

CRS Report for Congress

Campaign Finance Legislation and Activity in the 109th Congress

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Summary

During the 109th Congress, 51 bills were introduced to change the nation's campaign finance laws (primarily under Titles 2 and 26 of the *U.S. Code*). These bills — 43 in the House and 8 in the Senate — sought to change the current system, including tightening perceived loopholes. Two of those bills passed the House, but no bill passed both chambers. Therefore, no statutory changes occurred in federal campaign finance law during the 109th Congress.

Although the 109th Congress chose not to enact campaign finance legislation, Congress nonetheless considered dozens of bills addressing a wide variety of topics. In summarizing that legislation, this report identifies 14 major topics (categories) addressed in the bills. These categories are diverse, ranging from changing individual contribution limits to regulating independent expenditures. Although some bills called for increased regulation, others proposed less regulation. Hence, legislative activity during the 109th Congress reflected a long-standing debate in campaign finance policy over extending regulation of campaign finance practices versus limiting the reach of such regulation.

The most prominent legislation introduced during the 109th Congress — and that which advanced farthest through the legislative process — focused on political organizations operating under Section 527 of the Internal Revenue Code, but outside federal election law. Sponsors of the Bipartisan Campaign Reform Act of 2002 (BCRA) offered bills to require that “527s” (as these organizations are popularly known) involved in federal elections comply fully with federal election law. The Senate Rules and Administration Committee reported such a measure — S. 1053 — in May 2005, but no further action occurred in the Senate. The House Administration Committee reported two 527 bills with starkly different approaches: H.R. 513 — the 527 Reform Act of 2005, the counterpart to S. 1053 — and H.R. 1316, which sought to address the 527 issue indirectly by loosening restrictions on funding sources permitted under federal campaign finance law. In April 2006, the House passed H.R. 513, as amended, but the Senate took no action on the bill.

Legislation proposing 527 reform later became a component of the 109th Congress debate over lobbying reform. The text of H.R. 513 was eventually incorporated into the House Republican leadership's lobbying and ethics reform bill — H.R. 4975, which passed the House in May 2006. The Senate-passed lobbying bill did not contain the 527 provisions. Disagreement between the two chambers on the 527 issue reportedly contributed to neither lobbying reform nor 527 regulation legislation being enacted during the 109th Congress.

This report will not be updated, because it reflects the complete record of 109th Congress proposals and activity in this area.

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Campaign Finance Legislation and Activity in the 109th Congress

This report discusses legislation and activity in the 109th Congress aimed at amending the nation's campaign finance laws, primarily under Titles 2 and 26 of the U.S. Code, the Federal Election Campaign Act (FECA) — the main body of law governing federal campaign finance.

The report comprises four major sections and an index:

- A summary of legislative highlights in the 109th Congress regarding campaign finance issues;
- A checklist of all bills (in numerical order), noting major types of reforms proposed in each, organized by 14 categories (including “miscellaneous”) addressed in the bills;
- Brief summaries of all provisions of every bill under the 14 categories noted in the checklist, with a basic description of the issue area, where needed, and further division of proposals into subcategories. Bills whose provisions fall under a specific category or subcategory are noted accordingly (with further detail provided elsewhere in the report);
- A numerical listing and summary of each bill. For each bill, this section provides the bill number, sponsor, title, a detailed summary of provisions arranged by the 14 categories explained previously, date introduced, committee referral, and any legislative action; and
- An index of bills, listed alphabetically by primary sponsor.

Highlights of 109th Congress Legislative Activity

During the 109th Congress, 51 bills were introduced (43 in the House and 8 in the Senate) to change federal campaign finance law. Legislation relating to 527 organizations received the most prominent legislative and media attention during the 109th Congress. Other bills receiving attention addressed regulation of Internet communications, party coordinated expenditures, contributions by Indian tribes, and leadership political action committees (PACs). All are discussed in more detail below.

527 Issue

The 109th Congress followed the 2004 elections, during which an estimated \$435 million¹ was spent by political organizations operating under Section 527 of the Internal Revenue Code, but outside federal election law regulation. The role of 527 organizations in federal elections was the principal campaign finance issue examined by the 109th Congress.

On March 8, 2005, the Senate Rules and Administration Committee held a hearing on S. 271 (McCain-Feingold-Lott), the 527 Reform Act of 2005, to require that 527s involved in federal elections comply fully with federal election law. On April 27, 2005, it voted to report the bill, as amended in committee. Committee amendments largely added provisions to deregulate other aspects of FECA. On May 17, the bill was reported as an original bill — S. 1053 — and placed on the Senate’s legislative calendar. The Senate took no further action on the measure.

The House Administration Committee held a hearing April 20, 2005, on regulation of 527 organizations. It focused on two measures: H.R. 513 (Shays-Meehan), the 527 Reform Act of 2005 (the companion to S. 271, later S. 1053); and H.R. 1316 (Pence-Wynn). In sharp contrast with the Shays-Meehan bill and the one reported in the Senate, H.R. 1316 sought to address the 527 issue indirectly, by loosening restrictions on funding sources within FECA. By so doing, proponents maintained that because more money could be directed to regulated sources, there would be fewer incentives for political money to flow to 527 groups operating outside the FECA framework. On June 9, 2005, House Administration voted to report H.R. 1316 favorably, as amended, and it was reported on June 22.² On June 29, 2005, the committee held a markup of H.R. 513 and ordered it reported (as amended to reflect the sponsors’ changes), without recommendation.³ This set the stage for a potential floor debate on the two contrasting measures (H.R. 513 and H.R. 1316).

Almost a year later, on April 5, 2006, the House passed H.R. 513 (Shays-Meehan), as amended, by a 218-209 vote.⁴ The rule for its consideration — H.Res.

¹ See the “expenditures” column in “2004 Cycle - PoliticalMoneyLine’s Key 527 Groups,” PoliticalMoneyLine.com; these are groups the organization identified as being clearly involved in federal elections. PoliticalMoneyLine is a commercial tracking service for campaign finance data, owned by Congressional Quarterly. See: [http://www.tray.com/cgi-win/irs_ef_527.exe?DoFn=&sYR=2004].

² U.S. Congress, House Committee on House Administration, *527 Fairness Act of 2005*, report to accompany H.R. 1316, 109th Cong., 1st sess., H.Rept. 109-146 (Washington: GPO, 2005).

³ U.S. Congress, House Committee on House Administration, *527 Reform Act of 2005*, report to accompany H.R. 513, 109th Cong., 1st sess., H.Rept. 109-181 (Washington: GPO, 2005).

⁴ “527 Reform Act of 2005,” *Congressional Record*, daily edition, vol. 152 (Apr. 5, 2006), p. H1528.

755⁵ — allowed one floor amendment, by Representative Dreier, to remove political party-coordinated expenditure limits in 2 U.S.C. 441a(d); this issue is discussed below. The amendment was added by voice vote before final passage.

The text of H.R. 513 was also incorporated into the House Republican leadership’s lobbying and ethics reform bill — H.R. 4975 (Dreier). As introduced, Title VI of the bill incorporated the language of H.R. 513 as reported by the House Administration Committee. In addition, it included the same provision as was included in the House-passed version of H.R. 513, to remove the political party-coordinated expenditure limits.

Prior to House passage of H.R. 4975, another amendment unrelated to 527s was included in the bill by the House Rules Committee, to allow leadership PACs’ funds to be transferred without limitation to national party committees (as is the case with funds in candidates’ principal campaign committees).⁶ On May 3, 2006, the House passed (by a vote of 217-213) H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, which included the text of H.R. 513 (Shays-Meehan), as well as the amendments on leadership PACs and party coordinated expenditures.⁷ After passing H.R. 4975, the House substituted it for the text of S. 2349, the Senate-passed version of the bill, to enable a conference with the Senate. The Senate-passed bill did not contain the 527 provisions, and disagreement between the two chambers on the 527 issue reportedly contributed to the 109th Congress enacting neither lobby reform nor 527 regulation legislation.

Party Coordinated Expenditures

“Party coordinated expenditures” refer to expenditures made by a political party in coordination with a candidate’s campaign. They have been subject to limits since the 1974 FECA Amendments, codified in 2 U.S.C. §441a(d). The limits are relatively high compared with the \$5,000 limit on contributions most party committees may give directly to candidate campaigns. In 2006, for example, parties could make up to \$79,200 in coordinated expenditures in support of House

⁵ U.S. Congress, House Committee on Rules, *Providing for Consideration of H.R. 513, 527 Reform Act of 2005*, report to accompany H.Res. 755, 109th Cong., 2nd sess., H.Rept. 109-404 (Washington: GPO, 2006).

⁶ “Leadership PACs” are committees that are technically independent from legislators, but which are generally established by and connected (albeit unofficially) with those legislators. These committees are legally distinct from a legislator’s personal campaign committee. At the federal level, “Leadership PACs traditionally have been used by legislative leaders to contribute to the campaigns of other members of Congress as a way of gaining a party majority and earning the gratitude of their colleagues or as a way of financing nationwide political activity by party leaders.” See Trevor Potter, “The Current State of Campaign Finance Law,” in Anthony Corrado, Thomas E. Mann, Daniel R. Ortiz, and Trevor Potter, *The New Campaign Finance Sourcebook* (Washington: Brookings Institution Press, 2005), p. 52.

⁷ “Lobbying Accountability and Transparency Act of 2006,” *Congressional Record*, daily edition, vol. 152 (May 3, 2006), pp. H2056-H2057.

candidates (in multi-district states).⁸ Limits for Senate candidates vary by state, ranging in 2006 from \$158,400 in states with the smallest populations, to almost \$4.2 million in California.⁹

Ever since the Supreme Court ruling in *Colorado Republican Federal Campaign Committee v. FEC* (518 U.S. 604 (1996)), which permitted parties to make independent expenditures on behalf of their candidates, the importance of coordinated expenditures has been diminished. The prospect of unlimited independent expenditures has been increasingly appealing to the parties, and it has become common for parties to make both independent expenditures and coordinated expenditures for the same candidates, albeit from at least nominally different departments of a party committee. In 2004, Democratic party committees (federal, state, and local) made \$33.1 million in coordinated expenditures and \$176.5 million in independent expenditures to promote their federal candidates.¹⁰ By contrast, Republican party committees made \$29.1 million in coordinated expenditures and \$88.0 million in independent expenditures.¹¹ As of this writing, data for the complete 2006 cycle were not yet available.

As enacted, the Bipartisan Campaign Reform Act of 2002 (BCRA) contained a provision to require a party to choose between making either independent expenditures or coordinated expenditures, but not both, for one of its nominees. This, however, was one of two BCRA provisions struck down by the Supreme Court in *McConnell v. FEC* (549 U.S. 93(2003)). Hence, although abolishing the limit on coordinated expenditures would appear to allow the parties to spend unlimited amounts on behalf of their candidates, through independent expenditures they already have that right, albeit through expenditures that are technically made without any coordination with the favored candidate. Supporters of removing the limits on coordinated expenditures assert that doing so would largely signal acceptance of campaign reality and allow parties to reinforce their direct ties with candidates. Opponents counter that abolishing coordinated expenditure limits would send the

⁸ The \$79,200 figure assumes that state party committees authorize national party committees to make coordinated expenditures on their behalf, which they are permitted by law to do. The limit for a national or state party is \$39,600, meaning that if a state party authorizes a national party to make coordinated expenditures on its behalf, the total limit would be \$79,200. These limits are addressed in the “Calculating 2006 Coordinated Party Expenditure Limits” section of the following FEC document, which is apparently untitled, at [[http://www.fec.gov/pdf/441a\(d\)2006.pdf](http://www.fec.gov/pdf/441a(d)2006.pdf)].

⁹ The \$158,400 figure assumes that state party committees authorize national party committees to make coordinated expenditures on their behalf. For states with the smallest populations, the coordinated expenditure limit for a state party committee or a national party committee is \$79,200. The cumulative limit if state party committees authorize national party committees on their behalf would be, therefore, \$158,400.

