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Campaign Finance Bills Passed in the 107th Congress: Comparison of S. 27 (McCain-Feingold), H.R. 2356 (Shays-Meehan), and Current Law

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Summary

S. 27 (McCain-Feingold), the Bipartisan Campaign Reform Act of 2001, was introduced January 22, 2001 in a form similar to prior versions of the last two Congresses. On April 2, 2001, after a two-week debate and adoption of 22 amendments, the Senate passed S. 27 by a vote of 59-41. Its companion, the Shays-Meehan bill, the Bipartisan Campaign Finance Reform Act of 2001, was initially introduced as H.R. 380 in a form similar to House-passed versions of the prior two Congresses. On June 28, 2001, the bill was modified and offered as H.R. 2356. A modified version of H.R. 2356 was offered on the House floor on February 13, 2002, and after approval of four amendments and defeat of 11 others, the House passed H.R. 2356, as amended, on February 14 by a vote of 240-189.

The two primary features of the bills are restrictions on party soft money and issue advocacy. Generally, both bills would ban the raising of soft money by national parties and federal candidates or officials, and would restrict soft money spending by state parties on what the bills define as federal election activities. In a change from earlier versions, the bills allow for the restricted use of soft money for federal election activities by state and local parties. Regarding issue advertisements, both S. 27 and H.R. 2356 would create a new term in federal election law, "electioneering communication," thereby regulating political advertisements that "refer" to a clearly identified federal candidate and are broadcast within 30 days of a primary or 60 days of a general election. Generally, the bills would prohibit unions and certain corporations from spending treasury funds for such "electioneering communications" and, for those individuals and groups permitted to finance such communications, would require disclosure for disbursements of over $10,000, along with the identity of donors of $1,000 or more.

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Campaign Finance Bills in the 107th Congress: Comparison of S. 27 (McCain-Feingold), H.R. 2356 (Shays-Meehan), and Current Law

This report summarizes and compares the two campaign finance reform bills that have passed the House and Senate in the 107th Congress and current law (in most cases, the Federal Election Campaign Act, (FECA), 2 U.S.C. § 431 *et seq.*). The two bills are S. 27 (McCain-Feingold), the Bipartisan Campaign Reform Act of 2001, as amended and passed by the Senate on April 2, 2001, and its House companion bill, H.R. 2356 (Shays-Meehan), the Bipartisan Campaign Finance Reform Act of 2002, as amended and passed by the House on February 14, 2002.

Much of the ongoing campaign finance debate revolves around the issues of so-called hard and soft money. In general, the term "hard money" is used to refer to funds raised and spent according to the limits, prohibitions, and disclosure requirements of federal election law. By contrast, "soft money" is used to describe funds raised and spent outside the federal election regulatory framework, but which may have at least an indirect impact on federal elections[1]

The report provides a detailed comparison of both bills and relevant current law, organized according to major topics covered and arranged in side-by-side format. For both bills, amendments adopted on the Senate and House floors are summarized in *italics*, with citations to the amendments identified in table notes. For the House bill, an asterisk (*) denotes provisions that were changed between the time the bill was first introduced (June 28, 2001) and when it was offered to the House as the Shays-Meehan substitute amendment to H.R. 2356 (on February 12, 2002). Table 1 also provides applicable bill section numbers, and, for existing law, U.S. Code (U.S.C.) and Code of Federal Regulations (C.F.R.) citations and select abbreviated court decision summaries. In some cases, broken lines separate a concept or provision that has several parts, or which is modified in some way by related concepts or provisions.

Appendices 1 and 2, which are provided for legislative history purposes, set forth an account of House and Senate consideration and summaries of amendments offered in each chamber during floor debates. They are arranged according to whether they were accepted or rejected (and, in the Senate table, merely offered); each description provides a summary and an indication of any floor votes.

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[1] For further discussion of hard and soft money, see CRS Report 97-91, *Soft and Hard Money in Contemporary Elections: What Federal Law Does and Does Not Regulate*, by Joseph E. Cantor.

Comparison of McCain-Feingold and Shays-Meehan Bills, as Passed, and Current Law

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Hard Money Sources: Individuals		
Contributions to candidates: $1,000 per candidate, per election; not indexed [2 USC §441a(a)(1)(A)]	*Raises limit to $2,000 per candidate, per election, indexed for inflation*[1] [Sec. 308]	*Same as S. 27* [25][Sec. 307]
Contributions to state party committee: $5,000 per year to federal account, not indexed [2 USC §441a(a)(1)(C)]	Raises limit to $10,000 per year [Sec. 102]	Same as S. 27 [Sec. 102]
Contributions to national party committee: $20,000 per year to federal acct., not indexed [2 USC § 441a(a)(1)(B)]	*Raises limit to $25,000 per year, indexed for inflation*[1] [Sec. 308]	Same as S. 27 [Sec. 307]
Aggregate contributions: $25,000 per year to PACs, parties, and candidates, not indexed [2 USC §441a(a)(3)]	*Raises limit to $37,500 per year (i.e., $75,000 for 2-year cycle), indexed for inflation*[1, 2] [Secs. 308]	Raises limit to $95,000 per 2-year cycle, with sub-limits: (a) $37,500 to all candidates; (b) $57,500 to all PACs and parties (no more than $37,500 of which is to state and local parties and PACs); indexed [Sec. 307]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Hard Money Sources: Political Parties		
Special limit on contributions to Senate nominees: $17,500 in election year, by natl. and senatorial party cttees. combined, not indexed [2 USC §441a(h)]	*Raises limit to $35,000 in year of election, indexed for inflation*[1] [Sec. 308]	Same as S. 27 [Sec. 307]
Hard Money Sources: Candidates		
Personal use of campaign funds: Bans candidate personal use [2 USC §439a] Regulations enumerate personal uses [11 CFR§113.1(g)]	Codifies FEC regulations on permissible uses for campaign funds; retains ban on personal use [Sec. 301]	Same as S. 27 [Sec. 301]
Candidate loans to campaign: No rules regarding amount of candidate loans that can be paid from post-election contributions	*Limits repayment of loans to $250,000, from amounts contributed after election*[3] [Sec. 304]	Same as S. 27 [Sec. 304]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Wealthy candidates: Contribution limits are the same for all candidates, regardless of whether opponents spend large amounts from personal funds [2 USC § 441a(a)(1)(A)] (In *Buckley v. Valeo* (424 U.S. 1, 51-54 (1976)), Supreme Court struck down limits on spending from personal funds by candidates)	**In Senate elections:** *- Raises limits on individual and party support for Senate candidate whose opponent exceeds designated level of personal campaign funding* *- Creates threshold of $150,000 + 4¢ times no. eligible voters in state* *- Once "opposition personal funds amount" (personal spending of candidate minus that of opponent) exceeds threshold by: (a) 2-4 times, then limit on individual contributions to opponent is tripled; (b) 4-10 times, then limit on individual contributions to opponent is raised 6-fold; (c) 10 times, then limit on individual contributions to opponent is raised 6-fold and lifts limit on party coordinated expends. for opponent* *- Aggregate individual limit would be raised to extent of higher contribution limits* *- Limits would be raised only to extent of 110% of total "opposition personal funds amount"*[3] [Sec. 304] *- In calculating "opponent personal funds amount," subtracts "gross receipts advantage" of candidate opposed by wealthy candidate (50% of gross receipts of candidate minus 50% of gross receipts of wealthy opponent, as of Jun. 30 and Dec. 31 of prior year)*[4] [Sec. 318]	**In Senate elections:** Same as S. 27 [Secs. 304, 316] **In House elections:** *- Raises limits on individual and party support for House candidate whose opponent exceeds $350,000 in personal campaign funding* *- Once "opposition personal funds amount" (personal spending of candidate minus that of opponent) exceeds $350,000 threshold, then limit on individual contributions to opponent is tripled and limit on party coordinated expenditures for opponent is lifted* *- Same as S. 27* *- Limits would be raised only to extent of 100% of total "opposition personal funds amount"* *- Same as S. 27* [26] [Sec. 319]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Independent Expenditures (Hard Money)		
Definition: An expenditure by a person expressly advocating election or defeat of a clearly identified candidate, made without cooperation or consultation with candidate (or authorized committee or agent), and not made in concert with, or at request or suggestion of, any candidate (or agent or cttee.) [2 USC §431(17)]	Defines independent expenditure as an expenditure by a person that expressly advocates election or defeat of a clearly identified candidate, and that is not a coordinated activity with a candidate, agent, or someone who has engaged in coordinated activity with the candidate [Sec. 211]	Defines independent expenditure as an expenditure by a person for a communication that expressly advocates the election or defeat of a clearly identified candidate and is not made in concert or cooperation with, or at request or suggestion of a candidate, party, or agent [Sec. 211]*
Special disclosure rules: Requires 24-hour notice of independent expends. of $1,000 or more in last 20 days of elctn., up to 24 hours prior to election [2 USC § 434(c)(2)]	Adds requirement for a 48-hour notice of independent expenditures of $10,000 or more, up to 20 days before an election [Sec. 212]	Same as S. 27 [Sec. 212]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Party spending for party candidates: Parties may make expenditures in connection with a general election of a federal candidate's campaign, subject to limits, also known as the "coordinated party expenditure limits" [2 USC §441a(d)] In *Colorado Republican Federal Campaign Committee v. FEC (Colorado I)* (518 U.S. 604 (1996)), Supreme Court ruled that, as applied to CO Republican Party, the coordinated party expenditure limit was unconstitutional, and that parties can make independent expenditures on behalf of candidates; in *Colorado II,* (No. 00-191 slip op. (June 25, 2001)), Court upheld the constitutionality of the coordinated party expenditure limit	After date of party nomination, prohibits party from making both independent and coordinated expenditures for a candidate, and requires party to certify before making a coordinated expenditure for a candidate that it hasn't made or won't make independent expenditures for that candidate [Sec. 213]	After date of party nomination, prohibits party from making coordinated expenditures for a candidate it has made independent expenditures for and from making independent expenditures for a candidate it has made coordinated expenditures for [Sec. 213]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Coordination (Hard and Soft Money)		
Definition: **Statute:** FECA does not define "coordination" or "coordinated activity" *per se*	**Statute:** *Defines "coordinated expenditure or other disbursement" as a payment made in concert or cooperation with, or at request or suggestion of, or pursuant to any particular or general understanding with a candidate or party*[5] [Sec. 214]	No provision*
FEC Regulations: New FEC coordination rules define "coordinated general public political communications" as coordinated communications including clearly identified candidates, paid for by persons other than candidates or parties, including express or issue advocacy; communication will be considered coordinated if: it is made at request or suggestion of candidate or party; candidate or party had control or substantial decision-making authority; or candidate or party engaged in substantial discussion or negotiation with those involved in creating, producing, distributing, or paying for the communication [11 CFR §100.23 (2001)]	**FEC Regulations:** *- Repeals new FEC rules* *- Directs FEC to promulgate new regulations within 90 days* *- Specifies new rules will not require explicit collaboration or agreement to establish coordination* *- Specifies rules will address issues of: (1) republication of campaign material; (2) common vendors; (3) prior employment status; (4) substantial discussion with candidate/ party; and (5) impact of coordinating internal communications on "federal election activities"*[5] [Sec. 214]	**FEC Regulations:** - Repeals new FEC rules as of date new regs. are promulgated - Directs FEC to promulgate new regulations on coordinated communications by persons other than candidates, authorized committees, or parties - Specifies new rules will not require agreement or formal collaboration to establish coordination - Specifies rules will address issues of: (1) republication of campaign material; (2) common vendors; (3) prior employment status; and (4) substantial discussion with candidate or party [Sec. 214]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Consequences of coordination: - Expenditures made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or agents shall be considered a contribution to candidate [2 USC §441a(a)(7)(B)(i)] - Financing of dissemination, distribution, or republication, in whole or part, of any broadcast or materials prepared by candidate or agents shall be considered an expenditure subject to relevant limits [2 USC§441a(a)(7)(B)(ii)] (For discussion of express advocacy, *see* "Soft Money: Party" and "Issue Advocacy (Soft Money)" sections)	Treats an "electioneering communication" that is coordinated with a candidate, agent, or party as a contribution to and expenditure by candidate or party [Sec.202] *Includes in definition of "contribution": any coordinated expenditures or other disbursements made in connection with candidate's campaign, and any expenditure or disbursement made in coordination with party, regardless of whether communication contains express advocacy*[5] [Sec. 214]	Same as S. 27 [Sec. 202] Treats expenditures by any person made in cooperation, consultation, or concert with, or at request or suggestion of, any party committee as a contribution to that party committee [Sec. 214] No provision*
Soft Money: Party		
National party committees: May raise soft money (*i.e.*, generally, funds from sources or in amounts banned under federal election law), so long as funds are deposited in non-federal accounts, and may distribute funds, in accord with FEC allocation formulae [11 CFR §106.5]	Prohibits a national party committee, including entities directly or indirectly established, financed, maintained, or controlled by such committee or agent acting on its behalf, from soliciting, receiving, directing, transferring, or spending soft money [Sec. 101]	Same as S. 27 [Sec. 101]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
State and local party committees: May spend soft money on the state portion of mixed (federal/state) activities, according to detailed allocation requirements [11 CFR §106.5]	In general, bans soft money spending for a "federal election activity" by state/local party committees, including an entity directly or indirectly established, financed, maintained, or controlled by a state or local party committee (and agent acting on its behalf), or by an entity directly or indirectly established, financed, maintained, or controlled by one or more state/local candidates or officials	In general, bans soft money spending for a "federal election activity" by state/local party committees, including an entity directly or indirectly established, financed, maintained, or controlled by a state or local party committee (and agent acting on its behalf), or by an association or group of state/local candidates or officials
	But permits authorized campaign cttee. of state/local candidate to raise and spend funds under state law if not for "federal election activity" that "refers" to clearly identified federal candidate	Prohibits state/local candidates from using soft money for public communications that promote/attack a clearly identified federal candidate, but exempts communications referring to a federal candidate who is also a state/local candidate

