No. 02-

IN THE
Supreme Court of The United States

CONGRESSMAN RON PAUL, GUN OWNERS OF AMERICA, INC., GUN OWNERS OF AMERICA POLITICAL VICTORY FUND, REALCAMPAIGNREFORM.ORG, CITIZENS UNITED, CITIZENS UNITED POLITICAL VICTORY FUND, MICHAEL CLOUD, AND CARLA HOWELL,
Appellants,

v.

FEDERAL ELECTION COMMISSION, *ET AL.*,
Appellees.

On Appeal from the United States District Court
for the District of Columbia

JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the district court erred by dismissing appellants' freedom of the press challenge to various provisions of BCRA, and to provisions of FECA amended by BCRA, on the ground that, in the area of campaign finance regulation, the freedom of the press guarantee in the First Amendment to the United States Constitution contains no greater rights than those protected by the guarantees of free speech and association?

2. Whether the district court erred by upholding the statutory exemptions in BCRA enjoyed by the "institutional press" and other FEC-licensed press activities from the prohibitions against, and regulations of, electioneering communications and contribution limits governing appellants, on the ground that Congress may, regardless of the freedom of the press guarantee, grant greater rights to the "institutional press" than to the "general press," only the latter of which appellants are a part?

3. Whether the district court erred by holding that, regardless of the constitutional guarantee of the freedom of the press, the fall-back definition of electioneering communication in Title II of BCRA (as modified by the court) and the accompanying prohibitions and regulations, are constitutional as applied to appellants as members of the "general press" even though the institutional press and other FEC-licensed press activities are exempted?

4. Whether the district court erred by holding that, regardless of the constitutional guarantee of the freedom of the press, those appellants who are federal officeholders and/or candidates for federal office must, as members of the "general press," submit to the Federal Election Commission's licensing power and editorial control as provided for in BCRA Section

101(a) (FECA Section 323(e)), including limiting their ability to assist candidates and causes they support, whereas members of the "institutional press" are exempt?

5. Whether the district court erred by holding that, regardless of the freedom of the press, those appellants who are candidates for election to state office, must, as members of the "general press," submit to the licensing power and editorial control of the Federal Election Commission as provided for in BCRA Section 101(a) (FECA Section 323(f)), if they refer to a candidate for federal office and the Federal Election Commission determines this to constitute promotion or support, whereas members of the "institutional press" are exempt?

6. Whether the district court erred by holding that, regardless of the freedom of the press, appellant Congressman and candidates for federal office, being members only of the "general press," had no standing to challenge the constitutionality of FECA amended by BCRA Section 307(a) limiting individual contributions to federal election campaigns, and mandating disclosure of contributor identities and donations, despite the impact of such limits upon the editorial function of their campaigns for federal office, and by dismissing appellant candidates' press challenge to such statute limits and requirements?

PARTIES TO THE PROCEEDING

The appellants in this case, who were plaintiffs in Civil Action No. 02-CV-781 below before the district court, are: Congressman Ron Paul; Gun Owners of America, Inc.; Gun Owners of America Political Victory Fund; RealCampaignReform.org; Citizens United; Citizens United Political Victory Fund; Michael Cloud; and Carla Howell.

The appellees in this case, who were defendants or intervenor-defendants below, are: Federal Election Commission; the United States of America; Senator John McCain; Senator Russell Feingold; Representative Christopher Shays; Representative Martin Meehan; Senator Olympia Snowe; and Senator James Jeffords.

This case was consolidated below with ten other civil actions challenging the constitutionality of certain BCRA provisions.

The names of plaintiffs in each of the consolidated cases are as follows:
National Rifle Ass'n v. FEC: National Rifle Association of America (NRA) and NRA Political Victory Fund;
McConnell v. FEC: U.S. Senator Mitch McConnell, former U.S. Representative Bob Barr, U.S. Representative Mike Pence, Alabama Attorney General William H. Pryor, the Libertarian National Committee, Inc., American Civil Liberties Union, Associated Builders and Contractors, Inc., Associated Builders and Contractors Political Action Committee, Center for Individual Freedom, Club for Growth, Inc., Indiana Family Institute, Inc., National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life Political Action Committee, National Right to Work Committee, 60-Plus Association, Inc., Southeastern Legal

Foundation, Inc., U.S. English d/b/a/ ProENGLISH, Thomas McInerney, Barret Austin O'Brock, Trevor M. Southerland;
Echols v. FEC: Emily Echols, Daniel Solid, Hannah McDow, Isaac McDow, Jessica Mitchell, Daniel Solid and Zachary C. White;
Chamber of Commerce v. FEC: Chamber of Commerce of the United States, U.S. Chamber Political Action Committee, and National Association of Manufacturers (Plaintiff National Association of Wholesaler-Distributors withdrew);
National Ass'n of Broadcasters v. FEC: National Association of Broadcasters;
AFL-CIO v. FEC: AFL-CIO and AFL-CIO Committee on Political Education and Political Contributions;
Republican National Committee v. FEC: Republican National Committee, (RNC), Mike Duncan, former Treasurer, current General Counsel, and Member of the RNC, the Republican Party of Colorado, the Republican Party of New Mexico, the Republican Party of
Ohio, and the Dallas County (Iowa) Republican County Central Committee;
California Democratic Party v. FEC: California Democratic Party, Art Torres, Yolo County Democratic Central Committee, California Republican Party, Shawn Steel, Timothy J. Morgan, Barbara Alby, Santa Cruz County Republican Central Committee, and Douglas R. Boyd, Jr.;
Adams v. FEC: Victoria Jackson Gray Adams, Carrie Bolton, Cynthia Brown, Derek Cressman, Victoria Fitzgerald, Anurada Joshi, Nancy Russell, Kate Seely-Kirk, Peter Kostmayer, Rose Taylor, Stephanie L. Wilson, California Public Interest Research Group (PIRG), Massachusetts Public Interest Research Group, New Jersey Public Interest Research Group, United States Public Interest Research Group, the Fannie Lou Hamer Project, and Association of Community Organizers for Reform Now; and

Thompson v. FEC: U.S. Representatives Bennie G. Thompson and Earl F. Hilliard.

The names of other defendants in the consolidated cases are as follows: Federal Communications Commission; John D. Ashcroft; in his capacity as Attorney General of the United States; United States Department of Justice; and David M. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their official capacities as Commissioners of the Federal Election Commission.

STATEMENT PURSUANT TO RULE 29.6

Appellant Gun Owners of America Political Victory Fund, a political committee, is a separate segregated fund of appellant Gun Owners of America, Inc., a nonprofit, nonstock corporation, and appellant Citizens United Political Victory Fund is a separate segregated fund of appellant Citizens United, a nonprofit, nonstock corporation. Otherwise, none of the appellants has a parent corporation. None of the appellants is a stock company, and no publicly held company owns 10 percent or more of the stock of any of the appellants.

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JURISDICTIONAL STATEMENT

INTRODUCTION

This case presents a freedom of the press challenge to several of the most intrusive provisions of the growing body of federal campaign finance law. The appellants, known in the court below as the "Paul Plaintiffs" — Congressman Ron Paul, Gun Owners of America, Inc., Gun Owners of America Political Victory Fund, RealCampaignReform.org, Citizens United, Citizens United Political Victory Fund, Michael Cloud, and Carla Howell — allege that the Bipartisan Campaign Reform Act of 2002 ("BCRA"), and many of the amendments to the Federal Election Campaign Act of 1971 ("FECA") wrought by BCRA, violate their rights guaranteed by the freedom of the press of the First Amendment of the United States Constitution.

The district court rejected the Paul Plaintiffs' discrete press challenge, ruling, as a matter of law, that the Paul Plaintiffs' rights under the freedom of the press are governed by a standard no higher than, and no different from, the compelling interest test developed in First Amendment litigation involving free speech and association. *Per Curiam Op.* at 106-13. Although certain BCRA provisions were determined to be unconstitutional as violative of other First Amendment guarantees, many BCRA/FECA provisions were sustained, including virtually all of those provisions challenged by the Paul Plaintiffs.

The effect of the district court's ruling is to retain and enlarge unconstitutionally invasive federal campaign finance laws, abridging freedom of the press as well as curtailing core political speech throughout the country, and leaving the area of campaign finance regulation in disarray. This is a vital First Amendment case that demands this Court's attention and review.

Appellants request and urge this Court to note probable jurisdiction on the questions presented herein, and to reverse the district court on each of those questions.

OPINIONS BELOW

The three-judge district court issued its judgment, along with four opinions which were filed on May 2, 2003: a *per curiam* opinion joined by two of the judges, and individual opinions by each of the three judges. None of the opinions is reported. Pursuant to this Court's Order of May 15, 2003, the appellants are submitting jointly the district court's opinions, in the form of a Joint Appendix. *See* Appendix hereto ("App.") 4a.

JURISDICTION

The district court issued its opinions and judgment on May 2, 2003. Appellants timely filed their Notice of Appeal on May 7, 2003. This Court has appellate jurisdiction pursuant to Section 403(a)(3) of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, 114. Appellants' Notice of Appeal is reprinted at App. 1a.

PERTINENT CONSTITUTIONAL AND STATUTORY PROVISIONS

The First Amendment to the United States Constitution is reprinted at App. 5a.

Sections 434 and 441 of Title 2 of the United States Code (FECA prior to BCRA's amendments), are set forth at App. 6a.

The Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, is reprinted at App. 27a.

