneficial owners of these organizations," and the present statutory law not only draws a line between corporate and union political activities financed by treasury money limited to stockholders and members, which are permitted, and other treasury financed political activities, which are prohibited, but does so by spelling out rules that the Congress believed "apply equally to labor unions and corporations."

The Sun Oil opinion destroys the intent of the Congress to establish rules that apply equally to labor unions and corporations. There are as many corporate shareholders as there are union members. Under the Commission's ruling corporations are free to use their treasury funds to solicit stockholders, union members, and all unorganized employees. Unions are limited to union members. Moreover, corporations are permitted to establish systems whereby those who wish to contribute to a corporate political committee may take advantage of the convenience of a check-off system, while by reason of the limitations created by § 302 of the Taft-Hartley Act, union members are denied that system for making contributions to union political committees. And, of more fundamental importance, the FEC's decision is directly contrary to a more particular congressional intent expressed in 1971. As noted above, the congressional understanding that the permissions written into the law are only for "activities directed at members and stockholders."

H.R. 12406 proposes three limited clarifications of the law. First, the bill broadens the permissions contained in the present law to allow corporations to communicate with and solicit voluntary contributions from "executive officers". The Committee believes that management personnel as well as stockholders should be considered to be among the beneficial owners of a corporation. Second, H.R. 12406 continues the rule that unions may only solicit those they represent—their members—and reaffirms the intent of the 1971 Congress that corporations must also confine their activities to a roughly comparable group—namely, stockholders and executive officers. Third, H.R. 12406 provides that methods of soliciting voluntary contributions or of facilitating the making of such contributions which the law permits corporations shall also be permitted to unions. The bill also provides that where a corporation is in fact utilizing a particular method of soliciting voluntary contributions or facilitating the making of contributions to a corporate political fund, such as the check-off, the corporation must upon request make that means available to unions representing employees of that corporation or to union member employees.

In addition to the major points just discussed there are several narrower issues that should be noted:

1. The amendments to section 301(e)(4) and section 301(f)(4) of the Act are intended to reflect the Committee's understanding of the intent with which these provisions were originally enacted.

2. Section 320(a)(2) is not intended to apply to principal campaign committees of candidates for Congress nor to their subordinate committees.

3. The amendments made by the bill in connection with the congressional review of proposed regulations of the Commission, are not intended to foreclose debate on the floor of the House of Representatives relating to a resolution to disapprove any proposed regulation. The amendments provide that a motion to move to the consideration of the resolution is not debatable. The resolution itself, however, will be debatable.

4. The provision in the amendment relating to congressional review of proposed regulations permitting disapproval in part reflects the current understanding and is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

5. Section 321 of the Act (formerly section 610 of title 18, United States Code), is added by section 112 of the bill, is intended to apply to cooperative associations, whether or not the cooperative associations are incorporated. The cooperative will be permitted to establish a separate, segregated fund for political purposes and to solicit contributions from members of the cooperative in accordance with the provisions of section 321.

6. The present law permits the AFL–CIO to solicit all AFL–CIO union members to make voluntary contributions to COPE, its political committee. But because the stockholders and executive officers of corporations that belong to trade associations have only a distant indirect relationship to the association and because corporations often belong to many such associations the law on their solicitation is unclear. To end this uncertainty H.R. 12406 permits solicitations of stockholders and executive officers by a single trade association selected by the corporation.

7. The amendment to the Internal Revenue Code of 1954 made by section 307 of the bill, which requires the return of Federal matching payments by candidates who withdraw from a Presidential campaign is intended to provide that a candidate will remain eligible for Federal payments only so long as he maintains a good faith, multistate campaign for nomination for election, or for election, to the Office of President. A candidate should not be considered to be actively seeking nomination or election if he curtails his campaign activity to such an extent that it is reasonable to conclude that he no longer intends to engage in activity necessary to secure the nomination or win the election involved.

Changes in Existing Law Made by the Bill, as Reported

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

Federal Election Campaign Act of 1971

* * * * * * *

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this title and title IV of this Act—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party [held] *which has authority* to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, and (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

* * * * * * *

(e) "contribution"—

(1) means a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of—

(A) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

(B) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a *written* contract, promise, or agreement, [expressed or implied,] whether or not legally enforceable, to make a contribution for such purposes;

(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

(4) means the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose, *except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to*

activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954; but

(5) does not include—

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(D) any reimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising; [or]

(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; *or*

(G) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b);

to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of clauses

(B), (C), and (D) does not exceed $500 with respect to any election;

(f) "expenditure"—

(1) means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

(A) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice-presidential elector; or

(B) influencing the results of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure;

(3) means the transfer of funds by a political committee to another political committee; but

(4) does not include—

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote or to vote;

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities if the cumulative value of such activities by such individual on behalf of any candidate do not exceed $500 with respect to any election;

(E) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate if the cumulative amount for such individual incurred with respect to such candidate does not exceed $500 with respect to any election;

(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services, rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the pur-

pose of insuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

[(F)](*G*) any communication by any person which is not made for the purpose of influencing the nomination for election, or election of any person to Federal office; [or]

[(G)](*H*) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising; [or]

[(H)](*I*) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; *or*

(*J*) *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 all such costs shall be reported in accordance with section 304(b).*

* * * * * * *

(m) "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office, whose name appears on the election ballot as the candidate of such association, committee, or organization: [and]

(n) "principal campaign committee" means the principal campaign committee designated by a candidate under section 302(f)(1)[.]

(*o*) *"Act" means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;*

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

(*q*) *"clearly identified" means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears;*

or (3) the identity of the candidate is apparent by unambiguous reference.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

* * * * * * *

[(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.]

[(f)](*e*)(1) Each individual who is a candidate for Federal office (other than the office of Vice President of the United States) shall designate a political committee to serve as his principal campaign committee. No political committee may be designated as the principal campaign committee of more than one candidate, except that the candidate for the office of President of the United States nominated by a political party may designate the national committee of such political party as his principal campaign committee. Except as provided in the preceding sentence, no political committee which supports more than one candidate may be designated as a principal campaign committee. *Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.*

* * * * * * *

REPORTS

SEC. 304. (a)(1) Except as provided by paragraph (2), each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the Commission reports of receipts and expenditures on forms to be prescribed or approved by it. The reports referred to in the preceding sentence shall be filed as follows:

(A)(i) In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in such year, such reports shall be filed not later than the tenth day before the date on which such election is held and shall be complete as of the fifteenth day before the date of such election; except that any such report filed by registered or certified mail must be postmarked not later than the close of the twelfth day before the date of such election.

(ii) Such reports shall be filed not later than the thirtieth day after the date of such election and shall be complete as of the twentieth day after the date of such election.

(B) In any other calendar year in which an individual is a candidate for Federal office, such reports shall be filed after December 31 of such calendar year, but not later than January 31 of the following calendar year and shall be complete as of the close of the calendar year with respect to which the report is filed.

(C) Such reports shall be filed not later than the tenth day following the close of any calendar quarter in which the candidate

or political committee concerned received contributions in excess of $1,000, or made expenditures in excess of $1,000, and 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 *except 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 tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or 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).*

* * * * * * *

(2) Each treasurer of a political committee [which is not a] *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 [appropriate] *candidate's* principal campaign committee.

* * * * * * *

(b) Each report under this section shall disclose—

(1) * * *

* * * * * * *

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished, together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor; [and]

(13) in the case of an independent expenditure 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 independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent 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.

[(13)] *(14)* such other information as shall be required by the Commission.

* * * * * * *

[(e) Every person (other than a political committee or candidate) who makes contributions or expenditures, 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 a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed but need not be cumulative.]

(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent 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 during 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 independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent 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 independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including 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 preelection basis.

* * * * * * *

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 306. (a) * * *

* * * * * * *

(d) If a report or statement required by section 303, 304(a)(1)(A)(ii), 304(a)(1)(B), 304(a)(1)(C), *304(c)*, or 304(e) of this title to be filed by a treasurer of a political committee or by a candidate or by any other person, is delivered by registered or certified mail, to the Commission or principal campaign committee with which it is required to be filed, the United States postmark stamped on the cover of the envelope or other container in which such report or statement is so mailed shall be deemed to be the date of filing.

* * * * * * *

[REPORTS BY CERTAIN PERSONS

[SEC. 308. Any person (other than an individual) who expends any funds or commits any act directed to the public for the purpose of

influencing the outcome of an election, or who publishes or broadcasts to the public any material referring to a candidate (by name, description, or other reference) advocating the election or defeat of such candidate, setting forth the candidate's position on any public issue, his voting record, or other official acts (in the case of a candidate who holds or has held Federal office), or otherwise designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate shall file reports with the Commission as if such person were a political committee. The reports filed by such person shall set forth the source of the funds used in carrying out any activity described in the preceding sentence in the same detail as if the funds were contributions within the meaning of section 301(e), and payments of such funds in the same detail as if they were expenditures within the meaning of section 301 (f). The provisions of this section do not apply to any publication or broadcast of the United States Government or to any news story, commentary, or editorial distributed through the facilities of a broadcasting station or a bona fide newspaper, magazine, or other periodical publication. A news story, commentary, or editorial is not considered to be distributed through a bona fide newspaper, magazine, or other periodical publication if—

[(1) such publication is primarily for distribution to individuals affiliated by membership or stock ownership with the person (other than an individual) distributing it or causing it to be distributed, and not primarily for purchase by the public at newsstands or by paid subscription; or

[(2) the news story, commentary, or editorial is distributed by a person (other than an individual) who devotes a substantial part of his activities to attempting to influence the outcome of elections, or to influence public opinion with respect to matters of national or State policy or concern.]

CAMPAIGN DEPOSITORIES

SEC. [309] *308.* (a)(1) Each candidate shall designate one or more national or State banks as his campain depositories. The principal campaign committee of such candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain [a checking account] *one or more checking accounts, at the discretion of any such committee,* at a depository designated by the candidate and shall deposit any contributions received by such committee into such account. A candidate shall deposit any payment received by him under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 in the account maintained by his principal campaign committee. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on such account, other than petty cash expenditures as provided in subsection (b).

(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one or more national or State banks as campaign depositories of such committee, and shall maintain a checking account for the committee at each such depository.

All contributions received by such committee shall be deposited in such accounts. No expenditure may be made by such committee except by check drawn on such accounts, other than petty cash expenditures as provided in subsection (b).

(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.

(c) A candidate for nomination for election, or for election, to the office of President of the United States may establish one such depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in such State, under rules prescribed by the Commission. The campaign depository of the candidate of a political party for election to the office of Vice President of the United States shall be the campaign depository designated by the candidate of such party for election to the office of President of the United States.

FEDERAL ELECTION COMMISSION

SEC. [310] *309.* (a)(1) There is established a commission to be known as the Federal Election Commission. 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 [as follows:

[(A) 2 shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President pro tempore of the Senate upon the recommendations of the majority leader of the Senate and the minority leader of the Senate;

[(B) 2 shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House; and

[(C) 2 shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President of the United States.]

by the President of the United States, by and with the advice and consent of the Senate.

[A member appointed under subparagraph (A), (B), or (C) shall not be affiliated with the same political party as the other member appointed under such paragraph.] *No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.*

* * * * * * *

[(2) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

[(A) one of the members appointed under paragraph (1)(A) shall be appointed for a term ending on the April 30 first occurring more than 6 months after the date on which he is appointed;

[(B) one of the members appointed under paragraph (1)(B) shall be appointed for a term ending 1 year after the April 30 on which the term of the member referred to in subparagraph (A) of this paragraph ends;

[(C) one of the members appointed under paragraph (1)(C) shall be appointed for a term ending 2 years thereafter;

[(D) one of the members appointed under paragraph (1)(A) shall be appointted for a term ending 3 years thereafter;

[(E) one of the members appointed under paragraph (1)(B) shall be appointed for a term ending 4 years thereafter; and

[(F) one of the members appointed under paragraph (1)(C) shall be appointed for a term ending 5 years thereafter.

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. Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.]

(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 subparagraph, no member affiliated with a political party shall be appointed for a term that expires 1 year after another member affiliated with the same political party.

(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

(C) 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.

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

(3) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment and shall be chosen from among individuals who, at the time of their appointment, are not elected or appointed officers or employees in the executive, legislative or judicial branch of the Government of the United States. *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.*

* * * * * * *

[(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty

cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.]

(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 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.