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
	But allows a state, district, or local party committee to use funds raised under state law for allocable share (at FEC-determined ratios) of a voter registration drive in last 120 days of a federal election, voter ID, GOTV, & generic activity, if it: (1) does not refer to a federal candidate; and (2) takes no donations over $10,000 a year (or less, if state law so limits) for such activity[6] [Sec. 101]	But allows state, district, or local party cttee. to use some funds raised under state law for an allocable share (at FEC-determined ratios) of a voter registration drive in last 120 days of a federal election, voter ID, GOTV, and generic activity, if it: (1) does not refer to a federal candidate; (2) does not pay for a broadcast, cable, or satellite communication (unless it refers solely to state or local candidates); (3) takes no more than $10,000 a year (or less, if state law so limits) from any person (incl. an entity person establishes, finances, maintains, or controls) for such activity; and (4) uses only funds raised by that party cttee. expressly for such purposes, with no transfers from other party cttees. (and agents/officers acting on their behalf or entity they directly or indirectly establish, finance, maintain, or control) Prohibits funds for these accounts from being solicited, received, directed, transferred, or spent by or in name of natl. party, fed. candidate or official, or joint fundraising activities by two or more state or local party committees [Sec. 101]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Federal or non-federal activity: FEC allctn. rules offer guidance in determining if activity is fed. or non-fed. elctn. related, by such means as "ballot composition" (for administration and generic voter drives), "time and space" allotted in a communication, etc. [11 CFR §106.1] **Definition of activity generally triggering application of federal elctn. law – Express advocacy:** Sup. Court, in *Buckley v. Valeo* (424 U.S. 1, 44 (1976)) and *FEC v. Mass. Citizens for Life* (479 U.S. 238, 249 (1986)), generally construed fed. campaign law to reach only funds used for indpt. communications by non-political cttees. that incl. express words advocating elctn./defeat of clearly identified cand.; in lower courts, prevailing view is, generally, that regulation of such communications that do not contain specific express advocacy words (or "magic words," *e.g.,* "vote for," "defeat") is not constitutional; *but see,*11 CFR §106.5(b), subjecting natl. party disbursements for non-express advocacy communications to allctn. formulae, requiring specific % of hard money, §104.9(c), requiring reporting of natl. party soft money, and §106.5(b), (c), & (d), requiring party allctn. of generic voter drive costs	**"Federal election activity"** defined to include: (1) voter registration drives in last 120 days of a federal election; (2) voter identification, GOTV drives, and generic activity in connection with an election in which a federal candidate is on the ballot; (3) "public communications" that refer to a clearly identified federal candidate and promote, support, attack, or oppose a candidate for that office (regardless of whether they expressly advocate a vote for or against); or (4) services by a state or local party employee who spends at least 25% of paid time in a month on activities in connection with a federal election [Sec. 101]	Same as S. 27 [Sec. 101]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
FEC v. Furgatch (807 F.2d 857 (9th Cir. 1987), *cert. denied,* 484 U.S. 850 (1987)), which has emerged as a minority view, generally held that a communication will be considered issue advocacy if its message is unmistakable and unambiguous, suggestive of only one plausible meaning; if it presents a clear plea for action; and it is clear what action is advocated, *i.e.,* speech cannot be express advocacy when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other action	*Provides alternative definition of "public communication" (third type of "federal election activity") in the event that the first definition is ruled unconstitutional, based on* FEC v. Furgatch *(807 F.2d 857 (9th Cir. 1987), cert. denied, 484 U.S. 850 (1987)) (i.e., communication promoting, supporting, attacking, or opposing a candidate, regardless of whether it advocates a vote for or against a candidate, and is suggestive of no plausible meaning other than an exhortation to vote for or against a candidate)*[9] [Sec. 101]	No provision
Public political communications: Defined by new regulations as those made through broadcast (including cable), newspaper, magazine, outdoor advertising facility, mailing or any electronic medium, including Internet or Web site, with intended audience of over 100 people [11 CFR §100.23(e)(1) 2001]	**"Public communications"** defined as those made by broadcast, cable, satellite, newspaper, magazine, outdoor advertising, mass mailing (over 500 identical or substantially similar pieces mailed within 30 days of each other), or phone bank (over 500 identical or substantially similar calls made within 30 days of each other) [Sec. 101]	Same as S. 27 [Sec. 101]
Generic activity: No provision	Defines *generic campaign activity* as one that promotes a party but not a federal or non-federal candidate [Sec. 101]	Same as S. 27 [Sec. 101]
State/local parties may spend money on federal and non-federal races, if they allocate funds between hard and soft money [11 CFR §106.5]	State parties may spend soft money on activities that are not "federal election activities," including: public communications referring solely to state/local candidates; contributions to state/local candidates; state, district, or local convention costs; grassroots materials only depicting state/local candidates; and state/district/local party bldg. costs [Sec. 101]	*State parties may spend soft money on activities that are not "federal election activities," including: public communications referring solely to state/local candidates; contributions to state/local candidates; state, district, or local convention costs; and grassroots materials only depicting state/local candidates* [27][Sec. 101]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Fundraising costs: Parties may allocate costs [11 CFR §106.5(f)]	Prohibits party committees from using soft money to raise funds for use at least in part on "federal election activities" [Sec. 101]	Same as S. 27 [Sec. 101]
Support for tax-exempt groups: No restrictions on parties' ability to support tax-exempt groups	Prohibits party committees or agents from raising money for, or giving or directing money to, an Internal Revenue Code §501(c) tax-exempt org. or a §527 tax-exempt organization (unless it is also a fed. political committee) [Sec. 101]	Prohibits party committees or agents from raising money for, or giving or directing money to, an Internal Revenue Code §501(c) tax-exempt org. that makes disbursements in connec. with a fed. election (incl. a "federal election activity") or a §527 tax-exempt org. (if not a fed. political cttee.) [Sec. 101]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Federal candidates/officeholders: ***- Role in raising soft money:*** May participate in fundraisers without restriction	Prohibits federal candidates, officeholders, agents, or entities they directly or indirectly establish, maintain, finance, or control from raising soft money in connection with a federal election (incl. any "federal election activity") or any money from sources beyond fed. limits and prohibitions in non-fed. elctns.	Same as S. 27
	Ban does not apply to an individual who is also a state/local candidate, for activity allowed under state law and is not for a "federal election activity" that refers to clearly identified federal candidate; does not prohibit appearing, speaking, or being featured guest at state/local party fundraiser [Sec. 101]	Ban does not apply to an individual who is or was also a state or local candidate, for activity allowed under state law and refers only to the state/local candidate or opponents; does not prohibit appearing, speaking, or being featured guest at state/local party fundraiser [Sec. 101]*
Federal candidates/officeholders: ***- Role in tax-exempt fundraising:*** No restrictions	No provision	Regardless of other soft money restrictions, allows fed. cands./officials to make: (a) unrestricted general solicitations on behalf of 501(c)s involved in fed. elctns. where solicitation doesn't specify how funds will be used, unless org.'s principal purpose is voter registration in last 120 days of fed. elctn., GOTV, voter ID, or generic activity where a fed. cand. is on ballot; and (b) solicitations for 501(c)s involved in fed. elctns. specifically for such activities, or for general use by 501(c) whose principal purpose is those activities, with solicitations only to individuals, subject to a $20,000 per donor limit [Sec. 101]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Disclosure by national parties: Regulations require disclosure of all receipts and disbursements [11 CFR §104.8, 104.9]	Codifies FEC regulations on disclosure of all activity–federal and non-federal[7] [Sec. 103]	Same as S. 27 [Sec. 103]
State/local party disclosure: Required for activity by federal accounts only [2 USC § 434] All mixed activities must be funded through federal accounts [11 CFR § 106.5(a)]	Requires disclosure of all "federal election activities" by state and local party committees (including entities directly or indirectly established, financed, maintained, or controlled by either state/local party committee and agent or by state or local candidates and officials)	Requires disclosure of "fed. elctn. activities" by state/local party committees incl. entities directly or indirectly established, financed, maintained, or controlled by either state/local party committee and agent or by state/local candidates and officials, subject to $5,000 threshold in aggregate activity per year
	except by authorized campaign committees of state/local candidates, raising and spending funds under state law, if not for "federal elctn. activity" that "refers" to a clearly identified federal candidate [Sec. 103]	Disclosure must include all amounts raised and spent by special soft money accounts that are allowed to be used for "federal election activities" [Sec. 103]*
Building funds: Donations to national/state party building funds are exempt [2 USC§431(8)(B)(viii)]	Ends building fund exemption [Sec. 103]	Same as S. 27 [Sec. 103]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Issue Advocacy (Soft Money)		
Definition of activity generally triggering application of federal election law- **Express advocacy:** Supreme Court, in *Buckley v. Valeo* (424 U.S. 1, 44 (1976)) and *FEC v. Massachusetts Citizens for Life* (479 U.S. 238, 249 (1986)), generally construed federal campaign law to reach only funds used for independent communications by non-political committees that include express words of advocacy of election or defeat of a clearly identified candidate; prevailing view in lower courts is that, generally, regulation of such communications that do not contain specific express words of advocacy (also referred to as the "magic words," *e.g.,* "vote for" or "defeat") is unconstitutional; FEC, therefore, has had some difficulty in enforcing its more encompassing regulation, which includes a "reasonable person" standard for determining whether such communications constitute "express advocacy" [11 CFR §100.22]	**"Electioneering communication":** Defined as a broadcast, cable, or satellite advertisement that "refers" to a clearly identified federal candidate, made within 60 days of a general election or 30 days of a primary for that federal office, to an audience that includes voters in that election **Exempts** news events, "expenditures," and "independent expenditures"	**"Electioneering communication":** Defined as a broadcast, cable, or satellite advertisement that "refers" to a clearly identified federal candidate, made within 60 days of a general election or 30 days of a primary, and, if for House or Senate elections, "is targeted to the relevant electorate" **Exempts** news events, "expenditures," "independent expenditures," debates, and others by FEC regulation
	Provides alternative definition of "electioneering communication," in the event that the first definition is ruled unconstitutional, based on FEC v. Furgatch *(807 F.2d 857 (9th Cir. 1987), cert. denied, 484 U.S. 850 (1987)) (i.e., communication promoting, supporting, attacking, or opposing a candidate, regardless of whether it expressly advocates a vote for or against a candidate, and is suggestive of no plausible meaning other than an exhortation to vote for or against a candidate); nothing in provision alters 11 CFR 100.22(b), FEC regulation defining express advocacy*[9] [Sec. 201]	Same as S. 27 [Sec. 201]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Targeted communications: Not defined	(In context of electioneering communications prohibited by 501(c) and 527 corporations:) ***"Targeted communication"*** *defined as an electioneering communication that is distributed from TV/radio broadcast station or cable or satellite service whose audience "consists primarily" of residents of state for which candidate is seeking office*[11] [Sec. 204]	**"Targeted to the relevant electorate"** defined as a communication which can be received by 50,000 or more persons in state or district where Senate or House election, respectively, is occurring [Sec. 201]
Disclosure: Communications by non-political cttees. that avoid explicit advocacy language are outside purview of, and hence not subject to, FECA disclosure; but spending on such activities may be disclosed if group is "political organization" under Internal Rev. Code [26 USC §527]	Requires disclosure to FEC of disbursements for "electioneering communications" by any spender exceeding an aggregate of $10,000 per year in such disbursements, within 24 hours of the first and each subsequent $10,000 disbursement [Sec. 201]	Requires disclosure to FEC of disbursements for direct costs of producing and airing "electioneering communications" by any spender exceeding $10,000 annual aggregate in such disbursements, within 24 hours of the first and each subsequent $10,000 amt. [Sec. 201]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Contents of disclosure: **Only for activities meeting express advocacy standard and for FECA-defined political committees** – Statement of org. identifies name of spender, sponsor (if any), treasurer, custodian of books, and banks [2 USC § 433] Periodic disclosure reports list aggregate cash on hand, receipts, expenditures, transfers, loans, rebates, refund dividends, and interest (and, for presidential candidates, public funds); itemized ID on contributions received and expenditures made of over $200 per year, with name, address, occupation, and principal place of business of donor or recipient For persons other than political committees, disclosure requirements are triggered once independent expenditures over $250 in a calendar year are made [2 USC § 434]	**For "electioneering communications":** - Identification of spender, custodian of books, and any entity exercising control over activity - principal place of business - identification of disbursements of over $200 - identification of donors of $1,000 or more (either to a separate segregated fund devoted exclusively to such activities or, if none, to organization itself) - notation as to election and candidates to which communications pertain [Sec. 201]	**For "electioneering communications":** - Identification of spender, custodian of books, and any entity exercising control over activity - principal place of business - identification of disbursements of over $200 - identification of donors of $1,000 or more (either to a separate segregated fund devoted exclusively to such activities, with funds only from U.S. citizens or nationals or permanent resident aliens, or, if no separate segregated fund, to organization itself) - notation as to election and candidates to which communications pertain [Sec. 201]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Corporations and labor unions: FECA bans union and corporate general treasury spending to influence federal elections, subject to Supreme Court imposed express advocacy standards [2 USC §441b(a)] In *FEC v. Massachusetts Citizens for Life* (MCFL) (479 U.S. 238, 259 (1986)), Court held that ban on corporate general treasury spending cannot be constitutionally applied to non-profit political or ideological corporations that do not accept donations from for-profit corporations and unions and whose members have no economic incentive in the organization's political activities As a result of court decisions, communications by non-political committees that avoid explicit advocacy language are generally outside purview of FECA regulation	Bans funding of "electioneering communications" with funds from union or certain corporate funds; but exempts Internal Revenue Code §501(c)(4) or §527 tax-exempt corporations making "electioneering communications" with funds solely donated by individuals, *who are U.S. citizens or permanent resident aliens*[10] [Sec. 203], *unless a communication is "targeted," i.e., it was distributed from a broadcaster or cable or satellite service whose audience "consists primarily" of residents of the state for which the candidate is running for office*[11] [Sec. 204]	Bans funding of "electioneering communications" with funds from union or certain corporate funds; but exempts IRC §501(c)(4) or §527 tax-exempt corporations making "electioneering communications" with funds solely donated by individuals who are U.S. citizens, nationals, or permanent resident aliens [Sec. 203], unless a communication is a "targeted" communication, *i.e.*, it was distributed from a broadcaster or cable or satellite service and is received by 50,000 or more persons in state or district where Senate or House election, respectively, is occurring [Sec. 204]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Coordination–		
FECA does not define “coordination” or “coordinated activity” *per se,* but: - Expenditures made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate/agent shall be deemed a contribution to the candidate [2 USC §441a(a)(7)(B)(i)] - Financing of dissemination, distribution, or republication, in whole or part, of any candidate-prepared materials/broadcasts is considered an expenditure, subject to relevant limits [2 USC§441a(a)(7)(B)(ii)] New FEC coordination rules define “coordinated general public political communications” as coordinated communications concerning clearly identified candidates, paid for by persons other than candidates/parties, incl. express or issue advocacy; a communication will be considered coordinated if: it is made at request or suggestion of candidate or party, candidate or party had control or substantial decision-making authority, or candidate or party engaged in substantial discussion or negotiation with those involved in paying for, creating, producing, or distributing communication [11 CFR §100.23 (2001)]	Treats an “electioneering communication” that is coordinated with a candidate, agent, or party as a contribution to and expenditure by candidate or party [Sec. 202]	Same as S. 27 [Sec. 202]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Broadcast disclosure: - **Attribution**: Fed. Communications Act imposes general requirement that political radio/TV ads incl. notice of who paid for ads [47 USC § 317] FCC regulations further require paid TV political ads and other matters involving the discussion of controversial issues of public importance to provide "true identity" of sponsor "with letters equal to or greater than four percent of the vertical picture height that air for not less than four seconds" and require broadcasters to disclose extent to which any "film, record, transcription, talent, script, or other material" related to an ad, was furnished to the broadcaster in connection with the airing of a political advertisement or other matter involving the discussion of a controversial issue of public importance [47 CFR § 73.1212]	(*See* discussion under "Advertising" section)	(*See* discussion under "Advertising" section)
- Public inspection files: When political ad was paid for by a corporation, committee, association, or unincorporated group, FCC regs. also require broadcaster to maintain records of group's governing personnel, available for public inspection [47 CFR § 73.1212]	*Requires broadcasters to maintain and make available for public inspection records of broadcast time requests by cands. or by other entities whose messages relate to political matters of natl. importance, incl. messages about a legally qualified cand., a fed. election, or a legislative issue of public importance; requires records to incl.: whether request was accepted; rate charged; date and time message aired; class of time purchased; ID of cand. and office, election, or issue referred to; and identity of purchaser, including officers of any non-candidate entity*[12] [Sec. 504]	Same as S. 27 [Sec. 504]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
FEC Disclosure		
- Requires all reports filed electronically to be posted on FEC Web site within 24 hours of receipt [2 USC §434(a)(11)(B)] - Requires paper reports to be available for public inspection at FEC within 48 hours of receipt [2 USC §438(a)(4)]	*Requires all reports filed with FEC to be posted on Internet and available for inspection within 48 hours, or 24 hours if filed electronically*[13] [Sec. 501]	Same as S. 27 [Sec. 501]
No provision	*Requires FEC to maintain central Web site of all publicly available election-related reports*[13] [Sec. 502]	Same as S. 27 [Sec. 502]
No provision	*Requires FEC to develop and provide standardized software for filing reports electronically, and requires candidates' use of such software*[14] [Sec. 307]	Same as S. 27 [Sec. 306]
Filing schedule for candidates: Principal campaign cttees. of cands. must file quarterly, pre-elctn., and, for general, post-election reports in elctn. years, and semi-annual reports in non-elctn. years; presidential candidates with actual or expected contributions or expenditures over $100,000 must file monthly in pres. election years [2 USC §434(a)]	*Requires candidates to file monthly reports in election years and quarterly reports in non-election years*[12] [Sec. 503]	Requires candidates to file quarterly reports in non-election years[12] [Sec. 503]*
Filing schedule for parties: Non-candidate committees (incl. parties) may file: (a) quarterly, pre-elctn., and, for general, post-elctn. reports in elctn. yrs., and semi-annual reports in non-election years; or (b) monthly reports [2 USC §434(a)]	*Requires national party committees to file monthly reports in all years*[12] [Sec. 503]	Same as S. 27 [Sec. 503]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
FEC Enforcement		
Criminal penalties: For knowing and willful violations involving contributions/expenditures of $2,000 or more per year: a fine equaling the greater of $25,000 or 300% of amount involved or up to one year in prison, or both [2 USC §437g(d)(1)(A)]	*Increases criminal penalties for knowing and willful violations involving contribution/ expenditure/donation amounts aggregating from $2,000 to $25,000 in a year: a fine under Title 18 (USC) or up to one year in prison, or both; for knowing and willful violations involving amts. aggregating $25,000 or more: a fine under Title 18 or up to five years in prison, or both*[15] [Sec. 314]	Same as S. 27 [Sec. 312]
Statute of limitations: Three years for criminal violations of FECA [2 USC §455(a)]	*Changes to five years, for criminal violations of FECA*[15] [Sec. 315]	Same as S. 27 [Sec. 313]
Sentencing guidelines: No provision	*Directs U.S. Sentencing Commission to promulgate guidelines and make legislative or administrative recommendations regarding penalties for violating fed. elctn. law, per specified considerations: (1) reflect serious nature; (2) enhancement for foreign national violation, large no. of illegal transactions, large dollar amount of violations, misuse of govt. funds, or intent to gain fed. govt. benefits; (3) enhancement for cand. or high campaign official; (4) assure consistency with FEC regs.; (5) acct. for aggravating or mitigating circumstances; and (6) comply with purposes of 18 USC §3553(a)(2)* [15] [Sec. 316]	Directs U.S. Sentencing Commission to promulgate guidelines and make legislative or administrative recommendations regarding penalties for violating fed. elctn. law, per specified considerations: (1) reflect serious nature; (2) enhancement for foreign national violation, large no. of illegal transactions, large dollar amount of violations, misuse of govt. funds, or intent to gain fed. govt. benefits; (3) assure consistency with FEC regs.; (4) acct. for aggravating or mitigating circumstances; and (5) comply with purposes of 18 USC §3553(a)(2) [Sec. 314]*

