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CAMPAIGN FINANCING

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CAMPAIGN FINANCING

SUMMARY

Concerns over the financing of congressional elections have resulted from both the rising cost of campaigns and the growing role of political action committees (PACs) as a source of funding. Unlike presidential campaigns, which are subject to expenditure limitations (in conjunction with a public funding system), congressional campaigns are free of such constraints. A total of \$450 million was spent on the 1986 House and Senate campaigns, compared with \$115.5 million 10 years earlier. Increasingly costly elections have fostered the view that campaign spending is out of control, contributing to officeholders spending too much time raising campaign funds and to public perceptions of elections being "bought and sold." The role of PACs, as agents of interest groups, has been the focus of much of the debate over campaign financing. Some 31% of House and Senate general election candidates' funds came from PACs in the 1986 elections, up from less than 20% in 1976. Such trends have, in the view of critics, increased public cynicism, based on the perception that lawmakers are too reliant on special interests to make public policy which serves the national interest.

There is by no means unanimous discontent with the present system. Many observers insist that spending in modern elections is not out of line with the cost of goods and services in other sectors of society, with the high cost of media and the necessity of TV campaigning today. High spending, they say, reflects electoral competitiveness, which is good for the political system. Furthermore, many believe PACs play a useful role by promoting participation of large numbers of citizens and that they represent the wide diversity of interests which have historically competed within our political system.

Congress has been reviewing the Nation's campaign finance laws since the 97th Congress through numerous hearings, without any consensus as to the nature of the problem, let alone the desired remedies. The issue was advanced notably in the 99th Congress when the Senate passed the Boren Amendment, which featured aggregate limits on the amount of PAC donations a candidate for Congress could accept; the underlying legislation, however, was not passed. A major reform initiative began on the first day of the 100th Congress, in the form of S. 2, sponsored by Senators Boren, Byrd and 45 others. In addition to PAC receipts limits, the bill imposed voluntary spending limits on Senate campaigns, in conjunction with public funding in general elections. The bill was reported from the Rules and Administration Committee on April 29, and Senate debate began on June 3. Faced with strong Republican opposition to the bill's public funding and expenditure limitation provisions, the sponsors of S. 2 made five unsuccessful attempts in June to shut off debate on the matter. Two successive compromise proposals were advanced by supporters, both aimed at reducing the public funding role: the first, to replace the flat grants to candidates with a matching fund scheme; the second, to provide for public funding only when one candidate refuses adherence to voluntary spending limits. Also, the House Administration Subcommittee on Elections held five hearings between May and July on various reform proposals on the House side.

ISSUE DEFINITION

With the high cost of congressional elections and the prominent funding role played by special interest political action committees (PACs), the 100th Congress is considering changes in the Federal campaign finance law. Significant among these proposals are further restrictions on PAC contributions, as were passed by the Senate in the 99th Congress (in the Boren Amendment), and some form of spending limits and public funding in Senate elections. Both of these approaches are included in S. 2, sponsored by Senators Boren, Byrd, and 45 others, as reported by the Senate Rules and Administration Committee on Apr. 29, 1987. Senate consideration of S. 2 began on June 3.

BACKGROUND AND ANALYSIS

The Current Campaign Finance Law

Financial activity of campaigns for Federal office is regulated by laws passed in the early 1970s and amended several times since then -- primarily the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. These laws were enacted to remedy widely perceived shortcomings in the existing law -- the Corrupt Practices Act of 1925 -- and in response to reports of campaign finance abuses over the years, culminating in the Watergate scandal of 1972-1974.

Since 1976, Presidential elections have been funded largely from public monies, accumulated through voluntary designations by taxpayers using the dollar checkoff on Federal income tax returns. Qualifying candidates in primaries are eligible to have donations from individuals in amounts of \$250 or less matched equally with Federal funds, up to specified limits. Major party nominees in general elections are eligible for a flat grant, beyond which no private contributions may be raised; minor party candidates may be eligible for a lesser amount of public subsidy, based on prior electoral performance. Major parties may receive full public subsidies for the costs of their Presidential nominating conventions, and, again, minor parties may be eligible for a lesser subsidy. In all three phases of the Presidential election, acceptance of public funding is accompanied by several requisite conditions -- especially the adherence to specified expenditure limits, both on overall campaign spending and on candidate spending from personal or family funds.

Congressional elections are funded solely through private donations, from individual citizens, political parties, political action committees, and the candidates themselves. Candidates for the House and Senate are not subject to limits on their campaign expenditures.

Despite the fundamental differences in the Presidential and congressional systems, all campaigns for Federal office and all political committees operating in Federal elections (including PACs and parties) must abide by uniform disclosure requirements regarding receipts and expenditures and by limitations on contributions, whether by individuals,

PACs, or political parties; only candidates in non-publicly funded elections -- i.e., congressional candidates -- are not subject to limits on contributions to their own campaigns.