(c) A candidate for nomination for election, or for election, to the office of President of the United States may establish one such depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in such State, under rules prescribed by the Commission, *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).* The campaign depository of the candidate of a political party for election to the office of Vice President of the United States shall be the campaign depository designated by the candidate of such party for election to the office of President of the United States.

POWERS OF COMMISSION

SEC. [311] *310.* (a) The Commission has the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such a reasonable period of time and under oath or otherwise as the Commission may determine;

(2) to administer oaths or affirmations;

(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

[(6) to initiate (through civil proceedings for injunctive, declaratory, or other appropriate relief), defend, or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act, through its general counsel;]

(6) to initiate (through civil actions for injuctive, 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;

(7) to render advisory opinions under section [313] *312;*

(8) to *develop such prescribed forms and to* make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act *and chapter 95 and chapter 96 of the Internal Revenue Code of 1954;*

(9) to formulate general policy with respect to the administration of this Act [and sections 608, 610, 611, 613, 614, 615, 616, and 617 of title 18, United States Code] *and chapter 95 and chapter 96 of the Internal Revenue Code of 1954;*

[(10) to develop prescibed forms under section 311(a)(1); and]

[11] *(10)* to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

* * * * * * *

(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.

SEC. [312] *311.* The Commission shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Commission in carrying out its duties under this title, together with recommendations for such legislative or other action as the Commission considers appropriate.

ADVISORY OPINIONS

SEC. [313] *312.* (a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, [or] any political committee, *or 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 Act [of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code.] *or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. No advisory opinion shall be issued by the Commission or any of its employees except in accordance with the provisions of this section.*

[(b) 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 Act, of chapter 95 or chapter 96 of the Internal

Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, with respect to which such advisory opinion is rendered.]

(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or findings of an advisory opinion in accordance with the provisions of paragraph (2)(A) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(2)(A) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar to the transaction or activity with respect to which such advisory opinion is rendered.

(B)(i) The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (a), transmit to the Congress proposed rules or regulations relating to the transaction or activity involved if 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 involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities involved.

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

* * * * * * *

[ENFORCEMENT

[SEC. 314. (a)(1)(A) Any person who believes a violation of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, has occurred, may file a complaint with the Commission.

[(B) In any case in which the Clerk of the House of Representatives or the Secretary of the Senate (who receive reports and statements as custodian for the Commission) has reason to believe a violation of this Act or section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, has occurred, he shall refer such apparent violation to the Commission.

[(2) The Commission, upon receiving any complaint under paragraph (1)(A), or a referral under paragraph (1)(B), or if it has reason to believe that any person has committed a violation of any such provision, shall notify the person involved of such apparent violation and shall—

[(A) report such apparent violation to the Attorney General; or

[(B) make an investigation of such apparent violation.

[(3) Any investigation under paragraph (2)(B) shall be conducted expeditiously and shall include an investigation 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), conduct a hearing with respect to such apparent violation.

[(5) If the Commission determines, after investigation, that there is reason to believe that any person has engaged, or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, it may endeavor to correct such violation by informal methods of conference, conciliation, and persuasion. If the Commission fails to correct the violation through informal methods, it may 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 brought is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, the court shall grant a permanent or temporary injunction, restraining order, or other order.

[(6) The Commission shall refer apparent violations to the appropriate law enforcement authorities to the extent that violations of provisions of chapter 29 of title 18, United States Code, are involved, or if the Commission is unable to correct apparent violations of this Act under the authority given it by paragraph (5), or if the Commission determines that any such referral is appropriate.

[(7) Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, upon request by the Commission the Attorney General on behalf of the United States shall 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 is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

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

[(9) Any party aggrieved by an order granted under paragraph (5) or (7) of this subsection may, at any time within 60 days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such order was issued for judicial review of such order.

[(10) 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 315).

[(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.]

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. Notwithstanding any other provision of this Act, the Commission shall not have the authority to inquire into or investigate the utilization or activities of any staff employee of any person holding Federal office without first consulting with such person holding Federal office. An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

(2) The Commission, if it has reasonable cause 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)(A) 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.

(B) 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 shall be taken against such person by the Commission under this Act.

(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a viola-

tion 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, except that, if the Commission has reasonable cause to believe that—

(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, 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 a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

(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, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(C) In any civil action instituted by the Commission under subparagraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater or $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, 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 subject to and 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 any limitation set forth in subparagraph (A).

(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 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 shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (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 (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred.

(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 chapter 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 200 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), subpenas 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 petition 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 any proceeding under this paragraph 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 such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

(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 such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such 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.

(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.

JUDICIAL REVIEW

SEC. [315] *314.* (a) The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President of the United States may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code. The district court immediately shall certify all questions of constitutionality of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(b) Notwithstanding any other provisions of law, any decision on a matter certified under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.

(c) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a).

DUTIES

SEC. [316] *315.* (a) It shall be the duty of the Commission—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this title;

(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a cumulative index of reports and statements filed with it, which shall be published in the Federal Register at regular intervals and which shall be available for purchase directly or by mail for a reasonable price, *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(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph;*

(7) to prepare and publish from time to time special reports listing those candidates for whom reports were filed as required by this title and those candidates for whom such reports were not filed as so required;

(8) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title, *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;*

* * * * * * *

(c)(1) The Commission, before prescribing any rule or regulation under this section *or under section 312(b)(2)(B)*, shall transmit a statement with respect to such rule or regulation to the Senate or to the House of Representatives, as the case may be, in accordance with the provisions of this subsection. Such statement shall set forth

the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If the appropriate body of the Congress which receives a statement from the Commission under this subsection does not, through appropriate action, disapprove, *in whole or in part*, the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. In the case of any rule or regulation proposed to deal with reports or statements required to be filed under this title by a candidate for the office of President of the United States, and by political committees supporting such a candidate both the Senate and the House of Representatives shall have the power to disapprove such proposed rule or regulation. *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.* The Commission may not prescribe any rule or regulation which is disapproved under this paragraph.

* * * * * * *

(c) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or by any member, officer, or employee thereof (other than any rule or regulation of the Commission which takes effect under subsection (c)) shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.

[STATEMENTS FILED WITH STATE OFFICERS

[SEC. 317. (a) A copy of each statement required to be filed with the Commission by this title shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—

[(1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States, each State in which an expenditure is made by him or on his behalf, and

[(2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.

[(b) It shall be the duty of the Secretary of State, or the equivalent State officer, under subsection (a)—

[(1) to receive and maintain in an orderly manner all reports and statements required by this title to be filed with him;

[(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

[(3) to make the reports and statement filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

[(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.]

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 misrpresent 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).

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

SEC. [318] *317.* Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, may be contributed by him to any organization described in section 170(c) of the Internal Revenue Code of 1954, as may be used for any other lawful purpose. To the extent any such contribution, amount contributed, or expenditure thereof is not otherwise required to be disclosed under the provisions of this title, such contribution, amount contributed, or expenditure shall be fully disclosed in accordance with rules promulgated by the Commission. The Commission is authorized to prescribe such rules as may be necessary to carry out the provisions of this section.

PROHIBITION OF FRANKED SOLICITATIONS

SEC. [319] *318.* No Senator, Representative, Resident Commissioner, or Delegate shall make any solicitations of funds by a mailing under the frank under section 3210 of title 39, United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. [320] *319.* There are authorized to be appropriated to the Commission for the purpose of carrying out its function under this Act, and under chapters 95 and 96 of the Internal Revenue Code of 1954, not to exceed $5,000,000 for the fiscal year ending June 30, 1975.

[PENALTY FOR VIOLATIONS

[SEC. 321. (a) Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.]

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 in any calendar year 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 or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such 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) for purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations prescribed by paragraph (1) and this paragraph.

(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 of 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 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) (1) No candidate for the office of President of the United States who has established his eligibility 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 (e)), 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 candidate for the office of Vice President, 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 twelve 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 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 paragraph (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 (e)). 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) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

(ii) $20,000; 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 nomination for election to the office of President 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, the 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 knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank, or any officer of any labor organization, to consent to any contribution or expenditure by such corporation, national bank, or labor organization, as the case may be, which is prohibited by this section.

(b) (1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or contributions of work.

(2) For purposes of this section, the term '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 officers referred to in this section, but shall not include (A) 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; (B) 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; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, except that (i) 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 moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction; (ii) it shall be unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than its stockholders, executive officers, and their families, for an incorporated trade association or a separate segregated fund established by an incorporated trade association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers (to the extent that any such solicitation of such stockholders and executive officers, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year, or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than its members and their families; (iii) 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 (iv) any corporation which utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, such method to a labor organization representing any members working for such corporation.

(3) for 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 policymaking or 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 service 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 commencement 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) 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 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.

PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

SEC. 323. Whenever any person makes an expenditure for the purpose of financing any communication expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other similar type 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 such 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 Commission, state that such communication is not

authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, in 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 to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or for any person to solicit, accept, or receive any such contribution from 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. (a) 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 $250, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

(b) Any person who knowingly and willfully violates the provisions of this section shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

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 who knowingly and willfully commits a violation of any provision or provisions of this Act, other than the provisions of section 326, 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 one year, or both.

SAVING PROVISION RELATING TO REPEALED SECTIONS

SEC. 329. Except as otherwise provided by this Act, the repeal by the Federal Election Campaign Act Amendments of 1976 of any provision or penalty or penalties shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such provision or penalty, and such provision or penalty 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.

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TITLE IV—GENERAL PROVISIONS

EXTENSION OF CREDIT BY REGULATED INDUSTRIES

SEC. 401. * * *

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ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 407. (a) In any case in which the Commission, after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, makes a finding that a person who, while a candidate for Federal office, failed to file a report required by title III of this Act, and such finding is made before the expiration of the time within which the failure to file such report may be prosecuted as a violation of such title III, *the Commission shall (1) make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any such failure which occurs less than 45 days before the date of the election involved, make every endeavor for a period of not less than one-half the number of days between the date of such failure and the date of the election involved to correct such failure by informal methods of conference, conciliation, and persuasion, except that no action may be taken by the Commission with respect to any complaint filed with the Commission during the 5-day period immediately before an election until after the date of such election. If the Commission fails to correct such failure through such informal methods, then* such person shall be disqualified from becoming a candidate in any future election for Federal office for a

period of time beginning on the date of such finding and ending one year after the expiration of the term of the Federal office for which such person was a candidate.

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TERMINATION OF AUTHORITY OF COMMISSION

SEC. 409. (a) Notwithstanding any other provision of this Act or any other provision of law, the authority of the Commission to carry out the provisions of this Act, and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, shall terminate at the close of March 31, 1977, if either House of the Congress by appropriate action determines that such termination shall take effect pursuant to subsection (b).

(b) The appropriate committee of each House of the Congress shall, commencing January 3, 1977, conduct a review of the elections of candidates for Federal office conducted in 1976, the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections, and the activities conducted by the Commission, and report to their respective Houses not later than March 1, 1977. Such report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977, as set forth in subsection (a).

(c) Nothing in this section shall affect any proceeding pending in any court of the United States on the date of the enactment of this section. The Attorney General of the United States shall have the authority to act on behalf of the United States in any such proceeding.

INTERNAL REVENUE CODE OF 1954

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SUBTITLE H—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

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SEC. 9002. DEFINITIONS.

For purposes of this chapter—

(1) The term "authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term "candidate" means, with respect to any Presidential election, an individual who (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States. For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term "candidate" means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election. *The term "candidate" shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.*

(3) The term "Commission" means the Federal Election Commission established by section [310] *310*(a)(1) of the Federal Election Campaign Act of 1971.

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SEC. 9003. CONDITION FOR ELIGIBILITY FOR PAYMENTS.

(a) IN GENERAL.— * * *

* * * * * * *

(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9006; and

(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.

SEC. 9004. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS.

(a) IN GENERAL.— * * *

* * * * * * *

(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 an election for the office of President 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 candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(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 spouses of such persons.

* * * * * * *

SEC. 9006. PAYMENTS TO ELIGIBLE CANDIDATES.

(a) ESTABLISHMENT OF CAMPAIGN FUND.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund." The Secretary shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous Presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

[(b) TRANSFER TO THE GENERAL FUND.—If, after a presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.]

[(c)] *(b)* PAYMENTS FROM THE FUND.—Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

[(d)] *(c)* INSUFFICIENT AMOUNTS IN FUND.—If at the time of a certification by the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates for whom amounts have been withheld. but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. *In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.*

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SEC. 9008. PAYMENTS FOR PRESIDENTIAL NOMINATING CONVENTIONS.