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Penalties for violating ban on contributions made in the name of another: No *specific* penalties	***Civil:*** *Imposes penalties, for knowing and willful violations, of between 300% of violation amount and the greater of $50,000 or 1000% of violation amt.* ***Criminal:*** *For knowing/willful violations in amts. of over $10,000, imposes penalties of two years in prison for up to $25,000 violation amt., or fine of between 300% of violation amt. and the greater of $50,000 or 1000% of violation amt., or prison and fine*[16] [Sec. 317]	Same as S. 27 [Sec. 315]
Advertising		
Lowest unit rate (LUR): Broadcasters must sell time to candidates during last 45 days of a primary and 60 days of a general election at LUR for same class and amount of time for same period [47 USC § 315(b)]	*Makes TV, cable, and satellite LUR broadcast time non-preemptible, with rates based on comparison to prior 365 days; requires such rates to be available to parties buying time on behalf of candidates; and provides for random audits to insure compliance*[17] [Sec. 305]	*No provision* [28]
	Conditions party eligibility for LUR on voluntary compliance with party coordinated expenditure limits in event that Supreme Court finds them unconstitutional; in such event, allows broadcaster to not offer party LUR for independent expenditures[18] [Sec. 309]	
Candidate appearance in ads: No content requirements for lowest unit rate (LUR) ads	*Requires federal candidate broadcast ads that are sold at lowest unit rate and that include direct reference to opponents to include candidate photo or image on TV and a statement of cand. approval (printed on TV and spoken by cand. on radio)*[19] [Sec. 306]	Same as S. 27 [Sec. 305]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Sponsor Identification: Public political advertisements, from expenditures by any person, incl. express advocacy, or those containing contribution solicitations, must state clearly who paid for communication and whether a candidate authorized it [2 USC §441d]	- *Adds requirement for sponsor ID by political committees for any public political advertising (including "electioneering communications")* - *Requires specific minimal standards to enhance visibility of such identification in the communication, including an audio statement of candidate or sponsor approval in TV and radio ads; also in TV ads, requires a written statement of responsibility that appears in a clearly readable manner, with a reasonable degree of color contrast, for at least four seconds* [20] [Sec. 313]	- Same as S. 27 - Requires specific minimal standards to enhance visibility of such identification in the communication, including an audio statement of candidate or sponsor approval in TV and radio ads; also in TV ads, requires a written statement of responsibility that appears in a clearly readable manner, with a reasonable degree of color contrast, for at least four seconds, and is conveyed in an unobscured, full-screen view of candidate/sponsor (or with image and voice-over thereof) [Sec. 311]*
Foreign Money		
Prohibits direct or indirect contributions or anything of value, or their solicitation, from foreign nationals, in connection with election to any political office; exempts permanent resident aliens [2 USC §441e]	Bans direct or indirect contributions from foreign nationals (incl. soft money), or their solicitation or receipt, or any promise to make such donations, in connection with any U.S. election or to a natl. party committee (retains permanent resident alien exemption) [Sec. 303]	Bans direct or indirect contributions from foreign nationals (incl. soft money), or their solicitation or receipt, or any promise to make such donations, in connection with any U.S. election, to a natl. party committee, or for any expenditure, disbursement, or independent expenditure for an "electioneering communication" (retains permanent resident alien exemption) [Sec. 303]
	No provision	Clarifies that ban does not apply to U.S. nationals [Sec.317]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Miscellaneous		
Fundraising on govt. property: Bans solicitation or receipt of contributions, as defined by FECA, in any room or building used by federal officials or employees to discharge official duties [18 USC § 607]	Bans solicitation or receipt of contributions, including soft money, *from* anyone or *by* federal officials, while in any federal government building used to discharge official duties [Sec. 302]	Same as S. 27 [Sec. 302]
Inaugural committees: Donations to presidential inaugural committees are not considered contributions under FECA [*See, e.g.,* FEC Advisory Opinion 1980-144]	*- Requires FEC disclosure of over-$200 donations to presidential inaugural committees within 90 days of event* *- Bans foreign national donations*[21] [Sec. 310]	Same as S. 27 [Sec. 308]
Fraudulent misrepresentation: Bans candidates' fraudulent misrepresentation on a matter that is damaging to other candidates or parties [2 USC §441h]	*- Prohibits fraudulent misrepresentation in the solicitation of campaign funds* *- Bans knowing and willful participation in conspiracy to engage in such violations* [22] [Sec. 311]	Same as S. 27 [Sec. 309]
Contributions by minors: No different treatment for minors and adults	No provision	Bans contributions to candidates and donations to parties by individuals 17 years of age and younger [Sec. 318]
No provision	***GAO Study:*** *Directs GAO to study and report to Congress statistics for and effects of public funding systems in Arizona and Maine*[23] [Sec. 312]	Same as S. 27 [Sec. 310]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
Expedited review: Provides for expedited judicial review by appropriate district court, certifying all constitutional questions, to the court of appeals for the circuit involved, sitting *en banc* [2 USC § 437h] (Prior to 1988 amendments, FECA also provided expedited, direct appeal to U.S. Supreme Court) [P.L.100-352]	*Provides for expedited review to the U.S. District Court for D.C. (and exclusive venue) for declaratory judgment and injunctive relief; provides direct appeal to the U.S. Supreme Court from any final order or judgment; and provides for expedited consideration by both courts*[24] [Sec. 403]	Provides for expedited review to the U.S. District Court for D.C. (and exclusive venue) for declaratory judgment and injunctive relief on constitutional grounds; provides direct appeal to the U.S. Supreme Court from any final order or judgment; and provides for expedited consideration by both courts Provides if any action is brought for declaratory or injunctive relief challenging the constitutionality of the Act, it shall be filed in U.S. District Court for D.C. and heard by a 3-judge court; a copy of the complaint shall be delivered promptly to the Clerk of the House and the Secretary of the Senate; a final decision shall be reviewable only by direct appeal to the U.S. Supreme Court, (notice of appeal to be filed within 10 days and jurisdictional statement to be filed within 30 days); expedited consideration to be provided by both courts; and right of intervention provided to Members of the House and Senate [Sec. 403]*
Partial Invalidity: If any provision of the Act, or its application to any person or circumstance, is held invalid, the validity of the remainder and its application to other persons and circumstances shall not be affected. [2 USC § 454]	**Severability:** If any provision of the Act or its amendments, or its application to any person or circumstance, is held unconstitutional, the remainder of the Act and its amendments, and its application to any person or circumstance, shall not be affected by the holding [Sec. 401]	Same as S. 27 [Sec. 401]