Even though individuals may contribute up to \$1,000 to a Federal candidate per election (primary, general, and run-off counted separately), \$20,000 to a National party committee per year, and \$5,000 to any other political committee (e.g., a PAC) per year, there is an aggregate limit of \$25,000 on all political contributions at the Federal level per year. Multicandidate committees (which include most PACs and most party committees) may contribute up to \$5,000 per candidate per election, \$15,000 to a national party committee, and \$5,000 to another political committee; there is no aggregate limit on contributions by multicandidate committees. National party committees may assist their candidates for Federal office beyond direct contributions by means of coordinated expenditures on their behalf. These expenditures are also subject to limits, although they are set much higher than are the limits on contributions. National and State party committees may each spend, or may transfer authority to each other to spend, up to \$10,000 plus cost of living adjustment since 1974 for House candidates in multi-district States and the greater of \$20,000 plus adjustment or two cents times the voting age population (VAP) plus adjustment for inflation for Senate candidates and at-large House candidates; the National committees may also spend 2 cents times the VAP plus adjustment for inflation on their Presidential and Vice Presidential nominees.

The Federal Election Commission (FEC) has civil authority to enforce these laws. It was created in 1975 as an independent agency to collect and make available to the public the financial reports filed by candidates and committees involved in Federal elections and to supervise the public funding of Presidential elections. The FEC is charged with drafting regulations to implement the law and with writing advisory opinions to interpret the law in specific instances.

Evolution of the Current System

Today's Federal campaign finance law evolved during the 1970s out of five major statutes and one paramount Supreme Court case, which not only affected the last two statutes but which continues to shape the dialogue on campaign finance reform. The statutes are the Revenue Act of 1971 (P.L. 92-178), the Federal Election Campaign Act (FECA) of 1971 (P.L. 92-225), the FECA Amendments of 1974 (P.L. 93-443), the FECA Amendments of 1976 (P.L. 94-283), and the FECA Amendments of 1979 (P.L. 96-187); the Supreme Court decision in Buckley v. Valeo [424 U.S. 1 (1976)].

The Revenue Act of 1971 inaugurated public funding of Presidential general elections, later extended to primaries and nominating conventions by the FECA Amendments of 1974. The FECA of 1971 and its Amendments of 1974, 1976, and 1979 imposed limits on contributions, required uniform disclosure of campaign receipts and expenditures, and established the FEC as a central administrative and enforcement agency. The original Act and the 1974 Amendments also imposed certain expenditure limits, which were struck down by the Supreme Court's landmark decision in Buckley v. Valeo [424 U.S. 1 (1976)].

In the Buckley ruling, the Court upheld the Act's limitations on contributions as appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions, while invalidating the Act's limitations on independent expenditures, on candidate expenditures from personal funds, and on overall campaign expenditures, since these provisions place direct and substantial restrictions on the ability of candidates, citizens, and associations to engage in protected First Amendment rights. Only in the context of a public funding system, as the Court upheld in the case of the existing Presidential system, could Congress limit overall or candidate's personal expenditures, as the public funding system constituted a government program with contractual obligations by participants. The Court's dichotomous ruling, allowing limits on contributions but striking down limits on expenditures, except those associated with a public funding system, has had far-reaching effects, shaping subsequent campaign finance practices and laws, as well as the debate over campaign finance reforms. [For further chronology of current law, see CRS Report 86-143 GOV, Campaign Financing in Federal Elections: A Guide to the Law and its Operation, by Joseph E. Cantor.]

Campaign Finance Practices and Related Issues in Recent Years

The limits on contributions by individuals, PACs, and parties, in conjunction with an absence of limits on spending in House and Senate elections, whether on overall campaign expenditures, independent expenditures, or by candidates themselves, have formed a key element in the flow of money in congressional elections in the past decade. While numerous subsidiary issues have been raised by contemporary campaign practices, the overriding ones remain the dual phenomena of rising campaign costs and the increased reliance on PACs as a source of funding.

Increased Campaign Costs

Campaign expenditures have risen greatly since the 1970s, even exceeding the overall increase in cost of living. Campaign finance authority Herbert Alexander estimated that \$540 million was spent on all elections in the United States in 1976; for 1984, his estimate was \$1.8 billion. In congressional elections, the following table reveals that aggregate costs of House and Senate campaigns have risen by nearly four times since 1976, to \$450 million in 1986; this compares with an overall cost of living increase of roughly double during this period.

CAMPAIGN EXPENDITURES IN HOUSE AND SENATE ELECTIONS: 1976-1986

1976	\$115.5 million
1978	\$194.8 million
1980	\$239.0 million
1982	\$342.4 million
1984	\$374.1 million
1986	\$450.0 million

Source: Herbert Alexander (1976); FEC (1978-86).

Even greater than the increases in aggregate campaign costs were those for the average winning candidates, a useful measure of the real cost of running for office: the average cost for a winning House candidate rose from \$87,200 in 1976 to \$355,055 in 1986; the average for a successful Senate race increased from \$609,100 to \$3.1 million during this same period. Nor do these data reflect the increase in independent expenditures or in political party support of candidates, or the even more difficult to gauge level of support by outside groups beyond the direct contributions from PACs and individuals.

The above data are cited by many as evidence that our democratic system of government has suffered as the costs of running for public office have grown to levels often considered exorbitant. Specifically, it is argued that candidates and officeholders must spend too much time raising money, at the expense of performing their public duties or their efforts to communicate with constituents. The high cost of elections and the perception that they are "bought and sold" are seen as contributing to public cynicism regarding the political process. Some have expressed particular concern that spiraling campaign costs may result in greater numbers of wealthy individuals seeking office, thereby denying opportunities for service to talented people who lack the resources or contacts with which to adequately finance campaigns. Finally, particularly in the wake of the 1986 elections, some have wondered whether there may be a correlation between the availability of excessive amounts of money and the perceived increased reliance on expensive, sophisticated, and, more to the point, negative media advertising.