STATEMENT OF THE CASE

1. Federal campaign finance regulation, including laws licensing entry into the marketplace of ideas generated by campaigns for election to federal office, appears to have been attempted by Congress, for the first time, only in the second half of the twentieth century, with passage of the Federal Election Campaign Act of 1971 (and its extensive 1974 Amendments). *See* 2 U.S.C. Section 431, *et seq*. Previously, certain federal statutes had been enacted affecting certain rights of certain "persons." *See, e.g.*, Burroughs v. United States, 290 U.S. 534 (1934). FECA was Congress's first comprehensive

effort to take control of federal "electioneering," including the establishment of an administrative agency with power to enforce a complete panorama of licensing restrictions, contribution and expenditure limitations, reporting and disclosure requirements, backed up by penalties both civil and criminal, for infractions of the new rules.

In Buckley v. Valeo, 424 U.S. 1 (1976), this Court found some of the original provisions of FECA unconstitutional abridgments of free speech and association. For nearly a generation, the Buckley decision has guided this Court, and the lower federal courts, in the application of free speech and association to the enforcement of FECA by the Federal Election Commission ("FEC"), and the enforcement of similar rules enacted by state legislatures to control the financing of election campaigns. *See, e.g.,* FEC v. Colo. Rep. Fed. Election Campaign Comm. (Colo. II), 533 U.S. 431 (2001); Nixon v. Shrink Missouri Gov't. PAC (Shrink PAC), 528 U.S. 377 (2000). Despite continued adherence to Buckley, three justices on this Court have urged that Buckley be overruled, observing most recently that the Court's application of Buckley has "offered only tepid protection to core speech and associational rights that our Founders sought to defend." Colo. II, 533 U.S. at 466 (Thomas, J., dissenting).

Indeed, the "strict scrutiny" standard of Buckley has proved to be a malleable tool, the application of which has turned on how strictly the courts are predisposed to scrutinize the application of a particular regulation to the facts of a case. *Compare* Shrink PAC, *supra*, with FEC v. Mass. Citizens for Life, 479 U.S. 238 (1986). Essentially, the application of Buckley has proved *ad hoc*, rather than principled, opening the door for Congress to extend the FEC's power by the enactment of the Bipartisan Campaign Reform Act which contains a

number of novel encroachments upon the marketplace of ideas generated by campaigns for election to public office.

a. In an effort to sweep more and more contributions and expenditures in the marketplace of ideas generated by federal election campaigns within the licensing and regulatory power of the FEC, Title I of BCRA has extended the reach of federal campaign regulation in such a way as to place discriminatory controls upon political parties, federal and state officeholders, and candidates for federal and state office. For example, BCRA Title I, Section 101(a) (FECA Section 323(e)) prohibits a federal officeholder, or candidate for federal office, from "solicit[ing], receiv[ing], direct[ing], transfer[ing], or spend[ing] funds in connection with an election for Federal office ... unless the funds" are raised under the licensing and regulatory control of the FEC. In a similar manner, BCRA Title I prohibits any state or local officeholder or candidate for state or local office from "spend[ing] any funds..." (Section 101(a) (FECA Section 323(f))) for "a public communication that refers to a clearly identified candidate for Federal office ... and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate)" (BCRA Section 101(b) (FECA Section 301(20)(A)(iii))).

By these provisions, Congress has breached the wall that Buckley had raised limiting the reach of the FEC only to those communications that expressly advocate a vote for or against a particular candidate. Buckley, 424 U.S. at 42-44, n.52. In so doing, Congress has invited the FEC to exercise editorial control over the "public communications" of federal, state, and local officeholders, and candidates for election to federal, state, and local office in ways that would be impermissible if applied to a newspaper or magazine of general circulation for a news

story, editorial, or commentary "that promotes or supports a candidate .... or attacks or opposes a candidate." *See* Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974).

b. In another effort to breach the Buckley wall between "express advocacy" and "issue advocacy," Title II of BCRA creates a whole new set of prohibitions and regulations extending the FEC's licensing power and editorial control over "electioneering communications," on the grounds that although such broadcast, cable, or satellite communications do not expressly advocate the election or defeat of a particular candidate, they profoundly affect the outcome of federal elections. In recognition that BCRA's effort to exercise editorial control over the discussion of issues in relation to a campaign for federal election was on shaky constitutional grounds, Congress not only offered a "fall-back" definition of "electioneering communications," but provided a number of exceptions, keeping the FEC's editorial hands off news stories, commentaries, and editorials "distributed through the facilities of any broadcasting station [not] owned or controlled by any political party, political committee, or candidate" (BCRA Section 201(a) (FECA Section 304(f)(3)(B)(i))) and affirming the FEC's editorial powers in relation to candidate debates (BCRA Section 201(a) (FECA Section 304(f)(3)(B)(iii))). In short, BCRA Title II, by means of the licensing power of the FEC, treats differentially persons and entities, allowing some to participate in the debate over the issues related to election campaigns without having to comply with BCRA contribution limits and prohibitions, disclosure requirements, and economic burdens, but not others, a differentiation that would never be constitutionally tolerated if applied to a newspaper or magazine of general circulation. *See* Grosjean v. American Press Co., Inc., 297 U.S. 233 (1936).

c. In order to obtain the necessary support for BCRA Titles I and II, Congress raised the FECA individual contribution limit to individual candidate campaigns per election from $1,000 to $2,000, indexing the limit to inflation. BCRA Title III, Section 307(a). Even with this increase, Congress continued to impose significant editorial control upon individual candidate campaigns, limiting both the quality and quantity of campaign communications, as well as forcing disclosure of the identities of contributors, consequences that would be constitutionally intolerable under such rulings as Miami Herald, *supra*, and Talley v. California, 362 U.S. 60 (1960).

2. BCRA was enacted on March 27, 2002. Eleven separate complaints were filed in the United States District Court for the District of Columbia challenging its constitutionality. The cases were consolidated by the three-judge panel assigned to hear them, and the parties were ordered to conduct discovery and submit their cases-in-chief, supporting briefs and opposition and reply briefs on an expedited basis over the course of approximately six months. The fully-submitted cases were argued before the court below on December 4-5, 2002. On May 2, 2003, the district court issued four separate opinions — a *per curiam* opinion and an opinion of each of the three judges on the panel — upholding certain BCRA provisions, striking down certain other BCRA provisions, and dismissing challenges to certain other BCRA provisions for nonjusticiability and lack of standing.

3. Appellants, the Paul Plaintiffs, present unique challenges to the constitutionality of BCRA/FECA, having relied exclusively upon the freedom of the press, rather than invoking the free speech and association standards relied on in Buckley. Although they participated collectively with most of the other plaintiffs regarding procedural undertakings, their

substantive presentation was distinct, and the district court permitted them to brief the issues separate and apart from the other plaintiffs in the consolidated cases below. *See Per Curiam Op.* at 56. Although the district court addressed the freedom of the press legal claims of the Paul Plaintiffs by ruling them irrelevant as a matter law, the opinions below carry sparse mention of the evidentiary foundation for those claims.[1] Such evidence was admitted below through substantial fact and expert testimony, as follows: (i) the reports and declarations of three expert witnesses: **James C. Miller III, Ph.D.**, former

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[1] The Paul Plaintiffs' case was mentioned or discussed in the district courts' opinions at the following pages. *Per Curiam* Opinion: 5 (description of contents of opinion), 56 (description of briefing schedule), 81 (description of parties), 87 (findings re identities of plaintiffs Ron Paul and GOA), 88 (findings re identities of plaintiffs GOAPVF, RealCampaignReform.org (erroneously identified as "RealCampaignFinance.org"), CU, and CUPVF), 89 (findings re identities of plaintiffs Cloud and Howell), 106-113 (findings of law with regard to Paul Plaintiffs' free press claims), 115 (description of parties challenging BCRA section 201), 170 (conclusion); Judge Henderson's Opinion: 11 (description of parties), 40 (identification of press claims re corporate disbursements for "electioneering communications"), 54 (identification of free press challenges to BCRA Section 101), 58 (identification of free press challenges to $2,000 contribution limit), 111 (citing declarations of Paul Plaintiffs witnesses Boos and Pratt with respect to the limited ability of PACs to finance electioneering communications), 227 (not deciding free press challenges to BCRA Sections 201, 203-204), 242 (not deciding free press challenges to BCRA Section 212), 325 (rejecting free press challenge to BCRA Section 101(a) (FECA Section 323(e)), 339-42 (determining no Article III standing with regard to indexing of contribution limit increase); Judge Kollar-Kotelly's Opinion: 229, 397 (plaintiff Ron Paul deposition to support opinion that outside issue ads in 2000 were intended to influence elections), 334-36 (witness Pratt declaration regarding determination that primary definition of "electioneering communications" not overbroad), 471 (equal protection and free press challenge to BCRA/FECA media exemption); and Judge Leon's Opinion: 257-258 (plaintiff Ron Paul deposition to support opinion that outside issue advertisements in 2000 were intended to influence elections), 333 (citing Pratt declaration regarding radio advertisement in 2002 within 30 days of primary in New Hampshire).

Chairman of the Federal Trade Commission and Director of the Office of Management and Budget; **Perry Willis**, former Director, Libertarian Party and Campaign Manager, Harry Browne, Libertarian for President 2000; and **Walter J. Olson, CPA**, campaign finance practitioner; and (ii) 11 fact witnesses: **Congressman Ron Paul**; **Mark Elam**, Campaign Manager of Paul for Congress; **Tom Lizardo**, Chief of Staff, Congressman Ron Paul; **Lawrence D. Pratt**, Executive Director, Gun Owners of America, Inc.; **James H. Babka, Jr.**, President, RealCampaignReform.org; **Michael Boos, Esquire**, General Counsel, Citizens United; **David N. Bossie**, President, Citizens United; **Michael Cloud**, Libertarian Party candidate for U.S. Senate from Massachusetts in 2002; **Carla Howell**, Libertarian Party candidate Governor of Massachusetts in 2002; **Anonymous Witness No. 1**, a donor who contributes less to federal candidates than the reporting threshold to avoid disclosure of his identity; and **Anonymous Witness No. 2,** a donor who would contribute to federal candidates more than $1,000 per election under current law, or $2,000 per election under BCRA, if it were legal to do so.