Current Law	S. 27 — As Passed (McCain-Feingold)	H.R. 2356 — As Passed (Shays-Meehan)
	Effective date: 30 days after enactment, unless otherwise provided [Sec. 402]	**Effective date:** **Generally:** Nov. 6, 2002, unless otherwise provided * **Transition rules for soft money:** - Prior to Jan. 1, 2003, parties may spend soft money raised before effective date to retire outstanding debts and obligations in connection with elections held through Nov. 5, 2002,* *provided that no soft money is used to repay hard money debts* [29] *- At no time after effective date may national parties use soft money to defray costs of construction or purchase of a party office building or facility* [27] [Sec. 402]
No provision	No provision	Requires FEC to promulgate regulations within 90 days of enactment to carry out provisions of Title 1 (on soft money) and within 270 days to carry out other provisions of Act [Sec. 402]*

Notes to Table

Senate bill:
[1] Thompson-Feinstein (S.Amdt. 149)
[2] S. 27, as proposed, raised this limit to $30,000 per year
[3] Domenici (S.Amdt 115)
[4] Durbin (S.Amdt. 169)
[5] McCain (S.Amdt. 165)
[6] Levin (S.Amdt. 161)
[7] Restated by Hagel (S.Amdt. 146, Div. 2)
[8] Nickles-Gregg (S.Amdt. 139); dropped the "Beck provision," no longer in any of these bills
[9] Specter (S.Amdt. 140)
[10] McCain (S.Amdt. 171)
[11] Wellstone (S.Amdt. 145)
[12] Hagel (S.Amdt. 146, Div. 2)
[13] Cochran (S.Amdt. 137)
[14] Landrieu (S.Amdt. 124)
[15] Thompson (S.Amdt. 163)
[16] Bond (S.Amdt. 166)
[17] Torricelli (S.Amdt. 122)
[18] Schumer (S.Amdt. 153)
[19] Wyden-Collins (S.Amdt. 138)
[20] Durbin (S.Amdt. 162)
[21] Bingaman (S.Amdt. 157)
[22] Nelson, FL (S.Amdt. 159)
[23] Kerry (S.Amdt. 160)
[24] Hatch (S.Amdt. 167)

House bill:
[25] Wamp amendment (no. 12) brought limit for contributions to House candidates in line with the Shays-Meehan substitute's increase for presidential and senatorial candidates.
[26] Capito amendment (no. 10) added new section to assist House candidates with wealthy opponents, comparable to the Shays-Meehan substitute's provisions for Senate candidates.
[27] Kingston amendment (no. 25) struck the Shays-Meehan substitute's exemption of state and local party building costs from the "federal election activity" definition, and removed the substitute's provision allowing soft money raised through the effective date to continue to be used indefinitely to pay for national party building costs.
[28] Green amendment (no. 11) struck Shays-Meehan substitute's requirement that lowest unit rate be provided to candidates at more favorable terms and be extended to political parties.
[29] Meehan motion to recommit with instructions, clarified that soft money used for debt repayment after the effective date shall not be used to repay hard money debts.

Common Abbreviations in Tables

Acct. (account)	Allctn. (allocation)	Amt. (amount)	Cand. (candidate)
Connec. (connection)	Cttee. (committee)	Elctn. (election)	Exec. (executive)
Expend. (expenditure)	Fed. (federal)	GOTV (get-out-the-vote)	ID (identification)
Incl. (including)	Indiv. (individual)	Indpt. (independent)	Natl. (national)
No. (number)	% (percentage)	Pres. (presidential)	Prof. (professional)

Appendix 1. Senate Debate on and Amendments to S. 27 (McCain-Feingold) and S.J.Res. 4 (Hollings-Specter)

Supporters of McCain-Feingold sought an early debate and vote on the issue, and, on January 26, 2001, reached an agreement with then-Majority Leader Lott for a two week Senate debate in mid- or late-March. On February 6, two unanimous consent agreements were approved: the first committed the Senate to begin debating McCain-Feingold on March 19 or 26, with floor amendments allowed; the second agreement committed the Senate to consider the Hollings-Specter constitutional amendment to allow mandatory campaign spending limits, immediately following disposition of McCain-Feingold. Senate debate began March 19, and after a two-week debate, S. 27 was passed by the Senate on April 2 by a vote of 59-41. As passed, S. 27 included 22 amendments offered on the floor; 16 other amendments were rejected during the two-week debate. On March 26, the Senate debated S.J.Res. 4 and defeated it by a 40-56 vote. On May 15, the Senate revisited the issue when it passed a Sense of the Senate resolution instructing the Secretary of the Senate to engross S. 27 and send it to the House; the vote (on S.Amdt. 477) was 61-39. On May 22, the bill was sent to the House, where it was referred to the Committees on House Administration, Energy and Commerce, and the Judiciary.

Amendments Accepted.

Domenici (S.Amdt. 115) – to raise limits on contributions to Senate candidate whose opponent exceeds a designated level of personal funding in his or her campaign; to limit repayment of candidate loans to campaign to $250,000, with amounts contributed after the election. Offered and Approved (70-30), March 20

Torricelli (S.Amdt. 122) – to make broadcast time purchased at lowest unit rate non-preemptible and to require such rates to be available to political parties buying time on behalf of candidates. Offered March 20. Approved (70-30), March 21.

Cochran (S.Amdt. 137), as modified – to: (1) require all reports filed with FEC to be posted on Internet and available for inspection within 48 hours (24 if filed electronically); and (2) require FEC to maintain a central web site of all election-related reports. Offered March 22. Approved by voice vote, March 22.

Wyden-Collins (S.Amdt. 138) – to require candidates to appear personally in lowest unit rate broadcast ads that refer to opponents. Offered March 22. Approved by voice vote, March 22.

Nickles-Gregg (S.Amdt. 139) – to strike *Beck* provision in McCain-Feingold bill. Offered March 22. Approved (99-0), March 22.

Landrieu (S.Amdt. 124), as modified – to require FEC to develop and provide standardized software for filing reports electronically. Offered March 21. Approved by voice vote, March 22.

Wellstone (S.Amdt. 145) – to remove exemption in McCain-Feingold for electioneering communications by 501c(4) or 527 organizations, as it applies to "targeted communications" (*i.e.*, electioneering communications broadcast by TV, radio, cable, or satellite, to voters of state in which a clearly identified federal candidate seeks office). Offered March 26. Approved (51-46), March 26.