¹⁰ See Democratic party totals in “National Party Federal Financial Activity Through the End of the Election Cycle,” accompanying Federal Election Commission, “Party Financial Activity Summarized for the 2004 Election Cycle,” press release, Mar. 15, 2005, at [<http://www.fec.gov/press/press2005/20050302party/demfederalye04.pdf>]. Figures in this section are rounded.

¹¹ See Republican party totals in *ibid*.

wrong message to an electorate cynical about the role of money in politics, and that the national parties are now playing a significant role, especially in light of increased hard money limits under BCRA. Party committees raised almost \$1.5 billion¹² in the 2004 election cycle (all hard money), more than ever had been raised in combined hard and soft money by the national parties. As of this writing, data for the complete 2006 cycle were not yet available.

Other Campaign Finance Issues

Leadership PACs. A provision allowing leadership PACs to transfer unlimited funds to national parties was added by the Senate Appropriations Committee to H.R. 3058, the Transportation-Treasury-HUD-Judiciary-DC appropriations bill for FY2006. This was the same provision as was added by the Senate Rules and Administration to S. 271 (later S. 1053) and by the House to H.R. 4975, the lobby reform bill. Following a move by BCRA sponsors, the Senate deleted the provision by unanimous consent on October 17, 2005.¹³

Indian Tribes. In response to large sums of money given in recent elections by Indian tribes and concerns over the application of federal campaign finance law to tribes, the Senate Indian Affairs Committee held a hearing February 8, 2006, to examine rules governing campaign contributions by Indian tribes.¹⁴ In its final report on its investigation of lobbying and political activities by Indian tribes, the committee recommended requiring Indian tribes making federal election contributions to register with the FEC and improving rules for disclosure of those contributions.¹⁵

Internet Regulation. Changes in technology have recently raised questions about the extent to which traditional campaign finance regulations should affect new media. Since BCRA passed in 2002, there has been particular debate about whether Internet communications should fall under the act's regulations governing "public communications," such as outdoor advertising and broadcast advertisements. Internet communications were addressed at a House Administration Committee hearing September 22, 2005.¹⁶ On November 2, 2005, the House failed to pass a measure to exempt Internet communications from regulation under federal campaign

¹² Federal Election Commission, "Party Financial Activity Summarized for the 2004 Election Cycle" at [<http://www.fec.gov/press/press2005/20050302party/demfederalye04.pdf>].

¹³ "Treasury, Transportation, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act of 2006," *Congressional Record*, daily edition, vol. 151 (Oct. 17, 2005), p. S11401.

¹⁴ For further discussion of this issue, see CRS Report RS21176, *Application of Campaign Finance Law to Indian Tribes*, by L. Paige Whitaker and Joseph E. Cantor.

¹⁵ U.S. Congress, Senate Committee on Indian Affairs, "*Gimme Five*": *Investigation of Tribal Lobbying Matters*, final report, 109th Cong., 2nd sess., June 22, 2006, at [http://www.indian.senate.gov/public/_files/Report.pdf].

¹⁶ For further discussion of this issue, see CRS Report RS22272, *Campaign Finance Reform: Regulating Political Communications on the Internet*, by L. Paige Whitaker and Joseph E. Cantor.

finance laws; H.R. 1606 (Hensarling) was brought up under suspension of the rules but failed on a 225-182 vote.¹⁷ On March 9, 2006, the House Administration Committee ordered the bill favorably reported,¹⁸ and it was expected to be considered by the House on March 16, but that vote was postponed. On March 27, the Federal Election Commission (FEC) approved new regulations governing only paid advertisements placed on another's website, thus addressing much of the concern expressed about regulating blogs and similar communications under campaign finance law. On March 29, 2006, House Majority Leader Boehner announced that consideration of H.R. 1606 would be postponed indefinitely.

Checklist of Bills and Types of Proposals

Table 1 on the following pages provides easy reference to types of provisions in each of the bills listed in this report. An "X" denotes features in a given bill. The nature of these categories is described in the introduction to the next section.

¹⁷ "Online Freedom of Speech Act," *Congressional Record*, daily edition, vol. 151 (Nov. 2, 2005), p. H9497.

¹⁸ U.S. Congress, House Committee of House Administration, *Online Freedom of Speech Act*, report to accompany H.R. 1606, 109th Cong., 2nd sess., H.Rept. 109-389 (Washington: GPO, 2006).

Table 1. Checklist of Major Provisions of 109th Congress Campaign Finance Legislation

Bill/ Sponsor	Hard Money					Hard & Soft Money	Soft Money		Spending limits & public benefits	FEC	Advertising	Presidential	Misc.	
	Major contribution sources				In-state/ In-district	Indep. Expen.	Coordination	Party						Non-party* (including 527s)
	Individuals	PACs	Party	Cand.										
House Bills														
H.R. 45 Bartlett												X		
H.R. 46 Bartlett									X					
H.R. 338 Maloney										X	X			
H.R. 471 Larson									X					
H.R. 491 Petri										X	X			
H.R. 513 Shays-Meehan			X						X					
H.R. 689 Bartlett									X					
H.R. 701 English				X										
H.R. 702 English				X										
H.R. 850 Hoyer												X		
H.R. 914 English									X					

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Bill/ Sponsor	Hard Money					Hard & Soft Money	Soft Money		Spending limits & public benefits	FEC	Advertising	Presidential	Misc.	
	Major contribution sources				In-state/ In-district	Indep. Expen.	Coordination	Party						Non-party* (including 527s)
	Individuals	PACs	Party	Cand.										
H.R. 958 Petri	X													
H.R. 1316 Pence-Wynn	X	X	X				X	X	X		X			
H.R. 1580 Price, NC											X			
H.R. 1605 Hensarling											X			
H.R. 1606 Hensarling											X			
H.R. 1942 Shaw									X					
H.R. 2204 Shaw									X					
H.R. 2294 Johnson, CT											X			
H.R. 2753 Andrews								X	X	X	X		X	
H.R. 3099 Tierney			X			X	X			X	X	X	X	
H.R. 3960 Neugebauer												X		
H.R. 4180 Schmidt											X			

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Bill/ Sponsor	Hard Money						Hard & Soft Money	Soft Money		Spending limits & public benefits	FEC	Advertising	Presidential	Misc.
	Major contribution sources				In-state/ In-district	Indep. Expen.	Coordination	Party	Non-party* (including 527s)					
	Individuals	PACs	Party	Cand.										
H.R. 4194 Shays-Meehan												X		
H.R. 4389 Miller, NC												X		
H.R. 4655 Jones, NC		X												
H.R. 4664 Capuano	X	X	X											
H.R. 4692 Kaptur		X								X				X
H.R. 4694 Obey						X		X		X				X
H.R. 4696 Rogers, MI									X					X
H.R. 4759 Doolittle	X	X	X					X		X		X		X
H.R. 4819 Leach		X			X									
H.R. 4900 Allen												X		
H.R. 4975 Dreier		X	X						X					
H.R. 5281 Leach										X				

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Bill/ Sponsor	Hard Money						Hard & Soft Money	Soft Money		Spending limits & public benefits	FEC	Advertising	Presidential	Misc.
	Major contribution sources				In-state/ In-district	Indep. Expen.	Coordination	Party	Non-party* (including 527s)					
	Individuals	PACs	Party	Cand.										
H.R. 5374 Linder								X	X					
H.R. 5623 Capuano		X												
H.R. 5676 Shays-Meehan											X			
H.R. 5839 Hefley		X												
H.R. 5905 Meehan-Shays			X										X	
H.J.Res. 13 Leach				X										
H.J.Res. 76 Kaptur										X				
H.Con.Res. 333 Kaptur														X
Senate Bills														
S. 271 McCain- Feingold-Lott									X					
S. 678 Reid												X		
S. 1053 Lott	X	X							X			X		X

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Bill/ Sponsor	Hard Money					Hard & Soft Money	Soft Money		Spending limits & public benefits	FEC	Advertising	Presidential	Misc.	
	Major contribution sources				In-state/ In-district	Indep. Expen.	Coordination	Party						Non-party* (including 527s)
	Individuals	PACs	Party	Cand.										
S. 1508 Feingold- McCain										X				
S. 2434 Wyden									X					
S. 2511 McCain									X					
S. 3560 McCain- Feingold										X				
S. 3740 Feingold			X									X		

* Also includes labor, corporate, tax-exempt, and issue advocacy.

Major Reforms Proposed, by Category

As explained previously, campaign finance bills introduced in the 109th Congress covered a wide range of topics. Although many of the bills at first appear to have had little in common, all the bills focused on major campaign finance issues. This section of the report is organized into 14 subsections, encompassing the 13 major areas of proposed changes in campaign finance regulation found in 109th Congress bills; the 14th subsection, “miscellaneous,” includes provisions outside that framework. These are the same categories listed in **Table 1**. Each subsection contains a brief introductory statement about proposed changes, followed by a listing of bills containing those proposed changes. (Later in this report, bills are listed by number, followed by detailed summaries of all major provisions contained in each bill and any action taken on them.)

In this section, bills are listed according to what appears to have been the primary nature and goal of a particular provision. Many provisions, however, had multiple purposes. For example, a bill that would have raised the limit on an individual’s contributions to political parties would have empowered both the individual *and* the political party. Such a provision would be listed here under “individual,” because it would have most directly affected what an individual might do, although the parties would have benefitted as well. Categorization and ordering of bills in this report is solely for the purpose of organization and does not reflect any judgement by CRS as to the relative importance or merit of the bills themselves.

The first six categories can be examined in the context of *hard money*, since they pertain to types of activity that are fully regulated under federal election law, which specifies prohibited sources, sets limits on permitted contributions, and requires disclosure.¹⁹ The six hard money categories are shown on the checklist in **Table 1** under a larger heading “hard money,” with the first four — individuals, PACs, parties, and candidates — further grouped to reflect the principal sources of campaign receipts. The fifth category deals with in-state or in-district requirements for campaign receipts, while the sixth addresses independent expenditures.

The eighth and ninth categories cover provisions that dealt with *soft money*, those activities largely or fully outside the framework of federal election law, which have been a major focus of reform efforts in recent years. The eighth category contains provisions relating to party soft money, which was largely addressed in BCRA but where some issues remain. The ninth category focuses on non-party soft money — activities of unions, corporations, and tax-exempt organizations, particularly 527 organizations, in federal elections; it also deals with election-related issue advocacy, which is closely related to activities of 527s and other outside groups. (The seventh category — coordination — has applicability to both hard and soft money activities and is so designated.)

¹⁹ “Hard money” generally refers to funds raised and spent according to the source limits, prohibitions, and disclosure requirements of federal election law. By contrast, “soft money” refers to funds raised and spent outside the federal election regulatory framework, but which may have at least an indirect impact on federal elections.

Category 10 addresses proposals for public financing or benefits and spending limits in congressional elections. The 11th category — labeled “FEC” — addresses proposals to improve enforcement and disclosure by the Federal Election Commission or a proposed successor agency. The 12th deals with proposals on campaign advertising, including the Internet. The 13th contains proposals to change the presidential public funding system. The 14th — “Miscellaneous” — contains all other proposals.

Individuals (Hard Money)

These bills would have changed limits and offered incentives to encourage a greater role for individual citizens in federal campaign financing.

Remove All Contribution Limits

H.R. 4759 (Doolittle)

Remove Aggregate Contribution Limit

H.R. 1316 (Pence-Wynn)

Raise Contribution Limits

H.R. 1316 (Pence-Wynn) — to PACs, and would have indexed for inflation

Lower Contribution Limits

H.R. 4664 (Capuano) — to candidates and PACs, but would have indexed PAC limits

Index Contribution Limits for Inflation

H.R. 1316 (Pence-Wynn) — for contributions to state parties
S. 1053 (Lott) — for contributions to state parties

Provide Tax Incentives for Individual Contributions

H.R. 958 (Petri) — credit and special deduction

PACs (Hard Money)

These bills would have restricted or empowered PACs in their funding roles. Most PACs are considered “nonparty multicandidate committees,” referring to the FECA status that most PACs have. PACs sponsored by organizations are called “separate segregated funds,” while those that are independent of other entities are labeled “nonconnected.”