Combined, these witnesses presented the facts, as follows:

a. Appellant Ron Paul is a Member of the United States House of Representatives from the 14th Congressional District of Texas. He is a member of the Republican Party, and was the Republican nominee in 2002 for the congressional seat he now holds. Congressman Paul, in addition to his own activities as a voter and contributor to other organizations and candidates, conducts a number of "general press" activities as a candidate for federal office. Congressman Paul testified, *inter alia*, how FECA/BCRA operated as a prior restraint upon him and his campaign committee, requiring them, prior to entering into the marketplace of ideas related to his campaigns for election to federal office, to secure a license from, and submit to the

editorial supervision and control of, the FEC. Congressman Paul also testified that the continuing and increased discriminatory burdens of such laws — including contribution limitations, soft money limits, campaign coordination rules, and "electioneering communications" — would substantially and adversely impact his ability to engage in a variety of communicative activities related to his campaigns for federal office. But for BCRA/FECA, Congressman Paul would be able to raise more money from individuals and organizations for communicative activities, as well as expand the range of fundraising events, receive more assistance from volunteers, and redirect resources now required to comply with FEC licensing, recordkeeping, and reporting requirements. Paul Decl. Paras. 14-18. *See also* Elam Decl. Paras. 5-12; Lizardo Decl. Paras. 3-5; Anonymous Witness No. 1 Decl. Paras. 2-9; Anonymous Witness No. 2 Decl. Paras. 3-8; Olson Expert Witness Decl. Paras. 7-11, 13; and Miller Expert Witness Decl. at 16-19.

b. Appellants Cloud and Howell also engage in "general press" activities similar to those engaged in by Congressman Paul, both as citizens and voters, and as candidates for federal and state office. Mr. Cloud and Ms. Howell , both members of the Libertarian Party, as well as respective federal and state candidates of the Libertarian Party in 2002, engage in press activities that have been, are, and will continue to be profoundly limited by the federal campaign laws embodied in BCRA/FECA. For example, Mr. Cloud and Ms. Howell, and their campaigns, promote (and seek to educate the public regarding) various policy issues and ideas, including the reduction of the size of government, abolition of the Massachusetts income tax, and the restoration of personal liberties, and both work with other Libertarian candidates for state and federal office. In fact, as 2002 federal and state Libertarian Party candidates, respectively, Mr. Cloud and Ms.

Howell coordinated certain campaign activities with one another in the 2002 federal election cycle, which would be prohibited by BCRA's Title I "soft money" rules. The press campaign activities of both Mr. Cloud and Ms. Howell in the past have been restrained, economically burdened, and adversely impacted by the laws limiting campaign contributions and requiring registration, reporting, and disclosure, which will be exacerbated under BCRA/FECA. Mr. Cloud's and Ms. Howell's press activities are adversely impacted especially by the discriminatory effects of the FECA with respect to the institutional media, because they are involved with a "third party." Cloud Decl. Paras. 1-2, 7-17, 19-20, 23-28; Howell Decl. Paras. 7-20; Willis Expert Witness Decl. Paras. 6-10.

c. Appellants Gun Owners of America, Inc. ("GOA"), RealCampaignReform.org ("RCR"), and Citizens United ("CU"), are separate nonpartisan, nonprofit, nonstock educational/advocacy organizations which, by their respective undertakings, engage in "general press" activities. GOA and CU spend significant funds for communications on issues related to federal election campaigns during periods, *inter alia*, just prior to federal primary and federal general elections, utilizing broadcast, cable, and satellite facilities. GOA and CU also communicate with the public by means of mailed and telefaxed letters, messages and articles on their Internet web sites, audio tapes, videotapes, and radio and television broadcasts to the public. The press activities of both GOA and CU include engaging in issue advocacy, by means of communications which will constitute prohibited and/or highly regulated "electioneering communications" as that term is defined by both the primary and back-up definitions in BCRA (BCRA Section 201(a) (FECA Section 304(f)(3)(A))). Bossie Decl. Para. 5; Boos Decl. Paras. 8, 11-14; Pratt Decl. Paras. 10, 13, 16-19. RCR, which was formed in 2000, does not have the

many years of press activities that GOA and CU have, but it regularly distributes educational communications by e-mail to a contributor list of 15,000; it also has engaged in developing communications to the public by radio broadcast which would constitute "electioneering communications" as defined by BCRA. Babka Decl. Para. 9. The communications to the public of GOA, RCR, and CU that are in evidence do not constitute "express advocacy" within the meaning of federal election law, but rather "issue advocacy." Likewise, the types of communications that GOA, RCR, and CU are prohibited by BCRA/FECA from broadcasting do not constitute "express advocacy." Additionally, GOA, RCR, and CU are negatively impacted by BCRA/FECA with respect to their working relationships with federal officeholders. For example, both GOA and CU solicit funds through direct mail endorsed by Members of Congress who support the goals of those organizations. RCR has not yet reached that stage of its development, but would like to engage in such communications in the future. BCRA/FECA would effectively prohibit such communications, and thus would substantially interfere with such press activities. Paul Plaintiffs Proposed Findings of Fact, Paras. 3, 5, 6, 14, 15.

d. Appellants Gun Owners of America Political Victory Fund ("GOAPVF") and Citizens United Political Victory Fund ("CUPVF") are multicandidate "political committees," independent of any political party and are the federally-registered, connected political committees of appellants GOA and CU, respectively. Paul Plaintiffs Proposed Findings of Fact, Paras. 4, 7.

e. BCRA/FECA subjects appellants' "general press" activities to a system of federal licensure. Appellants Paul, Cloud, and Howell, who have been federal candidates, have been required to file a "statement of organization" with the

government before the individual, or any committee established by the individual, can expend more than $5,000 on "campaign activities," including publishing communications that expressly advocate the individual's election to federal office. Furthermore, BCRA/FECA imposes economically burdensome regulations upon federal candidates and their "campaign" committees. BCRA/FECA requires candidate committees to file periodic reports with the government containing the name, address, occupation, and employer of any contributor of more than $200 in the aggregate during a calendar year. This regulatory burden limits the funds available to federal candidates. For example, plaintiff Cloud estimated that his 2002 campaign for Senate would have received between $100,000 and $300,000 in additional contributions from at least 261 contributors who would have donated more, but did not do so because any contributions over $200 in the aggregate in a calendar year from an individual would have required that his or her identity be disclosed in filed reports. There is other substantial evidence that this reporting/disclosure requirement interferes with plaintiffs' press activities by restricting the funds that would otherwise be available for their federal candidacies. Paul Plaintiffs Proposed Findings of Fact, Paras. 17, 18. Additionally, BCRA/FECA limits individual contributions to a candidate's committee to $2,000 per election. This regulatory burden limits the funds available to federal candidates. Plaintiff Cloud estimates that the limitation of $1,000 prior to BCRA cost his campaign committee between $350,000 and $700,000 in net contributions from at least 46 donors. Such limits enhance the role and influence of institutional media corporations in the electoral process. Paul Plaintiffs Proposed Findings of Fact, Para. 19.

f. BCRA/FECA also imposes economically burdensome regulations upon I.R.C. Section 501(c)(4) organizations, including appellants GOA, CU, and RCR, as well as separate

segregated funds ("SSFs") GOAPVF and CUPVF, which had to be formed solely because of discriminatory prohibitions on corporate involvement in federal elections in order to conduct "express advocacy." GOAPVF and CUPVF have been required to file "statements of organization" with the FEC in order to register before they were permitted to provide any financial support to federal candidates, including publishing communications that expressly advocate the election or defeat of any federal candidate. No multicandidate SSF, including plaintiffs GOAPVF and CUPVF, may receive contributions in excess of $5,000 per year from an individual. GOAPVF, CUPVF, and other political committees supporting or opposing federal candidates also are required to file periodic reports with the FEC regarding their financial activities. GOAPVF, CUPVF, and other political committees registered with the FEC are further required to report the name, address, employer, and occupation of each contributor donating more than $200 in the aggregate in a calendar year. This burden on plaintiffs' press activities is not imposed on other elements of the press, such as the institutional media, and is discriminatory. The reporting burden can be 20 percent or more of an SSF's annual receipts. Paul Plaintiffs Proposed Findings of Fact, Para. 20.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

The Paul Plaintiffs' rights under the freedom of the press are unconstitutionally abridged by government censorship and patrimony under BCRA/FECA. Well aware of the First Amendment encroachments with the passage of BCRA, Congress predicted immediate constitutional challenges, expressly providing for a direct appeal to this Court from the decision of the three-judge district court opinion below. The questions presented by appellants are both substantial and discrete from the questions presented by all other plaintiffs in the court below, and, if addressed on the merits, are dispositive

of the constitutionality of the provisions challenged by the Paul Plaintiffs in this case.