(a) ESTABLISHMENT OF ACCOUNTS.—* * *

(b) ENTITLEMENT TO PAYMENTS FROM THE FUND.—

(1) MAJOR PARTIES.—Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed $2,000,000.

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

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

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

(5) ADJUSTMENT OF ENTITLEMENTS.—The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by section [608(c) and section 608(f) of title 18, United States Code,] *section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971* are adjusted pursuant to the provisions of section [608(d) of such title] *320(c) of such Act.*

* * * * * * *

(d) LIMITATION OF EXPENDITURES.—

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

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

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

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

SEC. 9009. REORTS TO CONGRESS; REGULATIONS.

(a) REPORTS.— * * *

* * * * * * *

(c) REVIEW OF REGULATIONS.—

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove, *in whole or in part*, the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. *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.* The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

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CHAPTER 96—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

SEC. 9031. SHORT TITLE.

This chapter may be cited as the "Presidential Primary Matching Payment Account Act."

SEC. 9032. DEFINITIONS.

FOR PURPOSES OF THIS CHAPTER—

(1) The term "authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term "candidate" means an individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he (A) takes the action necessary under the law of a State to qualify himself for nomination for election, (B) receives contributions or incurs qualified campaign expenses, or (C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf. *The term "candidate" shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.*

(3) The term "Commission" means the Federal Election Commission established by section [310] *309*(a)(1) of the Federal Election Campaign Act of 1971.

* * * * * * *

SEC. 9033. ELIGIBILITY FOR PAYMENTS.

(a) CONDITIONS.— * * *

(b) EXPENSE LIMITATION; DECLARATION OF INTENT; MINIMUM CONTRIBUTIONS.—To be eligible to receive payments under section 9037, a candidate shall certify to the Commission that—

(1) the candidate and his authorized committees will not incur qualified campaign expenses in excess of the [limitation] *limitations* on such expenses under section 9035,

(2) the candidate is seeking nomination by a political party for election to the office of President of the United States,

(3) the candidate has received matching contributions which, in the aggregate, exceed $5,000 in contributions from residents of each of at least 20 States, and

(4) the aggregate of contributions certified with respect to any person under paragraph (3) does not exceed $250.

(c) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9037; and

(2) notwithstanding the provisions of section 9038(b)(3), shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9037 which are not used to defray qualified campaign expenses.

SEC. 9034. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS.

(a) IN GENERAL.—Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution received by such candidate on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such candidate is seeking nomination, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by such person on or after the beginning of such preceding calendar year exceeds $250. For purposes of this subsection and section 9033(b), the term 'contribution' means a gift of money made by a written instrument which identifiies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything of value or anything described in subparagraph (B), (C), or (D) of section 9032(4).

(b) LIMITATIONS.—The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed 50 percent of the expenditure limitation applicable under section [608(c)(1)(A) of title 18, United States Code] *320(b)(1)(A) of the Federal Election Campaign Act of 1971.*

* * * * * * *

SEC. 9035. QUALIFIED CAMPAIGN EXPENSE [LIMITATION] *LIMITATIONS.*

(a) EXPENDITURE LIMITATIONS.—No candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section [608(c)(1)(A) of title 18, United States Code.] *section 320(b)(1)(A) of the Federal Election Campaign Act of 1971 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.*

(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.

* * * * * * *

SEC. 9039. REPORTS TO CONGRESS; REGULATIONS.—

(a) REPORTS.—* * *

* * * * * * *

(c) REVIEW OF REGULATIONS.—

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove, *in whole or in part*, the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. *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.* The Commission may not prescribe any such rule or regulation which is disapproved by either such House under this paragraph.

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CHAPTER 29 OF TITLE 18, UNITED STATES CODE

CHAPTER 29.—ELECTIONS AND POLITICAL ACTIVITIES

§ 591. Definitions.

Except as otherwise specifically provided, when used in this section and in sections 597, 599, 600, [602, 608, 610, 611, 614, 615, and 617] *and 602* of this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution"—

(1) means a gift, subscription, loan, advance, or deposit of money 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, which shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

(4) means the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose, *except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954; but*

* * * * * * *

(f) "expenditure"—

(1) means a purchase, payment, distributions, loan, advance, deposit, or gift of money 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), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

(3) means the transfer of funds by a political committee to another political committee; but

(4) does not include—

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote or to vote;

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a service on the individual's residential premises for candidate-related activities;

(E) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal Office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

[F] (G) any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to Federal office;

[G] (*H*) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;

[H] (*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 limitations applicable to such candidate under section 608(c) of this title;

[I] (*J*) any costs incurred by a political committee (as such term is defined by section 608(b)(2) of this title) with respect to the solicitation of contributions to such political committee or to any general political fund controlled by such political committee, except that this clause shall not apply to exempt costs incurred with respect to the solicitation of contributions to any such political committee made through broadcasting stations, newspapers, magazine, outdoor advertising facilities, and other similar types of general public political advertising;

to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of clauses (D) or (E) does not exceed $500 with respect to any election;

(g) "person" and "whoever" mean an individual, partnership, committee, association, corporation, or any other organization or group of persons;

(h) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

(i) "political party" means any association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization;

(j) "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Federal Election Commission;

(k) "national committee" means the organization which, by virture of the bylaws of the political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Federal Election Commission established under section 310(a) of the Federal Election Campaign Act of 1971; and

(l) "principal campaign committee" means the principal campaign committee designated by a candidate under section 302(f)(1) of the Federal Election Campaign Act of 1971.

* * * * * * *

[§ 608. Limitations on contributions and expenditures.

[(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaigns during any calendar year for nomination for election, or for election, to Federal office in excess of, in the aggregate—

[(A) $50,000, in the case of a candidate for the office of President or Vice President of the United States;

[(B) $35,000, in the case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; or

[(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner, in any other State.

[For purposes of this paragraph, any expenditure made in a year other than the calendar year in which the election is held with respect to which such expenditure was made, is considered to be made during the calendar year in which such election is held.

[(2) For purposes of this subsection, "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

[(3) No candidate or his immediate family may make loans or advances from their personal funds in connection with his campaign for nomination for election, or for election, to Federal office unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

[(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditures only to the extent of the balance of such loan or advance outstanding and unpaid.

[(b)(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.

[(2) No political committee (other than a principal campaign committee) shall make contributions to any candidate with respect to any

election for Federal office 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 of the Federal Election Campaign Act of 1971 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.

[(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made 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, in writing, to accept contributions on his behalf shall be considered to be contributions made to such candidate; and

[(B) 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.

[(c)(1) No candidate shall make expenditures in excess of—

[(A) $10,000,000, in the case of a candidate for nomination for election to the office of President of the United States, except that the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the expenditure limitation applicable in such State to a candidate for nomination for election to the office of Senator, Delegate, or Resident Commissioner, as the case may be;

[(B) $20,000,000, in the case of a candidate for election to the office of President of the United States;

[(C) in the case of any campaign for nomination for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

[(i) 8 cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) $100,000;

[(D) in the case of any campaign for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

[(i) 12 cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) $150,000;

[(E) $70,000, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Representative in any other State, Delegate from the District of Columbia, or Resident Commissioner; or

[(F) $15,000, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Delegate from Guam or the Virgin Islands.

[(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.

[(3) The limitations imposed by subparagraphs (C), (D), (E), and (F) of paragraph (1) of this subsection shall apply separately with respect to each election.

[(4) 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.

[(d)(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 (c) and subsection (f) 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.

[(e)(1) No person may make any expenditure (other than an expenditure made by or on behalf of a candidate within the meaning of subsection (c)(2)(B)) relative to a clearly identified candidate during a calendar year which, when added to all other expenditures made by such person during the year advocating the election or defeat of such candidate, exceeds $1,000.

[(2) For purposes of paragraph (1)—

[(A) "clearly identified" means—

[(i) the candidate's name appears;

[(ii) a photograph or drawing of the candidate appears; or

[(iii) the identity of the candidate is apparent by unambiguous reference; and

[(B) "expenditure" does not include any payment made or incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610, would not constitute an expenditure by such corporation or labor organization.

[(f)(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 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) 2 cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) $20,000; 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.

[(g) 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.

[(h) 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.

[(i) Any person who violates any provision of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.]

[§ 610. Contributions or expenditures by national banks, corporations, or labor organizations.

[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, poiltical committee, or other person to accept or receive any contribution prohibited by this section.

[Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than $25,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $50,000 or imprisoned not more than two years, or both.

[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, of 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 this section; but shall not include communications by a corporation to its stockholders 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 corpora-

tion aimed at its stockholders 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 oragnization: *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.

[§ 611. Contributions by Government contractors.

[Whoever—

[(a) entering 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 commencement of negotiations for and the later of (1) the completion of performance under, or (2) 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

[(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $25,000 or imprisoned not more than five years, or both.

[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 610 of this title prohibit or make unlawful the establishment or administration of. or the solicitation of contributions to, such fund.

[For purposes of this section, the term "labor organization" has the meaning given it by section 610 of this title.

[§ 612. Publication or distribution of political statements.

[Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[§ 613. Contributions by foreign nationals.

[Whoever, being a foreign national directly or through any other person, knowingly makes 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

[Whoever knowingly solicits, accepts, or receives any such contribution from any such foreign national—

[Shall be fined not more than $25,000 or imprisoned not more than five years or both.

[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)).

[§ 614. Prohibition of contributions in name of another.

[(a) 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.

[(b) Any person who violates this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.

[§ 615. Limitation on contributions of currency.

[(a) 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.

[(b) Any person who violates this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.

[§ 616. Acceptance of excessive honorariums.

[Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

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

[(2) accepts honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year shall be fined not less than $1,000 nor more than $5,000.

[§ 617. Fraudulent misrepresentation of campaign authority.

[Whoever, being a candidate for Federal office or an employee or agent of such a candidate—

[(1) fraudulently misrepresents 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) willfully and knowingly participates in or conspires to participate in any plan, scheme, or design to violate paragraph (1); shall, for each such offense, be fined not more than $25,000 or imprisoned not more than one year, or both.]

Section-by-Section Explanation of the Bill

Short Title

Section 1 of the bill provides that this legislation 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

Section 101(a)(1) amends section 309(a)(1) of the Federal Election Campaign Act of 1971 (hereinafter in this explanation referred to as the "Act"), as so redesignated by section 105 of the bill, to provide that the Federal Election Commission (hereinafter in this explanation referred to as 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.

Section 101(a)(2) amends section 309(a)(1) of the Act, as so redesignated by section 105 of the bill, to provide that no more than 3 members of the Commission appointed by the President may be affiliated with the same political party.

Section 101(b) amends section 309(a) of the Act, as so redesignated by section 105, by rewriting paragraph (2). Section 309(a)(2)(A) provides that members of the Commission shall serve for terms of 6 years, except that members first appointed shall serve for staggered terms as designated by the President. In making such designations, the President may not appoint an individual affiliated with any political party for a term which expires 1 year after the term of another member affiliated with the same political party.

Section 309(a)(2)(B) provides that a member of the Commission may serve after the expiration of his term until his successor has taken office.

Section 309(a)(2)(C) provides that an individual appointed to fill a vacancy occurring other than by the expiration of a term of office may be appointed only for the unexpired term of the member he succeeds.

Section 309(a)(2)(D) provides that a vacancy in the Commission shall be filled in the same manner as the original appointment.

Section 101(c)(1) of the bill amends section 309(a)(3) of the Act, as so redesignated by section 105 of the bill, to provide that members of the Commission shall not engage in any other business, vocation, or employment. Members are given 1 year to terminate or liquidate any such activities.

Section 101(c)(1) amends section 309 of the Act, as so redesignated by section 105 of the bill, by rewriting subsection (b). Section 309(b)(1) requires the Commission to administer and formulate policy regarding the Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission is given exclusive primary jurisdiction regarding the civil enforcement of such provisions.

Section 309(b)(2) provides that the provisions of the Act do not limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress regarding elections to Federal office.

Section 101(c)(3) of the bill amends section 309(c) of the Act, as so redesignated by section 105 of the bill, to require an affirmative vote of 4 members of the Commission in order for the Commission to establish guidelines for compliance with the Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action under (1) section 310(a)(6) of the Act, as so redesignated by section 105 of the bill, relating to the initiation of civil actions; (2) section 310(a)(7) of the Act, relating to the rendering of advisory opinions; (3) section 310(a)(8) of the Act, relating to rule-making authority; or (4) section 310(a)(10) of the Act, relating to investigations and hearings.