Ban PACs in Federal Elections

H.R. 4819 (Leach) — if ban were held unconstitutional, would have lowered PAC contribution limit to \$1,000

Remove Contribution Limits

H.R. 4759 (Doolittle)

Raise Limit on PAC Contributions

H.R. 1316 (Pence-Wynn) — and would have indexed for inflation
S. 1053 (Lott) — and would have indexed for inflation

Lower PAC Contribution Limit

H.R. 4664 (Capuano) — to candidates, and indexes for inflation

Change PAC Contribution Limit

H.R. 4819 (Leach) — lesser of 10% of candidate receipts, or \$5,000

Impose Aggregate Limit on PAC Contributions

H.R. 4819 (Leach) — \$500,000 per PAC

Change Rules for Leadership PACs

H.R. 1316 (Pence-Wynn) — would have allowed unlimited transfers to national parties

H.R. 4655 (Jones, NC) — would have required in FEC disclosures clear identification of federal candidates or officeholders associated with leadership PACs

H.R. 4975 (Dreier) — would have allowed unlimited transfers to national parties

H.R. 5623 (Capuano) — would have banned conversion of funds to personal use, and defined “leadership PAC”

H.R. 5839 (Hefley) — would have banned federal leadership PACs and established rules for disposing of existing funds

S. 1053 (Lott) — would have allowed unlimited transfers to national parties

Increase Dollar Threshold for Political Committee Status

H.R. 1316 (Pence-Wynn)

S. 1053 (Lott)

Change Rules for PAC Solicitations of Restricted Classes

H.R. 1316 (Pence-Wynn)
S. 1053 (Lott)

Prohibit Foreign National Involvement in PACs

H.R. 4692 (Kaptur) — would have banned PAC money from foreign-controlled corporations and foreign national involvement in PAC decisions.

Political Parties (Hard Money)

These bills would have restricted or empowered political parties in their funding roles.

Remove All Contribution Limits

H.R. 4759 (Doolittle)

Remove Coordinated Expenditure Limit

H.R. 513 (Shays-Meehan)
H.R. 1316 (Pence-Wynn)
H.R. 4975 (Dreier)

Limit All Party Spending Per Candidate

H.R. 3099 (Tierney) — in “clean money” races

Lower Contribution Limit to Candidates

H.R. 4664 (Capuano) — by multicandidate committees, and would have indexed for inflation

Increase Limit on Coordinated Expenditures for Presidential Candidates

H.R. 5905 (Meehan-Shays) — limit might have been removed if non-participant exceeded specified amount in receipts or expenditures
S. 3740 (Feingold) — limit might have removed if non-participant exceeded specified amount in receipts or expenditures

Candidates (Hard Money)

These bills contained provisions that focused on spending and loans by candidates from personal or family wealth, including the issue of repayment of

candidate loans from campaign funds after an election, and permissible use of campaign funds in general.

Ban Use of Campaign or Official Funds for Candidate Salary

H.R. 702 (English)

Ban Repayment of Candidate Loans from Campaign Funds

H.R. 701 (English) — for winning candidates, after taking office

Enact Constitutional Amendment to Limit Candidate Spending

H.J.Res. 13 (Leach)

In-state or In-district Minimum (Hard Money)

This category includes a bill that would have required a minimum level of candidates' funds to come from residents of that state or district.

Require In-state Funding Level

H.R. 4819 (Leach) — for House and Senate candidates

Independent Expenditures (Hard Money)

Independent expenditures are communications with the public advocating the election or defeat of clearly identified candidates made without any coordination, cooperation, or consultation with the candidate campaigns. Independent expenditures are not subject to limits on amounts spent, but the source restrictions and disclosure requirements of federal law apply. This hard money activity should not be confused with issue advocacy, which is largely outside federal election regulation and is addressed in the “nonparty soft money” category, below.

Increase Disclosure Requirements

H.R. 3099 (Tierney) — for “clean money” candidates

Ban Independent Expenditures

H.R. 4694 (Obey) — in House elections, but would have allowed for fast-track consideration of constitutional amendment allowing reasonable limits if the ban were held unconstitutional

Coordination (Hard and Soft Money)

These provisions address the issue of what constitutes *coordination* under FECA, which, in turn, triggers an activity's treatment as a *contribution* or *expenditure*, subject to relevant limits. This issue has come to include both issue and express advocacy, hence it contains both hard and soft money components.

Change Rules Affecting Candidate Appearances

H.R. 1316 (Pence-Wynn) — would have allowed federal candidates greater latitude in assisting state and local candidates

Define Coordination and Associated Activities

H.R. 3099 (Tierney)

Define Coordinated Activity As Contribution or Expenditure

H.R. 3099 (Tierney) — but would have exempted party spending for “clean money” candidates

Soft Money: Party

The term “soft money” has traditionally referred to money that may indirectly influence federal elections, but that is raised and spent outside federal election law's purview and that would be illegal if spent directly in connection with a federal election. Prior to enactment of BCRA, national parties commonly raised money from sources and in amounts that were federally impermissible; these funds could then be transferred to state parties, where permitted under state election law, and used for grassroots and generic party activity. Party soft money was also used for a share of administrative and overhead expenses and issue advocacy. Since BCRA's prohibition on the raising of soft money by national parties and federal officials, the soft money issue has largely been moot. Those few bills that addressed it in the 109th Congress generally sought to adjust existing restrictions.

Prohibit Soft Money for Reapportionment Activities

H.R. 5374 (Linder)

Change Disclosure Requirements

H.R. 2753 (Andrews) — would have allowed state parties to file copies of state reports with FEC, if substantially similar to what FEC requires

H.R. 4759 (Doolittle) — would have required copies of state party reports to be filed with FEC

Loosen Restrictions on State and Local Party Grassroots Activities

H.R. 1316 (Pence-Wynn)

Add Restrictions on State and Local Party Grassroots Activity

H.R. 5374 (Linder) — would have ended “Levin fund” provision

Loosen Restriction on Federal Candidates

H.R. 1316 (Pence-Wynn) — appearances at state and local party fundraisers

Ban Soft Money

H.R. 4694 (Obey) — in House elections, but would have allowed for fast-track consideration of constitutional amendment allowing reasonable limits if the ban were held unconstitutional

Reduce Amounts Federal Candidates May Solicit for Tax-Exempt Groups

H.R. 5374 (Linder)

Amend Definition of Federal Election Activity

H.R. 5374 (Linder)

Change Definitions of Mass Mailing and Telephone Banks

H.R. 5374 (Linder)

Soft Money: Non-party (including tax-exempt and 527 organizations)

Non-party soft money pertains to direct spending by and activity of groups, as opposed to their donations to another entity (such as parties). The term long was used to refer to activities by corporations and labor unions, but in recent years has come to refer increasingly to activities by tax-exempt organizations, most notably 527s. It also has particular relevance to election-related issue advocacy, a practice in which some of 527s are prominently engaged.

Traditionally, non-party soft money referred to permissible spending from union and corporate treasuries — despite the long-standing ban on direct union and corporate spending in federal elections — on three exempt activities aimed only at

specified restricted classes (corporate executives and stockholders and families, and union members and their families). The three exempt activities are: setting up and raising money for a PAC, internal communications (including express advocacy), and voter registration and get-out-the-vote drives.

In more recent years, the activities of tax-exempt organizations have come under scrutiny for their election-related activities that may be permitted under the Internal Revenue Code (IRC) but are not regulated under FECA. Observers have long noted the potential for 501(c)(3) and 501(c)(4) organizations to affect elections indirectly by their permissible activities under the tax code. Since 2000, particular interest has been focused on “political organizations” defined by Section 527 of the IRC. Although Congress in 2000 required disclosure by 527 groups through the IRS, much debate has ensued since 2004 as to whether their election-related activities should require full regulation under federal election law.²⁰

In large measure, what has been fueling the issue over 527s and other tax-exempt organizations has been the practice of election-related issue advocacy. Prior to BCRA’s enactment, some observers became concerned about communications that promoted political issues in reference to candidates, but which, by avoiding specific election advocacy language (e.g., “elect Jones” or “defeat Smith”), were not subject to regulation under federal election law. These “issue advocacy” communications contrasted with those that explicitly promoted the election or defeat of clearly identified candidates — a class of communications known as “express advocacy.” Since the courts had generally construed “express advocacy” communications in a narrow sense (i.e., using explicit phrases advocating election or defeat), communications that may have been perceived as constituting thinly veiled election activity could thus avoid federal disclosure and source regulations.

BCRA addressed issue advocacy by creating a new term in federal election law, “electioneering communication” — 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. The act prohibited unions and certain corporations from spending treasury funds for electioneering communications and required disclosure of disbursements of more than \$10,000 and the identity of donors of \$1,000 or more.

In part because of BCRA’s narrowly tailored response to issue advocacy, concerns remain. Some believe that BCRA went too far and favor the repeal of its electioneering communications provision. Others believe it did not go far enough and favor more regulation in this area. Some proposals address issue advocacy directly, while others address it through proposals aimed at the type of organization practicing issue advocacy. This section is organized accordingly.

²⁰ For a fuller discussion of the 527 issue and legislative proposals and activity in the 109th Congress, see CRS Report RL32954, *527 Political Organizations: Legislation in the 109th Congress*, by Joseph E. Cantor and Erika Lunder.

Union and Corporate Treasury Activity

Add FECA Disclosure Requirements.

H.R. 2753 (Andrews)

Remove Ban on Corporate and Union Treasury Money.

H.R. 4759 (Doolittle)

Prohibit Corporate and Union Treasury Funding of Nonpartisan Voter Drives.

H.R. 5374 (Linder)

527 Organizations

Require Regulation of 527s Under FECA.

Define Political Committee to Include 527s Except Under Specified Circumstances.

H.R. 513 (Shays)
S. 271 (McCain-Feingold-Lott)
H.R. 4975 (Dreier)
S. 1053 (Lott)
S. 2511 (McCain)

Require Minimum Levels of Hard Money by Committees with Federal and Non-Federal Activities.

H.R. 513 (Shays)
S. 271 (McCain-Feingold-Lott)
H.R. 4975 (Dreier)
S. 1053 (Lott)
S. 2511 (McCain)

Impose Restrictions on Contributions to Non-Federal Accounts.

H.R. 513 (Shays)
S. 271 (McCain-Feingold-Lott)
H.R. 4975 (Dreier)
S. 1053 (Lott)
S. 2511 (McCain)

Require Enhanced Disclosure By and About 527 Groups.

Under IRC.

H.R. 914 (English)

H.R. 471 (Larson)

H.R. 1942 (Shaw) — adds penalties for non-filing

H.R. 2204 (Shaw) — adds penalties for non-filing

Under FECA.

H.R. 1316 (Pence-Wynn)

H.R. 2204 (Shaw)

Improve Linkage Between IRS and FEC Disclosure Databases.

H.R. 471 (Larson)

Ban Foreign National Contributions to 527s.

H.R. 1316 (Pence-Wynn)

Prohibit Electioneering Communications by 527s.

H.R. 4696 (Rogers, MI)

Tax-exempt Organizations Generally

Ban Use of Soft Money by Tax-exempt Groups for Get-Out-the-Vote Activities.

H.R. 5374 (Linder) — by 501(c)(3), 501(c)(4), or 527 organizations

Issue Advocacy

Repeal BCRA's Electioneering Communications Provision.

H.R. 46 (Bartlett)

H.R. 689 (Bartlett)

Allow Electioneering Communications by Certain Entities Currently Prohibited.

H.R. 1316 (Pence-Wynn) — using only donations from citizens and permanent resident aliens

Other

Ban Use of Soft Money for Any Partisan Voter Registration Activity.