A. Paul Plaintiffs' Freedom of Press Claims Are Discrete.

In its *per curiam* opinion, the court below recognized that the Paul Plaintiffs' claims that BCRA violates the freedom of the press were "discrete" from those of all of the other plaintiffs in this case. *Per Curiam Op.* at 106. Indeed, no other plaintiff challenged BCRA, or any of its provisions, on the ground that it violated the plaintiffs' rights guaranteed by the freedom of the press. *See Per Curiam Op.* at 106-113. Not only did the court below find the Paul Plaintiffs' press claims discrete from the other plaintiffs' free speech and association, and equal protection and due process claims, but it understood that, if the Paul Plaintiffs prevailed on their press claims, it would be dispositive of most of the constitutional challenges to BCRA. Thus, the *per curiam* opinion opened its discussion of the constitutionality of BCRA by addressing the "Paul Plaintiffs' Press Clause Challenge." Although the court rejected that challenge, it did not summarily dismiss it. Rather, it disposed of the Press Clause challenge by ruling, as a matter of law, that "the Press Clause provides no greater rights" than the freedoms of speech and association, and therefore, governed by no standard other than "the general First Amendment compelling interest test." *See Per Curiam Op.* at 106. In so ruling, the court below erred.

B. The Freedom of the Press Is Distinct from the Freedoms of Speech and Association.

In support of its claim that this Court "has not explicitly stated whether the freedom of press affords greater protections than that of speech or association," the court below failed to examine a single case in which this Court explicitly relied upon

the freedom of the press guarantee, as distinguished from the other freedoms listed in the First Amendment. *See Per Curiam Op.* at 106-113. Instead, the court relied upon two contemporary academic treatises for the remarkable proposition that "the Press Clause has largely been subsumed into the Speech Clause." *Per Curiam Op.* at 109-110. By relying on the contemporary opinions of "two leading First Amendment scholars" — rather than examining the text and history of the freedom of the press in relation to the freedoms of speech and association — the court below departed from the first principle of constitutional interpretation:

> In expounding the Constitution of the United States ... **every word** must have its due force, and appropriate meaning; for it is evident from the whole instrument, that **no word** was unnecessarily used, or needlessly added. The many discussions which have taken place upon the construction of the Constitution, have proved the correctness of this proposition; and shown the high talent, the caution, and the foresight of the illustrious men who framed it. **Every word** appears to have been weighed with the utmost deliberation, and its force and effect to have been fully understood. [Wright v. United States, 302 U.S. 583, 588 (1938) (quoting from Holmes v. Jennison, 14 Pet. 540, 570, 571 (1840)) (emphasis added).]

Indeed, by failing to adhere to this long-standing rule of interpretation, the court below "disregard[ed] ... a deliberate choice of words and their natural meaning" (*id.*, 302 U.S. at 588), as evidenced by the first-hand witness of St. George Tucker, author of "the first extended, systematic commentary on the Constitution after it had been ratified by the people of the several state and amended by the Bill of Rights" (St. G.

Tucker, *View of the Constitution of the United States with Selected Writings* vii (Liberty Fund: 1999)):

> [N]othing could more clearly evince the inestimable value that the American people have set upon the liberty of the press, than their uniting it in the same sentence, and even in the same member of a sentence, with ... the freedom of speech. And since congress are equally prohibited from making any law abridging the freedom of speech, or of the press, they boldly challenged their adversaries to point out the constitutional distinction... If the unrestrained freedom of the press, said they, be not guaranteed, by the constitution, neither is that of speech. If, on the contrary the unrestrained freedom of speech is guaranteed, so also, is that of the press. If then the genius of our federal constitution has vested the people of the United States, not only with a censorial power, but even with the sovereignty itself ... why, said they, is the exercise of this censorial power, this sovereign right ... to be confined to the freedom of speech? ... Surely not.... The best speech... must be altogether inadequate to the due exercise of the censorial power, by the people. The only adequate supplementary aid for these defects ... is **the absolute freedom of the press**. [St. G. Tucker, "Of the Right of Conscience; and of the Freedom of Speech and of the Press," in *View of the Constitution of the United States and Selected Writings, supra,* at 382 (emphasis added).]

Not only did the court below ignore the constitutional text and history, it failed to acknowledge a number of this Court's venerable precedents, cited by the Paul Plaintiffs in their briefs below, establishing that the freedom of the press imposes

constitutional limits upon the exercise of government power, distinct and independent of "the general First Amendment compelling state interest test." *See Per Curiam Op.* at 113.

First, this Court has held that the freedom of the press prohibits all "prior restraints" imposed by government officials upon the communication of ideas, except for "a single, extremely narrow class of cases ... [which] may arise only when the Nation 'is at war.'" New York Times v. United States, 403 U.S. 713, 725-26 (1971) (Brennan, J., concurring), (citing Schenck v. United States, 249 U.S. 47, 52 (1919)). Thus, whenever a government imposes an unconstitutional prior restraint upon the communication of ideas, it is "unnecessary" for a court to apply the general First Amendment standard of strict scrutiny. *See* Watchtower v. Village of Stratton, 536 U.S. 150, 161-64 (2002).

Second, this Court has found, as an unconstitutional abridgment of the freedom of the press, any statute requiring a "license" from the government for the privilege of communicating ideas. Lovell v. City of Griffin, 303 U.S. 444, 451 (1938). This "no licensing" principle applies regardless of the claimed government interest, because, as this Court has recently observed, "[i]t is offensive — ... to the very notion of a free society — that ... a citizen must first inform the government of her desire to speak ... and then obtain a permit to do so, [e]ven if the issuance of permits ... is a ministerial task that is performed promptly...." Watchtower v. Village of Stratton, 536 U.S. at 165-66.

Third, this Court has ruled that the freedom of the press prohibits the forced disclosure of the identities of authors, publishers, disseminators, and other communicators, not as a measure to protect the privacy of such persons, but to maintain inviolate the absolute right of the author or publisher to decide

whether to disclose his or her name. *See* Talley v. California, 362 U.S. 60, 64-65 (1960); *accord,* McIntyre v. Ohio Elections Commission, 514 U.S. 334, 342-43 (1995). This principle of anonymity is designed to protect the people from the power of government censorship, reflecting the Press Clause's foundational principle that the people have power to censor their government, not vice versa. *See* J. Madison, "Report on the Virginia Resolutions," reprinted in IV J. Eliot, ed., *The Debates in the Several State Constitutions* 569-70 (Phila: 1866).

Fourth, this Court has held that the government may not exercise any editorial control over the content of a communication, the freedom of the press having absolutely reserved the "editorial function" to the author, publisher, disseminator or other private communicator. Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241, 247-54, 256, 258 (1974). As Sir William Blackstone put it in his *Commentaries on the Laws of England*, "[e]very freeman has an undoubted right to lay what sentiments he pleases before the public: to forbid this is to destroy the freedom of the press...." IV W. Blackstone, *Commentaries on the Laws of England* 151-52 (Univ. Chi., facs. ed. 1769).

Fifth, this Court has determined that the freedom of the press forbids government from placing discriminatory economic burdens upon communicative activity, thereby imposing, in effect, a tax on "the acquisition of knowledge by the people in respect to their governmental affairs." Grosjean v. American Press Co., Inc., 297 U.S. 233, 247 (1936). Such an economic burden is considered by the freedom of the press to be an unconstitutional "penalty" (*see* Miami Herald, 418 U.S. at 256), and unconstitutional *per se* when imposed upon particular "subject matter, or ... content." Arkansas Writers'

Project, Inc. v. Ragland, 481 U.S. 221, 229-30 (1987) (internal citation omitted).

C. The Freedom of the Press Applies to Campaign Finance.

Despite the Paul Plaintiffs having called the district court's attention to these specific press principles and precedents, and demonstrated their applicability to their challenge to BCRA, the court below declined to apply them. First, they declined because they found the Paul Plaintiffs' challenge "novel ... — a tack that has not been used in the campaign finance realm." *Per Curiam Op.* at 107. Second, the court observed that, if the Paul Plaintiffs' press claims applied to BCRA, then "litigants could besiege the courts with a host of challenges to laws previously upheld by the Supreme Court on First Amendment grounds, merely by characterizing themselves in their complaints as members of the 'press' because their purpose is to disseminate information to the public." *Id.* at 112. The court below is wrong on both counts.

As an initial matter, the court's claim that the Paul Plaintiffs can cite no case applying freedom of press to campaign finance reform laws is inaccurate, depending upon the definition one applies to "campaign finance reform." The Paul Plaintiffs did cite Miami Herald, a case in which this Court applied freedom of press and struck a state law regulating campaigns by forcing newspapers to expend resources in ways contrary to the editorial policy of the paper.

Additionally, two district courts, relying in part upon the freedom of the press, limited the investigative powers of the FEC in its effort to enforce the "news activity" exemption provided in 2 U.S.C. Section 431(9)(B)(i). FEC v. Phillips Publishing, Inc., 517 F. Supp. 1308, 1312-14 (D.D.C. 1981);

Reader's Digest Association v. FEC, 509 F. Supp. 1210 (S.D.N.Y. 1981). Indeed, in the Phillips case, the district court noted that Congress based the FECA exemption enjoyed by a "press entity," in part, upon the freedom of the press. Phillips, 517 F. Supp. at 1312. However, the court below was correct that, until the Paul Plaintiffs filed their complaint in this case, no one had waged a direct challenge to the constitutional legitimacy of comprehensive federal campaign finance regulations (FECA/BCRA) on freedom of the press grounds.[2] *Per Curiam Op.* at 110-11.