Hagel (S.Amdt. 146–Division 2: Subtitle B–Increased Disclosure) – to codify FEC regulations requiring disclosure of national party soft money receipts and disbursements; to require candidates to file monthly reports in election years and quarterly reports in non-election years, and require national party committees to file monthly reports in all years; to require broadcasters to maintain and make available for public inspection records of broadcast time requests by candidates or by other entities whose message relates to political matters of national importance, including about a legally qualified candidate, a federal election, or a legislative issue of public importance; records must include: whether request was accepted; rate charged; date and time message aired; class of time purchased; identification of candidate and office, election, or issue referred to; and identity of purchaser (including officers of any non-candidate entity). Offered March 26. Motion to table Division 2 defeated (100-0), March 27. Division 2 approved by voice vote, March 27.

Thompson, as modified (S.Amdt. 149) – to raise limit on individual contributions to candidates to $2,000 per candidate, per election, and to national party committees to $25,000 per year, both indexed for inflation; to raise aggregate limit on individual contributions to $37,500 per year, indexed for inflation; to raise special limit on combined contributions to Senate candidates by national and senatorial party committees to $35,000 in year of election, indexed for inflation. Offered and Approved (84-16), March 28.

Schumer (S.Amdt. 153) – to require national parties to comply, voluntarily, with coordinated expenditure limits in the event that the Supreme Court finds them unconstitutional, in order to be eligible for lowest unit broadcast rate, and to allow broadcasters to not offer lowest unit rate to parties for independent expenditures; includes severability clause. Offered and Approved (52-48), March 28.

Bingaman (S.Amdt. 157) – to require FEC disclosure of donations to presidential inaugural committees within 90 days of inauguration, and to prohibit such donations from foreign nationals. Offered and Approved by voice vote, March 29.

Specter (S.Amdt. 140, as modified) – to provide an alternative to the definition of electioneering communication, in the event that Snowe/Jeffords provision is ruled unconstitutional, based on the Ninth Circuit Furgatch case (*i.e.*, suggestive of no plausible meaning other than an exhortation to vote for or against a candidate, regardless of whether it constitutes express advocacy); to provide that nothing in the provision alters the FEC regulation, 11 CFR 100.22(b), defining express advocacy. Offered and laid aside, March 22. Amendment modified twice and Approved (82-17), March 29.

Nelson (S.Amdt. 159) – to prohibit fraudulent misrepresentation in the solicitation of campaign funds. Offered and Approved by voice vote, March 29.

Kerry (S.Amdt. 160) – to direct GAO to study statistics for and the effect of public funding ("clean money") systems in Arizona and Maine and report to Congress within a year of enactment. Offered and Approved by voice vote, March 29.

Levin (S.Amdt 161) – to allow state and local parties to use funds raised in accordance with state laws for the allocable share of voter registration drives in the last 120 days of a federal election, voter identification efforts, get-out-the-vote drives, and generic activities, provided that they do not refer to a federal candidate and that no person donates more than $10,000 a year to a state or local party for such activities. Offered and Approved by voice vote, March 29.

Durbin (S.Amdt. 162) – to require sponsorship identification on all election-related advertising, and to enhance the visibility of such identification in the communication. Offered and Approved by voice vote, March 29.

Thompson (S.Amdt 163) – to change penalties for knowing and willful violations to a fine under Title 18 or one year in prison, or both, for amounts aggregating between $2,000 and $25,000 in a year, and a fine under Title 18 or five years in prison, or both, for amounts aggregating $25,000 or more; to change statute of limitations for election law violations from three to five years; to direct U.S. Sentencing Commission to promulgate guidelines and make legislative or administrative recommendations regarding penalties for violating federal election law, per specified considerations. Offered and Approved by voice vote, March 29.

Bond (S.Amdt. 166) – to increase civil and criminal penalties for knowing and willful violations of ban on contributions made in the name of another. Offered and Approved by voice vote, March 30.

Hatch (S.Amdt. 167) – to provide expedited review to the U.S. District Court for D.C. for declaratory judgment and injunctive relief; to provide direct appeal to the U.S. Supreme Court; and to provide expedited consideration by both courts. Offered and Approved by voice vote, March 30.

McCain (S.Amdt. 165) – to replace section 214, regarding coordinated activities: to define "coordinated expenditure or other disbursement" as a payment made in concert or cooperation with, or at request or suggestion of, or pursuant to any particular or general understanding with a candidate or party; to include in the definition of "contribution," "any coordinated expenditures or other disbursements" (including non-express advocacy); to direct FEC to promulgate new regulations on this subject. Offered and Approved (57-34), March 30.

Durbin (S.Amdt 169, as modified) – to take into account gross receipts of a candidate (as of June 30 and Dec. 30 of year before election) whose opponent exceeds recommended amount of personal fund spending on his or her campaign, before contribution limit increases are triggered. Offered, Modified and Approved by voice vote, March 30.

McCain (S.Amdt. 171) – to make minor, technical, and conforming changes to bill, as passed. Offered and Approved by voice vote, Apr. 2, 2001.

Amendments Rejected, Tabled, or Withdrawn.

Domenici-Ensign (S.Amdt. 112) – to raise limits on contributions to Senate candidate whose opponent exceeds a designated level of personal funding in his or her campaign. Tabled (51-48), March 19.

Bennett (S.Amdt. 117) – to repeal exemption that allows use of corporate and union treasury money to pay overhead costs of a separate segregated fund (PAC). Offered March 20. Defeated (37-63), March 20.

Smith, OR (S.Amdt. 118) – to prohibit contributions to candidates for or Members of Congress by registered lobbyists when Congress is in session. Offered March 20. Tabled (74-25), March 20.

Wellstone-Cantwell (S.Amdt. 123) – to allow states to establish voluntary systems of public financing for congressional elections within their respective states. Offered March 21. Defeated (36-64), March 21.

Hatch (S.Amdt. 134) – to: (1) strike McCain-Feingold provision on *Beck* decision; and (2) require unions and corporations to disclose to and get consent of dues-payers and shareholders, respectively, regarding use of treasury funds for political activities. Offered March 21. Tabled (69-31), March 21.

Hatch (S.Amdt. 136) – to require unions and corporations to make reports on their political spending to their dues-payers and shareholders, respectively. Offered March 21. Tabled (60-40), March 22.

Helms (S.Amdt. 141) – to require union dues-payers to be notified annually by unions of their right to withhold portion of dues not used for collective bargaining. Offered March 22. Tabled (53-40), March 23.

Hutchison (S.Amdt. 111) – to exempt state and local political organizations that disclose financial activity under state laws from notification and reporting requirements under P.L. 106-230 (mandating disclosure by 527 organizations). Offered March 19. Withdrawn, March 23.

S. J. Res. 4 (Hollings-Specter) – Proposed constitutional amendment to allow Congress and states to set reasonable limits on contributions and expenditures in support of or opposition to candidates for nomination and election to federal and state, or local office. Debate began March 26. Defeated (40-56), March 26.

Fitzgerald (S.Amdt. 144) – to apply contribution limits on an election cycle basis. Offered March 23. Withdrawn, March 26.

Hagel (S.Amdt. 146 –Division 1: Subtitle A–Contribution Limits) – to raise individual limit on contributions to candidates to $3,000 per election, to national party committees to $60,000 per year, to PACs/other committees to $15,000 per year, and on annual aggregate contributions to $75,000; to raise limit on PAC contributions to candidates to $7,500 per election, to national party committees to $30,000 per year, and to PACs/committees to $7,500 per year; to raise limit on party contributions to candidates to $7,500 per election or, for national party committees, a total of $15,000 per election, to PACs/other committees to $7,500 per year, and special limit on combined contributions to Senate candidates from national and senatorial party committees to $60,000 (in general election year); to index all hard money contribution limits for inflation, as of 2003. Offered March 26, Division 1 Tabled (52-47), March 27.

Hagel (S.Amdt. 146 –Division 3: Subtitle C–Soft Money) – to impose a $60,000 annual limit on receipt of soft money by a national party committee (or an entity it directly or indirectly establishes, maintains, finances, or controls) from any individual or entity; to impose a $60,000 annual limit on soft money donations by any individual or entity to all national party committees (not including party transfers); to index soft money donation limits, as of 2002; to require state and local party committees–and entities established, maintained, financed, or controlled by them or by one or more state and local candidates–to use only hard money for allocable expenses; to codify portions of FEC regulations on what kinds of mixed activities (those benefitting federal as well as state and local campaigns) must be allocated between hard and soft money funding; to make soft money limits contingent upon satisfactory Supreme Court review. Offered March 26, Division 3 Tabled (60-40), March 27.

Kerry (S.Amdt. 148) – to provide partial public financing for Senate candidates in general elections who abide by voluntary spending limits. Offered March 27. Defeated (30-70), March 27.

Feinstein-Cochran-Schumer (S.Amdt. 151, to SA 149) – to raise limit on individual contributions to candidates to $4,000 per election cycle (from date of last general election for that office to date of that general election); to raise aggregate limit on individual contributions to $65,000 per two-year election cycle, with up to $30,000 per cycle to candidates and $35,000 per cycle to PACs and parties; to index individual contribution limit and special limit on combined national and senatorial party committee Senate candidate contributions for inflation, in $100 increments, as of 2003; to require national parties to comply with coordinated expenditure limits, even if held to be invalid by Supreme Court, in order to be eligible for lowest unit rate, and to allow broadcasters to not offer lowest unit rate to parties for independent expenditures. Offered March 28. Motion to table defeated (46-54), March 28. Withdrawn, March 28.

Schumer (S.Amdt. 135) – to express Sense of the Senate that election reform is not ready for consideration by Senate. Offered March 21. Withdrawn, March 28.

DeWine (S.Amdt. 152) – to strike Title II of McCain-Feingold, defining electioneering communications, requiring their disclosure, and prohibiting their use by certain entities and in certain instances. Offered March 28. Defeated (28-72), March 29.

Harkin (S.Amdt. 155) – to establish voluntary spending limits in Senate elections ($1 million plus 50 cents per eligible voter in state, plus an additional 67% for a primary, and 20% for a runoff), with public funds (from a tax checkoff and FEC fines) to match, on a two-for-one basis, amounts spent by an opponent over the voluntary limit. Offered and Defeated (32-67), March 29.

Frist-Breaux (S.Amdt. 156, as modified) – to establish non-severability for only the Snowe/Jeffords provisions regarding electioneering communications (Sections 201 and 203), the soft money provisions (in Section 101, except for the part banning party donations to or fundraising for tax-exempt organizations, and in section 103(b), banning party building funds), and the hard money contribution limit increases (in Section 308); to establish severability for all other provisions; severability would allow any provision of the bill that is not held unconstitutional to remain in effect, and non-severability would invalidate all five sections (Sections 101, 103(b), 201, 203, and 308) if any one of those sections was held unconstitutional; and to provide expedited review of any provision or amendment to U.S. District Court with direct appeal to Supreme Court. Offered; Motion to table approved (57-43), March 29.

Bingaman (S.Amdt. 158) – to require that broadcasters provide free, equal response time to federal candidates who are attacked or opposed in broadcast ads (regardless of whether they constitute express advocacy) by any person, other than another federal candidate. Offered, and Motion to table approved (72-28), March 29.

Harkin (S.Amdt 168) – to make provisions that ban soft money and that increase hard money contribution limits non-severable, with relation to each other. Offered, Defeated by voice vote, March 30.

Reed (S.Amdt 164, as modified) – to extend period in which audits may be conducted from six to 12 months; to give FEC authority to seek injunctions; to increase knowing and willful violation penalties; to expedite enforcement procedures in final 60 days of election; to prevent use of candidate name by unauthorized committees, and require candidate name in the name of authorized committees; to allow FEC to refer suspected violations to Attorney General at any time; to authorize FEC appropriations of $80 million annually, to be adjusted for inflation. Offered March 29, Modified and Defeated (41-50), March 30.