Not all observers view the increase in election costs with alarm. Many, including some political scientists, insist that we do not spend too much on elections, suggesting that we may even spend too little. They contrast the amount spent on elections with that spent by government at all levels, noting that only a fraction of a percent is spent to choose those who make the vital decisions on the expenditure of tax dollars. Similarly they contrast election costs with the amount spent on commercial advertising; the Nation's leading commercial advertiser, Proctor & Gamble, spent \$872 million promoting its products in 1984. Placed in such perspective, they argue that today's costs of political dialogue are not excessive. The high costs are seen largely as a reflection of the paramount role of media in modern elections, with increasingly high TV costs, and the expense of fundraising in an era of contribution limits, which require candidates to seek a broad base of small contributors -- a democratic, but inherently time-consuming, expensive process. It may be that neither wealthy candidates nor negative campaigning are new, or necessarily increasing, phenomena in American politics, but merely that we are more aware of them, because of better disclosure and TV's prevalence. Finally, the better funded candidates do not always win, as evidenced in the results of several of the 1986 Senate elections.

PACs and Other Sources of Campaign Funds

The increasing expense of getting elected to office and its related issues are very much linked to the ever greater candidate reliance on contributions from PACs. To the extent that fundraising pressures may lead or be perceived to lead candidates to tailor their appeals to the

most affluent and most narrowly "interested" sectors, questions arise about the resulting quality of representation of all elements of society. Thus, the role of PACs, in itself and in the context of the relative role of other funding sources, has become a major issue.

Statistics reveal a significant increase in the importance of PACs, as reflected in their numbers, money contributed to candidates, and the level of PAC support relative to other sources of funding. The number of federally registered PACs grew from 608 in 1974 to 4,211 in 1987. As shown below, the amount contributed by PACs to House and Senate candidates during this period increased from \$12.5 million to \$132.2 million (a more than 400% rise, even factoring for inflation).

PAC CONTRIBUTIONS TO CONGRESSIONAL CANDIDATES: 1974 - 1986

1974	\$ 12.5 million
1976	\$ 22.6 million
1978	\$ 35.2 million
1980	\$ 55.2 million
1982	\$ 83.6 million
1984	\$105.3 million
1986	\$132.2 million

Source: Common Cause (1974-76), FEC (1978-86).

The growth in PAC importance relative to other funding sources is revealed in the following table, showing that 31.2% of House and Senate candidates' receipts came from PACs in 1986, up from 15.7% in 1974.

**PAC CONTRIBUTIONS AS A PERCENTAGE OF CONGRESSIONAL CANDIDATES'
OVERALL RECEIPTS IN GENERAL ELECTIONS: 1974 - 1984**

1974	15.7%
1976	19.6%
1978	20.1%
1980	25.7%
1982	26.6%
1984	29.3%
1986	31.2%

Source: CRS calculations, based on Common Cause and FEC data.

The percentage of PAC money among overall receipts is even higher in certain categories; in 1986, for example, House candidates received 37.1% of their funds from PACs, and among House incumbents, it was 44.0%. Furthermore, whereas 9% of House winners in 1974 received at least half their funds from PACs, in 1986 that figure was 42.0%. As PACs have played a clearly growing role in campaign funding, individuals giving directly to candidates have declined as a relative component; one study shows individual direct contributions declining from 73% of total House receipts in 1974 to 47% in 1984, and from 76% to 61% on the Senate side during that period (1986 data show an increased level, to 50% in the House and 67% in the Senate).

To many critics of the system, these data signal the most troubling issues in the debate over campaign financing: Are policymakers becoming beholden to special interests for help in getting elected, impairing their ability to make policy decisions that serve the national interest? Are PACs overshadowing average citizens in the electoral process? Does the appearance of quid pro quo relationships between special interest givers and politician recipients, whether or not they actually exist, seriously undermine public confidence in the political system? Given the strong inclination of PACs toward incumbents (accounting for some 68% of PAC contributions in 1986), do PACs hinder electoral competition by adding to the perceived existing incumbent advantage?

Those who defend the role of PACs in elections view them as reflecting the pluralism which has always been a part of this Nation. Rather than viewing them as a monolithic force, they see PACs as representing a wide variety of interests. Rather than viewing them as overshadowing individual citizens, they see them merely as groups of such citizens, giving voice to many who were previously uninvolved in politics. And rather than hindering competition in elections, PACs are seen as promoting it by funding challengers in the more closely contested races. They challenge the presumed dichotomy between "special interest" and "national interest," asserting that the latter is simply the sum total of the former. They also disagree that PAC money influences legislative votes, asserting that the donations generally are given to reward past voting behavior and policy decisions rather than to alter future votes and decisions.

Policy Options for the 100th Congress

The policy debate over the campaign finance laws proceeds from the philosophical differences over the underlying issues discussed above to the more practical, logistical questions over the proposed solutions. Two primary considerations serve to frame this stage of the debate: what changes can be made that will not raise First Amendment objections, given the Supreme Court's rulings in Buckley and other cases, and what changes will not result in new, unforeseen, and perhaps more troublesome campaign finance practices in the future? The latter point is underscored by the experience with previous amendments to the FECA, such as the growth of PACs following (among other things) the 1974 limits on contributions.