As the Paul Plaintiffs pointed out, and as the court below acknowledged, the freedom of the press is not, however, a special privilege of the institutional media, but extends to "every freeman," citing this Court's opinion in Near v. Minnesota, 283 U.S. 697, 713-14 (1931). *Per Curiam Op.* at 108. By providing the special exemptions to the institutional media under FECA[3] and BCRA,[4] Congress has breached this

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[2] It is true that one of the plaintiffs, *Human Events*, in Buckley v. Valeo, included a freedom of the press claim in its complaint. But neither the United States Court of Appeals for the District of Columbia nor this Court addressed that claim in their opinions. Buckley v. Valeo, 519 F.2d 821 (D.C. Cir. 1975); Buckley v. Valeo, 424 U.S. 1 (1976).

[3] FECA provides the institutional media (with respect to the definition of "expenditure") an exemption for: "any news story, commentary, or editorial distributed through the facilities of **any broadcasting station, newspaper, magazine, or other periodical publication**, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. Section 431(9)(B)(i) (emphasis added).

[4] Additionally, BCRA provides the institutional media (with respect to an "electioneering communication") an exemption for: "a communication appearing in a news story, commentary, or editorial distributed through the facilities of **any broadcasting station**, unless such facilities are owned or controlled by any political party, political committee, or candidate." BCRA Section 201(a) (FECA Section 304(f)(3)(B)(i)) (emphasis added). *See also*

first principle of the freedom of the press, conferring upon a "definable category of persons or entities," special First Amendment privileges, and thereby, instituting a system of inclusion and exclusion "reminiscent of the abhorred licensing system" that the liberty of the press was designed to prohibit. *See* First National Bank of Boston v. Bellotti, 435 U.S. 765, 801, 802 (1978) (Burger, C.J., concurring); *accord* IV W. Blackstone's *Commentaries* at 152, n.*a*.[5]

As the Paul Plaintiffs demonstrated below, through the testimony of several witnesses, the federal campaign finance system functions as licensing system, requiring candidates and their supporters to obtain permission from the government before taking their message to the people.[6] As White House

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subsections (iii) and (iv) exempting candidate debates and other FEC-licensed press activities.

[5] To escape this application of free press principles, the court below read this Court's decisions in Bellotti and Austin v. Michigan State Chamber of Commerce, 494 U.S. 652 (1990) to have established that the government may discriminate between the "general press" and the "institutional press" on the ground that the government has a "compelling interest ... to exempt media corporations from the scope of political expenditure limitations." *Per Curiam Op.* at 111, n.64. To read Bellotti and Austin as having, *de facto,* conferred upon the "institutional media" greater rights than the "general press" (*Per Curiam Op.* at 111, n.65) smacks of the very kind of special privilege that Chief Justice Burger claimed, in Bellotti, the First Amendment condemned.

[6] The operation of FECA/BCRA as a licensing scheme was explained by Paul Expert Witness Walter J. Olson, CPA. Mr. Olson, a certified public accountant and expert in FEC compliance matters, submitted a report containing detailed testimony about the burdensome, intricate, labor-intensive, time-consuming, and costly recordkeeping and reporting requirements imposed by FECA, and further increased by BCRA. His report demonstrates that FECA/BCRA exposes individuals and organizations engaged in federal election activities to serious penalties for violation of an extensive and intricate set of operating, reporting, filing, and recordkeeping

Press Secretary Ari Fleischer put it, upon the occasion of President Bush's formal announcement that his re-election campaign had begun:

> Today ... the legal structure for a re-election campaign was put in place as a result of the filing of what's called FEC Form 1 and FEC Form 2... This is the legal structure that is required, so that grass-roots activities can begin, the fundraising can begin. This is the required legal step that must be taken for other events to follow on. ["Bush Formally Starts 2004 Campaign," May 16, 2003, http://www.newsmax.com/archives/articles/2003/5/16/151352.shtml.]

And, as the Paul Plaintiffs' testimony demonstrated below, once the FEC Forms 1 and 2 are filed, the candidates and their supporters enter into a marketplace of ideas in which they lose substantial editorial control over their campaigns and in which challengers and third party candidates are placed at significant disadvantage in relation to incumbent office holders and the institutional media.[7]

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requirements so complex that the FEC's own information and software specialists are sometimes unable to provide answers.

[7] Paul Expert Witness James C. Miller III, Ph.D., former Chairman of the Federal Trade Commission and Director of the Office of Management and Budget and author of the book, *Monopoly Politics,* submitted a report testifying to the actual operation and effect of the federal election laws, as well as the rules promulgated and enforced by the FEC. Dr. Miller's report documents how FECA/BCRA operates to the disadvantage of challengers, and to the advantage of incumbents, and how campaign finance regulations generally impair the quantity and quality of public debate by candidates on the issues.

Paul Expert Witness Perry Willis, an experienced federal campaign manager and Libertarian Party organizer, submitted a report in which he

According to the court below, however, 27 years after Buckley, it is too late for the Paul Plaintiffs to challenge BCRA on freedom of the press grounds. *See Per Curiam Op.* at 112. But the *per curiam* opinion has cited no case supporting the proposition that a party is precluded, other than by collateral estoppel, from raising a new constitutional claim just because it might undercut judicial precedents applying other constitutional guarantees. *See, e.g.,* Albertson v. Subversive Activities Control Board, 382 U.S. 70 (1965).

Had Buckley been litigated and decided based on freedom of press principles, it is submitted that a very different result would have obtained. A classic press analysis openly reveals the impropriety of Congress establishing a burdensome licensing scheme, regulating both issue advocacy and campaigns for office, threatening to fine or send to jail those who criticize Congressmen in a manner those Congressmen find impermissible, chilling the activities of those Americans who seek to participate politically and electorally in our constitutional republic. Unlike Buckley, which was based solely on congressional findings to which this court deferred, the challenge by the Paul Plaintiffs to BCRA/FECA has demonstrated the actual anti-competitive, anti-minor party, anti-challenger scheme which Members of Congress have devised to protect their own selfish political interests under the ruse of preventing an undefined and vague threat — "corruption and the appearance of corruption." The Paul Plaintiffs fully agree with the three justices on this Court who have stated in previous opinions that Buckley should be

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testified at great length as to how FECA/BCRA serves to protect the Democratic and Republican parties' domination of American politics by artificial enhancement of media influence on elections through a special privilege exemption, and imposition of draconian contribution limits and reporting requirements on minor parties and their candidates, who are oftentimes ignored by the exempt institutional media.

overruled,[8] and would ask the Court to overrule Buckley. Nonetheless, since the Paul Plaintiffs are contending that the freedom of the press, overlooked by the parties in Buckley, dictates a different approach to the constitutionality of campaign finance regulation than the one based upon free speech and association, it may be possible that Buckley can merely be set aside rather than overruled.

1. Title II BCRA Violations of Freedom of the Press.

Claiming that the Buckley distinction between "express candidate advocacy" and "issue advocacy" is too easily evaded, Congress enacted Title II of BCRA to subject certain "sham issue ads" broadcast over the air waves to the same prohibitions and regulations as ads expressly advocating the election or defeat of a clearly identified candidate for federal office. Such "issue ads," Congress maintained, are, in reality, camouflaged express candidate advocacy, and therefore, ought to be prohibited and regulated in like manner as express advocacy ads in order to protect the federal government from corruption and the appearance of corruption. *See, e.g.*, 148 Cong. Rec. S2,114-16 (daily ed. March 20, 2002) (statement of Sen. Carl Levin).

Conspicuously exempted from the new Title II BCRA prohibitions and regulations, however, is any "news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate." (BCRA Section 201(a) (FECA Section 304(f)(3)(B)(i)).) Thus, any television or radio station fitting the statutory exemption is completely free to spend money to

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[8] *See* FEC v. Colo. Rep. Fed. Election Campaign Comm., 533 U.S. 431, 465 (2001) (Thomas, J., dissenting).

communicate its position on the issues, without having to comply with the Title II prohibitions, or licensing, disclosure, and editorial control requirements, and economic burdens.

The BCRA exemption for television and radio is not based upon a congressional finding that such entities do not engage in "sham issue" communications, expressing camoflauged support for the election or defeat of candidates for federal office. Rather, the BCRA exemption is based upon a previously-enacted FECA provision exempting the express advocacy of the election or defeat of a federal candidate contained in any "news story, commentary, or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate." (2 U.S.C. Section 431(9)(B)(i).)

Neither exemption for such television and radio news, editorial or commentary broadcasts is based upon a finding by Congress that generally such media do not corrupt, or create the appearance of corruption, of the electoral process. Rather, the original FECA exemption is, in part, based explicitly upon the freedom of the press. *See* Phillips, 517 F. Supp. at 1312. The BCRA exemption, in turn, is calculated to preserve editorial control over the discussion of public issues, even when related to an election campaign, as dictated by the freedom of the press in favor of the print media. *See* Miami Herald Publishing Co. v. Tornillo, 418 U.S. at 247-54, 256, 258, *supra.*

Indeed, if Congress subjected the institutional press to the prior restraint, registration (licensing), contribution and disclosure requirements (editorial controls), and economic burdens that the non-exempt press is subjected to under Title II of BCRA, they would be the first to invoke their rights under

the freedom of the press as the Miami Herald Publishing Co. did in response to a Florida state campaign finance regulation imposing upon any newspaper that attacked a candidate for office to provide space in its publication for a "right to reply." And they would expect to prevail on that press claim, notwithstanding any countervailing government interest, compelling or otherwise, on the ground that, under the freedom of the press, the "editorial function," including the right to decide how to spend limited financial resources, is an inviolate right. *See* CBS v.Democratic National Comm., 412 U.S. 94, 145 (1973) (Stewart, J., concurring) ("For that guarantee (the freedom of the press) gives **every** newspaper the liberty to print what it chooses and reject what it chooses, free from the intrusive editorial thumb of Government." (emphasis added)).