Section 101(d)(1) provides that the President shall appoint members of the Commission as soon as practicable after the date of the enactment of the bill. Subsection (d)(2) provides that the first appointments made by the President shall not be considered appointments to fill the unexpired terms of members serving on the Commission on the date of the enactment of the bill.

Subsection (d)(3) provides that members of the Commission serving on the date of the enactment of the bill may continue to serve as such members until members are appointed and qualified under section 309(a) of the Act, as amended by the bill, except that they may exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in *Buckley et al.* v. *Valeo, et al.* (Nos. 75–436, 75–437) (January 30, 1976).

Section 101(e) provides that members serving on the Commission on the date of the enactment of the bill shall not be subject to the provisions of section 309(a)(3) of the Act, as so redesignated by section 105 of the bill, which prohibit any member of the Commission from being an elected or appointed officer or employee of any branch of the Federal Government.

Changes in Definitions

Election

Section 102(a) of the bill amends section 301(a)(2) of the Act to provide that any caucus or convention of a political party which has authority to nominate a candidate shall be considered to be an election.

Contribution

Section 102(b) amends section 301(e)(2) of the Act to provide that a contract, promise, or agreement to make a contribution must be in writing in order to be considered a contribution.

Section 102(c)(1) amends section 301(e)(4) of the Act to provide that the definition of contribution shall not apply to (1) legal or accounting services rendered to or on behalf of the national committee of a political party, other than legal or accounting services attributable to any activity which directly furthers the election of a designated candidate for Federal office; or (2) legal or accounting services rendered to or on behalf of a candidate or political committee for the sole purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Subsection (c)(2) adds a new clause (G) to section 301(e)(5) of the Act. Clause (G) provides that the term contribution shall not include a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee or a State committee of a political party which is for the sole purpose of defraying any cost incurred for the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. Clause (G) requires that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, must be reported in accordance with section 304(b) of the Act.

Expenditure

Section 102(d)(1) amends section 301(f)(4) of the Act by adding a new clause (I). Clause (I) provides that the term expenditure does not include any costs incurred by a candidate in connection with any solicitation of contributions by the candidate. Clause (I) does not apply, however, to costs incurred by a candidate in excess of an amount equal to 20 percent of the applicable expenditure limitation under section 320(b) of the Act, except that all such costs shall be reported in accordance with section 304(b).

Subsection (d)(2) amends section 301(f)(4) of the Act by adding a new clause (F). Clause (F) provides that the term expenditure does not include the payment, by any person other than a candidate or a political committee, of compensation for (1) legal or accounting services rendered to or on behalf of the national committee of a political party, other than legal or accounting services attributable to any activity which directly furthers the election of a designated candidate for Federal office; or (2) legal or accounting services rendered to or on behalf of a candidate or political committee for the sole purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Other definitions

Section 102(e) amends section 301 of the Act by adding the following new definitions:

1. The term "Act" is defined to mean the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.

2. The term "independent expenditure" is defined to mean any expenditure by a person which expressly advocates the election or defeat

of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of the candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of the candidate.

3. The term "clearly identified" is defined to mean (1) the name of the candidate involved appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.

Organization of Political Committees

Section 103 of the bill amends section 302 of the Act by striking out subsection (e), relating to a requirement that political committees raising contributions or making expenditures on behalf of a candidate without being authorized to do so by the candidate must indicate this lack of authority on any campaign literature and campaign advertisements. Section 323 of the Act, as added by the bill, contains a similar provision.

Reports by Political Committees and Candidates

Section 104(a) amends section 304(a)(1)(C) of the Act to provide that in any year in which a candidate is not on the ballot for election to Federal office, the candidate and his authorized committees must file a report not later than the tenth day after the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures which aggregate a total of more than $10,000. Each report must be complete as of the close of the calendar quarter, except that any report which must be filed after December 31 of any calendar year in which a report must be filed under section 304(a)(1)(B) shall be filed as provided in section 304(a)(1)(B).

Section 104(b) amends section 304(a) of the Act by rewriting paragraph (2). Paragraph (2) provides that each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on behalf of the candidate, other than the principal campaign committee of the candidate, must file reports with the principal campaign committee of the candidate (rather than with the Commission).

Section 104(c) amends section 304(b) of the Act by adding a new paragraph (13). Paragraph (13) requires each report to include, in the case of an independent expenditure 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 (1) any information required by section 304(b)(9), stated in a manner which indicates whether the independent expenditure is in support of, or in opposition to, a candidate; and (2) under penalty of perjury, certification whether the independent 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 the candidate. If such expenditure is made with such cooperation, consultation, or concert, or as a result

of such request or suggestion, it no longer would qualify as an independent expenditure.

Section 104(d) amends section 304 of the Act by rewriting subsection (e). Subsection (e)(1) requires every person (other than a political committee or a candidate) who makes independent expenditures of more than $100 in a calendar year to file a statement with the Commission containing information required of a person who makes contributions of more than $100 to a candidate or political committee and information required of a candidate or political committee receiving such a contribution.

Subsection (e)(2) provides that statements required by subsection (e) must be filed on dates for the filing of reports by political committees. The statements must include (1) information required by section 309(b)(9), stated in a manner which indicates whether the contribution or independent expenditure is in support of, or in opposition to, a candidate; and (2) under penalty of perjury, certification whether the independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or any authorized committee or agent of the candidate.

Any independent expenditure, including independent expenditures described in section 304(b)(13), of $1,000 or more which is made after the fifteenth day, but more than 24 hours, before any election must be reported within 24 hours of the independent expenditure.

Subsection (e)(3) requires the Commission to prepare indices regarding expenditures made with respect to each candidate. The indices must be issued on a timely preelection basis.

Reports by Certain Persons

Section 105 amends title III of the Act by striking out section 308, relating to reports by certain persons.

Campaign Depositories

Section 106 amends section 308(a)(1) of the Act, as so redesignated by section 105 of the bill, to provide that it is within the discretion of political committees to maintain one or more checking accounts at banks which they designate as campaign depositories.

Powers of Commission

Section 107(a) amends section 310(a) of the Act, as so redesignated by section 105 of the bill, by combining paragraph (10) with paragraph (8). Paragraph (10) relates to the authority of the Commission to develop forms for the filing of reports.

Section 107(b)(1) amends section 310(a) of the Act, as so redesignated by section 105 of the bill, by rewriting paragraph (6). Paragraph (6) gives the Commission authority to initiate, defend, and appeal civil actions.

Subsection (b)(2) amends section 310 of the Act, as so redesignated by section 105 of the bill, by adding a new subsection (e) which provides that the civil action authority of the Commission is the exclusive civil remedy for enforcing the Act, except for actions which may be brought under section 313(a)(9) of the Act, as added by the bill.

Advisory Opinions

Section 108(a) amends section 312 of the Act, as so redesignated by section 105 of the bill, by rewriting subsection (a). Subsection (a) provides that the Commission shall render a written advisory opinion upon the written request of any individual holding a Federal office, any candidate for Federal office, any political committee, or any national committee of a political party. Any such advisory opinion must be rendered within a reasonable time after the request is made and shall indicate whether a specific transaction or activity would constitute a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. Subsection (a) prohibits the Commission or any of its employees from issuing any advisory opinion except in accordance with the provisions of section 312.

Section 108(b) amends section 312 of the Act, as so redesignated by section 105, by rewriting subsection (b). Subsection (b)(1) provides that any person who relies on an advisory opinion and who acts in good faith in accordance with the advisory opinion may not be penalized under the Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 as the result of any such action.

Subsection (b)(2) provides that an advisory opinion may be relied upon by (1) any person involved in the transaction or activity with respect to which the advisory opinion is rendered; and (2) any person involved in any similar transaction or activity.

The Commission is required to transmit to the Congress proposed rules and regulations based on an advisory opinion if the transaction or activity involved is not already covered by any rule or regulation of the Commission. If the Commission receives more than one request for an advisory opinion involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities. Any rule or regulation which the Commission proposes under subsection (b) is subject to the congressional review procedures of section 315(c) of the Act.

Section 108(c) makes a conforming amendment to section 315(c)(1) of the Act.

Section 108(d) provides that the amendments made by section 108 apply to any advisory opinion rendered by the Commission after October 15, 1974.

Enforcement

Section 109 of the bill amends title III of the Act by rewriting section 313, as so redesignated by section 105 of the bill.

Complaints

Section 313(a)(1) permits any person who believes that the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been violated to file a written complaint with the Commission. The complaint must be notarized and signed and sworn to by the person filing the complaint. The person shall be subject to the provisions of section 1001 of title 18, United States Code (relating to false or fraudulent statements).

The Commission is prohibited from conducting any investigation, or taking any other action, solely on the basis of an anonymous complaint.

Subsection (a)(1) prohibits the Commission from investigating the actions or activities of any staff employee of any person holding a Federal office unless the Commission first consults with the person holding Federal office. If the person provides an affidavit that the staff employee is performing his regularly assigned duties, the affidavit shall be a complete bar to any further investigation by the Commission.

Notification and investigation

Subsection (a)(2) provides that, if the Commission has reasonable cause to believe that a person has violated the Act or chapter 95 or Chapter 96 of the Internal Revenue Code of 1954, the Commission is required to notify the person and to conduct an investigation of the violation.

Subsection (a)(3) requires the Commission to conduct any investigation expeditiously and to include in the investigation an additional investigation of any reports and statements filed with the Commission by the complainant involved, if the complainant is a candidate for Federal office. Subsection (a)(3) prohibits the Commission and any other person from making public any investigation or any notification made under subsection (a)(2) without the written consent of the person receiving the notification or the person under investigation.

Subsection (a)(4) requires the Commission to permit any person who receives notification under subsection (a)(2) to demonstrate that the Commission should not take any action against such person under the Act.

Conciliation agreements

Subsection (a)(5) requires the Commission to seek to correct or prevent any violation of the Act by informal methods of conference, conciliation, and persuasion during the 30-day period after the Commission determines there is reasonable cause to believe that a violation has occurred or is about to occur. The Commission also is required to seek to enter into a conciliation agreement with the person involved in such violation. If, however, the Commission has reasonable cause to believe that—

(1) a person has failed to file a report required under section 304(a)(1)(C) of the Act before the date of an election;

(2) a person has failed to file a report required to be filed no later than 10 days before an election; or

(3) on the basis of a complaint filed less than 45 days but more than 10 days before an election, a person has committed a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall seek to informally correct the violation and to enter into a conciliation agreement with the person involved for a period of not less than one-half the number of days between the date upon which the Commission determines that there is reasonable cause to believe a violation has occurred and the date of the election involved.

Any conciliation agreement entered into by the Commission and a person involved in a violation shall constitute a complete bar to any further action by the Commission, unless the person involved violates the conciliation agreement.

Civil actions

Subsection (a)(5) also provides that the Commission may institute a civil action for relief if the Commission is unable to correct or pre-

vent a violation by informal methods and if the Commission determines there is probable cause to believe that the violation has occurred or is about to occur. The relief sought in any civil action may include a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in the violation. The civil action may be brought in the district court of the United States for the district in which the person against whom the action is brought is found, resides, or transacts business.

The court involved shall grant the relief sought by the Commission in a civil action brought by the Commission upon a proper showing that the person involved has engaged or is about to engage in a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Referrals to Attorney General

Subsection (a)(5) also permits the Commission to refer an apparent violation to the Attorney General of the United States if the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 of the Act has occurred or is about to occur. In order for such a referral to made the violation or violations must involve 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. The Commission is not required to engage in any informal conciliation efforts before making any such referral.

Civil penalties

Subsection (a)(6) permits the Commission to include a civil penalty in a conciliation agreement if the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred. The civil penalty may not exceed the greater of (1) $10,000; or (2) an amount equal to 200 percent of the amount of any contribution or expenditure involved in the violation. If the Commission believes that a violation has occurred which is not a knowing and willful violation, the conciliation agreement may require the person involved to pay a civil penalty which does not exceed the greater of (1) $5,000; or (2) an amount equal to the amount of the contribution or expenditure involved in the violation.