Just as the overriding issues have centered around the costs of elections and the sources of funding, the most widely discussed legislative proposals have focused on: (1) limiting PACs and generally altering the relative importance of the various funding sources in congressional campaigns; and (2) controlling campaign expenditures, primarily through a public funding system.

Limiting PACs

Most legislative proposals have sought, at least in part, to curb the perceived influence of PACs. These proposals seek to achieve this either directly, through new limitations or through reductions in existing ones, or indirectly, through augmenting the opportunities for other sources -- notably individuals and parties -- to fund campaigns.

Current law allows individuals to give up to \$1,000 per candidate, per election; political committees which qualify as "multicandidate committees" (by being registered with the FEC for at least 6 months, having more than 50 donors, and contributing to at least five Federal candidates) may contribute up to \$5,000 per candidate, per election. Most PACs can also easily meet this criteria, thereby enhancing their opportunities to assist favored candidates. The law favors PACs over individuals in another key respect -- there is no aggregate limit on contributions by a PAC, as in the \$25,000 limit on individuals.

There are three notable methods of directly curbing PACs which have been proposed in legislative form: lowering the current \$5,000 limit, placing an aggregate limit on the amount of PAC contributions a House or Senate candidate may accept, and establishing an aggregate limit on what a PAC may contribute to Federal candidates. Although the last of these has only surfaced in one piece of legislation, the first two have been proposed widely and in fact such provisions were included in the House-passed Obey-Railsback Amendment in 1979 and the Senate-passed Boren Amendment in 1986.

Each of these three proposals has potential strengths and drawbacks. The decreased PAC limit would lessen the disparity between what individuals and PACs may contribute, thereby making PACs relatively less and individuals relatively more valuable as funding sources. However, cost of living increases since the \$5,000 limit was set in 1974 have decreased its value by more than half, making it a less meaningful boundary today between large and modest contribution levels. The aggregate PAC receipts limit is based on the view that interest groups have an appropriate role to play but must not be allowed to play too great a role vis-a-vis other sectors; most proposals have featured a dollar limit (a flat amount in House races but based on State population in Senate races) but some have adopted a percentage of total receipts as the limit. Apart from possible constitutional objections to the PAC receipts limit, some have contended that it would place greater emphasis on early contributions by PACs, thereby working to the advantage of both incumbents who often accumulate large campaign chests early, and the larger, more resourceful PACs, which can most easily anticipate which contests to fund. The aggregate cap on all contributions by a single PAC has appeal among those whose interest is primarily to reduce the potential for influence among the largest, most powerful interest groups; a high aggregate ceiling would effectively curb only the largest among the 4000 or so PACs. The potential for the large PACs shifting from contributions to independent expenditures as a means of helping favored candidates could make this limit less appealing.

A caveat regarding independent expenditures must be stated in any discussion of the merits of PAC limitations. Any measure which restricts what PACs may contribute to candidates runs the risk of encouraging PACs to shift resources toward independent expenditures. As long as an individual or group observes the legal prohibition against consultation or coordination with a candidate, he or they may spend unlimited amounts in direct communications with voters -- through TV, radio, direct mail, etc. -- to support or oppose any candidate, in light of the Buckley decision. Some \$9.5 million was spent in this manner for or against congressional

candidates in 1986, up from less than \$400,000 in 1976. While this is not a great deal of money in the context of congressional election costs of hundreds of millions of dollars, this activity raises basic problems for the political system: it offers no accountability to the voters, as with candidate expenditures, and makes it more difficult for the candidates to frame the campaign debate; in recent years, certain highly publicized independent ads have been characterized by negativity and invective. It is entirely possible that even with new PAC restrictions, independent expenditures will continue to be undertaken by only a small number of affluent, highly motivated PACs with the sophistication to wage their own voter communications. But the prospect of more money in less accountable, and, for the political system, perhaps less desirable activities gives PAC critics reason to consider the proposed remedies carefully.

Partly because of this problem, many have looked to a more indirect method of curbing PACs, proposing to increase the limits on what individuals and/or political parties may contribute to or spend for favored candidates, making them more valuable to candidates vis-a-vis PACs. Individual limits of \$1,500, \$2,500, or other amounts, depending on the office being sought, have been proposed (\$1,500 in the Boren Amendment). While higher limits might counterbalance the role of PACs and offset the effects of inflation since 1974 (when the limit was set), many point out that very few Americans can afford to contribute \$1,000, let alone more, and that increasing the limit will open the door a bit to the former dominance of "fat cat" contributors. Increasing (or removing) party contribution and coordinated expenditure limits has received considerable support as well, partly to offset the importance of PACs by boosting the role of the two major mediating structures in our political system -- the parties. Supporters maintain that party support can be maximized without concern that influence may be peddled, particularly by the narrow interests of PACs, and with conviction that such support can strengthen party ties and promote more effective policymaking. While there is considerable philosophical agreement on this point, current political and strategic realities present obstacles to any significant increase, much less removal, of party limits -- specifically, the vastly divergent resource levels of the two major parties and their relative abilities in helping candidates (the national GOP committees raised \$209.8 million in the 1986 election cycle, compared with \$50.6 million by their Democratic counterparts).

Public Financing of Congressional Elections

Public financing of congressional elections has attracted support in large measure because of the underlying constraints placed by the Supreme Court's Buckley decision on Congress' ability to limit campaign expenditures, unless in the context of public funding. Public funding offers the possibility of not only controlling campaign expenditures, but also of limiting private sources of funding and perhaps promoting electoral competition in districts with safe incumbents or one-party domination.