The adverse impact of BCRA Title II on the Paul Plaintiffs' press right is aggravated by additional exemptions conferred upon FEC-licensed candidate debates and other press activities as determined by the FEC. The grant of such discretionary editorial control to a government agency strikes at the very heart of the freedom of the press which guarantees that the editorial function belongs to the people not to the government. *See* Miami Herald Publishing Co. v. Tornillo.

2. Title I BCRA Violations of Freedom of the Press.

BCRA Section 101(a) (FECA Section 323(e)(1)) subjects a federal officeholder or candidate for election to federal office to the "limitations, prohibitions, and reporting requirements of this Act," if he or she engages in activity to "solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity...." While the court below struck down three statutory definitions of "federal election activity," it left intact the one specifying any "public communication that refers to a clearly

identified candidate for Federal office ... and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate)." BCRA Section 101(b) (FECA Section 301(20)(A)(iii)).

Likewise, the court upheld BCRA Section 101(a) (FECA Section 323(f)), subjecting a state or local officeholder or candidate for election to state or local office to the "limitations, prohibitions, and reporting requirements of this Act," if he or she "spend[s] any funds" for any "public communication that refers to a clearly identified candidate for Federal office ... and that promotes or supports that candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate)."

Had the district court applied the freedom of press protections to BCRA Section 101(a) (FECA Sections 323(e) and 323(f)), it should have found them unconstitutional in their entirety as an impermissible prior restraint, a forbidden licensing and disclosure requirement, overreaching editorial control, and a discriminatory economic burden. To single out individuals who hold government office, or who are candidates for such office, and impose upon them special licensing, disclosure requirements, editorial control, and economic burdens strikes at the very heart of the freedom of the press which guarantees to every man liberty to communicate on matters of state without first having to obtain government permission. *See* Watchtower v. Village of Stratton, 536 U.S. at 165-66.

3. Title III BCRA Violation of Freedom of the Press.

The Paul Plaintiffs challenged the constitutionality of BCRA Section 307(a) modifying the individual contribution limits to federal election campaigns by FECA as a violation of the freedom of the press. At the heart of this challenge was the claim that contribution limits, in whatever amount, unconstitutionally abridge a candidate's editorial authority by abridging his or her right to determine the quality and quantity of his or her communications and his or her right to determine whether or not to disclose to the public the identities of his or her co-publishers.

In his sworn declaration, Congressman Paul attested that the individual contribution limitation adversely impacted his campaign by reducing the quality and quantity of his communications during his election campaign. His campaign manager and a campaign consultant confirmed this testimony, adding that they were aware of several individuals who would have given more to the Paul campaigns had there been no limit. Additionally, two anonymous witnesses furnished declarations that they would have given more but for the contribution limitations and/or the disclosure requirements.

This evidence of the impact on the Paul campaign's editorial function was ignored by the court below, having ruled as a matter of law that Paul Plaintiffs' press claim was indistinguishable from the free speech and association claims of the other plaintiffs. This erroneous ruling led the court to conclude that none of the Paul Plaintiffs had standing to contest the constitutionality of the individual contribution limits.

Had the court below addressed the Paul Plaintiffs' freedom of the press claims on the merits, not only should the court below have found standing, but also a violation of the freedom

of the press guarantees of editorial autonomy as embraced by this Court in Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, 515 U.S. 557, 569-70, 573-74 (1995) and anonymity as embraced by this Court in McIntyre v. Ohio Elections Commission, *supra.*

CONCLUSION

For the reasons stated, this Court should note probable jurisdiction of the Paul Plaintiffs' appeal

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APPENDICES

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CIVIL ACTION NO. 02-CV-582
(CKK, KLH, RJL)

SENATOR MITCH MCCONNELL, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Consolidated with:
CIVIL ACTION NOS.
02-CV-581 (CKK, KLH, RJL)
02-CV-633 (CKK, KLH, RJL)
02-CV-751 (CKK, KLH, RJL)
02-CV-753 (CKK, KLH, RJL)
02-CV-754 (CKK, KLH, RJL)
02-CV-874 (CKK, KLH, RJL)
02-CV-875 (CKK, KLH, RJL)
02-CV-877 (CKK, KLH, RJL)
02-CV-881 (CKK, KLH, RJL)

and

CIVIL ACTION NO. 02-CV-781
(CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.,*
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.,*
Defendants.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that plaintiffs in Civil Action No. 02-CV-781, Congressman Ron Paul, Gun Owners of America, Inc., Gun Owners of America Political Victory Fund, RealCampaignReform.org, Citizens United, Citizens United Political Victory Fund, Michael Cloud, and Carla Howell, hereby appeal to the Supreme Court of the United States from the final judgment entered in these consolidated actions by the three-judge district court on May 2, 2003. This appeal is taken pursuant to section 403(a)(3) of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, 114.

Respectfully submitted,

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May 7, 2003

APPENDIX B

Pursuant to this Court's Order of May 15, 2003, the appellants are submitting jointly the district court's opinions, in the form of a Joint Appendix.

APPENDIX C

U.S. Constitution, Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

APPENDIX D

2 U.S.C. Sec. 434. Reporting Requirements

(a) Receipts and disbursements by treasurers of political committees; filing requirements

(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate –

(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the following reports shall be filed:

(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President –

(A) in any calendar year during which a general election is held to fill such office –

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating $100,000 or made expenditures aggregating $100,000 or anticipates receiving contributions aggregating $100,000 or more or making expenditures aggregating $100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of $100,000 or makes expenditures in excess of $100,000, the treasurer shall begin filing monthly

reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either –

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either –

(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or the second sentence of subsection (c)(2) of this section) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph

(4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act –

(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form if not required to do so under the regulation promulgated under clause (i).

(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(D) As used in this paragraph, the term "report" means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.

(b) Contents of reports

Each report under this section shall disclose –

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each –

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee,

each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee –

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 441a(d) of this title; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 441a(b) of this title;

(5) the name and address of each –

(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each –

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion

of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 441a(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office);

and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

(c) Statements by other than political committees; filing; contents; indices of expenditures

(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) of this section for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2) of this section, and shall include –

(A) the information required by subsection (b)(6)(B)(iii) of this section, indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be filed within 24 hours after such independent expenditure is made. Such statement shall be filed with the Secretary or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved. Notwithstanding subsection (a)(5) of this section, the time at which the statement under this subsection is received by the Secretary, the Commission, or

any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii) of this section, made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

(d) Filing by facsimile device or electronic mail

(1) Any person who is required to file a statement under subsection (c) of this section, except statements required to be filed electronically pursuant to subsection (a)(11)(A)(i) of this section may file the statement by facsimile device or electronic mail, in accordance with such regulations as the Commission may promulgate.

(2) The Commission shall make a document which is filed electronically with the Commission pursuant to this paragraph accessible to the public on the Internet not later than 24 hours after the document is received by the Commission.

(3) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying the documents covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

2 U.S.C. Sec. 441a. Limitations on Contributions and Expenditures

(a) Dollar limits on contributions

(1) No person shall make contributions –

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(2) No multicandidate political committee shall make contributions –

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State,

district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term ``multicandidate political committee'' means a political committee which has been registered under section 433 of this title for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by

persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of title 26. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For purposes of this subsection –

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

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the

office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(b) Dollar limits on expenditures by candidates for office of President of United States

(1) No candidate for the office of President of the United States who is eligible under section 9003 of title 26 (relating to condition for eligibility for payments) or under section 9033 of title 26 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of –

(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section), or $200,000; or

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

(2) For purposes of this subsection –

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be

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

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by –

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

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

(c) Increases on limits based on increases in price index

(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) of this section and subsection (d) of this section shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1) –

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

(B) the term “base period” means the calendar year 1974.

(d) Expenditures by national committee, State committee, or subordinate committee of State committee in connection

with general election campaign of candidates for Federal office

(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

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

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

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

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or

(ii) $20,000; and

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

(e) Certification and publication of estimated voting age population

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

(f) Prohibited contributions and expenditures

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

(g) Attribution of multi-State expenditures to candidate's expenditure limitation in each State

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

(h) Senatorial candidates

Notwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

APPENDIX E

TITLE I — REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL- Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES –

"(1) IN GENERAL- A national committee of a political party (including a national congressional campaign committee of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY- The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES-

"(1) IN GENERAL- Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or

local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY –

"(A) IN GENERAL- Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts –

"(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act (other than amounts described in subparagraph (B)(iii)); and

"(ii) other amounts which are not subject to the limitations, prohibitions, and reporting requirements of this Act (other than any requirements of this subsection).

"(B) CONDITIONS- Subparagraph (A) shall only apply if –

"(i) the activity does not refer to a clearly identified candidate for Federal office;

"(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

"(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a

political party in a calendar year for such expenditures or disbursements; and

"(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from –

"(I) any other State, local, or district committee of any State party,

"(II) the national committee of a political party (including a national congressional campaign committee of a political party),

"(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

"(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

"(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY – Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts –

"(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

"(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

"(c) FUNDRAISING COSTS- An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS- A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to –

"(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

"(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

"(e) FEDERAL CANDIDATES –

"(1) IN GENERAL- A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of

1 or more candidates or individuals holding Federal office, shall not –

"(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds –

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

"(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

"(2) STATE LAW- Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

"(3) FUNDRAISING EVENTS- Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

"(4) PERMITTING CERTAIN SOLICITATIONS-

"(A) GENERAL SOLICITATIONS – Notwithstanding any other provision of this subsection, an

individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 301(20)(A)) where such solicitation does not specify how the funds will or should be spent.