Availability of information

Subsection (a)(6) also requires the Commission to make available to the public (1) the results of any conciliation efforts made by the Commission, including any conciliation agreement entered into by the Commission; and (2) any determination by the Commission that a person has not committed a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Court-imposed civil penalties

Subsection (a)(7) permits a court to impose a civil penalty in any civil action for relief brought by the Commission if the court determines that there is clear and convincing proof that a person has committed a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. The civil penalty may not exceed the greater of (1) $10,000; or (2) an amount equal to 200 percent of the contribution or expenditure involved in the violation.

In any case in which a person against whom the court imposes a civil penalty has entered into a conciliation agreement with the Commission, the Commission may bring a civil action if it believes that the person has violated the conciliation agreement. The Commission may obtain relief if it establishes that the person has violated, in whole or in part, any requirement of the conciliation agreement.

Subpenas

Subsection (a)(8) provides that subpenas for witnesses in civil actions in any United States district court may run into any other district.

Private actions for relief

Subsection (a)(9) permits any party to file a petition with the United States District Court for the District of Columbia if the party is aggrieved by an order of the Commission dismissing a complaint filed by the party or by a failure on the part of the Commission to act on the complaint within 90 days after the complaint is filed. The petition must be filed (1) in the case of a dismissal by the Commission, no later than 60 days after the dismissal; or (2) in the case of a failure on the part of the Commission to act on the complaint, no later than 60 days after the initial 90-day period.

The court may declare that the dismissal or failure to act is contrary to law and may direct the Commission to take any action consistent with the declaration no later than 30 days after the court makes the declaration. If the Commission fails to act during the 30-day period, the party who filed the original complaint may bring in his own name a civil action to remedy the violation involved.

Appeals procedures

Subsection (a)(10) provides that any judgment of a district court may be appealed to the court of appeals. Any judgment of a court of appeals which affirms or sets aside, in whole or in part, any 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.

Subsection (a)(11) provides that any action brought under subsection (a) shall be advanced on the docket of the court involved and put ahead of all other actions, other than actions brought under subsection (a) or under section 314.

Civil and criminal contempt

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

Reports by Attorney General

Section 313(b) requires the Attorney General to report to the Commission requiring apparent violations referred to the Attorney General by the Commission. The reports must be transmitted to the Commission no later than 60 days after the date of the referral, and at the close of every 30-day period thereafter until there is final disposition. The Commission may from time to time prepare and publish reports relating to the status of such referrals.

Penalty for disclosure of information

Section 313(c) imposes a penalty against any member of the Commission, any employee of the Commission, or any other person who reveals the identity of any person under investigation in violation of section 313(a)(3)(B). Any such member, employee, or other person is subject to a fine of $2,000 for any such violation. If the violation is knowing and willful the maximum fine is $5,000.

DUTIES OF COMMISSION

Cumulative index

Section 110(a)(1) amends section 315(a)(6) of the Act, as so redesignated by section 105 of the bill, to require the Commission to compile and maintain a separate cumulative index of reports and statements filed by the political committees supporting more than one candidate. The index must include a listing of the date of registration of such political committees and the date upon which such political committees qualify to make expenditures under section 320(a)(2) of the Act. The Commission is required to review the index on the same basis and at the same time as other cumulative indices required under section 315(a)(6).

Auditing of Federal payments

Section 110(a)(2) amends section 315(a)(8) of the Act to require the Commission to give priority to auditing and conducting field investigations requiring 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.

Congressional review procedures

Section 110(b) amends section 315(c)(2) of the Act to provide that the Congress may disapprove proposed rules and regulations of the Commission in whole or in part. The amendment also provides that, whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time (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. Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the consideration of the resolution.

Applicability of Commission rulings

Section 110(c) amends section 315 of the Act by adding a new subsection (e). Subsection (e) provides that, in any civil or criminal proceeding to enforce the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel, or any other pronouncement by the Commission or by any member, officer, or employee of the Commission may be used against the person against whom the proceeding is brought. No such rule, regulation, guideline, advisory opinion, opinion of counsel, or other pronouncement (1) shall have the force of law; (2) may be used to create any presumption of violation or of criminal intent; (3) shall be admissible in evidence against the person involved; or (4) may be used in any other manner. The provisions of subsection (e) do not apply to any rule or regulation of the Commission which takes effect under section 315(c).

ADDITIONAL ENFORCEMENT AUTHORITY

Section 111 amends section 407(a) of the Act to establish conciliation procedures regarding the enforcement of section 407. The amendment provides that, if a person fails to file a report required by title III of the Act, the Commission shall (1) make very effort for a period of not less than 30 days to correct the failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any failure to file which occurs less than 45 days before the date of an election, make every effort to correct the failure by informal methods for a period of not less than one half the number of days between the date of the failure and the date of the election. The Commission, however, may not take any action regarding any complaint filed with the Commission during the 5-day period immediately before an election until after the date of the election.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; PENALTIES

Section 112(a) amends title III of the Act by striking out section 316, as so redesignated by section 105 of the bill, by striking out section 320, as so redesignated by section 105 of the bill, and by adding new sections 320 through 328.

A. LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

Contribution limitations

Section 320(a)(1) prohibits any person from making contributions (1) to any candidate in connection with any election for Federal office which, in the aggregate, exceed $1,000; or (2) to any political committee in any calendar year which exceed, in the aggregate, $1,000.

Subsection (a)(2) prohibits any political committee (other than a principal campaign committee) from making contributions to (1) any candidate in connection with any election for Federal office which, in the aggregate, exceed $5,000; or (2) any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a Presidential candidate may not exceed the limitation described in the preceding sentence with respect to any other candidate for Federal office.

The term "poltical committee" is in (a)(2) defined to mean an organization which (1) is registered as a political committee under

section 303 of the Act for a period of not less than 6 months; (2) has received contributions from more than 50 persons; and (3) except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

Subsection (a)(2) also provides that, for purposes of the limitations provided by subsection (a)(1) and subsection (a)(2), all contributions made by political committees which are established, financed, maintained, or controlled by any corporation, labor organization, or any other person (including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person), or by any group of such persons, shall be considered to have been made by a single political committee, except that (1) the amendment made by the bill does not limit transfers between political committees of funds raised through joint fund raising efforts; and (2) for purposes of the limitations provided by subsection (a)(1) and subsection (a)(2), all contributions made by a single political committee which is established, financed, maintained, or controlled by a national committee of a political party and by a single political committee established, financed, maintained, or controlled by the State committee of a political party, shall not be considered to have been made by a single political committee.

Subsection (a)(2) also provides that, in any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish, finance, maintain, or control more than one separate segregated fund, all such funds shall be treated as a single separate segregated fund for purposes of the limitations provided by subsection (a)(1) and subsection (a)(2).

Subsection (a)(3) prohibits any individual from making contributions which, in the aggregate, exceed $25,000 in any calendar year. Any contribution which is made to a candidate in a year other than the calendar year in which the election involved is held, is considered to be made during the calendar year in which the election is held.

Subsection (a)(4) provides that (1) any contribution to a named candidate which is made to any political committee authorized by the candidate to accept contributions on behalf of the candidate shall be considered to be contributions made to the candidate; (2) any expenditure which is made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate or any authorized political committee or agent of the candidate shall be considered to be a contribution to the candidate; (3) any expenditure to finance publication of any campaign broadcast or any other campaign materials prepared by a candidate or any authorized political committee or agency of the candidate shall be considered to be a contribution to that candidate; and (4) contributions made to a vice presidential nominee shall be considered to be contributions to the presidential nominee of the party involved.

Subsection (a)(5) provides that the contribution limitations established by subsection (a)(1) and subsection (a)(2) shall apply separately to each election, except that all elections in any calendar year for the office of President (except a general election for such office) shall be considered to be one election.

Subsection (a)(6) provides that all contributions made by a person on behalf of a particular candidate, including contributions which are earmarked or directed through an intermediary or conduit to such candidate, shall be treated as contributions from the person involved to the candidate. The intermediary or conduit is required to report the name of the original source of the contribution and the name of the intended recipient of the contribution to the Commission and to report the name of the original source of the contribution to the intended recipient.

Expenditure limitations

Section 320(b)(1) prohibits any candidate for the office of President who has established his eligibility to receive payments under section 9003 of the Internal Revenue Code of 1954 or under section 9033 of the Internal Revenue Code of 1954 from making expenditures in excess of (1) $10,000,000, in the case of a campaign for nomination for election to the office of President; or (2) $20,000,000 in the case of a campaign for election to the office of President. In the case of campaigns for nomination, the aggregate of expenditures in any one State may not exceed twice the greater of (1) 8 cents multiplied by the voting age population of the State; or (2) $100,000.

Subsection (b)(2) provides that (1) expenditures made by a vice-presidential nominee shall be considered to be expenditures made by the presidential nominee of the same political party; and (2) an expenditure is made on behalf of a candidate if it is made by (A) a committee or agent of the candidate authorized to make expenditures; or (B) any person authorized or requested by the candidate or an authorized committee or agent of the candidate to make the expenditure involved.

Increases in expenditure limitations

Section 320(c)(1) provides that, at the beginning of each calendar year (beginning in 1976), as there become available necessary data from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Commission the percentage difference between the price index from the 12-month period preceding the calendar year and the price index for the base period. The term "price index" is defined to mean the average over a calendar year of the Consumer Price Index (all items—United States city average), and the term "base period" is defined to mean the calendar year 1974. Each limitation established by section 320(b) and section 320(d) shall be increased by such percentage difference.

Expenditures by political party committees

Section 320(d)(1) provides that 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.

Subsection (d)(2) provides that the national committee of a political party may not make expenditures in connection with the general election campaign of a candidate for the office of President which exceed an amount equal to 2 cents multiplied by the voting age popula-

tion of the United States. Any expenditures under subsection (d)(2) are considered as an addition to expenditures by a national committee of a political party which is serving as the principal campaign committee of a candidate for the office of President.

Subsection (d)(3) provides that the national committee of a political party and that the State committee of a political party, including any subordinate committee of a State committee, may each make expenditures in connection with the general election campaign of a candidate for Federal office in any State which do not exceed (1) in the case of candidates for election to the office of Senator (or of Representative from a State which is entitled to only one Representative), the greater of (A) 2 cents multiplied by the voting age population of the State; or (B) $20,000; and (2) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

Voting age population

Section 320(e) requires the Secretary of Commerce, during the first week of January 1975, and each subsequent year, to 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" is defined to mean resident population, 18 years of age or older.

Prohibition of contributions and expenditures

Section 320(f) prohibits candidates and political committees from knowingly accepting any contribution or knowingly making any expenditure in violation of section 320. Subsection (f) also prohibits any officer or employee of a political committee from knowingly accepting a contribution made to a candidate, or knowingly making an expenditure on behalf of a candidate in violation of section 320.

Attribution of expenditures

Section 320(g) requires the Commission to prescribe rules under which expenditures by a candidate for Presidential nomination for use in two or more States shall be attributed to the expenditure limits of such candidate in each State involved. The attribution shall be based on the voting age population in each State which can reasonably be expected to be influenced by the expenditure.

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

Prohibition of contributions and expenditures

Section 321(a) makes it unlawful for any national bank or any corporation to make any contribution or expenditure in connection with (1) any election to any political office; or (2) any primary election or political convention or caucus held to select candidates for any political office. Subsection (a) also prohibits any corporation or labor organization from making a contribution or expenditure in connection with (1) any general election for Federal office; or (2) any primary election or political convention or caucus held to select candidates for any Federal office.

Subsection (a) also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any contribution which is prohibited by section 321. It is also unlawful for any officer or director of a corporation or national bank, or any officer of a labor organization, to consent to any contribution or expenditure which is prohibited by section 321.

Definition of labor organization

Section 321(b)(1) defines the term "labor organization" to mean any organization or any agency or employee representation committee or plan in which employers participate and which exists for the purpose of dealing with employees regarding grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Definition of contribution or expenditure

Subsection (b)(2) defines the term "contribution or expenditure" to include any payment or other distribution of money, services, or anything of value (except a lawful loan by a national or State bank in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any Federal office.

Such term, however, does not include—

(1) communications on any subject by a corporation to its stockholders and executive officers and their families, or by a labor organization to its members and their families;

(2) nonpartisan registration and voting campaigns conducted by a corporation with respect to its stockholders and its executive officers and their families, or by a labor organization with respect to its members and their families; and

(3) the establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes by a corporation or labor organization, except that—

(A) it is unlawful for such a fund to make a contribution or expenditure through the use of money or anything of value secured by (i) physical force; (ii) job discrimination; (iii) financial reprisal; (iv) the threat of force, job discrimination, or financial reprisals; (v) dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment; or (vi) moneys obtained in any commercial transaction;

(B) it is unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than stockholders and executive officers of such corporation and their families, for an incorporated trade association or a separate segregated fund established by such an association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of stockholders and executive officers (to the extent that any such solicitation has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year),

or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than the members of the labor organization and their families;

(C) any method of soliciting voluntary contributions, or of facilitating the making of voluntary contributions, to a separate segregated fund established by a corporation which may be used by a corporation also may be used by labor organizations; and

(D) a corporation which uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions shall make such method available to a labor organization representing any members who work for the corporation, upon written request by the labor organization.