There are alternatives to public funding by those seeking to control campaign costs, but all present significant problems or face even more formidable obstacles. Some have endorsed a constitutional amendment to allow Congress to limit campaign spending, but the obstacles to any

amendment are inherently great. One legislative proposal set spending limits for congressional candidates, inviting a Supreme Court review, but with the expectation that, in view of spending patterns in the past 10 years, the Court might reach a different conclusion than in the Buckley case. Another proposal which has received some positive response is to require broadcasters to provide free media time to candidates as a condition of their licenses, thereby largely removing media costs -- the most expensive component of today's campaigns -- from the equation. Strong opposition by broadcasters, as well as questions over the fair allocation of media time, would present notable problems.

Public financing of congressional elections is not a new idea. It has been proposed in nearly every Congress since 1956 and came close to enactment in the 93rd Congress when the Senate twice passed such a plan, both times being then deleted in conference. Also, the Nation has had experience with public financing in Presidential elections since 1976. And a form of public funding of congressional elections -- tax incentives for political contributions -- has been in existence since 1972, although it has been eliminated after 1986 under the new tax reform statute.

All public financing proposals in recent Congresses have envisioned applicability only to general elections, not primaries, largely for such tactical reasons as the much higher costs and logistical problems involved in a primary system and the added opposition this would invite to an already controversial proposal. Most proposals adopt either a matching fund system of public subsidies, as in Presidential primaries, or a flat grant system, as in Presidential general elections. The former has the advantage of costing less, of tying payments to demonstrations of public support (through fundraising), of encouraging small donors to participate in elections, and of not having to distinguish between major and minor, serious or frivolous candidates. The latter has the advantage of eliminating private sources of funds from campaigns (assuming the amount of subsidy is equal to the spending limit) and of greater simplicity.

There are numerous objections to public financing, many rooted in philosophical opposition to: funding elections with taxpayer money and using such money to support candidates whose views are antithetical to those of many taxpayers; allowing elected officials to devise the system under which they must seek election; and the expense of another government program in an era of budget deficits. The practical objections raised are also serious. How can a system be devised that takes into account the different natures of congressional districts and States, given the different styles of campaigning and widely disparate costs of media? How can a system be devised that accounts for and is equitable to all types of candidates -- whether incumbent, challenger, or open seat contender, whether major or minor party, serious or frivolous? The questions regarding incumbents and challengers are very much linked to the question of spending limits (all public funding bills have included limits). There is widespread belief, supported in political science literature, that limits are equally applied to incumbents and challengers tend to provide an advantage to the incumbent, who begins with the advantage of wider name recognition and prerequisites of office (staff allowances, newsletters, etc.); often a challenger must spend large sums just to build his name

recognition. Spending limits, unless set very high, may further lock in institutional bias against challengers and relatively unknown candidates.

The perception of public financing as an incumbent protection plan is widely held. It is largely rooted, however, in the issue of spending limits, not public subsidies. If it can be argued that spending limits may work to the advantage of incumbents, it can also be argued that public subsidies per se may work to the disadvantage of incumbents, by providing needed funding to otherwise hopeless challengers and thereby making a greater degree of competition possible.

It should be noted that other ideas exist regarding public funding. Some favor public subsidies without spending limits ("floors without ceilings"), to avoid the perceived problems with limits and to allow greater competition in elections -- the dearth of which some see as the real problem. While this view seems sensible to many experts, it would, of course, not deal with public concern over high cost of elections. Others propose a system of subsidies for specific purposes only, such as media and postage, but these plans would engender some of the same logistical problems (fair allocation, etc.) as would general subsidies, and it appears that just as many feel that such services should be free to candidates.

Legislative Action in the 99th Congress

With growing interest in campaign finance reform in recent years and increasing numbers of legislative proposals, the House Administration and Senate Rules and Administration Committees held 19 hearings in the 97th, 98th, and 99th Congresses. No consensus emerged from these sessions.

Legislative activity intensified in the 99th Congress, focusing on an amendment by Senator Boren to limit PACs. On Dec. 3, 1985, the Senate rejected, by 84-7, a motion to table this amendment to S. 655 (which dealt with low-level radioactive waste). The amendment was taken up again in 1986, and, after much floor debate, it passed by a vote of 69-30 on August 12. Among its key features were: an aggregate limit on receipt of PAC contributions by House and Senate candidates; a decreased PAC contribution limit (\$3,000); an increased individual contribution limit (\$1,500); a prohibition of "bundling" of contributions; a requirement that broadcasters provide free response time to targets of independent expenditures; and further regulation of independent expenditures. Following passage of the Boren amendment, the Senate adopted by a 58-42 vote a proposal by Senator Boschwitz, which included a prohibition on PAC contributions to the national parties; a requirement that parties must disclose "soft money" funds (money raised and spent outside the purview of the FECA, but which may indirectly have an impact on Federal elections); and repeal of the free response time provision in the Boren proposal. Although the Senate passed the Boren and Boschwitz amendments, no vote was ever taken on S. 655, the underlying legislation.