H.R. 5374 (Linder)

Spending Limits and Public Benefits

Bills in this category would, in general, have provided: (1) campaign spending limits for House or Senate candidates on overall campaign or candidate personal spending (or advertising time restrictions); (2) public, cost-saving benefits to candidates, including direct subsidies (public financing); or (3) both. Discussion of spending limits and benefits to candidates are grouped together because many bills embodied both concepts, largely because a voluntary system of limits with conditional benefits has been a major response to the *Buckley v. Valeo* ruling [424 U.S. 1 (1976)], which overturned mandatory limits. This grouping should not be construed as an inherent linkage between the two ideas; there are very distinct principles behind spending limits and public benefits (or financing). Options among spending limit bills included voluntary limits, in response to *Buckley*, with or without inducements to participation through public benefits; mandatory limits, through a constitutional amendment; or “benefits only” provisions without adherence to spending limits.

Provide Public Benefits in Conjunction with Voluntary Spending Limits

H.R. 3099 (Tierney) — with subsidies and free and discounted broadcast time
H.R. 5281 (Leach) — with matching funds in primary and general elections

Provide Public Benefits with No Spending Limits

H.R. 2753 (Andrews) — subsidies, in exchange for limiting individual contributions to \$100, raising at least 80% of funds in-state, and participating in debates

Provide Public Subsidies and Require Mandatory Spending Limits

H.R. 4694 (Obey) — would have allowed for fast-track consideration of constitutional amendment allowing reasonable limits if this were held unconstitutional

Allow Mandatory Limits to Be Set Through Constitutional Amendment

H.J.Res. 76 (Kaptur)

Amend Senate Rules to Prohibit Senators and Staff from Fundraising in Specified Periods

S. 2434 (Wyden)

FEC (Enforcement & Disclosure)

These bills sought to improve enforcement and disclosure provisions of FECA, administered by the FEC or an alternative body.

Enforcement

Replace FEC with New Enforcement Agency.

H.R. 5676 (Shays-Meehan)
S. 3560 (McCain-Feingold)

Change Makeup of Enforcement Agency.

H.R. 5676 (Shays-Meehan) — new agency to have had three members: chairman to serve one 10-year term and two others to serve one six-year term; would have required commissioners to have law enforcement or judicial experience
H.R. 3099 (Tierney) — add one commissioner to FEC
S. 3560 (McCain-Feingold) — new agency to have had three members: chairman to serve one 10-year term and two others to serve one six-year term; would have required commissioners to have law enforcement or judicial experience

Appoint Administrative Law Judges to Expedite Enforcement.

H.R. 5676 (Shays-Meehan) — would have allowed administrative law judges (ALJs) to find that violations had occurred, impose civil penalties, and issue cease-and-desist orders
S. 3560 (McCain-Feingold)

Authorize Enforcement Agency to Appeal for Injunctions to Prevent Violations.

H.R. 5676 (Shays-Meehan) — and restraining orders
H.R. 3099 (Tierney)
S. 3560 (McCain-Feingold) — and restraining orders

Allow Enforcement Agency to Conduct Random Audits.

H.R. 5676 (Shays-Meehan)
H.R. 3099 (Tierney)
S. 3560 (McCain-Feingold)

Change Standard to Begin Enforcement Proceedings.

H.R. 3099 (Tierney) — to “reason to investigate”

Allow Enforcement Agency to Petition Supreme Court.

H.R. 3099 (Tierney)

Expedite Enforcement Procedures Late in Election.

H.R. 3099 (Tierney)

Allow Issuance of Subpoenas without Signature of Chair.

H.R. 3099 (Tierney)

Require GAO Study of Criminal Enforcement by Justice Department.

H.R. 5676 (Shays-Meehan)
S. 3560 (McCain-Feingold)

Change Enforcement Agency’s Funding Process.

H.R. 5676 (Shays-Meehan) — Chairman to submit budget directly to Congress
S. 3560 (McCain-Feingold) — Chairman to submit budget directly to Congress

Require GAO Study on Appropriate Funding Levels for Enforcement Agency.

H.R. 5676 (Shays-Meehan)
S. 3560 (McCain-Feingold)

Disclosure

Require Electronic Filing.

H.R. 4759 (Doolittle)
H.R. 3099 (Tierney)
S. 1508 (Feingold-McCain)

Require Standardized Software for Electronic Filers.

H.R. 4759 (Doolittle)

Require Internet Posting by FEC.

H.R. 4759 (Doolittle) — within 24 hours

Require Expedited or Increased Disclosure.

H.R. 4759 (Doolittle) — 24-hour notice of contributions in last 90 days
H.R. 3099 (Tierney) — 24-hour notice of contributions in last 90 days

Remove “Best Efforts” Exemption.

H.R. 4759 (Doolittle)

Require Disclosure of Phone Bank Activity.

H.R. 338 (Maloney)

Require Disclosure Regarding Push Polls.

H.R. 491 (Petri)

Require Additional Breakdowns on Candidate Reports.

H.R. 2753 (Andrews) — by primary, general, and runoff election

Establish Clearinghouse on Foreign National Activity.

H.R. 4692 (Kaptur)

Advertising Issues

Bills in this category would have changed terms under which candidates communicated their messages, including rates charged and identification (disclaimer) required, and whether certain advertising media, such as the Internet, might be regulated.

Require Identification for Phone Calling

H.R. 491 (Petri) — push polls
H.R. 338 (Maloney) — phone banks
H.R. 1580 (Price, NC) — pre-recorded phone calls
H.R. 2294 (Johnson, CT) — robocalling
H.R. 4180 (Schmidt) — pre-recorded audio messages

Exclude Internet Communications from FECA Regulation

H.R. 1316 (Pence-Wynn)
H.R. 1605 (Hensarling)
H.R. 1606 (Hensarling)
H.R. 4194 (Shays-Meehan) — except in specified circumstances
H.R. 4389 (Miller, NC) — would have applied news media exemption to Internet communications

H.R. 4900 (Allen) — except in specified circumstances
S. 678 (Reid)
S. 1053 (Lott)

Require Identification on Internet Communications

H.R. 1580 (Price, NC)

Change Terms of Lowest Unit Rate²¹

S. 1053 (Lott)

Prohibit Preemption of Lowest Unit Rate Ads

H.R. 3099 (Tierney) — for House candidates, in “clean money” system
S. 1053 (Lott)

Extend Lowest Unit Rate to Parties

S. 1053 (Lott) — for advertising on behalf of candidates

Presidential Elections

These bills sought to change the rules for the public financing system available in presidential elections, or to abolish that system.

Abolish Public Funding System

H.R. 45 (Bartlett) — for nominating conventions only
H.R. 4759 (Doolittle)
H.R. 3960 (Neugebauer)

Lower Amount of Contribution Subject to Matching Funds

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Increase Public Funds Matched in Primaries

H.R. 5905 (Meehan-Shays) — would have increased rate of match and total amount matched
S. 3740 (Feingold) — would have increased rate of match and total amount matched

²¹ The “lowest unit rate,” also known as the “lowest unit charge,” allows campaigns to purchase broadcast advertising time for amounts below what would typically be charged for commercial advertising aired during campaign periods. See 47 U.S.C. 315(b) *et seq.*

Increase Qualifying Threshold in Primaries

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Change Disbursement Date for Public Funds

H.R. 850 (Hoyer) — uniform date for general election subsidy
H.R. 5905 (Meehan-Shays) — earlier date in primaries and uniform date in general elections
S. 3740 (Feingold) — earlier date in primaries and uniform date in general elections

Eliminate State Spending Limits in Primaries

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Remove Convention Prioritization Over Primary Funding

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Raise National Primary and General Election Spending Limits

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Remove Fundraising Exemption from Spending Limits

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Increase Tax Checkoff Amount

H.R. 5905 (Meehan-Shays) — with indexing for future inflation
S. 3740 (Feingold)

Increase Spending Limits and Public Funds to Offset Spending by Non-Participants

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Link Participation in Primary and General Systems

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Require Neutral Tax Preparation Software Regarding Checkoff

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Require Public Education about Tax Checkoff

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Allow Funds to Be Borrowed in Event of Shortfall

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Ban Soft Money in Connection with Nominating Conventions

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Require Disclosure of Bundled Contributions to Presidential Candidates

H.R. 5905 (Meehan-Shays)
S. 3740 (Feingold)

Provide Budget Offset for Increased Public Funds

S. 3740 (Feingold)

Miscellaneous

Prohibit Bundling

H.R. 2753 (Andrews) — by PACs, parties, lobbyists, unions, corporations, national banks, or agents or employees acting on their behalf

Lengthen Pre-election Ban on Franked Mass Mailings

H.R. 3099 (Tierney)

Offer Statement of Findings

H.R. 4759 (Doolittle) — regarding impact of regulation of campaign financing
H.R. 3099 (Tierney)

Amend Foreign Agents Registration Act to Increase Disclosure

H.R. 4692 (Kaptur)

Ban Contributions and Expenditures from Indian Tribal Treasuries

H.R. 4696 (Rogers, MI) — Would have required unincorporated tribes to finance such activities through a separate segregated fund (PAC)

Express Sense of Congress That *Buckley* Ruling Misinterpreted First Amendment

H.Con.Res. 333 (Kaptur)

Bill Summaries: Numerical Order

House Bills

The preceding section listed all bills, organized by major categories of proposed changes in campaign finance regulation. By contrast, the following section lists all bills introduced during the 109th Congress numerically, and provides summaries of each major provision of those bills and any action taken. Headings in bold indicate the primary purpose of each summarized provision. These headings are the same categories used throughout this report.

H.R. 45 (Bartlett) — Political Convention Reform Act of 2005

Presidential. Would have repealed public funding of presidential nominating conventions.

Introduced January 4, 2005; referred to Committee on House Administration.

H.R. 46 (Bartlett) — First Amendment Restoration Act

Soft Money: Non-Party. Would have repealed provisions in BCRA regarding electioneering communications, including (1) disclosure requirements; (2) prohibition on corporate and union treasury funding; and (3) rules for consideration as coordinated expenditures.²²

Introduced January 4, 2005; referred to Committee on House Administration.

²² An apparent drafting error related to coordinated communications led to a corrected version being introduced as H.R. 689; the summary here reflects the apparent original intention of H.R. 46's sponsor.

H.R. 338 (Maloney) — Voters' Right to Know Act of 2005

FEC. Regarding federal election phone banks: would have required FEC disclosure of costs, receipts, text of questions, and number of households contacted.

Advertising. Would have required a disclaimer to identify the sponsor of federal election phone bank communications to the respondents.

Introduced January 25, 2005; referred to Committee on House Administration.

H.R. 471 (Larson)

Soft Money: Non-Party. Would have increased frequency of required disclosure by 527 political organizations under IRC; would have required disclosure by such groups with receipts or expenditures of less than \$25,000 per year; would have required Secretary of Treasury to improve database and disclosure systems for 527 reporting; would have required FEC and Secretary of Treasury to improve linkage of disclosure systems under FECA and IRC.

Introduced February 1, 2005; jointly referred to Committees on Ways and Means and House Administration.

H.R. 491 (Petri) — Push Poll Disclosure Act of 2005

FEC. Would have required disclosure by sponsors of push polls whose results are not public, including cost, funding sources, number of households contacted, and questions asked.

Advertising. Would have required identification of all push poll sponsors to respondents.

Introduced February 1, 2005; referred to Committee on House Administration.

H.R. 513 (Shays-Meehan) — 527 Reform Act of 2005

[committee amendments in italics; floor amendment in italics and brackets]

Parties (Hard Money). *[Would have repealed limits on coordinated expenditures by political parties].*

Soft Money: Non-Party.