Definition of executive officer

Subsection (b)(3) defines the term "executive officer" to mean an individual employed by a corporation who is paid on a salary rather than an hourly basis and who has policymaking or supervisory responsibilities.

C. CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

Section 322(a) makes it unlawful for any person who enters into certain contracts with the United States to make any contribution, or to promise to make any contribution, to any political party, committee, or candidate for public office, or to any person for any political purpose or use, or to solicit any such contribution from any such person. The prohibition applies during the period beginning on the date of the commencement of negotiations for the contract involved and ending on the later of (1) the completion of performance under the contract; or (2) the termination of negotiations for the contract.

The prohibition applies with respect to any contract with the United States or any department or agency of the United States for (1) the performance of personal services; (2) furnishing any materials, supplies, or equipment; or (3) selling any land or building. The prohibition, however, applies only if payment under the contract is to be made in whole or in part from funds appropriated by the Congress.

Section 322(b) provides that section 322 does not prohibit the operation of a separate segregated fund by a 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 prohibit the operation of such fund.

Section 322(c) defines the term "labor organization" by giving it the same meaning as in section 321.

D. PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

Section 323 provides that, whenever a person makes an expenditure to finance a communication which advocates the election or defeat of a clearly identified candidate through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, such communication (1) if authorized by a candidate or an authorized political committee or

agent of a candidate, shall state that such communication has been so authorized; or (2) if not authorized by a candidate, or an authorized political committee or agent of a candidate, shall state (A) that the communication is not so authorized; and (B) the name of the person making or financing the expenditure for the communication, including (in the case of a political committee) the name of any affiliated organization as stated in section 303(b)(2) of the Act.

E. CONTRIBUTIONS BY FOREIGN NATIONALS

Section 324(a) makes it unlawful for a foreign national to make any contribution in connection with (1) any election to any political office; or (2) any primary election, convention, or caucus held to select candidates for any political office. It is also unlawful for any person to solicit, accept, or receive any such contribution from a foreign national.

Section 324(b) defines the term "foreign national" to mean (1) a foreign principal, as defined by section 1(b) of the Foreign Agents Registration Act of 1938, except that the term "foreign national" does 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.

Section 324 is the same as section 613 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 613 of title 18, United States Code.

F. PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

Section 325 prohibits any person from (1) making a contribution in the name of another person; (2) knowingly permitting his name to be used to make such a contribution; and (3) knowingly accepting a contribution made by one person in the name of another person.

Section 325 is the same as section 614 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 614 of title 18, United States Code.

G. LIMITATION ON CONTRIBUTIONS OF CURRENCY

Section 326(a) prohibits any person from making contributions of currency of the United States or of any foreign country to any candidate which, in the aggregate, exceed $250, with respect to any campaign of the candidate for nomination for election, or for election, to Federal office.

Sectin 326(b) provides that any person who knowingly and willfully violates section 326 shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

H. ACCEPTANCE OF EXCESSIVE HONORARIUMS

Section 327 prohibits any person who is an elected or appointed officer of employee of any branch of the Federal Government from

accepting (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 aggregating more than $15,000 in any calendar year.

Section 327 is the same as section 616 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 616 of title 18, United States Code.

I. PENALTIES FOR VIOLATIONS

Section 328 provides that any person who knowingly and willfully violates any provision or provisions of the Act (other than section 326) which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $5,000 or more during any calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution or expenditure involved, imprisoned for not more than 1 year, or both.

J. FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

Section 112(b) of the bill amends title III of the Act by adding a new section 316. Section 316 prohibits any candidate for Federal office, or any employee or agent of the candidate from (1) fraudulently misrepresenting himself (or any committee or organization under his control) as acting for or on behalf of any other candidate or political party regarding a matter which is damaging to such other candidate or political party; or (2) participating in, or conspiring to participate in, any plan to violate section 316.

Section 316 is substantially the same as section 617 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 617 of title 18, United States Code.

Savings Provision Relating to Repealed Sections

Section 113 amends title III of the Act by adding a new section 329. Section 329 provides that the repeal by the bill of any provision or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under the provision or penalty. The provision or penalty shall be treated as remaining in force for the purpose of sustaining any action or prosecution for the enforcement of the penalty, forfeiture, or liability.

Principal Campaign Committees

Section 114 amends section 302(f) of the Act to provide that, with respect to the designation of political committees as principal campaign committees, any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of section 302.

Termination of Authority of Commission

Section 115 amends title IV of the Act by adding a new section 409. Section 409(a) provides that the authority of the Commission to carry out the Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954 will terminate at the close of March 31, 1977, if either House of the Congress determines by appropriate action that such termination shall take effect.

Section 409(b) provides that the appropriate committee of each House of the Congress shall, beginning on January 3, 1977, conduct a review of (1) elections for Federal office conducted in 1976; (2) the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections; and (3) the activities of the Commission. Each such committee shall report to the appropriate House of the Congress not later than March 1, 1977. The report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977.

Section 409(c) provides that section 409 does not affect any proceeding pending in any court of the United States on the effective date of section 409. The Attorney General is given authority to act on behalf of the United States in any such proceeding.

Technical and Conforming Amendments

Section 116 makes several technical and conforming amendments to the Act and to the Internal Revenue Code of 1954.

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

Repeal of Certain Provisions

Section 201(a) amends chapter 29 of title 18, United States Code, by striking out sections 608 (relating to limitations on contributions and expenditures), 610 (relating to contributions or expenditures by national banks, corporations, or labor organizations), 611 (relating to contributions by Government contractors), 612 (relating to publication or distribution of political statements), 613 (relating to contributions by foreign nationals), 614 (relating to prohibition of contributions in name of another), 615 (relating to limitations on contributions of currency), 616 (relating to acceptance of excessive honorariums), and 617 (relating to fraudulent misrepresentation of campaign authority).

Section 201(b) makes conforming amendments to the table of sections for chapter 29 of title 18, United States Code.

Changes in Definitions

Section 202(a) makes a conforming amendment to section 591 of title 18, United States Code, based upon the amendment made by section 201(a) of the bill.

Section 202(b) amends section 591(e)(4) of title 18, United States Code, to provide that the term "contribution" does not apply (1) in the case of any legal or accounting services rendered to the national committee of a political party, other than any such services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (2) in the case of any legal or accounting services rendered to a candidate or political committee solely for the purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Section 202(c) amends section 591(f)(4) of title 18, United States Code, to provide that the term "expenditure" does not include the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered (1) to the national committee of a political party, other than services attributable to activities which further the election of a designated candidate to Federal office; or (2) to a candidate or political committee solely for the purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

Entitlement of Eligible Candidates to Payments

Section 301 amends section 9004 of the Internal Revenue Code of 1954 by adding new subsections (d) and (e). Subsection (d) provides that, in order to be eligible to receive payments under section 9006, a candidate of a major, minor, or new party for election to the office of President must certify to the Commission that the candidate will 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 an aggregate amount of $50,000. Expenditures made by a vice-presidential nominee shall be considered to be expenditures made by the Presidential nominee of the same political party.

Subsection (e) defines the term "immediate family" to mean the spouse of a candidate, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

Payments to Eligible Candidates; Insufficient Amounts in Fund

Section 302(a) amends section 9006 of the Internal Revenue Code of 1954 by striking out subsection (b). Subsection (b) provides that any moneys remaining in the Presidential Election Campaign Fund after a Presidential election shall be transferred to the general fund of the Treasury.

Section 302(b) amends section 9006(c) of the Internal Revenue Code of 1954, as so redesignated by section 302(a) of the bill, to provide that, in any case in which the Secretary of the Treasury determines that there are not sufficient moneys in the Presidential Election Campaign Fund to make payments under section 9006(b), section 9008(b)(3), and section 9037(b) of the Internal Revenue Code of 1954, moneys shall not be made available from any other source for the purpose of making payments.

Provision of Legal or Accounting Services

Section 303 amends section 9008(d) of the Internal Revenue Code of 1954 by adding a new paragraph (4). Paragraph (4) provides that any payment by a person other than the national committee of a political party of compensation to any person for legal or accounting services rendered to the national committee of a political party shall not be treated as an expenditure made by the national committee with respect to the Presidential nominating convention of the political party involved.

Review of Regulations

Section 304(a) amends section 9009(c)(2) of the Internal Revenue Code of 1954 to provide that the Congress may disapprove proposed rules and regulations of the Commission in whole or in part. The amendment also provides that, whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time (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. Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the consideration of the resolution.

Section 304(b) makes an identical amendment to section 9039(c)(2) of the Internal Revenue Code of 1954.

Eligibility for Payments

Section 305 makes a conforming amendment to section 9033(b)(1) of the Internal Revenue Code of 1954, based upon amendments made by section 306 of the bill.

Qualified Campaign Expense Limitation

Section 306(a) amends section 9035 of the Internal Revenue Code of 1954 to provide that any candidate seeking Federal matching funds in connection with a campaign for nomination for election to the office of President may not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign which exceed an aggregate amount of $50,000. Section 306(a) also amends section 9035 of the Internal Revenue Code of 1954 by adding a new subsection (b) which defines the term "immediate family" to mean the spouse of a candidate, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

Section 306(b) makes a conforming amendment to the table of sections for chapter 96 of the Internal Revenue Code of 1954.

Return of Federal Matching Funds

Section 307(a)(1) amends section 9002(2) of the Internal Revenue Code of 1954 to provide that the term "candidate" does not include any individual who has ceased actively to seek election to the office of President or to the office of Vice President in more than one State.

Section 307(a)(2) amends section 9003 of the Internal Revenue Code of 1954 by adding a new subsection (d). Subsection (d) provides that, in any case in which an individual ceases to be a candidate for the office of President or Vice President as a result of the operation of the last sentence of section 9002(2) of the Internal Revenue Code of 1954 (which is added by the amendment made by section 307(a)(1) of the bill), such individual (1) shall no longer be eligible to receive any Federal payments; and (2) shall pay to the Secretary of the Treasury, as soon as practicable after the date upon which the individual ceases to be a candidate, an amount equal to the amount of payments received by the individual which are not used to defray qualified campaign expenses.

Section 307(b) makes amendments to section 9032(2) of the Internal Revenue Code of 1954 and to section 9033 of such Code which are substantially similar to the amendments made by section 307(a). The amendments made by section 307(b) relate to the receipt of Federal matching payments in Presidential primary elections.

Technical and Conforming Amendments

Section 308 makes several technical and conforming amendments to the Internal Revenue Code of 1954.

SUPPLEMENTAL VIEWS OF JAMES C. CLEVELAND

Although I find myself in sympathy with some of the thoughts expressed in the minority views, I have not signed them. Some of the items to which the minority object can probably be taken care of by the amendment process on the Floor of the House or in the House-Senate conference committee.

It has been argued that the provisions of the bill are unduly restrictive of the Federal Elections Commission and its ability to make and enforce decisions. I don't find this particularly objectionable. Although Congressional motives in imposing restrictions on the rule-making process of the FEC may be suspect, to me at least, it is high time that the U.S. Congress imposes similar restrictions on most other independent regulatory agencies.

It is no secret that there is growing disenchantment with the manner in which the federal government is performing. Many of the complaints can be laid directly at the door of independent regulatory agencies that have assumed powers the Congress never intended and have exercised those powers with such arrogance and stupidity as to erode public confidence in government.

For this reason, it is predictable that so-called "sunset" laws will soon be enacted by states and, hopefully, the message will eventually get through to Congress. Insofar as we are establishing procedures to closely monitor the FEC—despite the fact that the Congressional motive may be subject to suspicion in this particular case—the experiment is well worth at least trying.

I do have some objections to the legislation, however. The principal one is based on my conviction that the Congress made a significant error in totally pre-empting all state election laws, and federal preemption is continued in the new amendments. Some of the states had excellent laws which were more practicable and fully as effective as the federal law if not more so. In spite of the growing feeling in the U.S. Congress that it is inefficient to attempt to run everything from Washington, we're at it again. The ultimate act of violence to the principle that there are many important functions best left to the states is the provision in this bill that a candidate doesn't even have to file copies of his disclosure reports with any state office.