Amendment Superseded by Modification.

Thompson, as offered (S.Amdt. 149) – to raise individual limit on contributions to candidates to $2,500 per election, to national party committees to $40,000 per year, to PACs/other committees to $7,500 per year, and on annual aggregate contributions to $50,000; to raise limit on PAC (and party) contributions to candidates to $7,500 per election, to national party committees to $17,500 per year, and to PACs/other committees to $7,500 per year; to raise special limit on combined contributions to Senate candidates from national and senatorial party committees to $35,000 (in general election year); to index all hard money contribution limits for inflation, in multiples of $500, as of 2003. Offered March 27. Motion to table defeated (46-54), March 28. Modification accepted by unanimous consent, March 28 (see modified version).

Amendments Submitted but Not Acted On.

Hutchison (S.Amdt. 110) – to limit to $250,000 the amount of Senate campaign funds that may be used to repay personal loans from candidates or family members. Offered March 19.

Specter (S.Amdt. 114) – to add to definitions of *electioneering communications* and *public communications* (in terms of *federal election activity*) that they promote, support, attack, or oppose a candidate in such a way that a reasonable person would not disagree that the message seeks the election or defeat of a candidate. Offered March 19.

Thompson (S.Amdt. 116) – to triple all hard money contribution limits and index them for future inflation. Offered March 20.

Allard (S.Amdt. 119) – to: (1) raise individual and lower PAC contribution limits; (2) remove party limits in response to candidate spending of over $5,000 personal funds; (3) require half of congressional campaign funds to come from state or district residents; (4) require national parties to disclose disbursements of over $1,000 on any political activity, as defined; (5) require Paycheck Protection by corporations and unions; (6) require annual notice of political activity spending to corporate stockholders and union dues-payers; (7) require unions and corporations to report all exempt activity spending of at least $1,000; (8) require monthly reports by candidates after July of election year and 24-hour reports in last 15 days of election; (8) require itemized record-keeping and reporting of all contributions; (9) prohibit deposit of any contribution not properly identified; (10) allow filing of reports by FAX or other methods; (11) require availability of all reports at FEC within 24 hours; (12) prohibit fundraising to repay debts and loans past 90 days after election, and require unpaid debts to be assumed by candidate; and (13) prohibit franked mass mailings by Members. Offered March 20.

Allard (S.Amdt. 120) – to: (1) require national parties to disclose disbursements of over $1,000 on any political activity, as defined; (2) require annual notice of political activity spending to corporate stockholders and union dues-payers; and (3) require unions and corporations to report all exempt activity spending of at least $1,000. Offered March 20.

Allard (S.Amdt. 121) – to: (1) require monthly reports by candidates and, in last 15 days of election, 24-hour reports; (2) require itemized record-keeping and reporting of all contributions; (3) prohibit deposit of any contribution not properly identified; and (4) require availability of all reports at FEC within 24 hours. Offered March 20.

Bond (S.Amdt. 125) – to: (1) amend Motor Voter law to require voters whose registration cannot be verified to present picture identification to vote; and (2) require FEC to set up a

demonstration project to coordinate maintenance of voter rolls with state officials. Offered March 21.

Bond (S.Amdt. 126) – to amend Motor Voter law to improve accuracy of voter rolls, allow states to require notarization of mail-in registration form, require first-time voters to show picture identification, and establish penalty for conspiracy to deprive citizens of fair and impartial election process. Offered March 21.

Cleland (S.Amdt. 127) – to: (1) require pre-election reports filed by 12th day before election; and (2) require PACs with over $100,000 in financial activity to file monthly reports and to notify FEC of contributions of $1,000 or more received in last 20 days of an election. Offered March 21.

Cleland (S.Amdt. 128) – to allow FEC to conduct random audits within 12 months of an election. Offered March 21.

Cleland (S.Amdt. 129) – to allow filing of civil suits for injunctive relief if FEC does not act on a complaint within 120 days of its filing. Offered March 21.

Cleland (S.Amdt. 130) – to prohibit candidates from raising funds *before* January 1 of election year (or 90 days before ballot qualification), with exception to compensate for opponent carryover, and *after* the fifth day following election, except to pay debts incurred in that campaign. Offered March 21.

Cleland (S.Amdt. 131) – to give FEC authority for independent litigation and for right to petition Supreme Court for appeals. Offered March 21.

Cleland (S.Amdt. 132) – to add a seventh FEC commissioner and specify new appointment and prerequisite experience rules. Offered March 21.

Cleland (S.Amdt. 133) – to require certification in disclosure reports that an itemized contribution was not made in the name of another person or from a foreign national. Offered March 21.

Bond (S.Amdt. 150) – to increase civil and criminal penalties for violation of prohibition on contributions made in the name of another (*i.e.*, laundered money); to ban any funding from foreign nationals for any disbursement or independent expenditure by political party committees. Offered March 27.

Warner (S.Amdt. 154) – to establish a 100% tax credit of up to $100 ($200 on joint returns) for contributions to congressional candidates by taxpayers whose modified adjusted gross income does not exceed $50,000 ($100,000 for joint returns). Offered March 28.

Appendix 2. House Debate on and Amendments to H.R. 2356 (Shays-Meehan)

The House Administration Committee held a series of hearings on campaign finance reform beginning on March 17, 2001 in Phoenix AZ. On May 1, during the second hearing of the series, supporters of McCain-Feingold and its House companion, H.R. 380 (Shays-Meehan), urged the House to act by Memorial Day. Chairman Ney stated the Committee would report a bill to the House by the end of June. A third hearing, on constitutional issues, was held June 14, and a fourth, on June 21, heard testimony from House Members.

On June 28, the Committee completed its hearings by taking further testimony from Members. It then proceeded to markup of H.R. 2360 (Ney-Wynn), and ordered it reported favorably to the House (H.Rept. 107-132). The bill featured limits on soft money donations to national parties, disclosure of amounts spent on election-related issue advocacy, and increases in some hard money contribution limits. The Committee also ordered H.R. 2356, the modified Shays-Meehan bill, reported unfavorably (H.Rept. 107-131, pt. 1). That bill closely resembled S. 27 (McCain-Feingold), as passed by the Senate in April. Hearings were also held on June 12 by the Judiciary Subcommittee on the Constitution, on related constitutional issues, and on June 20 by the Energy and Commerce Subcommittee on Telecommunications and the Internet, on related broadcast issues.

The House planned to consider campaign finance reform on July 12, 2001, with debate expected to focus on the Ney-Wynn and Shays-Meehan bills. However, debate failed to materialize that day, when the House rejected on a 203-228 vote the proposed rule for considering the issue. H. Res. 188, as reported from the Rules Committee that morning (H.Rept. 107-135), would have made in order H.R. 2356 (Shays-Meehan), 20 perfecting amendments (including 14 by the bill's managers), and two substitutes–the Doolittle amendment, nearly identical to H.R. 1444, and the Ney-Wynn amendment, identical to H.R. 2360.

Supporters of Shays-Meehan filed a discharge petition on July 19 to force reconsideration of the issue. By gaining the needed 218 signatures, it would bring up a rule—H.Res. 203 (Turner)—making in order for House debate on Shays-Meehan and three substitutes (offered by Representatives Shays and Meehan, House Administration Committee Chairman Ney, and Majority Leader Armey). On January 24, 2002, advocates of Shays-Meehan secured the last four signatures necessary to force a floor vote on the bill. House leaders pledged to set a date for floor debate, based on terms of the discharge petition.

On February 7, 2002, the House Rules Committee reported H.Res. 344 (H.Rept. 107-358), setting forth terms for debate of H.R. 2356, similar to those of the discharge petition. The House passed the rule on a voice vote on February 12. On February 13, the House agreed to a Shays-Meehan substitute amendment, after rejecting substitutes offered by Representatives Armey and Ney. The House then agreed to four perfecting amendments and rejected eight others, after which H.R. 2356, as amended, was passed on a 240-189 vote.

Amendments Accepted.

Shays Substitute no. 9 (Passed, 240-191)

Individuals (Hard Money). Raises limit on contributions to candidates to $2,000 in Presidential and Senate elections, retains $1,000 limit in House elections, and indexes both for inflation; raises limit on contributions to state party committee to $10,000 per year; raises limit on contributions to national party committees to $25,000 per year, indexed for inflation; raises (and indexes) aggregate limit to $95,000 per 2-year cycle, with sub-limits:(a) $37,500 to all candidates; (b) $57,500 to all PACs and parties (no more than $37,500 of which is to state and local parties and PACs);

Parties (Hard Money). Raises special limit on combined contributions to Senate candidates by national and senatorial party committees to $35,000 in year of election, indexed for inflation;

Candidates (Hard Money). Codifies FEC regulations on permissible uses for campaign funds; retains ban on personal use; limits repayment of candidate loans to $250,000, from post-election contributions; for Senate elections: raises limits on individual and party support for Senate candidate whose opponent exceeds designated level of personal funding in campaign; creates threshold of $150,000 + 4¢ times number of eligible voters in state; if "opposition personal funds amount" (personal spending of candidate minus that of opponent) exceeds threshold amount by: (a) 2-4 times, then limit on individual contributions to opponent is tripled; (b) 4-10 times, then limit on individual contributions to opponent is raised 6-fold; (c) 10 times, then limit on individual contributions to opponent is raised 6-fold and limit on party coordinated expenditures for opponent is removed; aggregate individual limit would be raised to extent of increased contribution limits; limits would be raised only to extent of 110% of total "opposition personal funds amount;" In calculating "opposition personal funds amount," considers candidate warchests, by including "gross receipts advantage" of candidate opposed by wealthy candidate (*i.e.*, 50% of gross receipts of candidate minus 50% of gross receipts of wealthy opponent, as of June 30 and Dec. 31 of year before election);

Independent Expenditures (Hard Money). Defined as an expenditure by a person for a communication that is express advocacy, and that is not made in concert or cooperation with, at request or suggestion of a candidate, party, or agent; requires a 48-hour notice of independent expenditures of $10,000 or more, up to 20 days before an election (and 24-hour notice of expenditures above $1,000 in last 20 days, same as currently); bans parties from making both independent and coordinated expenditures for a general election candidate;

Coordination (Hard and Soft Money). Treats an "electioneering communication" that is coordinated with a candidate, agent, or party as a contribution to and expenditure by candidate or party; treats expenditures by any person made in cooperation, consultation, or concert with, or at request or suggestion of, any party committee as a contribution to that party committee; repeals new FEC regulations on coordination within 90 days, and directs FEC to promulgate new regulations within 90 days on coordinated communications by persons other than candidates, authorized committees, or parties; specifies new rules will not require "agreement or formal collaboration" to establish coordination and will address issues of: (1) republication of campaign material; (2) common vendors; (3) prior employment status; and (4) substantial discussion with candidate or party;