- Would have included in definition of “political committee” any 527 organization, unless it: (1) had annual gross receipts of less than \$25,000; (2) was a political committee of a state or local party or candidate; (3) existed solely to pay certain administrative expenses or expenses of a qualified newsletter; (4) *was composed solely of state or local officeholders or candidates whose voter drive activities referred only to state/local candidates and parties*; or (5) was exclusively devoted to elections where no federal candidate was

on ballot, to non-federal elections, ballot issues, or to selection of non-elected officials;

- Would have made *the preceding exemption* (above) inapplicable if the 527 organization spent more than \$1,000 for: (1) public communications that promoted, supported, attacked, or opposed a clearly identified federal candidate within one year of the general election in which that candidate was seeking office; or (2) for any voter drive effort conducted by a group *in a calendar year, unless: (a) sponsor confined activity solely to one state; (b) non-federal candidates were referred to in all voter drive activities and no federal candidate or party was referred to in any substantive way; (c) no federal candidate or officeholder or national party official/agent was involved in organization's direction, funding, or spending; AND (d) no contributions were made by the group to federal candidates;*
- Would have required political committees (but not candidate or party committees) that made disbursements for voter mobilization activities or public communications that affected both federal and non-federal elections to use generally at least 50% hard money from federal accounts to finance such activities (but would have required that 100% of public communications and voter drive activities that referred to only federal candidates be financed with hard money from a federal account, regardless of whether the communication referred to a political party); in effect, this would have codified the 2005 FEC regulations on this topic and made them applicable to 527s not affected by current rules;
- Would have allowed contributions to non-federal accounts making allocations (above) only by individuals and subject to limit of \$25,000 per year; would have prohibited fundraising for such accounts by national parties and officials and federal candidates and officeholders;
- Stated that this act was to have no bearing on FEC regulations, on any definitions of political organizations in Internal Revenue Code, or on any determination of whether a 501(c) tax-exempt organization might be a political committee under FECA;
- Would have provided special expedited judicial review procedures, similar to BCRA's, for a challenge on constitutional grounds, and would have allowed any Member to bring or intervene in any such case.

Introduced February 2, 2005; referred to Committee on House Administration. Ordered reported as amended without recommendation (H.Rept. 109-181), June 29, 2005. Rule allowing vote on H.R. 513 and Dreier amendment (H.Res. 755; H.Rept. 109-404), passed House (223-199), April 5, 2006. H.R. 513, with Dreier amendment, passed House (218-209), April 5, 2006.

H.R. 689 (Bartlett) — First Amendment Restoration Act

Soft Money: Non-Party. Would have repealed provisions in BCRA regarding electioneering communications, including (1) disclosure requirements; (2)

prohibition on corporate and union treasury funding; and (3) rules for consideration as coordinated expenditures.

Introduced February 9, 2005; referred to Committee on House Administration.

H.R. 701 (English) — Personal Accountability in Campaign Committees Act

Candidates (Hard Money). Would have prohibited use of campaign funds to repay a winning candidate's personal loans to his or her campaign, once that candidate took office (for elections after December 2005).

Introduced February 9, 2005; referred to Committee on House Administration.

H.R. 702 (English) — Candidate Anti-Corruption Act

Candidates (Hard Money). Would have prohibited use of campaign funds or funds used to defray official expenses of federal officeholders for payment of a salary to the candidate or any immediate family member.

Introduced February 9, 2005; referred to Committee on House Administration.

H.R. 850 (Hoyer)

Presidential. Would have established a uniform date for release of payments to presidential candidates participating in public financing in the general election.

Introduced February 16, 2005; referred to Committee on House Administration.

H.R. 914 (English) — Truth in Spending Act of 2005

Soft Money: Non-Party. Would have required political organizations operating under Section 527 of the Internal Revenue Code, but not regulated under FECA, to file monthly disclosure statements with the IRS.

Introduced February 17, 2005; referred to Committee on Ways and Means.

H.R. 958 (Petri) — Citizen Involvement in Campaigns Act of 2005

Individuals (Hard Money). Would have established a 100% tax credit for individual contributions to federal candidates and national political party committees, up to \$200 (or \$400 on joint returns), and a special tax deduction (regardless of whether taxpayer itemized deductions) for the total value of such contributions, beyond the amount applied toward the credit, up to \$600 (or \$1,200 on joint returns).

Introduced February 17, 2005; referred to Committee on Ways and Means.

H.R. 1316 (Pence-Wynn) — 527 Fairness Act of 2005

[provisions added in committee substitute amendment shown in *italics*]

Individuals (Hard Money).

- Would have removed aggregate limit on contributions by individuals;
- *Would have raised limit on contributions to PACs and indexed for inflation;*
- *Would have indexed limit on contributions state parties for inflation.*

PACs (Hard Money).

- *Would have raised limit on contributions by PACs and indexed them for inflation;*
- *Would have allowed leadership PACs to transfer unlimited funds to national party committees;*
- *Would have increased annual contribution and expenditure threshold for determining political committee status to \$10,000;*
- Would have removed requirements that trade association solicitations of member corporations' restricted classes have prior approval of the corporations and that no more than one trade association might solicit such classes in a calendar year;
- Would have allowed unions, corporations, and trade associations to solicit restricted classes by means other than mail.

Parties (Hard Money). Would have removed limit on party-coordinated expenditures.

Coordination (Hard and Soft Money). *Would have allowed federal candidates/officeholders to endorse state/local candidates and appear in their advertisements without this constituting coordinated contributions under FECA.*

Soft Money: Party.

- Would have loosened restrictions on state/local parties by allowing use of soft money for voter registration activities in last 120 days of a federal election and for sample ballots in elections with both federal and state/local candidates on ballot;
- *Would have codified FEC regulation that federal candidates and officeholders might speak at state/local party fundraisers without restriction or regulation.*

Soft Money: Non-Party.

- *Would have banned contributions to 527 groups from foreign nationals;*
- *Would have required 527 groups now filing financial activity reports with IRS but not FEC to file reports with FEC as well;*
- Would have allowed 501(c)(4) and 527 corporations to make electioneering communications with funds donated solely by individuals who were citizens or permanent resident aliens (by removing "targeted communications" exception to exemption of

501(c)(4) and 527 organizations from union and corporate ban on electioneering communications);

- Would have extended same authority granted to 501(c)(4) organizations with regard to electioneering communications to 501(c)(5) and 501(c)(6) organizations (typically unions and trade associations);
- Stated that expenditures made by 501(c)(4), 501(c)(5), or 501(c)(6) organizations were not to affect their tax status under Internal Revenue Code.

Advertising. *Would have provided that communications on Internet were not considered “public communications” and hence not regulated by FECA.*

Introduced March 15, 2005; referred to Committee on House Administration. Reported by committee, as amended, June 22 2005 (H.Rept. 109-146).

H.R. 1580 (Price, NC) — Stand By Your Internet Ad Act of 2005

Advertising. Would have clarified law requiring statement of responsibility for election-related communications to apply to printed, audio, and video communications distributed on the Internet and to pre-recorded telephone calls.

Introduced April 12, 2005; referred to Committee on House Administration.

H.R. 1605 (Hensarling)

Advertising. Stated that communications over the Internet were not to be considered “public communications” and thus not regulated under FECA.

Introduced April 13, 2005; referred to Committee on House Administration.

H.R. 1606 (Hensarling) — Online Freedom of Speech Act

Advertising. Stated that communications over the Internet were not to be considered “public communications” and thus not regulated under FECA.

Introduced April 13, 2005; referred to Committee on House Administration. Brought up under suspension of the rules and failed, November 2, 2005 (225-182). Reported by Committee on House Administration, March 13, 2006 (H.Rept. 109-389).

H.R. 1942 (Shaw) — 527 Transparency Act of 2005

Soft Money: Non-Party.

- Would have required 527 organizations to disclose to the IRS on quarterly, rather than semi-annual, basis in non-election years;
- Would have created a 30% penalty on amounts not disclosed as required by 527 organizations and made their managers liable for it;

- Would have provided that contributions to 527 organizations that reported to IRS would be subject to the gift tax in any year the organization failed to make periodic disclosures to the IRS.

Introduced April 27, 2005; referred to Committee on Ways and Means.

H.R. 2204 (Shaw) — 527 Transparency Act of 2005

Soft Money: Non-Party.

- Would have required 527 organizations that reported to the IRS to disclose on a monthly basis, with special rules for pre-election, post-election, and year-end reports;
- Would have created a 30% penalty on amounts not disclosed as required by 527 organizations and made their managers liable for that penalty;
- Would have provided that contributions to 527 organizations that reported to IRS would be subject to the gift tax in any year the organization failed to make periodic disclosures to the IRS;
- Would have required 527 organizations that reported to the IRS to simultaneously file copies of periodic disclosure reports with FEC.

Introduced May 5, 2005; jointly referred to Committees on Ways and Means and House Administration.

H.R. 2294 (Johnson, CT) — Robocaller Identification Act

Advertising. Would have required automatic calling system messages used for political purposes (advocacy in electoral campaigns or legislative issues) to include identification of caller and sponsor and either the phone number or address or board of directors of sponsoring organization.

Introduced May 11, 2005; referred to Committee on Energy and Commerce.

H.R. 2753 (Andrews) — Public Campaign Financing Act of 2005

Soft Money: Party. Would have required FEC to allow state parties to file copies of reports filed under state law if they contained substantially the same information as required under federal law.

Soft Money: Non-Party. Would have required prompt disclosure by non-party entities for spending on “federal election activities” (as defined by BCRA), once \$2,000 threshold level was reached.

Spending/Benefits. Would have provided public funding in House general elections in amounts based on media costs in the area, up to \$750,000 (with indexing for future inflation), for specified campaign purposes (but not a salary for candidate), within four months of general election, for candidates who: (a) gathered petitions signed by at least 3% of registered voters or whose party received at least 25% of the vote in prior general election; (b) limited individual donations to \$100; (c) raised at

least 80% of funds in-state; and (d) participated in at least two debates; would have required broadcasters to accept participating candidate ads, until they constituted 40% of station's total advertising time.

FEC. Would have required candidate reports to be broken down by primary, general, or runoff election.

Miscellaneous. Would have prohibited bundling by PACs, parties, lobbyists, unions, corporations, or national banks, or employees or agents acting on their behalf.

Introduced June 7, 2005; referred to Committee on House Administration.

H.R. 3099 (Tierney) — Clean Money, Clean Elections Act

Parties (Hard Money). In House races with at least one “clean money” candidate, would have limited party spending on behalf of a candidate to 10% of general election candidate's subsidy.

Independent Expenditures (Hard Money).

- Regarding “clean money” candidates: would have required 48 hour notice of independent expenditures above \$1,000 up to 20 days before election and 24 hour notice of amounts above \$500 in last 20 days.

Coordination (Hard and Soft Money).

- Would have amended “contribution” to include anything of value for purpose of influencing a federal election and was coordinated with candidate;
- Would have defined “payment made in coordination with a candidate” to include payments: (1) in cooperation or consultation with, or at request or suggestion of, a candidate or agent; (2) using candidate-prepared materials; (3) based on information about campaign plans provided by candidate's campaign for purpose of expenditure; (4) by a spender who during that election cycle had acted in an official position for a candidate, in an executive, policymaking, or advisory capacity; and (5) by a spender who had used the same consultants as an affected candidate during election cycle; would have deemed payments made in coordination with a candidate as a “contribution” or “expenditure” (but would have exempted a payment by a party in coordination with a “clean money” candidate).

Spending/Benefits.

- Would have provided full public subsidies, 30 minutes of free broadcast time in primary and 75 minutes in general election, and additional broadcast time at 50% of lowest unit rate for House candidates who: participated in “clean money” system and spent no private funds beyond subsidy once qualified;
- Prior to qualification, would have allowed candidates to raise *seed money* (\$35,000, in contributions of \$100 or less) for specified uses

other than broadcast ads; major party candidates would have qualified by raising \$5 donations from 1,500 state voters; others would have qualified by raising 150% of amount raised by major party candidates;

- Subsidy would have equaled applicable percentage (60% for general election, 40% for major party candidate in primary, and 25% for other primary candidates) of 80% of base amount per election (base amount was national average of winning House candidate expenditures in three most recent general elections), but amount was never to be less than amount provided in previous election cycle;
- Would have reduced subsidy to 40% of amount otherwise determined for unopposed candidates;
- Would have provided additional subsidies to candidates opposed by independent expenditures and by non-complying opponents once such spending exceeded 125% of spending limit (maximum additional funds equaled 200% of limit);
- Would have denied lowest unit rate to non-participating candidates;
- Would have financed benefits from House of Representatives Election Fund using appropriated funds, qualifying contributions, and unused seed money.