"(B) CERTAIN SPECIFIC SOLICITATIONS – In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 301(20)(A), or for an entity whose principal purpose is to conduct such activities, if –

"(i) the solicitation is made only to individuals; and

"(ii) the amount solicited from any individual during any calendar year does not exceed $20,000.

"(f) STATE CANDIDATES –

"(1) IN GENERAL – A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCEPTION FOR CERTAIN COMMUNICATIONS – Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other

candidate for the State or local office held or sought by such individual, or both.".

(b) DEFINITIONS – Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) FEDERAL ELECTION ACTIVITY –

"(A) IN GENERAL – The term 'Federal election activity' means –

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

"(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

"(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

"(B) EXCLUDED ACTIVITY – The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for –

"(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention; and

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

"(21) GENERIC CAMPAIGN ACTIVITY – The term 'generic campaign activity' means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

"(22) PUBLIC COMMUNICATION – The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

"(23) MASS MAILING – The term 'mass mailing' means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

"(24) TELEPHONE BANK – The term 'telephone bank; means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.".

SEC. 102. INCREASED CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended –

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C) –

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000.".

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(e) POLITICAL COMMITTEES –

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES – The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES –

"(A) IN GENERAL – In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

"(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY – Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

"(3) ITEMIZATION – If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS – Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).".

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION –

(1) IN GENERAL – Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended –

(A) by striking clause (viii); and

(B) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

(2) NONPREEMPTION OF STATE LAW – Section 403 of such Act (2 U.S.C. 453) is amended –

(A) by striking "The provisions of this Act" and inserting "(a) IN GENERAL – Subject to subsection (b), the provisions of this Act"; and

(B) by adding at the end the following:

"(b) STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES – Notwithstanding any other

provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee.".

TITLE II – NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A – Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 103, is amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS –

"(1) STATEMENT REQUIRED – Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT – Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

"(B) The principal place of business of the person making the disbursement, if not an individual.

"(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

"(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(3) ELECTIONEERING COMMUNICATION – For purposes of this subsection –

"(A) IN GENERAL – (i) The term 'electioneering communication' means any broadcast, cable, or satellite communication which –

"(I) refers to a clearly identified candidate for Federal office;

"(II) is made within –

"(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

"(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

"(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term 'electioneering communication' means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

"(B) EXCEPTIONS- The term 'electioneering communication' does not include –

"(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

"(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

"(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

"(C) TARGETING TO RELEVANT ELECTORATE- For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is `targeted to the relevant electorate' if the communication can be received by 50,000 or more persons –

"(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

"(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

"(4) DISCLOSURE DATE – For purposes of this subsection, the term 'disclosure date' means –

"(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

"(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(5) CONTRACTS TO DISBURSE – For purposes of this subsection, a person shall be treated as having made a

disbursement if the person has executed a contract to make the disbursement.

"(6) COORDINATION WITH OTHER REQUIREMENTS – Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

"(7) COORDINATION WITH INTERNAL REVENUE CODE – Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.".

(b) RESPONSIBILITIES OF FEDERAL COMMUNICATIONS COMMISSION – The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission's website.

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended –

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) if –

"(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

"(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and".

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL – Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before ", but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION – Section 316 of such Act is amended by adding at the end the following:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS –

"(1) APPLICABLE ELECTIONEERING COMMUNICATION – For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

"(2) EXCEPTION – Notwithstanding paragraph (1), the term 'applicable electioneering communication' does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of

the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the preceding sentence, the term 'provided directly by individuals' does not include funds the source of which is an entity described in subsection (a) of this section.

"(3) SPECIAL OPERATING RULES –

"(A) DEFINITION UNDER PARAGRAPH (1) – An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

"(B) EXCEPTION UNDER PARAGRAPH (2) – A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 304(f)(2)(E).

"(4) DEFINITIONS AND RULES – For purposes of this subsection –

"(A) the term 'section 501(c)(4) organization' means –

"(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

"(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(5) COORDINATION WITH INTERNAL REVENUE CODE – Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code.".

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

"(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS –

"(A) EXCEPTION DOES NOT APPLY – Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

"(B) TARGETED COMMUNICATION – For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(C) DEFINITION – For purposes of this paragraph, a communication is 'targeted to the relevant electorate' if it meets the requirements described in section 304(f)(3)(C).".

Subtitle B – Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE – The term 'independent expenditure' means an expenditure by a person –

"(A) expressly advocating the election or defeat of a clearly identified candidate; and

"(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.".

SEC. 212. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended –

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(g) TIME FOR REPORTING CERTAIN EXPENDITURES –

"(1) EXPENDITURES AGGREGATING $1,000 –

"(A) INITIAL REPORT – A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

"(B) ADDITIONAL REPORTS – After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000 –

"(A) INITIAL REPORT – A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

"(B) ADDITIONAL REPORTS – After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS – A report under this subsection –

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

(b) TIME OF FILING OF CERTAIN STATEMENTS –

(1) IN GENERAL – Section 304(g) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(4) TIME OF FILING FOR EXPENDITURES AGGREGATING $1,000 – Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom

the notification is required to be sent shall be considered the time of filing of the statement with the recipient.".

(2) CONFORMING AMENDMENTS – (A) Section 304(a)(5) of such Act (2 U.S.C. 434(a)(5)) is amended by striking "the second sentence of subsection (c)(2)" and inserting "subsection (g)(1)".

(B) Section 304(d)(1) of such Act (2 U.S.C. 434(d)(1)) is amended by inserting "or (g)" after "subsection (c)".

SEC. 213. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended –

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY –

"(A) IN GENERAL – On or after the date on which a political party nominates a candidate, no committee of the political party may make –

"(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

"(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under this subsection with respect to the candidate during the election cycle.

"(B) APPLICATION – For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political

committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(C) TRANSFERS – A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL – Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended –

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following new clause:

"(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and".

(b) REPEAL OF CURRENT REGULATIONS – The regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the

Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION – The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address –

(1) payments for the republication of campaign materials;

(2) payments for the use of a common vendor;

(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316 – Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III – MISCELLANEOUS

SEC. 301. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES – A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual –

"(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers, without limitation, to a national, State, or local committee of a political party.

"(b) PROHIBITED USE –

"(1) IN GENERAL – A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION – For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including –

"(A) a home mortgage, rent, or utility payment;
"(B) a clothing purchase;
"(C) a noncampaign-related automobile expense;
"(D) a country club membership;
"(E) a vacation or other noncampaign-related trip;
"(F) a household food item;
"(G) a tuition payment;
"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and
"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 302. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended –

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION –

"(1) IN GENERAL – It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY – A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both."; and

(2) in subsection (b), by inserting "or Executive Office of the President" after "Congress".

SEC. 303. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended –

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION – It shall be unlawful for –

"(1) a foreign national, directly or indirectly, to make –

"(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

"(B) a contribution or donation to a committee of a political party; or

"(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

"(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.".

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS FOR INDIVIDUALS – Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended –

(1) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(2) by adding at the end the following:

"(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS –

"(1) INCREASE –

"(A) IN GENERAL – Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the "applicable limit") with respect to that candidate shall be the increased limit.

"(B) THRESHOLD AMOUNT –

"(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA – In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of –

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) VOTING AGE POPULATION – In this subparagraph, the term 'voting age population' means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

"(C) INCREASED LIMIT – Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over –

"(i) 2 times the threshold amount, but not over 4 times that amount –

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount –

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount –

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

"(D) OPPOSITION PERSONAL FUNDS AMOUNT – The opposition personal funds amount is an amount equal to the excess (if any) of –

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT –

"(A) IN GENERAL – Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) –

"(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE – A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(3) DISPOSAL OF EXCESS CONTRIBUTIONS –

"(A) IN GENERAL – The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS – A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS – Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.".

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS – Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended –

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

"(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS –

"(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS – In this subparagraph, the term 'expenditure from personal funds' means –

"(I) an expenditure made by a candidate using personal funds; and

"(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(ii) DECLARATION OF INTENT – Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with –

"(I) the Commission; and

"(II) each candidate in the same election.

"(iii) INITIAL NOTIFICATION – Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with –

"(I) the Commission; and

"(II) each candidate in the same election.

"(iv) ADDITIONAL NOTIFICATION – After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with –

"(I) the Commission; and

"(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

"(v) CONTENTS – A notification under clause (iii) or (iv) shall include –

"(I) the name of the candidate and the office sought by the candidate;

"(II) the date and amount of each expenditure; and

"(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS – In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the

candidate or the candidate's authorized committee used such funds.

"(D) ENFORCEMENT – For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.".

(c) DEFINITIONS – Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 101(b), is further amended by adding at the end the following:

"(25) ELECTION CYCLE – For purposes of sections 315(i) and 315A and paragraph (26), the term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

"(26) PERSONAL FUNDS – The term 'personal funds' means an amount that is derived from –

"(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had –

"(i) legal and rightful title; or

"(ii) an equitable interest;

"(B) income received during the current election cycle of the candidate, including –

"(i) a salary and other earned income from bona fide employment;

"(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

"(iii) bequests to the candidate;

"(iv) income from trusts established before the beginning of the election cycle;

"(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

"(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

"(vii) proceeds from lotteries and similar legal games of chance; and

"(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of 1/2 of the property.".