Four other initiatives in the 99th Congress are worth mentioning. The first was a provision in the tax reform plan submitted by the President to eliminate the dollar checkoff on Federal tax returns, thereby removing the existing source of funding for Presidential elections; this provision was not included in either House or Senate committee versions of

tax reform and was, hence, omitted in the enacted legislation. Second, in the tax reform measure enacted, tax credits for political contributions were eliminated. Third, the initial House-passed version of tax reform (H.R. 3838) included an amendment by Representative McHugh, which passed (230-196) on Dec. 17, 1985, providing for a 100% tax credit of up to \$100 (\$200 on joint returns) for contributions to House and Senate candidates in the same State as the donor; this provision was omitted from the Senate-passed version and deleted in conference. Finally, on Aug. 13, 1986, the Senate Governmental Affairs Committee reported S. 528, a proposal by Senator Rudman to create a 1-year congressional study commission on campaign finance reform; no further action was taken.

Legislative Action in the 100th Congress

In keeping with his pledge that campaign finance reform would be a priority issue in the 100th Congress, Senate Majority Leader Byrd joined Senator Boren and others on the first day of the new Congress in introducing S. 2, based on the Boren Amendment of the 99th Congress but with the major addition of public financing and spending limits in Senate general elections. This bill became the focal point of congressional reform efforts, gaining 45 additional co-sponsors. After four days of hearings (March 5 and 18, April 22 and 23), the Senate Rules and Administration Committee voted by 8-3 on April 29 to report S. 2, as amended by the committee, to the Senate. As reported, S. 2 featured public funding for Senate general election candidates who agreed to spending limits on their primary and general election campaigns, and aggregate PAC receipts limits on House and Senate candidates. The public funding, in the case of major party candidates, amounted to flat grants equal to 80% of the State's expenditure limit in the general election.

The Senate began debate on S. 2 on June 3, 1987, in the face of strong Republican opposition and stated intentions to filibuster the bill. On June 9, after four days of debate, a cloture motion by Senator Byrd and others received 52 votes, 8 votes short of the necessary 60 to cut off debate. Opposition to S. 2 focused on the public funding provisions, with many Republican Senators joining in support of two alternative measures: S. 1308 (McConnell, Packwood et al.), which would prohibit direct PAC contributions to candidates, and S. 1326 (Stevens et al.), which would decrease the PAC contribution limit and increase the individual limit. In an effort to reduce opposition to S. 2, Byrd and Boren offered an amendment on June 11 to change the public funding scheme from a full grant to a matching system (thereby reducing by half the total public subsidy). Opposition remained firm, as four successive cloture votes failed: June 16 (49 votes), June 17 (51 votes), June 18 (50 votes), and June 19 (45 votes). A caucus of Senate Republicans during this period stated its opposition to any bill which included public funding or expenditure limits and which limited applicability only to Senate elections. While S. 2 remains the pending business of the Senate, no further debate has ensued.

On July 1, in another effort at a compromise measure, supporters of S. 2 offered an amendment which further scaled back the public funding role. Based on some of the provisions in S. 207 and H.R. 2464, the latest version provides public funding only to a candidate whose opponent exceeds voluntary spending limits (as both a disincentive to the large spender and

as a means of "leveling the playing field"), while offering lower postal and broadcast rates to candidates who abide by spending limits (as an incentive to candidates and as a means of reducing campaign costs). The major provisions of the new version of S. 2 (as included in Amendment no. 429) include:

-- cost reduction benefits to Senate general election candidates who: (1) raise a threshold level of contributions from individuals totaling 10 cents times the VAP (between \$150,000 and \$650,000), in amounts of \$250 or less, with at least 75% from within State; (2) limit personal and family contributions to \$20,000; (3) limit general election expenditures to \$400,000 plus 30 cents times VAP, up to 4 million VAP, plus 25 cents times VAP in excess of 4 million VAP (between \$950,000 and \$5.5 million); (4) limit primary election expenditures to 67% of general election limit (between \$633,334 and \$2.75 million); (5) limit primary runoff expenditures to 20% of primary election limit; and (6) agree to appear personally for at least 50% of TV ads that refer to their opponent;

-- participating candidates eligible for cost reduction benefits: (1) lowest unit broadcast rate for TV and radio ads (non-participants no longer eligible); and (2) preferential first-class postal rate of one-fourth the current rate (or 5-1/2 cents, as of now) and third-class rate of 2 cents less than preferential first-class rate (or 3-1/2 cents, as of now), with spending on postage at these rates limited to 5% of expenditure limit (current lower rate for political parties abolished);

-- public funding to participating candidate whose opponent exceeds spending limits: when non-participant raises or spends in excess of 100% of the limit, participating candidate gets a grant equal to two-thirds of the limit; when non-participant exceeds 133-1/3% of the limit, participating candidate gets a grant of one-third the limit and has spending limits removed (minor party participants eligible for matching funds);

-- non-participating candidates must place a disclaimer on all ads stating that they do not abide by expenditure limits;

-- in the event a constitutional amendment is enacted allowing Congress to set limits on campaign spending, public subsidy provisions will be repealed and spending limits would be those instituted by this legislation;

-- participating candidate may receive additional public funds in the general election or have his spending limit raised in a primary or runoff, in an amount equal to any independent expenditures in opposition to him or in support of his opponent (once a \$10,000 threshold is reached);

-- a PAC receipts limit for House candidates: \$100,000, plus \$25,000 in case of runoff and \$25,000 if opposed in primary and general election, and for Senate candidates (in 6-year cycle): 30% of primary spending limit (between \$190,000 and \$825,000), plus, in runoff, 30% of runoff limit;