FEC.

- Would have added one commissioner, recommended by other members;
- Would have allowed random audits of campaigns;
- Would have given FEC authority to seek injunctions;
- Would have changed standard to begin enforcement proceedings to “reason to investigate”;
- Would have allowed FEC to petition Supreme Court;
- Would have expedited enforcement in last 60 days of election, with clear and convincing evidence that violation had occurred, was occurring, or was about to occur;
- Would have allowed subpoenas without chair’s signature;
- Would have required electronic filing of disclosure reports;
- Would have required 24 hour notice of all contributions received in last 90 days of election.

Advertising. Would have prohibited preemption of House campaign broadcast ads, unless beyond broadcasters’ control.

Miscellaneous.

- Would have banned franked mass mailings from start of primary period through general election, unless Member was not a candidate or mailing promoted public forum with candidate name only;
- Would have included statement of findings and declarations;
- If any provision of act or this statute were held unconstitutional, the remainder of act and statute would have been unaffected.

Introduced June 28, 2005; jointly referred to Committees on House Administration, Energy and Commerce, and Government Reform.

H.R. 3960 (Neugebauer) — Taxpayer Campaign Fund Elimination Act of 2005

Presidential. Would have eliminated presidential public funding system.

Introduced September 29, 2005; jointly referred to Committees on Ways and Means and House Administration.

H.R. 4180 (Schmidt) — Identification and Disclosure Act

Advertising. Would have required campaign-related phone calls consisting substantially of pre-recorded audio messages to include sponsor identification (name and permanent address) at beginning, and to show sponsor phone number on caller ID.

Introduced October 28, 2005; referred to Committee on House Administration.

H.R. 4194 (Shays-Meehan) — Internet Anti-Corruption and Free Speech Protection Act of 2005

Advertising. Stated that communications over the Internet were not to be considered “public communications,” thus not regulated under FECA, unless such communications were placed on another person’s website for a fee, or communication was financed by a union or corporation (unless its principal purpose was operating a web log), state or local party committee, or other political committee.

Introduced November 1, 2005; referred to Committee on House Administration.

H.R. 4389 (Miller, NC)

Advertising. Would have exempted news stories, commentaries, and editorials distributed through the Internet from consideration as expenditures or electioneering communications, and would have exempted campaign-related meetings organized through the Internet from consideration as contributions to a campaign.

Introduced November 18, 2005; referred to Committee on House Administration.

H.R. 4655 (Jones, NC) — Leadership PAC Disclosure Act

PACs (Hard Money). Would have required political committees associated with (i.e., directly or indirectly established, financed, maintained, controlled, or acting on behalf of) federal candidates or officeholders to identify such candidates or officeholders in disclosures to FEC (through statements of organization and periodic financial disclosure reports), and would have required FEC to make such identifications easily accessible to public through the Internet.

Introduced January 31, 2006; referred to Committee on House Administration.

H.R. 4664 (Capuano)

Individuals (Hard Money).

- Would have lowered limit on contributions to candidates to \$1,000 per election;
- Would have lowered limit on contributions to multicandidate committees to \$1,000 per election;
- Would have indexed limits on contributions to multicandidate committees, as of 2008;
- Would have delayed indexing on contributions to candidates until 2008.

PACs (Hard Money).

- Would have lowered limit on multicandidate committee contributions to candidates to \$1,000;
- Would have indexed multicandidate committees contribution limits, as of 2008.

Parties (Hard Money).²³

- Would have lowered limit on contributions by multicandidate committees to candidates to \$1,000 per election;
- Would have indexed multicandidate committees' contribution limits, as of 2008.

Introduced January 31, 2006; referred to Committee on House Administration.

H.R. 4692 (Kaptur) — Ethics in Foreign Lobbying Act of 2006

PACs (Hard Money).

- Would have banned PAC contributions and expenditures if sponsor was more than half foreign-owned or controlled;
- Would have banned foreign nationals from directing or participating in decision-making of entities that might influence U.S. elections.

FEC. Would have created FEC clearinghouse on political and lobbying activity of foreign principals and agents.

Miscellaneous. Would have amended Foreign Agents Registration Act to increase required disclosure.

Introduced February 1, 2006; jointly referred to Committees on House Administration and Judiciary.

²³ While the bill's headings reflected a likely intent to deal with nonparty committees only (i.e., PACs), the legislation referred to "multicandidate committee," which technically applies to many party committees as well.

H.R. 4694 (Obey) — Let the Public Decide Clean Campaign Act

Independent Expenditures (Hard Money). Would have banned independent expenditures in connection with House elections (but would have provided for fast-track consideration of a constitutional amendment to allow reasonable limits if the ban were ruled unconstitutional).

Party (Soft Money). Would have banned soft money spending in connection with House elections (but would have provided for fast-track consideration of a constitutional amendment to allow reasonable limits if the ban were ruled unconstitutional).

Spending/Benefits.

- Would have set mandatory limits on House general election spending based on median household income per district, with maximum of \$1.5 million for all major party candidates in highest level district;
- Other districts' limits would have been determined by subtracting from \$1.5 million: two-thirds of percentage difference between the median household income in the district involved and the highest median household income district, multiplied by \$1.5 million;
- Maximum expenditure by a major party candidate was to have been in the same ratio to the district-wide limit as the votes for that candidate's party in the last two House general elections in the district were to the votes for all major party candidates in those two elections;
- For purposes of establishing major party limit, only elections in which there were at least two major party candidates were to have been counted, and, if no such elections occurred, votes for Senate elections during the same period were to have been used as the basis;
- Maximum expenditure for minor party or independent candidates was based on comparable ratios concerning that party's (or all independent candidates') votes in: House general elections in the district, all federal offices in the state, or for presidential elections in the state (whichever amount was highest);
- Would have established mechanism for candidates to increase their spending limits based on submission of petition signatures (not applicable to candidate with highest limit in the race);
- Payments were to have been made to candidates for election expenses in amounts equal to the expenditure limits calculated above from a Grassroots Good Citizenship Fund, established within the Treasury;
- Fund would have been financed by voluntary taxpayer designations of any refunds owed them of at least \$1, plus any additional contributions they wished to make, and by a tax on corporations of 0.1% on taxable income above \$10 million;
- Would have directed FEC to make extensive public service announcements from January 1 to April 15 to promote the fund;

- Would have allowed only one other source for campaign expenditures — contributions from national and state political parties, of up to 5% of the applicable spending limit;
- Would have imposed a limit on House candidates in primary elections equal to one-third of the applicable limit for the general election;
- If any part of the act or these amendments were ruled unconstitutional, would have provided for expedited (fast-track) consideration by Congress of a constitutional amendment to allow reasonable restrictions on contributions, expenditures, and disbursements in campaigns for federal office.

Introduced February 1, 2006; jointly referred to Committees on House Administration, Ways and Means, and Rules.

H.R. 4696 (Rogers, MI) — Restoring Trust in Government Act

Soft Money: Non-Party. Would have prohibited 527 organizations from spending money for electioneering communications.

Miscellaneous. Would have treated unincorporated Indian tribes as corporations for purposes of FECA (i.e., they would have to establish a PAC through which to contribute money in federal elections and could not use treasury funds for electioneering communications).

Introduced February 1, 2006; jointly referred to Committees on Judiciary, Government Reform, House Administration, Rules, and Resources.

H.R. 4759 (Doolittle) — Citizen Legislature and Political Freedom Act

Individuals (Hard Money). Would have abolished all contribution limits, after 2006.

PACs (Hard Money). Would have abolished all contribution limits, after 2006.

Parties (Hard Money). Would have abolished all contribution limits, after 2006.

Soft Money: Party. Would have required state and local parties to file copies with the FEC of any disclosure reports required under state law.

Soft Money: Non-Party. Would have repealed prohibition on corporate and union treasury money in federal elections, after 2006.

FEC.

- Would have required electronic filing of reports by all committees;
- Would have required FEC to make standardized software available to all electronic filers;

- Would have required posting of information within 24 hours on Internet;
- Would have required all committees to notify FEC within 24 hours of all donations in last 90 days of election;
- Would have revoked “best efforts” exemption for identifying contributors of over \$200 in a year.

Presidential. Would have terminated presidential public funding system, after 2005.

Miscellaneous. Stated a series of findings that attributed contemporary problems with campaign financing to the effects of government regulation.

Introduced February 15, 2006; jointly referred to Committee on House Administration and Ways and Means.

H.R. 4819 (Leach) — PAC Elimination Act

PACs (Hard Money).

- Would have banned contribution and expenditures by PACs in federal elections;
- Would have changed definition of political committee to apply only to committees of candidates and parties;
- If ban were held unconstitutional, would have reduced PAC contribution limit to \$1,000 per candidate per election.
- Would have provided alternate PAC contribution limit: the lesser of 10% of all candidate receipts, or \$5,000;
- Would have imposed aggregate limit on a PAC’s contributions to all federal candidates and committees to \$500,000.

In-state/In-district (Hard Money). Would have required House and Senate candidates to raise at least 80% of funds from in-state individual residents.

Introduced February 28, 2006; referred to Committee on House Administration.

H.R. 4900 (Allen) — Internet Free Speech Protection Act of 2006

Advertising.

- Stated that communications over the Internet were not to be considered “public communications” and thus not regulated under FECA, unless such communications were placed on another person’s website for a fee of more than \$5,000 in a calendar year, or communication was financed by state or local parties, political committees, unions, or corporations (other than a corporation primarily devoted to online political commentary and discussions);
- Would have excluded those Internet communications aggregating less than \$5,000 in a calendar year, from special reporting requirements applicable to non-political committee independent expenditures;

- Would have exempted communications over the Internet made by an individual spending less than \$5,000 in a calendar year, from advertising disclaimer requirements;
- Would have exempted amounts of up to \$10,000 annually on Internet administrative fees and services, from triggering designation as a political committee;
- Would have included Internet communications in general under FECA's news media exemption;
- Would have indexed threshold amounts in bill for inflation;
- Would have required FEC to issue a single policy guideline for individuals engaged in online communications, within 150 days of enactment.

Introduced March 8, 2006; referred to Committee on House Administration.

H.R. 4975 (Dreier) — Lobbying Accountability and Transparency Act of 2006 (*provision added by Rules Committee shown in italics*)

PACs (Hard Money). *Would have allowed leadership PACs to transfer unlimited funds to national, state, or local party committees (just as principal campaign committees may do).*

Parties (Hard Money). Would have repealed limits on coordinated expenditures by political parties.

Soft Money: Non-Party.

- Would have included in definition of “political committee” any 527 organization, unless it: (1) had annual gross receipts of less than \$25,000; (2) was a political committee of a state or local party or candidate; (3) existed solely to pay certain administrative expenses or expenses of a qualified newsletter; (4) was composed solely of state or local officeholders or candidates whose voter drive activities referred only to state/local candidates and parties; or (5) was exclusively devoted to elections where no federal candidate was on ballot, to non-federal elections, ballot issues, or to selection of non-elected officials;
- Would have made the preceding exemption (above) inapplicable if the 527 organization spent more than \$1,000 for: (1) public communications that promoted, supported, attacked, or opposed a clearly identified federal candidate within one year of the general election in which that candidate was seeking office; or (2) for any voter drive effort conducted by a group in a calendar year, unless: (a) sponsor confined activity solely to one state; (b) non-federal candidates were referred to in all voter drive activities and no federal candidate or party was referred to in any substantive way; (c) no federal candidate or officeholder or national party official/agent was involved in organization's direction, funding, or spending; AND (d) no contributions were made by the group to federal candidates;
- Would have required political committees (but not candidate or party committees) that made disbursements for voter mobilization

activities or public communications that affected both federal and non-federal elections to use generally at least 50% hard money from federal accounts to finance such activities (but would have required that 100% of public communications and voter drive activities that referred to only federal candidates be financed with hard money from a federal account, regardless of whether the communication referred to a political party); in effect, this would have codified the 2005 FEC regulations on this topic and made them applicable to 527s not affected by current rules;

- Would have allowed contributions to non-federal accounts making allocations (above) only by individuals and subject to limit of \$25,000 per year; would have prohibited fundraising for such accounts by national parties and officials and federal candidates and officeholders;
- Stated that this act was to have no bearing on FEC regulations, on any definitions of political organizations in Internal Revenue Code, or on any determination of whether a 501(c) tax-exempt organization could be a political committee under FECA;
- Would have provided special expedited judicial review procedures, similar to BCRA's, for a challenge on constitutional grounds, and would have allowed any Member to bring or intervene in any such case.