SEC. 305. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL – Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended –

(1) by striking "(b) The charges" and inserting the following:

"(b) CHARGES –

"(1) IN GENERAL – The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

"(2) CONTENT OF BROADCASTS –

"(A) IN GENERAL – In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written

certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

"(B) LIMITATION ON CHARGES – If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

"(C) TELEVISION BROADCASTS – A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds –

"(i) a clearly identifiable photographic or similar image of the candidate; and

"(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

"(D) RADIO BROADCASTS – A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

"(E) CERTIFICATION – Certifications under this section shall be provided and certified as accurate by the

candidate (or any authorized committee of the candidate) at the time of purchase.

"(F) DEFINITIONS – For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).".

(b) CONFORMING AMENDMENT – Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting "subject to paragraph (2)," before "during the forty-five days".

(c) EFFECTIVE DATE – The amendments made by this section shall apply to broadcasts made after the effective date of this Act.

SEC. 306. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

"(12) SOFTWARE FOR FILING OF REPORTS –

"(A) IN GENERAL – The Commission shall –

"(i) promulgate standards to be used by vendors to develop software that –

"(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

"(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

"(III) allows the Commission to post the information on the Internet immediately upon receipt; and

"(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

"(B) ADDITIONAL INFORMATION – To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

"(C) REQUIRED USE – Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

"(D) REQUIRED POSTING – The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.".

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS – Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended –

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

(2) in subparagraph (B), by striking "$20,000" and inserting "$25,000".

(b) INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS – Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than –

"(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

"(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties.".

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT – Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$35,000".

(d) INDEXING OF CONTRIBUTION LIMITS – Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended –

(1) in paragraph (1) –

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002 –

"(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(ii) each amount so increased shall remain in effect for the calendar year; and

"(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means –

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001".

(e) EFFECTIVE DATE – The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003.

SEC. 308. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL – Chapter 5 of title 36, United States Code, is amended by –

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

"Sec. 510. Disclosure of and prohibition on certain donations

"(a) IN GENERAL – A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

"(b) DISCLOSURE –

"(1) IN GENERAL – Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything

of value made to the committee in an aggregate amount equal to or greater than $200.

"(2) CONTENTS OF REPORT – A report filed under paragraph (1) shall contain –

"(A) the amount of the donation;

"(B) the date the donation is received; and

"(C) the name and address of the person making the donation.

"(c) LIMITATION – The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))).".

(b) REPORTS MADE AVAILABLE BY FEC – Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103, 201, and 212 is amended by adding at the end the following:

"(h) REPORTS FROM INAUGURAL COMMITTEES – The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.".

SEC. 309. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended –

(1) by inserting "(a) IN GENERAL –" before "No person"; and

(2) by adding at the end the following:

"(b) FRAUDULENT SOLICITATION OF FUNDS – No person shall –

"(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

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

SEC. 310. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED – In this section, the term "clean money clean elections" means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY –

(1) IN GENERAL – The Comptroller General shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED –

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES – The Comptroller General shall determine –

(i) the number of candidates who have chosen to run for public office with clean money clean elections including –

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS – The Comptroller General of the United

States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT – Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

SEC. 311. CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended –

(1) in subsection (a) –

(A) in the matter preceding paragraph (1) –

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement";

(iii) by striking "direct"; and

(iv) by inserting "or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))" after "public political advertising"; and

(B) in paragraph (3), by inserting "and permanent street address, telephone number, or World Wide Web address" after "name"; and

(2) by adding at the end the following:

"(c) SPECIFICATION – Any printed communication described in subsection (a) shall –

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d) ADDITIONAL REQUIREMENTS –

"(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS –

"(A) BY RADIO – Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) BY TELEVISION – Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through television shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement –

"(i) shall be conveyed by –

"(I) an unobscured, full-screen view of the candidate making the statement, or

"(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

"(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

"(2) COMMUNICATIONS BY OTHERS – Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall

include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: 'XXXXX is responsible for the content of this advertising.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 312. INCREASE IN PENALTIES.

(a) IN GENERAL – Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

"(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure –

"(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

"(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.".

(b) EFFECTIVE DATE – The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL- Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking "3" and inserting "5".

(b) EFFECTIVE DATE – The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 314. SENTENCING GUIDELINES.

(a) IN GENERAL – The United States Sentencing Commission shall –

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS – The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves –

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES –

(1) EFFECTIVE DATE – Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of –

(A) 90 days after the effective date of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES – The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 315. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUIT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS – Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended –

(1) in paragraph (5)(B), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)"; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)".

(b) INCREASE IN CRIMINAL PENALTY – Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

"(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be –

"(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

"(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of –

"(I) $50,000; or

"(II) 1,000 percent of the amount involved in the violation; or

"(iii) both imprisoned under clause (i) and fined under clause (ii).".

(c) EFFECTIVE DATE – The amendments made by this section shall apply with respect to violations occurring on or after the effective date of this Act.

SEC. 316. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY TAKING INTO ACCOUNT CANDIDATE'S AVAILABLE FUNDS.

Section 315(i)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)(1)), as added by this Act, is amended by adding at the end the following:

"(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS –

"(i) IN GENERAL – For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE – For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of –

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.".

SEC. 317. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

SEC. 318. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:
"PROHIBITION OF CONTRIBUTIONS BY MINORS

"SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS – Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 315 the following new section:
"MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO PERSONAL FUND EXPENDITURES OF OPPONENTS

"SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT –

"(1) IN GENERAL – Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate

for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds $350,000 –

"(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

"(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(C) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

"(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT –

"(A) IN GENERAL – The opposition personal funds amount is an amount equal to the excess (if any) of –

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(B) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS –

"(i) IN GENERAL – For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE – For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of –

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during

any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

"(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT –

"(A) IN GENERAL – Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1) –

"(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE – A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(4) DISPOSAL OF EXCESS CONTRIBUTIONS –

"(A) IN GENERAL – The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS – A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS –

"(1) IN GENERAL –

"(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS – In this paragraph, the term 'expenditure from personal funds' means –

"(i) an expenditure made by a candidate using personal funds; and

"(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(B) DECLARATION OF INTENT – Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed $350,000.

"(C) INITIAL NOTIFICATION – Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures

from personal funds in excess of $350,000 in connection with any election, the candidate shall file a notification.

"(D) ADDITIONAL NOTIFICATION – After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds $10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

"(E) CONTENTS – A notification under subparagraph (C) or (D) shall include –

"(i) the name of the candidate and the office sought by the candidate;

"(ii) the date and amount of each expenditure; and

"(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(F) PLACE OF FILING – Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with –

"(i) the Commission; and

"(ii) each candidate in the same election and the national party of each such candidate.

"(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS – In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(3) ENFORCEMENT – For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309.".

(b) CONFORMING AMENDMENT – Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking "subsection (i)," and inserting "subsection (i) and section 315A,".

TITLE IV – SEVERABILITY; EFFECTIVE DATE

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. EFFECTIVE DATES AND REGULATIONS.

(a) GENERAL EFFECTIVE DATE –

(1) IN GENERAL – Except as provided in the succeeding provisions of this section, the effective date of this Act, and the amendments made by this Act, is November 6, 2002.

(2) MODIFICATION OF CONTRIBUTION LIMITS – The amendments made by –

(A) section 102 shall apply with respect to contributions made on or after January 1, 2003; and

(B) section 307 shall take effect as provided in subsection (e) of such section.

(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW – Title IV shall take effect on the date of enactment of this Act.

(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS – Section 323(b) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), section 103(a), title II, sections 304 (including section 315(j) of Federal Election Campaign Act of 1971, as added by section 304(a)(2)), 305 (notwithstanding subsection (c) of such section), 311, 316, 318, and 319, and title V (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES –

(1) IN GENERAL – Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 (as added by section 101(a)) shall take effect on November 6, 2002.

(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES –

(A) IN GENERAL – Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

(B) USE OF EXCESS SOFT MONEY FUNDS –

(i) IN GENERAL – Subject to clauses (ii) and (iii), the national committee of a political party may use the

amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of –

(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS – A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9))) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

(iii) PROHIBITION OF BUILDING FUND USES – A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

(c) REGULATIONS –

(1) IN GENERAL – Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act and the amendments made by this Act that are under the Commission's jurisdiction not later than 270 days after the date of enactment of this Act.

(2) SOFT MONEY OF POLITICAL PARTIES – Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act and the amendments made by such title.

SEC. 403. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS – If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS – In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the

burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS – Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY –

(1) INITIAL CLAIMS – With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

(2) SUBSEQUENT ACTIONS – With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.

TITLE V – ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

"(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report,

or notification filed electronically) after receipt by the Commission.”.

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL – The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT – In this section, the term ‘election-related report’ means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES – Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

SEC. 503. ADDITIONAL DISCLOSURE REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES – Section 304(a)(2)(B) of the Federal Election Campaign Act of 1971 is amended by striking “the following reports” and all that follows through the period and inserting “the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.”.

(b) NATIONAL COMMITTEE OF A POLITICAL PARTY – Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence:

"Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).".

SEC. 504. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

"(e) POLITICAL RECORD –

"(1) IN GENERAL – A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that –

"(A) is made by or on behalf of a legally qualified candidate for public office; or

"(B) communicates a message relating to any political matter of national importance, including –

"(i) a legally qualified candidate;

"(ii) any election to Federal office; or

"(iii) a national legislative issue of public importance.

"(2) CONTENTS OF RECORD – A record maintained under paragraph (1) shall contain information regarding –

"(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

"(B) the rate charged for the broadcast time;

"(C) the date and time on which the communication is aired;

"(D) the class of time that is purchased;

"(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

"(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

"(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

"(3) TIME TO MAINTAIN FILE – The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.".