Soft Money: Party. Prohibits a national party committee, including entities directly or indirectly established, financed, maintained, or controlled by such committee or agent acting on its behalf, from soliciting, receiving, directing, transferring, or spending soft money; in general, bans soft money spending for a "federal election activity" by state/local party

committees, including an entity directly or indirectly established, financed, maintained, or controlled by a state or local party committee (and agent acting on its behalf), or by an association or group of state/local candidates or officials (while generally state/local candidates are prohibited from using soft money for public communications that promote/attack a clearly identified federal candidate, bill exempts communications referring to a federal candidate who is also a state/local candidate); but allows state, district, or local party committee to use some funds raised under state law for an allocable share (at a ratio to be set by FEC) of voter registration drives in last 120 days of a federal election, voter identification, get-out-the-vote drives, and generic activity, if they: (1) do not refer to a federal candidate; (2) do not pay for a broadcast, cable, or satellite communication (unless it refers solely to state/local candidates); (3) take no more than $10,000 a year from any person (including an entity person establishes, finances, maintains, or controls) for such activity; and (4) use only funds raised by that party committee expressly for such purposes, with no transfers from other party committees (and agents/officers acting on their behalf or entity they directly or indirectly establish, finance, maintain, or control); prohibits funds for these accounts from being solicited, received, directed, transferred, or spent in name of national party, federal candidate or official, or joint fundraising activities by two or more party committees; defines "federal election activity" to include: (1) voter registration drives in last 120 days of a federal election; (2) voter identification, get-out-the-vote drives, and generic activity in connection with an election in which a federal candidate is on the ballot; (3) "public communications" that refer to a clearly identified federal candidate and promote, support, attack, or oppose a candidate for that office (regardless of whether it expressly advocates a vote for or against); or (4) services by a state or local party employee who spends at least 25% of paid time in a month on activities in connection with a federal election; defines "public communications" to include communications by broadcast, cable, satellite, newspaper, magazine, outdoor advertising, mass mailing (over 500 same or substantially similar pieces mailed within 30 days of each other), or phone bank (over 500 same or substantially similar calls made within 30 days of each other); defines "generic campaign activity" as one that promotes a party but not a federal or non-federal candidate; allows state parties to spend money exclusively on non-federal election activities; bans party committees from using soft money to raise funds for use at least in part on federal election activities; prohibits party committees or agents from raising money for, or giving to, an Internal Revenue Code §501(c) tax-exempt organization that makes disbursements in connection with a fed. election (including a "federal election activity") or a §527 tax-exempt organization (if not a federal political committee); prohibits federal candidates, officeholders, agents, or entities they directly or indirectly establish, maintain, finance, or control from raising soft money in connection with a federal election (including any "federal election activity") or any money from sources beyond federal limits and prohibitions in non-federal elections (ban does not apply to federal officials who are or were candidates for state or local office for activity allowed under state law and refers only to the state/local candidate or opponents); regardless of other soft money restrictions, allows federal candidates or officials to make: (a) general solicitations without restriction on behalf of 501(c)s involved in federal elections where solicitation doesn't specify how funds will be used, unless 501(c)'s principal purpose is voter registration in last 120 days of federal election, GOTV, voter ID, or generic activity where a federal candidate is on ballot; and (b) solicitations for 501(c)s involved in federal elections specifically for above-mentioned activities, or for general use by 501(c) whose principal purpose is such activities, with solicitations made only to individuals, subject to a $20,000 per donor limit; codifies FEC regulations on disclosure of all national party activity–federal and non-federal; requires disclosure of "federal election activities" by state and local party committees subject to a $5,000 threshold (including entities directly or indirectly established, financed, maintained, or controlled by either state/local party committee and agent or by state or local candidates and officials); disclosure must include amounts raised and spent by special soft money accounts, allowed to be used for "federal election activities;" ends building fund exemption;

Issue Advocacy (Soft Money). Defines "electioneering communication" as a broadcast, cable, or satellite advertisement that "refers" to a clearly identified federal candidate, made within 60 days of a general election or 30 days of a primary, and, if for House or Senate elections, is targeted to the relevant electorate (exempts news events, expenditures, independent expenditures, debates, and others by FEC regulation); provides alternative definition of "electioneering communication," in the event that the first definition is ruled unconstitutional, based on *FEC v. Furgatch* (1987) (*i.e.*, communication promoting, supporting, attacking, or opposing a candidate, regardless of whether it expressly advocates a vote for or against a candidate, and is suggestive of no plausible meaning other than an exhortation to vote for or against a candidate); nothing in provision alters 11 CFR 100.22(b), FEC regulation defining express advocacy; defines "targeted to the relevant electorate" as communication which can be received by 50,000 or more persons in state or district where Senate/House election, respectively, is occurring; requires disclosure to FEC of disbursements for direct costs of producing and airing electioneering communications by any spender exceeding $10,000 annual aggregate in such disbursements, within 24 hours of first and each subsequent $10,000 amount; requires disclosure to include: identification of spender, custodian of books, and any entity exercising control over activity; principal place of business; ID of disbursements of over $200; ID of donors of $1,000 or more (either to a separate segregated fund devoted exclusively to such activities, with funds only from U.S. citizens or nationals or permanent resident aliens, or, if no separate segregated fund, to organization itself); and notation as to election and candidates to which communications pertain; bans funding of electioneering communications with funds from union or certain corporate funds; but exempts IRC §501(c)(4) or §527 tax-exempt corporations making electioneering communications with funds solely donated by individuals who are U.S. citizens or nationals or permanent resident aliens, unless communication is a targeted communication, *i.e.*, it was distributed from a broadcaster or cable or satellite service and is received by 50,000 or more persons in state or district where Senate/House election, respectively, is occurring; treats an electioneering communication that is coordinated with a candidate, agent, or party as a contribution to and expenditure by candidate or party; requires broadcasters to maintain and make available for public inspection records of broadcast time requests by candidates or by other entities whose message relates to political matters of national importance, including messages about a legally qualified candidate, a federal election, or a legislative issue of public importance; requires records to include: whether request was accepted; rate charged; date and time message aired; class of time purchased; identification of candidate and office, election, or issue referred to; and identity of purchaser, incl. officers of any non-candidate entity;

FEC Enforcement. Increases criminal penalties for knowing and willful violations involving contribution/expenditure/donation amounts aggregating from $2,000 to $25,000 in a year: a fine under Title 18 or up to one year in prison, or both; for knowing and willful violations involving amounts aggregating $25,000 or more: a fine under Title 18 or up to five years in prison, or both; imposes specific penalties for knowing and willful violations of ban on contributions made in the name of another: in civil cases: between 300% of violation amount and the greater of $50,000 or 1000% of violation amount; in criminal cases: two years in prison for up to $25,000 violation amount, or fine of between 300% of violation amount and the greater of $50,000 or 1000% of violation amount, or prison and fine; changes statute of limitations from three to five years, for criminal violations of Act; directs U.S. Sentencing Commission to promulgate guidelines and make legislative or administrative recommendations regarding penalties for violating federal election law, per specified considerations; requires FEC to promulgate regulations concerning bill's soft money provisions within 90 days of effective date and concerning bill's other provisions within 270 days;

FEC Disclosure. Requires all reports filed with FEC to be posted on Internet and available for inspection within 48 hours, or 24 hours if filed electronically; requires FEC to maintain central web site of all publicly available election-related reports; requires FEC to develop and

provide standardized software for filing reports electronically, and requires candidates' use of such software; requires candidates to file monthly reports in election years and quarterly reports in non-election years, and requires national party committees to file monthly reports in all years;

Advertising. Makes TV, cable, and satellite lowest unit rate (LUR) broadcast time (for last 45/60 days of election) non-preemptible, with rates based on comparison to prior 180 days; requires such rates to be available to parties buying time for "coordinated expenditures" for their candidates; and provides for random audits to insure compliance; requires federal candidate broadcast ads sold at lowest unit rate and that include direct reference to opponents to include candidate photo or image on TV and a statement of candidate approval (printed on TV and spoken by candidate on radio); adds requirement for sponsor identification by political committees for any public political advertising (including "electioneering communications"), and requires specific minimal standards to enhance visibility of such identification in the communication;

Foreign. Bans direct or indirect contributions from foreign nationals (including soft money), or their solicitation or receipt, or any promise to make such donations, in connection with any U.S. election, to a national party committee, or for any expenditure, disbursement, or independent expenditure for an "electioneering communication" (retains permanent resident alien exemption); clarifies that ban does not apply to U.S. nationals;

Miscellaneous. Bans solicitation or receipt of contributions, including soft money, *from* anyone or *by* federal officials, while in any federal government building used to discharge official duties; requires FEC disclosure of over-$200 donations to presidential inaugural committees within 90 days of event, and bans foreign national donations to them; prohibits fraudulent misrepresentation in the solicitation of campaign funds, and bans knowing and willful participation in conspiracy to engage in such violations; bans contributions to candidates and donations to parties by individuals 17 and younger; directs GAO to study and report to Congress statistics for and effects of public funding systems in Arizona and Maine; provides for expedited review to the U.S. District Court for D.C. (and exclusive venue) for declaratory judgment and injunctive relief on constitutional grounds; provides direct appeal to the U.S. Supreme Court from any final order or judgment; and provides for expedited consideration by both courts; provides if any action is brought for declaratory or injunctive relief to challenge the constitutionality of the Act, it shall be filed in U.S. District Court for D.C. and heard by a 3-judge court; a copy of the complaint shall be delivered promptly to the Clerk of the House and the Secretary of the Senate; a final decision shall be reviewable only by direct appeal to the U.S. Supreme Court, (notice of appeal to be filed within 10 days and jurisdictional statement to be filed within 30 days); expedited consideration to be provided by both courts; and right of intervention provided to Members of the House and Senate; if any provision of the Act or its amendments, or its application to any person or circumstance, is held unconstitutional, the remainder of the Act and its amendments, and its application to any person or circumstance, shall not be affected by the holding; generally, provisions take effect November 6, 2002, unless otherwise provided; specifies transition rules for soft money: (a) allows parties to pay outstanding debts from soft money raised between effective date and December 31, 2002; and (b) to defray costs of construction or purchase of a party office building or facility at any time after December 31, 2002.

Green Amendment no. 11 (Passed, 327-101)

Advertising. Strikes section 305 from H.R. 2356, requiring non-preemptible lowest unit rate to candidates, changing time period used as a base for such rates, and requiring political parties to get lowest unit rate for coordinated expenditures on behalf of candidates.

Capito Amendment no. 10 (Passed on voice vote)

Candidates (Hard Money). Triggers a tripling of individual contribution limits and additional party coordinated expenditures for House candidates facing wealthy self-financed opponents; adjusted limits would be triggered when wealthy opponent has spent more than $350,000 of personal wealth, taking into account as offsets both the personal wealth spent by the non-wealthy candidate and the accumulated campaign funds of both candidates.

Wamp Amendment no. 12 (Passed, 218-211)

Individuals (Hard Money). Increases the limit on individual contributions to House candidates from $1,000 per election to $2,000.

Kingston Amendment no. 25 (Passed, 232-196)

Soft Money: Party. Deletes provision allowing use of remaining soft money funds for political party building construction; also deletes exemption of state party building costs from the definition of "federal election activity."

Meehan Motion to Recommit (Passed on voice vote)

Miscellaneous. Clarified that provision allowing repayment of debts using soft money for a limited time period shall not allow use of soft money to repay hard money debts.

Amendments Defeated.

Armey Substitute no. 13 (Defeated, 179-249)

Soft Money: Party. Prohibits the soliciting, receiving or directing of soft money by national parties, including a ban on using soft money for constructing or purchasing a building, influencing state reapportionment, and financing reapportionment litigation; requires state, district, and local parties to spend hard money for "federal election activity," which is defined as: voter registration, voter ID, GOTV, or generic campaign activity in connection with an election where federal candidate appears on the ballot, regardless of whether state or local candidate also appears; prohibits all political parties from raising funds or making donations to tax-exempt §501(c) and §527 organizations;

Soft Money: Non-Party. Prohibits corporations and labor unions from using treasury funds to finance nonpartisan registration and GOTV activity; requires that §501(c)(3),(c)(4), and 527 organizations use hard money for partisan voter registration and GOTV activities.