Introduced March 16, 2006; jointly referred to Committees on the Judiciary, House Administration, Rules, Government Reform, and Standards of Official Conduct. April 25, 2006, reported as amended by Committees on Judiciary (H.Rept. 109-439, Pt. I), House Administration (H.Rept. 109-439, Pt. II), Rules (H.Rept. 109-439, Pt. III), and Government Reform (H.Rept. 109-439, Pt. IV), and discharged from Committee on Standards of Official Conduct. May 3, passed House (217-213).

H.R. 5281 (Leach) — Campaign Reform Act of 2006

Spending/Benefits.

- Would have created House of Representatives Election Campaign Account, within the Presidential Election Campaign Fund, to provide matching payments to eligible House candidates;
- Eligibility would have been established by: (1) raising at least \$10,000 from individuals in that election cycle; (2) qualifying for the primary or general election ballot; (3) having an opponent in the primary or general election; and (4) limiting receipts and expenditures in election to \$500,000 or the aggregate matching payment limit, whichever was greater;
- Would have provided for an equal match of contributions from in-state individuals whose aggregate contributions to that candidate for that election did not exceed \$500;
- Aggregate matching payments were not to have exceeded \$175,000 in an election, unless: (1) a non-eligible opponent raised more than \$500,000 for that election, in which case the matching fund payment might equal the opponent's receipts; (2) any opponent in a contested primary raised more than \$50,000, in which case the payments might

be increased by up to \$75,000; or (3) a runoff occurred, in which case the payments might be increased by up to \$50,000;

- Payments for House candidates were to have come from House of Representatives Election Campaign Account, once Secretary of Treasury determined that there were adequate funds for presidential campaigns, and from supplemental authorizations by Congress.

Introduced May 3, 2006; referred to Committee on House Administration.

H.R. 5374 (Linder) — Ban It All, Ban It Now Act

Soft Money: Party.

- Would have clarified current ban on soft money to include activities related to reapportionment;
- Would have eliminated “Levin fund” provision from current law, allowing limited soft money use by state and local parties for specified grassroots activities;
- For funds solicited by federal candidates or officeholders for 501(c) tax-exempt organizations that were primarily involved in voter registration, get-out-the-vote, voter identification, and generic activities or if solicitation specified such activities as the purpose for the donation, would have reduced limit on permissible donations from \$20,000 to \$10,000;
- Would have revised definition of “federal election activity” to include voter registration efforts regardless of when they were conducted, thus requiring that such activities must always be financed solely with hard money;
- Would have revised definition of “federal election activity” to eliminate inclusion of salaries of state and local party employees who devoted more than 25% of their time in connection with a federal election, thus removing the requirement that only hard money be used for such expenses;
- Would have extended time period in defining mass mailing (a form of public communication) from 30 days to one year;
- Would have extended time period in defining telephone bank (a form of public communication) from 30 days to one year.

Soft Money: Non-Party.

- Would have removed exemption for nonpartisan voter registration and get-out-the-vote drives from prohibition on use of corporate and union treasuries;
- Would have required get-out-the-vote activities by 501(c)(3), 501(c)(4), and 527 tax-exempt organizations to be financed solely with funds permissible under FECA (i.e., hard money);
- Would have required partisan voter registration activities by any person to be financed solely with funds permissible under FECA (i.e., hard money).

Introduced May 11, 2006; referred to Committee on House Administration.

H.R. 5623 (Capuano)

PACs (Hard Money).

- Would have prohibited conversion of leadership PAC funds to personal use;
- Would have defined a “leadership PAC” as a political committee directly or indirectly established, maintained, or controlled by a federal candidate or officeholder, but would not have included a candidate’s authorized committee or party committee.

Introduced June 15, 2006; referred to Committee on House Administration.

H.R. 5676 (Shays-Meehan) — Federal Election Administration Act of 2006

FEC.

- Would have replaced Federal Election Commission with Federal Election Administration, to administer, seek compliance with, enforce, and formulate policy regarding federal election law; new agency would have consisted of three commissioners, appointed by President with advice and consent of Senate, headed by chairman serving one 10-year term; other two commissioners would have served staggered six-year terms; no two commissioners were to have been of the same political party; would have required commissioners to have had at least five years of professional law enforcement or judicial experience;
- Would have allowed enforcement actions to be initiated by majority vote;
- Would have authorized administrative law judges to hear cases, make findings of fact, impose civil monetary penalties, and issue cease-and-desist orders, subject to appeal to agency;
- Would have provided for appeals for judicial review by complainants or aggrieved parties, including those adversely affected by advisory opinions;
- Would have authorized agency to appeal to district court for temporary restraining orders or preliminary injunctions to prevent possible violations;
- Would have given agency responsibility to administer disclosure laws and presidential public finance system, and to conduct random audits;
- Would have provided for agency to submit budget directly to Congress;
- Would have required GAO to study criminal enforcement of election laws by Justice Department and to conduct ongoing study on appropriate funding levels for agency.

Introduced June 22, 2006; referred to Committee on House Administration.

H.R. 5839 (Hefley) — Leadership PAC Prohibition Act of 2006***PACs (Hard Money).***

- Would have prohibited federal candidates or officeholders from directly or indirectly establishing, maintaining, financing, or controlling any federal or non-federal political committee, other than a candidate's principal campaign or authorized committee or a party committee;
- Would have established transition rules to allow distribution of existing leadership PAC funds to tax-exempt organizations, political parties, the U.S. Treasury, and contributions of less than \$1,000 to candidates for elective office.

Introduced July 19, 2006; referred to Committee on House Administration.

H.R. 5905 (Meehan-Shays) — Presidential Funding Act of 2006***Party (Hard Money).***

- Would have increased limit for coordinated spending by national party on behalf of its presidential candidate to \$25 million before April 1 and an additional \$25 million after April 1 until candidate was certified for general election public funding (limits indexed for inflation);
- Would have allowed latter limit to be removed if non-participating primary candidate raised or spent more than 120% of total primary spending limit.

Presidential.

- Would have lowered amount of individual contributions subject to matching in primary elections from \$250 to \$200;
- Would have increased rate of public funds match in primary elections from 100% to 400% before March 31 of election year, after which the rate of match would have been lowered to 100% of any contribution up to \$200;
- Would have increased qualifying threshold for presidential matching funds to \$25,000 in contributions in each of 20 states, in amounts of \$200 or less (currently \$250);
- Would have required candidates to commit to accepting public financing for the general election as condition for getting matching funds in primaries;
- Would have moved starting date for payment of matching funds to July 1 of year prior to election year;
- Would have increased amount of matching funds available to 80% of primary spending limit;
- Would have required acceptance of primary matching funds as a condition for getting public funding in general election;
- Would have eliminated state-by-state primary spending limits;

- Would have raised national primary spending limit to \$100 million through April 1 of election year, and \$150 million total for primary, indexed for inflation;
- Would have raised general election spending limit to \$100 million, indexed for inflation;
- Would have changed rules to fully count fundraising costs toward expenditure limits;
- For participating candidate opposed by non-participating candidate who made expenditures of more than 120% of primary spending limit, would have increased primary spending limit to \$150 million before April 1 and to \$200 million for entire primary, with further spending by non-participant triggering further increases in spending limits and additional matching funds;
- For participating candidate in general election opposed by non-participating candidate who raised or spent more than 120% of combined primary and general election spending limit, would have provided additional subsidy equal to subsidy already received (for major party candidates);
- Would have increased tax check-off from \$3 to \$10 for individuals and from \$6 to \$20 for couples, with future indexing for inflation;
- Would have established the Friday before Labor Day as the uniform public funds disbursement date for participating general election candidates;
- Would have required Secretary of Treasury to issue regulations to ensure that electronic software used in preparation or filing of tax returns did not automatically accept or decline a check-off to the fund;
- Would have authorized FEC to spend up to \$10 million from the fund during a four-year period on public education about the fund;
- Would have allowed Secretary of the Treasury to borrow funds in event of estimated shortfall in the Fund;
- Would have repealed prioritization of nominating convention funding over primary matching funds;
- Would have required participating party committees to spend only public subsidy amount on their presidential nominating conventions, i.e., would have prohibited solicitation, receipt, and spending of any soft money on conventions;
- Would have required disclosure of name, address, occupation, and employer of each person making a bundled contribution to a presidential campaign (would have defined “bundled contributions” as a series of contributions that, in the aggregate, totaled at least \$10,000 and were transferred to a candidate by one person or included notification that a person other than donor solicited, arranged, or directed those contributions).

Introduced June 26, 2006; jointly referred to Committees on House Administration and Ways and Means.

H.J.Res. 13 (Leach)

Candidates (Hard Money). Proposed constitutional amendment to give Congress and the states the power to regulate the amounts of expenditures candidates might make from personal and immediate family funds, including personal loans.

Introduced January 26, 2005; referred to Committee on the Judiciary.

H.J.Res. 76 (Kaptur)

Spending/Benefits. Proposed constitutional amendment to allow Congress and the states to set limits on contributions and expenditures that might be made, in support of, or in opposition to, candidates for nomination and election to federal and state or local offices.

Introduced February 1, 2006; referred to Committee on the Judiciary.

H.Con.Res. 333 (Kaptur)

Miscellaneous. Expressed sense of Congress that Supreme Court misinterpreted the First Amendment in the *Buckley v. Valeo* decision by failing to recognize corrosive effects of large, unlimited expenditures on elections, and legitimate state interests in limiting such expenditures.

Introduced February 1, 2006; referred to Committee on Judiciary.

Senate Bills

S. 271 (McCain-Feingold-Lott) — 527 Reform Act of 2005

Soft Money: Non-Party.

- Would have included in definition of “political committee” any 527 organization, unless it: (1) had annual gross receipts of less than \$25,000; (2) was a political committee of a state or local party or candidate; (3) existed solely to pay certain administrative expenses or expenses of a qualified newsletter; (4) was exclusively devoted to elections where no federal candidate was on ballot, to non-federal elections, ballot issues, or to selection of non-elected officials;
- Would have made preceding two exemptions (above) inapplicable if the 527 organization spent more than \$1,000 for: (1) public communications that promoted, supported, attacked, or opposed a clearly identified federal candidate within one year of the general election in which that candidate was seeking office; or (2) for any voter drive effort conducted by a group;
- Would have required political committees (but not candidate or party committees) that made disbursements for voter mobilization activities or public communications that affected both federal and non-federal elections to use generally at least 50% hard money from

federal accounts to finance such activities (but would have required that 100% of public communications and voter drive activities that referred to only federal candidates be financed with hard money from a federal account, regardless of whether the communication referred to a political party); in effect, this would have codified the 2005 FEC regulations on this topic and made them applicable to 527s not affected by current rules;

- Would have allowed contributions to non-federal accounts making allocations (above) only by individuals and subject to limit of \$25,000 per year; would have prohibited fundraising for such accounts by national parties and officials and federal candidates and officeholders;
- Stated that this act was to have no bearing on FEC regulations, on any definitions of political organizations in Internal Revenue Code, or on any determination of whether a 501(c) tax-exempt organization might be a political committee under FECA;
- Would have provided special expedited judicial review procedures, similar to BCRA's, for a challenge on constitutional grounds, and would have allowed any Member to bring or intervene in any such case.