-- a limit on PAC contributions to party committees of 2 cents times VAP (for national committees), 30% of total coordinated expenditures

limits (for congressional campaign committees), and the greater of \$25,000 or 2 cents times VAP (for State and local committees);

-- prohibits "bundling" of contributions by PACs, by their officers or employees (or those of connected organizations), and by party committees, except for joint fundraising activities;

-- provides tightened definition of and more explicit disclaimer for independent expenditures;

-- prohibits candidates repayment of personal loans to their campaigns;

-- considers any credit in excess of \$1,000 extended for more than 60 days to be a contribution to a campaign; and

-- adds "soft money" disclosure requirements for party committee building funds and for political committees which maintain non-federal accounts, wherein activity may influence Federal elections.

The House Administration Subcommittee on Elections held hearings on campaign finance reform on May 21, June 2, 16, and 30 and July 14, 1987. Most interest has centered on H.R. 2464 (Swift et al.), a proposal to reduce campaign costs (see Legislation section, below).

LEGISLATION

H.R. 166 (Howard)

Reduces PAC contribution limit, imposes an aggregate limit on receipt of PAC contributions, prohibits "bundling" of contributions, provides free response time to targets of independent expenditures and further regulates independent expenditures. Introduced Jan. 6, 1987; referred to Committees on House Administration and on Energy and Commerce.

H.R. 295 (Beilenson et al.)

Provides public funding in House general elections, and provides lower broadcast rate for campaign advertisements. Introduced Jan. 7, 1987; referred to Committee on House Administration.

H.R. 480 (Jacobs)

Provides public subsidies for advertising and related expenses in House general elections. Introduced Jan. 7, 1987; referred to Committee on House Administration.

H.R. 481 (Jacobs)

Prohibits personal use of excess campaign funds. Introduced Jan. 7, 1987; referred to Committee on House Administration.

H.R. 521 (Stratton)

Provides free radio and television time to Federal candidates. Introduced Jan. 8, 1987; referred to Committee on House Administration.

H.R. 573 (Levine/Miller et al.)

Provides public financing in House general elections, reduces PAC contribution limit, imposes an aggregate limit on House candidates' receipt of PAC contributions, imposes an aggregate limit on PAC contributions, prohibits "bundling" of contributions, and requires disclosure of "soft money." Introduced Jan. 8, 1987; referred to Committee on House Administration.

H.R. 608 (Watkins)

Reduces PAC contribution limit, and imposes an aggregate limit on receipt of PAC contributions. Introduced Jan. 8, 1987; referred to Committee on House Administration.

H.R. 656 (Howard)

Reduces PAC contribution limit, imposes an aggregate limit on receipt of PAC contributions, prohibits "bundling" of contributions, and requires disclaimer on independent expenditures. Introduced Jan. 21, 1987; referred to Committee on House Administration.

H.R. 912 (Gonzalez)

Provides public funding in House general elections, with limits on overall campaign and candidate's personal spending, raises individual and lowers PAC contribution limits, imposes an aggregate limit on House and Senate candidates' receipt of PAC contributions, imposes an aggregate limit on PAC contributions, prohibits "bundling" of contributions, and requires disclaimer on independent expenditures. Introduced Feb. 2, 1987; referred to Committee on House Administration.

H.R. 1440 (Frenzel)

Prohibits personal use of excess campaign funds. Introduced Mar. 5, 1987; referred to Committee on House Administration.

H.R. 1817 (Stratton)/ S. 593 (Pell)

Requires TV stations to provide allotments of free time to political parties for communications by House and Senate candidates. House bill introduced Mar. 25, 1987; jointly referred to Committees on House Administration and on Energy and Commerce. Senate bill introduced Feb. 26, 1987; referred to Committee on Commerce, Science, and Transportation.

H.R. 2155 (Rowland)

Prohibits Presidential Election Campaign Fund monies from paying debts from prior presidential campaigns. Introduced Apr. 23, 1987; referred to Committee on House Administration.

H.R. 2464 (Swift et al.)

Provides for reduced media and postal rates to House candidates who limit campaign expenditures; imposes aggregate PAC receipts limit. Introduced May 19, 1987; jointly referred to Committees on House Administration, on Post Office and Civil Service, and on Energy and Commerce.

H.R. 2473 (Udall)

Imposes limits on House campaign expenditures, candidates' personal spending, and independent expenditures. Introduced May 19, 1987; referred to Committee on House Administration.

H.R. 2499 (Hamilton)

Prohibits Members of Congress from converting excess campaign funds to personal use. Introduced May 21, 1987; referred to Committee on House Administration.

H.R. 2574 (Penny)

Provides for public funding for House candidates who limit total campaign receipts and PAC receipts, financed through a tax surcharge; establishes a tax credit for political contributions. Introduced June 2, 1987; jointly referred to Committees on House Administration and on Ways and Means.

H.R. 2580 (Thomas)

Lowers PAC contribution limit; prohibits principal campaign committees from contributing to other such committees; sets a voluntary limit on contributions received from outside the district to one-half of total campaign receipts. Introduced June 2, 1987; referred to Committee on House Administration.