Ney Substitute no. 14 (Defeated, 53-377)
(based on H.R. 417, as passed by House in 106th Congress)

Individuals (Hard Money). Raises aggregate individual limit to $30,000 per year; raises limit on individual contributions to state parties to $10,000 per year;

Candidates (Hard Money). Specifies permissible uses and prohibit personal use of campaign funds; bans party coordinated expenditures on behalf of House or Senate general election candidates not abiding by voluntary personal spending limit of $50,000;

Independent Expenditures (Hard Money). Defines "independent expenditure" as containing express advocacy and made without coordination with a candidate, agent, or person

coordinating with candidate; requires 48 hour notice of expenditures of $10,000 or more, up to 20 days before an election; bans parties from making both independent and coordinated expenditures for a general election candidate; amends "contribution" to incl. any "coordinated activity"; defines "coordinated activity" as anything of value provided in coordination with a candidate (or party or agent) to influence a federal election, regardless of whether it contains express advocacy, incl. payments: (1) in cooperation or consultation with, or at request or suggestion of, a candidate, party, or agent; (2) using candidate-prepared materials; (3) based on information provided by candidate's campaign for purposes of expenditure; (4) by a spender who in that election cycle has raised funds or acted in an official position for a candidate; (5) by a spender who has used same consultants as an affected candidate in election cycle, directly or through party; (6) for communications about campaign plans, directly or through party; (7) for in-kind professional services, directly or through party, other than for voter guide mailings; and (8) in coordination with a candidate to influence election regardless of whether communication contains express advocacy; deems anything of value in coordination with candidate a "contribution" or "expenditure"; exempts lobbying contacts from consideration as coordination; bans conciliation agreements in cases in which FEC has found probable cause of knowing and willful violations of independent expenditure disclosure requirements;

Soft Money: Party. Bans national party committees from soliciting, receiving, directing, transferring, or spending soft money; bans state and local party committees from spending soft money for federal election activity, including: (1) voter registration drives in last 120 days of a federal election; (2) voter identification, get-out-the-vote drives, and generic activity in connection with an election in which a federal candidate is on the ballot; and (3) communications that refer to a clearly identified federal candidate with intent of influencing that election (regardless of whether it is express advocacy); allows state party spending on specific activities exclusively devoted to non-federal elections; bans party committees' use of soft money to raise funds; bans federal candidates, officeholders, and their PACs from raising soft money in connection with a federal election, or money from sources beyond federal limits and prohibitions in non-federal elections; requires disclosure by national parties of all activity (federal and non-federal) and by state and local parties of specified activities that might affect federal elections; removes building fund exemption;

Soft Money: Non-Party. Requires unions, corporations, and other groups or entities—other than party committees or religious organizations—to disclose all exempt activities (but only those internal communications referring to federal candidates), once $50,000 has been spent;

Issue Advocacy. Defines "express advocacy" communications as advocating election or defeat of a candidate by: (1) using explicit phrases, or words or slogans that in context can have no other reasonable meaning than election advocacy; (2) referring to a candidate in a paid radio or TV broadcast ad that appears in affected state within 60 days of election (or, for President, within 60 days, regardless of where ad appears); or (3) expressing unmistakable, unambiguous election advocacy, when taken as a whole and with limited reference to external events; exempts, from definition, printed or Internet voting guides and records about at least one candidate, which: (1) taken as a whole do not express unambiguous support for candidates (but may include words of agreement or disagreement with candidate positions); (2) are not coordinated with a candidate or party (but allowing questions to candidates and their responses, for the guides); and (3) contain no words or phrases that in context have no reasonable meaning other than election advocacy; excludes background music (but not lyrics) from determining if an ad constitutes express advocacy; amends "expenditure" to include payment for communications referring to clearly identified candidates, with intent of federal election influence (regardless of whether it is express advocacy);

FEC Enforcement. Allows random audits of campaigns within 12 months after election; increases civil penalties for violations, adds automatic penalties for late filing, and provides for equitable remedies in conciliation agreements; expedites enforcement procedures in cases where there is clear and convincing evidence that a violation has occurred, is occurring, or is about to occur; allows FEC to refer suspected violations to Attorney General at any time; changes standard to begin enforcement proceedings to "reason to investigate" standard; increases criminal penalties for knowing and willful violations of contribution and expenditure limits to mandatory prison term of one to 10 years; allows Justice Department to bring criminal actions at any time, without waiting for FEC referral; allows candidates to institute civil actions for suspected violations in last 90 days of election, with expedited court review; provides that contributions over $500 that a committee intends to return (after a specified period) be placed in an FEC escrow account, pending investigation of possible violations, with money used toward fines, penalties, and investigation costs and contributions returned if no reason to investigate possible violation is found within 180 days of deposit;

FEC Disclosure. Requires electronic disclosure by any committee exceeding threshold financial activity level, with Internet posting of information within 24 hours; bans candidates from depositing contributions over $200 without complete itemized information; lowers threshold for itemizing contributions to $50 (to include only name and address);

Advertising. Amends disclaimer requirements to make them more prominent and visible;

Foreign. In connection with all U.S. elections: bans direct or indirect contributions (including soft money), or their solicitation, from foreign nationals to a candidate, party, or committee (retains permanent resident alien exemption; clarifies that ban does not apply to U.S. nationals); in connection with federal elections only: bans financial activity by anyone who is neither a U.S. citizen nor U.S. national (this ban includes permanent resident aliens); ensures all eligible voters equal rights to contribute and spend money in federal elections, including through a PAC set up by their union or corporate employer; denies "willful blindness" as a defense against charge of violating foreign national fundraising ban, if recipient should have known that contribution was from foreign national; mandates penalties for violating foreign national ban of up to 10 years in prison, up to $1 million in fines, or both; creates FEC clearinghouse on political and lobbying activities of foreign principals and agents;

Commission. Creates temporary commission to propose federal campaign finance reforms;

Miscellaneous. Bans false representation to raise funds; restricts non-candidate committee use of candidate names; bans contributions by minors to candidates or parties; bans solicitation of contributions, including soft money, by federal officials from any government building used to discharge official duties; bans use of White House meals or accommodations for political fundraising; expresses sense of Congress that "controlling legal authority" prohibits use of federal property to raise campaign funds; requires national party to reimburse Treasury at fair market charter rate for use of Air Force One to raise money for party; requires federal candidates (not holding federal office) who use federal government vehicles for campaign purposes to reimburse Treasury at full cost; bans political committees' providing currency to encourage voter turnout ("walking around money"); if any provision of the Act or this statute is held unconstitutional, the remainder of the Act and this statute will be unaffected.

Hyde Amendment no. 32 (Defeated, 188-237)

Miscellaneous. states that nothing in the bill may be construed to abridge First Amendment rights, specifically the freedoms of speech and the press, the right to peaceably assemble and the right to petition the government for a redress of grievances.

Pickering Amendment no. 27 (Defeated, 209-219)

Issue Advocacy. Exempts from the bill any communication/advertisement that consists of information or commentary about a person holding or seeking federal office on any matter pertaining to the Second Amendment.

Watts Amendment no. 31 (Defeated, 185-237)

Issue Advocacy. Exempts from the bill any communications/advertisement that consists of information or commentary about a person holding or seeking federal office on any matter pertaining to civil rights.

Sam Johnson Amendment no. 28 (Defeated, 200-228)

Issue Advocacy. Exempts from the bill any communication/advertisement that consists of information or commentary about a person holding or seeking federal office on any matter pertaining to veterans, military personnel, or senior citizens or families of any of those groups.

Combest Amendment no. 30 (Defeated, 191-237)

Issue Advocacy. Exempts from the bill any communication/advertisement that consists of information or commentary about a person holding or seeking federal office on any matter pertaining to workers, farmers or families.

Emerson Amendment no. 33 (Defeated, 185-244)

Soft Money: Party. Completely bans party soft money, by deleting "Levin" provision allowing state and local parties to continue to use some soft money for generic activities and voter registration and GOTV activities.

Wicker Amendment no. 34 (Defeated, 160-268)

Foreign. Prohibits any non-citizen from contributing to a federal campaign (*i.e.*, removes exemption from foreign national ban for permanent resident aliens).

Reynolds Amendment no. 29 (Defeated, 190-238)

Miscellaneous. Makes the bill effective immediately (February 14), with any soft money funds remaining in party accounts would need to be returned to the donors.

Ney Amendment no. 26 (Defeated, 181-248)

Individuals (Hard Money). Raises limit on contributions to state party committees to $10,000 per year; raises aggregate contribution limit to $37,500 per year; exempts contributions to national parties from aggregate limit; indexes all limits for inflation, as of 2003;

PACs (Hard Money). Raises limit on contributions to state party committees to $10,000 per year; raises limit on contributions to national party committees to $30,000 per year; indexes all limits for inflation, as of 2003;

Parties (Hard Money). Exempts national parties' costs of producing and distributing grassroots materials for volunteer activities from *contribution* and *expenditure* definition (extending current exemption for state/local parties); indexes all limits, as of 2003;

Candidates (Hard Money). Allows national parties to make expenditures on behalf of House or Senate candidates beyond the extent allowed under coordinated expenditure limits, to match contributions from wealthy opponents' personal funds, once in excess of $100,000;

Soft Money: Party. For federal election activities: prohibits national political party committees, including officers or agents acting on their behalf and entities they directly or indirectly establish, maintain, or control, from soliciting, receiving, directing, or transferring soft money; For non-federal election activities: permits no soft money from individuals, and imposes a limit of $20,000 per calendar year on the amount of soft money any other person may donate or transfer to a national party committee; defines "federal election activity" to include: (1) voter registration drives in the last 120 days of a federal election, unless for generic activity; (2) voter identification or get-out-the-vote drives in an election with at least one federal candidate on the ballot, unless for generic activity; (3) any public communication that refers to or depicts a clearly identified federal candidate and that supports, promotes, attacks, or opposes a candidate for that office, regardless of whether it expressly advocates a vote for or against a candidate; or (4) any public communication made by broadcast, cable, or satellite; exempts from "federal election activity" definition, costs of administering and soliciting funds for national party committees, if funds are designated exclusively for such uses and are segregated accordingly; defines "public communications" as those made by broadcast, cable, satellite, newspaper, magazine, outdoor advertising facility, or direct mail; defines "generic activity" as activity that does not mention, depict, or otherwise promote a clearly identified federal candidate;

Issue Advocacy (Soft Money). For broadcast, cable, or satellite communications: requires FEC disclosure of disbursements for communications disseminated within 120 days of a federal election and which "mention a clearly identified federal candidate" by name, image, or likeness, within 24 hours after each such disbursement; For non-broadcast communications: requires FEC disclosure of disbursements for communications disseminated within 120 days of a federal election, which "refer or depict a clearly identified federal candidate" by name, image, or likeness, and are targeted to the relevant electorate, if total amount spent on such communications is over $50,000 in a year, within 24 hours of exceeding threshold and each subsequent $50,000 amount; exempts from disclosure requirements: broadcast news stories and commentaries; "expenditures" as defined by federal election law; payments by vendors acting solely pursuant to a contractual agreement with person sponsoring communication; and, in the case of non-broadcast media, communications by a membership organization (including a union) or a corporation solely to its members, stockholders, or executive and administrative personnel, if entity is not organized primarily for purposes of influencing federal elections; defines "targeted mass communication" as one disseminated within 120 days of a federal election, which "refers to or depicts" a clearly identified federal candidate by name, image, or likeness, and which is "targeted to the relevant electorate": (a) broadcast communication is deemed as "targeted" if audience includes a substantial number of residents of the district (for House race) or state (for Senate race) where election is held, as determined by FEC regulations; and (b) other forms of communication will be deemed as "targeted" if over 10% of intended recipients are part of that electorate or if over 10% of that total electorate receives the communication; disclosure statement must include: identification of person making the disbursement, any entity sharing or exercising control or direction over activity, and custodian of books and accounts; principal place of business of person making disbursement (if not an individual); identity of candidates mentioned or those to whom communication pertains; text of communication; amount of disbursement (for non-broadcast communications, only amounts over $200 and including identity of recipient, as well);

Miscellaneous. Makes provisions of bill effective immediately.