James C. Cleveland.

MINORITY VIEWS

On January 30th of this year, the Supreme Court issued its opinion in *Buckley* v. *Valeo*. The Court held inter alia that the administrative powers delegated to the Federal Election Commission were unconstitutional because of the manner in which the members were appointed. It left our Committee with a compelling duty to take prompt action to remedy the situation.

Fortunately, the circumstances of this situation presented us with an easily achievable solution, a simple reconstitution of the Commission. Unfortunately, the majority of the Committee ignored this alternative. Instead, without the benefit of hearings, they embarked on a process which has resulted in the bill that we have before us at the present time.

The Committee has reported H.R. 12406, a bill of extraordinary complexity, which amounts to a massive revision of the Federal Election Campaign Act. While this bill has fifty-eight pages, only the first two deal with the essential reconstitution of the Federal Election Commission.

The amendments represent a major change in our election laws in a year of both Presidential and Congressional election contests. This is truly analogous to changing the rules in a baseball game in the third inning. They contain features which clearly benefit Congressional incumbents to the detriment of challengers; this is fundamentally unfair. They strike at the very heart of an independent Federal Election Commission and in effect reconstitute it as a virtual sub-committee of this Committee. Taken together, these provisions amount to an antireform rather than to a reform measure.

There are few who would not agree that the Federal Election Campaign Act of 1971 and its 1974 amendments are a very complex and extremely unwieldy piece of legislation. The act is hardly conducive to compliance by the public for the simple reason that it is so difficult to understand. The record of the 1976 elections will doubtlessly be replete with unintentional violations. One of our major goals should be to encourage greater participation in the political process. Unfortunately, we have added yet another layer of complexity to the law that will discourage participation.

The implication of the preceding paragraph is obvious; our election law should be made easier to understand. The most cursory review of this legislation indicates that we have not accomplished that result. Rather, we have made key sections of the Federal Election Campaign Act even more complex than they were when we began our work.

It cannot be denied that the more delay there is in the development and ultimate passage by the Congress of curative legislation, the greater uncertainty there will be among candidates and committees as to what the ground rules will be for the upcoming elections. As was noted above, we could have reported out a simple reconstitution bill to bring

the act's appointment mechanism into harmony with the Court's mandate. If we had taken that route instead of the one we did, then the "reconstitution crisis" would be over and done with, and hopefully the Commission would be well on the way, with an occasional nudge from the Congress to getting on with its assigned responsibilities.

Legislation of this sort should not be written in an election year. Rather, we should postpone the consideration of any substantive amendments, aside from a simple reconstitution, until after the elections. In 1977, we will have two conditions that are conducive to a major overhaul of the Act which are absent at this time. The political atmosphere will be less heated, and perhaps more importantly, the elections will have given us vitally needed experience as to how the present law works and how the Federal Election Commission functions during a "peak business year". Serious difficulties have already become apparent in the Presidential primary matching fund area. This year's elections will surely reveal problems in other areas of the present law.

The Bill Is a Major Revision of Our Election Law in an Election Year.

This legislation has a myriad of provisions that amount to a major revision of the Federal Election Campaign Act. Space limitations do not permit a treatment of each change; however, the major amendments are discussed below:

The definitions of contribution and expenditure have been amended to exclude legal and accounting services rendered in certain circumstances. Independent expenditure is defined to reflect the Court's opinion in the *Buckley* case. New reporting requirements in the independent expenditure area have been added to the present law.

The reporting requirements for political committees and candidates have been amended so that in non-election years, candidates and committees will not be obliged to file quarterly reports unless they have received contributions or made expenditures in excess of $10,000.00. This provision limits the disclosure features of the present law.

The bill changes the law governing political action committees including a drastic reduction in permissible individual contributions and amendments designed to restrict the proliferation of these groups.

Another major change involves the area of criminal penalties. The bill provides for fines of up to the greater of $25,000 or 300 percent of the amount of any involved contributions or expenditures or for a jail sentence but only for violations of the law where the amount of the contributions or expenditures involved is more than $5,000.

Any individual who "knowingly or willfully" violates the section limiting cash contributions is subject to a fine "which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved. The level of permissible cash contributions incidentally has been raised to $250.

This new penalty section replaces the separate penalty sections under present law which attach to illegal corporate and labor union contributions; the contribution limitations; and other sections dealing with illegal political activity. The penalties have been lessened, this is particularly true of the possibility of imprisonment. For example,

under present law, a willful violation of the section forbidding corporate contributions, no matter what the amount, could result in a prison term of two years. This bill severely limits the possibility of imprisonment for violations.

Present law requires that copies of all reports filed under the Act also be filed with the Secretary of State of the state where a given candidate is running for office. This provision allows local residents ready access to a candidate's filings. The bill strikes this provision thus eliminating one facet of the present law's disclosure provisions.

This Bill Destroys the Independence of the Federal Election Commission

Section 108 of the bill grants the Congress a veto power over all advisory opinions. The Commission will be obliged to submit its advisory opinions to the Congress under the Congressional review sections of the Federal Election Campaign Act. This means that our committee will have thirty days in which to scrutinize each one and will be able to disapprove those with which they do not agree.

It will take longer than it has heretofore for the public to obtain final opinions on which they can rely. The increased uncertainty and difficulty that will result from this new process will surely decrease the effectiveness of advisory opinions as vehicles for interpreting the Federal Election Campaign Act.

This section applies to every advisory opinion issued by the Commission since its inception unless the transaction dealt with in the opinion is subject to a pre-existing Commission regulation. To date, the Commission has not prescribed any rules or regulations, yet it has issued nearly 100 advisory opinions. Moreover, a single advisory opinion often speaks to more than one issue.

It is clear from the preceeding paragraph that the Congress will be deluged by a veritable flood of advisory opinions submitted for our review. Many of these involve intricate fact patterns and complex legal issues. There is a very real question whether we will have the time to give each one the attention it deserves. Additionally, this provision cannot help but result in a virtual hodgepodge of inconsistent regulations.

Section 10 of the bill includes a provision that in effect gives either House of Congress, the opportunity to literally rewrite proposed regulations submitted to it by the Commission. It provides that Congress can veto regulations, entirely or in part, during the course of the Congressional review process. It should be noted that the Supreme Court in its opinion in *Buckley* specifically reserved judgment on the constitutionality of the review process. The constitutionality of this provision has been questioned and no doubt will be again. It would appear that a strengthening of the Congressional review provisions would increase the vulnerability of the Act to a court challenge and could lead us to a repetition of the same sort of crisis brought on by the Buckley opinion.

The enforcement section of the Act has been completely restructured. A new reasonable cause standard has been added. In a preponderance of cases, the Commission will be obliged to correct or prevent viola-

tions by informal methods with an eye to entering into conciliation agreements. Such an agreement, unless violated, is a complete bar to further enforcement activity. Other parts of the new enforcement section include a provision for civil penalty fines. Furthermore, the Federal Election Commission is prohibited from acting on any violation that occurs within five days of an election. This section, which covers some eight pages in the bill, imposes a rigid procedural frame work on the Commission that may prevent that agency from effectively carrying out its responsibilities.

Section 115 of the bill directs our Committee and the appropriate Committee in the other body to review the Commission's implementation of the election laws during the first three months of calendar year 1977. They are further directed to recommend whether the Commission should be terminated as of March 31, 1977. A recommendation by either House to that effect will result in the demise of the Commission. Notwithstanding the fact that a directive issued by the 94th Congress to the 95th Congress is of dubious legal efficacy, it represents clear notice from the Committee to the Commission that their activities during the remainder of this campaign year will be closely monitored and could lead to their abolition.

This Legislation Is Slanted Toward Incumbent Office Holders

The Commission will not be authorized to investigate whether a Federal office holder's staff is engaged in improper campaign activities without first consulting the office holder. If an affadavit is executed by the office holder that the staff is performing its regularly assigned duties, then the Commission is barred from any further inquiry. This provision clearly imparts an advantage to incumbents which is not enjoyed by challengers.

The very complexity of this legislation will help incumbents, who with their large staffs and greater access to expert assistance will be better able to cope with the arcane mysteries of this bill than will challengers.

The Present Situation Calls for a Simple Extension of the Federal Election Commission and Nothing More

The Minority believes that this bill should not be passed for the reasons stated in the preceding paragraphs. The Federal Election Commission should be reconstituted so that it can continue to implement the Federal Election Campaign Act. The Congress should move promptly to pass legislation appropriate to that end. It would be derelict in its duty if it did not so act.

Charles E. Wiggins.
Marjorie S. Holt.
Bill Frenzel.
William L. Dickinson.
Samuel L. Devine.
J. Herbert Burke.
W. Henson Moore.

ADDITIONAL VIEWS BY CONGRESSMEN DEVINE AND DICKINSON

It is our view that the electoral process in a republic is better served by the candid, free and informed weighing of the competing interests, candidates, and campaigns facing the voters.

Accordingly, we are inalterably opposed to the basic concepts imbodied in H.R. 12406. The first amendment cure for corrupt infection is open discussion of the evil and wide participation in the political process. H.R. 12406 will, in our opinion, through legal restrictions, bureaucratic regulation and complexities drive people, ideas, and issues from the political arena, which should be an uninhibited market place for the vast array of public interests that must ultimately forge the course of government. Further, as written, an inbalance favoring big labor continues to the detriment of others who would like to have a reasonable political imput.

We are particularly opposed to the concept of Public Financing and fully agree with Chief Justice Burger in his dissenting opinion in Buckley v. Valeo:

> I would, however, fault the Court for not adequately analyzing and meeting head-on, the issue whether public financial assistance to the private political activity of individual citizens and parties is a legitimate expenditure of public funds. The public monies at issue here are not being employed simply to police the integrity of the electoral process or to provide a forum for the use of all participants in the political dialog, as would, for example, be the case if free broadcast time were granted. Rather, we are confronted with the Government's actual financing, out of general revenues, a segment of the political debate itself. As Senator Howard Baker remarked during the debate on this legislation:
>
> "I think there is something politically incestuous about the Government financing and, I believe, inevitably then regulating, the day to day procedures by which the Government is selected. I think it is extraordinarily important that the Government not control the machinery by which the public expresses the range of its desires, demands, and dissent."
>
> If this "incest" affected only the issue of wisdom of the plan, it would be none of the concern of judges. But, in my view, the inappropriateness of subsidizing, from general revenues, the actual political dialog of the people—the process which begets the Government itself—is as basic to our national tradition as the separation of church and state also deriving from the First Amendment.

Already we have seen examples of potential abuses in public financing. We have single issue candidates using public funds to promote their cause. We have candidates withdrawing or "suspending" their campaigns under conditions which could abuse the system. We have closed one loophole by an amendment in the Committee; others remain.

We are also opposed to the Federal Election Commission as conceived in this bill. We question whether Congress should turn over the management of its elections to another branch of government. It does violence to the separation of powers and injects bureaucracy into the political selection process.

In an attempt to reach this problem, H.R. 12406 provides for elaborate legislative vetoes. But this method is on thin ice constitutionally. The plaintiffs in the Buckley case challenged the legislative veto as an unconstitutional infringement of separation-of-powers principles. If commission rules subject to the veto are regarded as legislative in nature, then the veto results in what is in effect legislation by Congress without the President's having his constitutionally required opportunity to participate in the legislative process. If, on the other hand, the rule-making function is executive—as the Court strongly suggested in its discussion of the method of appointing the commissioners—then the veto is an impermissible intrusion on executive authority. And the Act's provision for a veto by either House acting alone is even more questionable than the more usual device of concurrent resolution.

The Court found it unnecessary to pass on the legislative veto issue as such, since it held the commission's rule-making power unconstitutional because of the appointment method. The Court's opinion contains a lengthy footnote (slip opinion page 134, n. 176) which carefully outlined the legislative-veto question and expressly left it open. In that footnote the Court cited two law review articles which argued that the legislative veto is unconstitutional.

If the Congressional control of the commission does not pass constitutional muster and the remainder of H.R. 12406 is allowed to stand, the problems are compounded rather than resolved. This whole bundle might well be categorized in the area of reform simply for the sake of reform.

SAMUEL L. DEVINE.
WILLIAM L. DICKINSON.