H.R. 2717 (Coelho/Leach/Synar)

Provides matching public funds in House general elections to candidates who agree to limits on overall campaign and personal expenditures; imposes aggregate PAC receipts limit on House candidates; allows lowest unit broadcast rate only for candidates who are substantially identified during ad; requires disclosure of "soft money"; restricts "bundling" of contributions. Introduced June 18, 1987; referred jointly to Committees on House Administration and on Energy and Commerce.

H.R. 2742 (Bates)

Revises Federal Election Commission enforcement powers. Introduced June 23, 1987; referred to Committee on House Administration.

H.R. 2895 (Dickinson et al.)/ S. 615 (Helms et al.)

Prohibits union dues collected as a condition of employment from being used for political purposes. House bill introduced July 8, 1987; referred to Committee on House Administration. Senate bill introduced Feb. 26, 1987; referred to Committee on Rules and Administration.

H.J.Res. 273 (Schumer)

Proposes a constitutional amendment to allow Congress to establish limits on campaign expenditures. Introduced May 7, 1987; referred to Committee on the Judiciary.

H.J.Res. 285 (Vento/Schumer)

Proposes a constitutional amendment to allow Congress and the States to establish limits on campaign expenditures. Introduced May 18, 1987; referred to Committee on the Judiciary.

H.J.Res. 306 (Schumer)

Proposes a constitutional amendment to allow Congress to regulate campaign expenditures. Introduced June 4, 1987; referred to Committee on the Judiciary.

H.Res. 150 (Bates)

Amends House rules to limit House campaign expenditures and PAC receipts. Introduced Apr. 27, 1987; referred to Committee on Rules.

S. 2 (Boren/Byrd et al.), S. 799 (Chiles)

[See description in previous section on legislative action in the 100th Congress.] S. 779 is identical to S. 2, with two additional provisions: no public funds or TV advertising permitted prior to Labor Day, and an aggregate limit on contributions by a PAC. S. 2 introduced Jan. 6, 1987; referred to Committee on Senate Rules and Administration. Reported to Senate, as amended, Apr. 29, 1987. S. 779 introduced Mar. 18, 1987; referred to same committee.

S. 50 (Moynihan)

Provides public funding in the Senate general elections, and reduces PAC and raises individual contribution limits. Introduced Jan. 6, 1987; referred to Committee on Senate Rules and Administration.

S. 179 (Simon/Moynihan)

Provides public funding in Senate general elections. Introduced Jan. 6, 1987; referred to Committee on Senate Rules and Administration.

S. 207 (Gore)

Provides public funding to Senate general election candidates whose opponents exceed spending limits. Introduced Jan. 6, 1987; referred to Committee on Senate Rules and Administration.

S. 577 (Inouye et al.)

Requires candidates to personally appear in TV advertisements, with no production material allowed. Introduced Feb. 23, 1987; referred to Committee on Rules and Administration.

S. 625 (Domenici/Stevens)

Raises limits on contributions to candidates whose opponent exceeds a designated level of expenditures from personal or family funds; prohibits any such expenditures in the 60 days prior to an election; prohibits candidates from repaying personal loans to their campaigns with contributions collected after the election. Introduced Mar. 3, 1987; referred to Committee on Rules and Administration.

S. 645, S. 725 (Mitchell/Baucus)

Provides matching funds in Senate general elections, with limits on overall spending (in primary and general) and on candidates' personal spending, imposes aggregate limit on receipt of PAC contributions, prohibits "bundling" of contributions. S. 779 is identical to S. 645, except for the deletion in the newer version of the tax checkoff provision. S. 645 introduced Mar. 3, 1987; referred to Committee on Finance. S. 725 introduced Mar. 12, 1987; referred to Committee on Rules and Administration.

S. 780 (Reid)

Strengthens enforcement powers of the Federal Election Commission. Introduced Mar. 19, 1987; referred to Committee on Rules and Administration.

S. 979 (Evans/Inouye/Kassebaum)

Allows lowest unit broadcasting rate and other benefits only for candidates who are identified, or identifiable, for 100% of media spots. Introduced Apr. 9, 1987; referred to Committee on Rules and Administration.

S. 1308 (McConnell/Packwood et al.)

Prohibits direct PAC contributions to Federal candidates; requires disclosure of "soft money"; provides disincentives to large expenditures from candidates' personal funds; restricts "bundling" of contributions; tightens definition and augments public disclosure of independent expenditures. Introduced June 2, 1987; referred to Committee on Rules and Administration.

S. 1326 (Stevens et al.)

Lowers PAC contribution limit; increases individual contribution limit; requires disclosure of "soft money"; provides disincentives to large campaign expenditures from candidates' personal funds; restricts "bundling" of contributions; tightens definition and augments public disclosure of independent expenditures. Introduced June 2, 1987; referred to Committee on Rules and Administration.

S.J.Res. 21 (Hollings et al.)

Proposes constitutional amendment allowing Congress to regulate contributions and expenditures in Federal elections. Introduced Jan. 20, 1987; referred to Committee on the Judiciary.

S.J.Res. 130 (Roth)

Proposes a constitutional amendment to allow Congress and the States to establish reasonable spending limits in Federal and State elections. Introduced May 15, 1987; referred to Committee on the Judiciary.

S.J.Res. 166 (McConnell)

Proposes a constitutional amendment to allow Congress and the States to regulate independent expenditures and candidate's expenditures from personal funds. Introduced June 19, 1987; referred to Committee on the Judiciary.

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