Introduced February 2, 2005; referred to Committee on Rules and Administration. Ordered reported April 27, 2005, by Committee on Rules and Administration, but was later incorporated into S. 1053, an original bill.

S. 678 (Reid)

Advertising. Stated that communications over the Internet were not to be considered "public communications" and thus not regulated under FECA.

Introduced March 17, 2005; referred to Committee on Rules and Administration.

S. 1053 (Lott) — 527 Reform Act of 2005

[amendments adopted in Committee in *italics* with sponsor name]

Individuals (Hard Money). *Would have indexed, for inflation, limit on contributions by individuals to state and local parties (Bennett).*

PACs (Hard Money).

- *Would have increased limit on contributions to and by PACs from \$5,000 to \$7,500;*
- *Would have increased limit on PAC contributions to national parties from \$15,000 to \$25,000;*
- *Would have indexed these limits for inflation;*
- *Would have allowed leadership PACs to transfer unlimited funds to national party committees;*
- *Would have eliminated twice-a-year limit on solicitations by unions/corporations of their restricted classes;*

- *Would have eliminated requirement that trade associations get prior approval of member corporations before solicitations were made to their restricted classes;*
- *Would have eliminated requirement that corporations could grant approval to only one association to solicit its restricted class in a year;*
- *Would have increased annual contribution and expenditure threshold for determining political committee status to \$10,000 (Bennett).*

Soft Money: Non-Party.

- Would have included in the definition of “political committee” any 527 organization, unless it: had annual gross receipts of less than \$25,000; was a political committee of a state or local party or candidate; existed solely to pay certain administrative expenses or expenses of a qualified newsletter; was composed solely of state or local officeholders and candidates whose voter drive activities referred to state and local candidates but not federal candidates and parties; *was solely involved in voter drive activities, including public communications devoted to such, but did not engage in broadcast, cable, or satellite communications* (Schumer); or was exclusively devoted to elections where no federal candidate was on ballot, or to non-federal elections, ballot issues, or selection of non-elected officials.
- The preceding exemption would not have applied if the 527 spent more than \$1,000 for: public communications that promoted, supported, attacked, or opposed a clearly identified federal candidate within one year of the general election in which that candidate was seeking office; or for any voter drive activity conducted by a group in a calendar year, unless: (1) sponsor confined activity solely within one state; (2) non-federal candidates were referred to in all voter drive activities and no federal candidate or party was referred to in any substantive way; (3) no federal candidate or officeholder or national party official or agent was involved in the organization’s direction, fundraising, or disbursements; and (4) no contributions were made by the group to federal candidates;
- Would have required political committees (but not candidate or party committees) that made disbursements for voter mobilization activities or public communications that affected both federal and non-federal elections to use generally at least 50% hard money from federal accounts (or more, if FEC so determined) to finance such activities (but would have required that 100% of public communications and voter drive activities that referred to only federal candidates be financed with hard money from a federal account, regardless of whether the communication referred to a political party);
- Would have allowed contributions to non-federal accounts making allocations under this provision only by individuals in amounts of up to \$25,000 per year (and stated that funds in non-federal accounts were not otherwise subject to FECA);

- Stated that this act was to have no bearing on FEC regulations, on any definitions of political organizations in the IRC, or on any determination of whether a 501(c) tax-exempt organization might be a political committee under FECA;
- Would have provided special expedited judicial review procedures, similar to those in BCRA, for a challenge to the act on constitutional grounds, and would have allowed any Member to bring or intervene in any such case.

Advertising.

- *Would have made TV, cable, and satellite lowest unit rate broadcast time non-preemptible, with rates based on comparison with full prior year, and would have required such rates to be available to national parties for time on behalf of candidates (Durbin);*
- *Would have provided that communications over the Internet were not to be considered “public communications” and thus not regulated under FECA (Bennett).*

Miscellaneous.

- Would have provided special expedited judicial review procedures, similar to BCRA’s, for a challenge on constitutional grounds, and would have allowed any Member to bring or intervene in any such case;
- Declared that if any provision were deemed unconstitutional, the rest of the act would not be affected.

Original bill placed on legislative calendar May 17, 2005 (in lieu of S. 271, which was ordered reported April 27, 2005 by Committee on Rules and Administration).

S. 1508 (Feingold-McCain) — Senate Campaign Disclosure Parity Act

FEC. Would have required Senate candidate disclosure reports that were filed with Secretary of the Senate and forwarded to FEC to be filed electronically.

Introduced July 27, 2005; referred to Committee on Rules and Administration.

S. 2434 (Wyden) — Senate Campaign Reform Act of 2006

Spending/Benefits. Would have amended Senate Rules to prohibit Senators, officers, and staff from raising, soliciting, or directing Senate campaign contributions within 18 months of Senate general election; prohibition would not have applied if an opponent spent more than \$100,000, if Senator was a candidate for another office and raised funds solely for that purpose, or if Senator was targeted in broadcast advertising by outside groups; in latter case, Senator could have engaged in raising funds in amounts equal to what was spent in broadcast ads opposing him or her.

Introduced March 16, 2006; referred to Committee on Rules and Administration.

S. 2511 (McCain) — 527 Reform Act of 2005***Soft Money: Non-Party.***

- Would have included in definition of “political committee” any 527 organization, unless it: (1) had annual gross receipts of less than \$25,000; (2) was a political committee of a state or local party or candidate; (3) existed solely to pay certain administrative expenses or expenses of a qualified newsletter; (4) was composed solely of state or local officeholders or candidates whose voter drive activities referred only to state/local candidates and parties; or (5) was exclusively devoted to elections where no federal candidate was on ballot, to non-federal elections, ballot issues, or to selection of non-elected officials;
- Would have made last exemption (above) inapplicable if the 527 organization spent more than \$1,000 for: (1) public communications that promoted, supported, attacked, or opposed a clearly identified federal candidate within one year of the general election in which that candidate was seeking office; or (2) for any voter drive effort conducted by a group in a calendar year, unless: (a) sponsor confined activity solely to one state; (b) non-federal candidates were referred to in all voter drive activities and no federal candidate or party was referred to in any substantive way; (c) no federal candidate or officeholder or national party official/agent was involved in organization’s direction, funding, or spending; AND (d) no contributions were made by the group to federal candidates;
- Would have required political committees (but not candidate or party committees) that made disbursements for voter mobilization activities or public communications that affected both federal and non-federal elections to use generally at least 50% hard money from federal accounts to finance such activities (but would have required that 100% of public communications and voter drive activities that referred to only federal candidates be financed with hard money from a federal account, regardless of whether the communication referred to a political party); in effect, this would have codified the 2005 FEC regulations on this topic and made them applicable to 527s not affected by current rules;
- Would have allowed contributions to non-federal accounts making allocations (above) only by individuals and subject to limit of \$25,000 per year; would have prohibited fundraising for such accounts by national parties and officials and federal candidates and officeholders;
- Stated that this act was to have no bearing on FEC regulations, on any definitions of political organizations in Internal Revenue Code, or on any determination of whether a 501(c) tax-exempt organization might be a political committee under FECA;
- Would have provided special expedited judicial review procedures, similar to BCRA’s, for a challenge on constitutional grounds, and would have allowed any Member to bring or intervene in any such case;

- Declared that if any provision were deemed unconstitutional, the rest of the act would not be affected.

Introduced April 5, 2006; referred to Committee on Rules and Administration.

S. 3560 (McCain-Feingold) — Federal Election Administration Act of 2006

FEC.

- Would have replaced Federal Election Commission with Federal Election Administration, to administer, seek compliance with, enforce, and formulate policy regarding federal election law; new agency would have consisted of three commissioners, appointed by President with advice and consent of Senate, headed by chairman serving one 10-year term; other two commissioners would have serve staggered six-year terms; no two commissioners were to have been of the same political party; would have required commissioners to have had at least five years of professional law enforcement or judicial experience;
- Would have allowed enforcement actions to be initiated by majority vote;
- Would have authorized administrative law judges to hear cases, make findings of fact, impose civil monetary penalties, and issue cease-and-desist orders, subject to appeal to agency;
- Would have provided for appeals for judicial review by complainants or aggrieved parties, including those adversely affected by advisory opinions;
- Would have authorized agency to appeal to district court for temporary restraining orders or preliminary injunctions to prevent possible violations;
- Would have given agency responsibility to administer disclosure laws and presidential public finance system, and to conduct random audits;
- Would have provided for agency to submit budget directly to Congress;
- Would have required GAO to study criminal enforcement of election laws by Justice Department and to conduct ongoing study on appropriate funding levels for agency.

Introduced June 22, 2006; referred to Committee on Rules and Administration.

S. 3740 (Feingold) — Presidential Funding Act of 2006

Party (Hard Money).

- Would have increased limit for coordinated spending by national party on behalf of its presidential candidate to \$25 million before April 1 and an additional \$25 million after April 1 until candidate was certified for general election public funding (limits indexed for inflation);

- Would have allowed latter limit to be removed if non-participating primary candidate raised or spent more than 120% of total primary spending limit.

Presidential.

- Would have lowered amount of individual contributions subject to matching in primary elections from \$250 to \$200;
- Would have increased rate of public funds match in primary elections from 100% to 400% before March 31 of election year, after which the rate of match would have been lowered to 100% of any contribution up to \$200;
- Would have increased qualifying threshold for presidential matching funds to \$25,000 in contributions in each of 20 states, in amounts of \$200 or less (currently \$250);
- Would have required candidates to commit to accepting public financing for the general election as condition for getting matching funds in primaries;
- Would have moved starting date for payment of matching funds to July 1 of year prior to election year;
- Would have increased amount of matching funds available to 80% of primary spending limit;
- Would have required acceptance of primary matching funds as a condition for getting public funding in general election;
- Would have eliminated state-by-state primary spending limits;
- Would have raised national primary spending limit to \$100 million through April 1 of election year, and \$150 million total for primary, indexed for inflation;
- Would have raised general election spending limit to \$100 million, indexed for inflation;
- Would have changed rules to fully count fundraising costs toward expenditure limits;
- For participating candidate opposed by non-participating candidate who made expenditures of more than 120% of primary spending limit, would have increased primary spending limit to \$150 million before April 1 and to \$200 million for entire primary, with further spending by non-participant triggering further increases in spending limits and additional matching funds;
- For participating candidate in general election opposed by non-participating candidate who raised or spent more than 120% of combined primary and general election spending limit, would have provided additional subsidy equal to subsidy already received (for major party candidates);
- Would have increased tax check-off from \$3 to \$10 for individuals and from \$6 to \$20 for couples, with future indexing for inflation;
- Would have established the Friday before Labor Day as the uniform public funds disbursement date for participating general election candidates;
- Would have required Secretary of Treasury to issue regulations to ensure that electronic software used in preparation or filing of tax

returns did not automatically accept or decline a check-off to the fund;

- Would have authorized FEC to spend up to \$10 million from the fund during a four-year period on public education about the fund;
- Would have allowed Secretary of the Treasury to borrow funds in event of estimated shortfall in the Fund;
- Would have repealed prioritization of nominating convention funding over primary matching funds;
- Would have required participating party committees to spend only public subsidy amount on their presidential nominating conventions, i.e., would have prohibited solicitation, receipt, and spending of any soft money on conventions;
- Would have required disclosure of name, address, occupation, and employer of each person making a bundled contribution to a presidential campaign (would have defined “bundled contributions” as a series of contributions that, in the aggregate, totaled at least \$10,000 and were transferred to a candidate by one person or included notification that a person other than donor solicited, arranged, or directed those contributions);
- Would have capped taxpayer subsidies for promotion of agricultural products by \$100 million per year to offset additional costs in presidential public funding system.

Introduced July 26, 2006; referred to Committee on Finance.

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