SEPARATE VIEWS OF CONGRESSMEN DICKINSON AND DEVINE

When the Federal Election Campaign Act Amendments of 1974 were before the last Congress we filed separate views in the Committee Report at Page 123 of House Report 93–1239 as follows:

"The undersigned recognize that honest elections are essential to the survival of our form of Government and that there is a constant and ongoing need for legislation in this field. However, this legislation, to be effective must be fair and workable. It is with this last thought in mind that the undersigned oppose this bill.

"The undersigned regard the following aspects of the bill as particularly unrealistic for the reasons given:

1. "*Financing of Presidential Primaries.*—The provisions for public financing of Presidential Primaries will inject the Federal Treasury into what many times amounts to a popularity contest under a formula that will probably work unfairly to the candidates involved.

"The prospect of a Federal subsidy to run for office may very well result in a proliferation of candidates. Access to such subsidies would be an incentive to everyone with a desire for publicity to become a candidate; primaries may then become an anarchic jungle with policy issues largely obscured. The subsidy might also be a temptation for those who anticipate financial gain from running for office.

"The use of private money we are told has weakened public confidence in the democratic process. But is this confidence likely to be restored when tax payers pay for campaigns they regard as frivolous, wasteful and in some cases, abhorrent?

"Finally, we are told that subsidies will reduce the pressures on candidates for dependence on large campaign contributions from private sources. Where indeed will our democratic process be when the candidates' principal constituent is the Federal Establishment.

"2. *Financing of Conventions.*—The undersigned oppose the public financing of political conventions. Conventions are uniquely a party function and as such should not be supported by the overburdened public treasury. Nor should the party be entangled in the bureaucratic regulatory web which is envisioned by the present language of the bill. The party must have the ability to determine the size and form of its convention; this can only be accomplished if the party retains control of its purse strings. Furthermore, the vitality of the party is enhanced by the participation of its members, while public

financing of conventions will undercut individual initiative and participation.

"The ever increasing encroachment of the federal bureaucracy into the private lives of our citizens is taking another large step with the enactment of convention financing. The two party system, free from bureaucratic tampering, has been a fourth branch in our constitutional form of government and will only remain a strong force if it is kept in the hands of the people.

"3. *Political Parties.*—Instead of strengtening the role of political parties in the political process, the Committee bill, by treating political parties the same as all other political committees, would significantly weaken and contribute to the demise of the two party system.

"Section 101(b)(2) of the bill places a limitation of $5,000 on the contributions of political committees to candidates for Federal office. The definition of political committee clearly encompasses the national and state committees of the major parties, thus limiting them to $5,000 contributions. It would also apply to both direct cash transfers and services provided to or for the benefit of candidates, many of which presently performed without the candidates' full knowledge.

"The undersigned strongly believe that the national and state committees of the major parties should be excluded from the definition of political committee for the purpose of contribution limitations. The national and state committees have been traditionally the policy making bodies of the major parties and are cornerstones of our political system. The definition in the bill presently treats these important committees equally with all other committees, even small special interest committees. The national and state committees must be permitted the ability to assist candidates as the need arises so that a strong and dynamic party system can be maintained.

"The governments of many countries throughout the world are going through a period of extreme instability. The United States can best avoid this phenomenon by furthering the development of a strong party system. If major parties are weakened or destroyed by a series of legislative shackles placed on them in the name of reform, our constitutional form of government will be seriously undermined.

"In their haste to reform the funding of political campaigns, the Committee has severely limited the function of the parties. If the national and state committees have no control over their candidates, there will be little, if any, reason for candidates to adhere to the policy decisions of the party and the inevitable splintering of the two-party system will have begun. To prevent this from occurring, national and state parties must be exempted from the same limitations on contributions by political committees.

"4. *Citizens participation.*—A final concern of the undersigned is that the sheer length and complexity of this bill will discourage citizen participation and involvement perhaps even driving many people right out of politics.

Many people, when confronted with the complexity of this legislation, may become overwhelmed and give up politics in disgust. There will be ample potential for unintentional violations of the law. Many people may worry about going to jail or being fined for an inadvertent violation. Indeed, it is inevitable unless the administration and enforcement is done with tolerance and understanding of the complexities and problems involved.

Many well-qualified individuals may view the burdensome reporting requirements and complicated regulations as an insurmountable obstacle and choose not to run. In addition to understanding the lengthy complicated disclosure forms, candidates may have to familiarize themselves with hundreds of pages of regulations promulgated to insure fair administration and enforcement of the limitations.

Spontaneous, grassroots action and people who are political novices or independent of regular political channels should not be discouraged. The loss of such activities and candidacies would be a major blow to our political process.

The undersigned urge the administrators and enforcers of the law to take every action possible to simplify reporting procedures and to make regulations easy to understand and intelligible to those not well versed in the law. In addition, services should be provided to candidates who do not understand the law or who are unable to understand the legal jargon used in the law and regulations so that they will not be found in violation of the law.

It would be ironic indeed if, in the name of reforming our present system of campaign financing, we fail to drive out the special interests and only succeed in driving honest, concerned citizens from participation in the political process.

These views are now coming to pass. Considering the provisions that are contained in H.R. 12406, we respectfully reassign these same views and as things are now going we fully expect to reassign them in the 95th Congress.

WILLIAM L. DICKINSON.
SAMUEL L. DEVINE.

SUPPLEMENTAL VIEWS OF MR. FRENZEL

When the Supreme Court decision on Buckley, et al, was announced, the President promptly asked the Congress to reestablish the Federal Election Commission.

To encourage the Congress not to get slowed down in the consideration of other aspects of the election law, he also proposed that the FEC be given an expiration date of next winter. That feature would force another look at the whole law next year, but would assure that election laws now in effect would remain uniform throughout this year's election period.

The House Administration Committee ignored this good advice. Instead, it is now presenting a major, comprehensive revision and recodification of the election laws.

A sweeping revision of our election law is not a bad idea if it had been done in the regular manner. But no witnesses were called. The FEC was not called to testify. No party officials were allowed to testify. No candidates could appear. No public interest groups were invited. In short, not one minute of public hearings were held.

Incumbents re-wrote the law all by themselves. But none of the challengers, none of the parties, and none of the people, were even allowed to present testimony.

Without hearings, the Committee fashioned about the kind of an election bill a group of incumbents might be expected to make. It guts the independence of the FEC, and it feathers the nests of incumbents. It is a substantial retreat from the reforms of 1974. The foxes are back in charge of the chicken coop.

H.R. 12406 weakens the Election Commission to an intolerable level. Under it, either House of Congress can veto any decision of the Federal Election Commission. In fact, either House can terminate the FEC. Under the bill, the FEC is subservient to Congress. It is reduced to being almost a subcommittee of the House Administration Committee.

The bill is self serving—another incumbent's delight. Penalties are reduced, and in some cases, like receiving excessive honoraria, eliminated. Congressional staff is made immune from investigation. Filings with Secretaries of States are eliminated.

The bill changes or eliminates all existing procedures. It repeals all advisory opinions. Since Congress has approved no regulations, there are none. Without advisory opinions, all candidates, parties, and political participants are without rules or guidelines.

Based on the Congressional record of rejecting regulations, the primaries will be over long before any regulations are in place. Some needed regulations probably won't be approved by general election time.

The bill also changes all the criminal procedures, by instituting a new civil procedure, and by changing, largely through reductions, the penalties for violation.

Briefly here's what the bill does:

I. Reconstitutes the Federal Election Commission, but

II. Removes its last shred of independence by:
- (a) effectively repealing all existing advisory opinions;
- (b) eliminating all opinions other than advisory opinions;
- (c) claiming a one-House veto on future opinions;
- (d) allowing a veto of any part of a regulation;
- (e) extending veto powers over forms as well as regulations;
- (f) providing a preferential, non-debatable rule on veto resolution;
- (g) allowing either House to kill the FEC by resolution.

III. Provides special shelters for incumbents by:
- (a) immunizing all congressional employees from FEC investigation;
- (b) reducing penalties for such violations as receiving excessive honoraria;
- (c) effectively removes jail sentences for violators, but provides them for false swearing of complaints;
- (d) allowing one candidate's committee to transfer funds to another;
- (e) eliminating filing with secretaries of state;
- (f) directing FEC to audit Presidential candidates first;
- (g) remaining silent on disclosure of congressional office accounts (slush funds);
- (h) increasing allowable cash contributions by 250 percent;
- (i) adding restrictions and burdensome reporting for independent expenditures.

IV. Revises criminal code and penalty sections by:
- (a) creating a civil process;
- (b) giving FEC power to assess fines;
- (c) making FEC prosecutor in civil cases;
- (d) removing most jail penalties, if less than $5,000 violation;
- (e) reducing authority of Justice Department;
- (f) reducing FEC ability to ask that illegal practices be enjoined.

V. Gives Union Political Action Committees unfair advantages by:
- (a) repealing SUNPAC (AO No. 23) decision which was approved by Justice Department and by Supreme Court;
- (b) giving unions exclusive right to solicit union members for political contributions;
- (c) denying corporate political action committees right to solicit their employees;
- (d) preserving exemption from disclosure for political action committee expenditures.

VI. Makes other substantial changes too numerous to detail

H.R. 12406, the Committee bill, is bad law. It seeks to use a popular, needed, feature—the reconstitution of the Federal Election Commission—as a vehicle to carry many complicated, objectionable changes in all facets of our election law.

H.R. 12406 is not necessary. There are nearly 100 House sponsors of simple reconstitution bills. That was the President's recommendation and Common Cause's recommendation. A simple bill to reestablish the Federal Election Commission is still the best solution. H.R. 12406 is an unacceptable 58 page monster.

SUPPLEMENTAL VIEWS OF W. HENSON MOORE

I am strongly opposed to this bill for reasons expressed in the Minority Report and one additional one. Section 321(b) provides among other things that a corporate political action committee cannot solicit to be members of that committee any person other than its stockholders, executive officers or their families. Executive officers are defined as salaried employees with policy making or supervisory authority. This changes the existing law which allows a corporate political action committee to solicit not only those persons, but any employee of the corporation. The existing law has been approved by the Federal Elections Commission, the Justice Department and the United States Supreme Court in the recent decision of *McCarthy and Buckley* v. *Valeo*.

I believe this new language to be unconstitutional, unwise and unfair. It makes an illogical distinction between types of employees of a corporation and treats them discriminatorily. Under the new language, a corporate political action committee could not solicit the large majority of its employees for no apparent rational reason. Whether an employee is paid by the hour, piece or salary, and whether an employee supervises others or is supervised, he or she is no less an employee and has the same economic interests as all others working for the employer.

What then is the reason the current law is so radically altered in this bill? Since no hearings were held to develop evidence for the need for such, one can only conclude the obvious—"politics". The strongest and most effective coalition of political action committees in the nation, those of labor unions, oppose any challenge to their current collective political dominance as the most powerful special interest group in American politics today. Certainly members of unions should be encouraged to participate in union political action committees, but this is not a valid reason to deny this right to other American workers.

Although of no legal significance, there is no evidence that labor unions are justified in fearing a loss of the political power of the "working man". The activities of a political action committee are determined by its membership. Employee ("working man") members of such a committee should have the same interests and rights in any political action committee they choose to join, whether labor or place of employment related. Thus, it cannot be the concern for the political activities of the working man in general that causes labor union opposition, but the fear of increased competition or diminution of power of their own political action committees.

As a matter of fact, many members of unions might well choose to also join the political action committee of the corporation for which they work as well as that of their union. It should be pointed out that approximately 75 percent of America's total labor force does not

belong to unions, and if they work for corporations and are not shareholders or executive officers, they cannot be solicited. This practically all but eliminates their right to participate in this type of political activity. This bill also prevents non-union employees of a corporation or employees of a corporation which has no union at all from being solicited if they are not shareholders or executive officers. Therefore, in an unconstitutional, unwise and unfair manner, only labor union political action committees can under this bill solicit employees who are not shareholders or executive officers. This is a severe political limitation.

The whole purpose in political action committees is to allow persons with like philosophical and/or economic interests to band together and to promote those interests through a political action committee. This is participation in our political system and certainly any participation in politics should be encouraged and not hindered. Our democracy needs greater, not less, participation by our citizenry. Political action committees can be justified only on this basis. They currently meet this need by encouraging citizens by the thousands to become more politically active. There should be no "political" hindrances on who can join and participate in such committees.

For these reasons and the ones expressed in other minority views, this bill should be defeated and the Federal Election Commission simply reconstituted.

W. HENSON MOORE.

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