

CAMPAIGN FINANCE REFORM: A SUMMARY AND ANALYSIS OF
LEGISLATIVE PROPOSALS IN THE 98TH AND 99TH CONGRESSES

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ABSTRACT

This report summarizes and analyzes on a conceptual basis the 108 bills and major amendments offered in the 98th and 99th Congresses which proposed changes in the campaign finance laws governing Federal elections.

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SUMMARY

The campaign finance system governing Federal elections has been the subject of growing criticism in recent years, focused on the amount of money spent on campaigns and the sources of campaign funds. Campaign spending is limited in Presidential elections, as part of the public financing system available to Presidential candidates. Congressional campaigns are not subject to spending limits, in view of the Supreme Court's ruling in Buckley v. Valeo [424 U.S. 1 1976]) that spending may not be limited unless in conjunction with a public finance system. The sources of funds are limited in all Federal campaigns, whether from individual citizens, political parties, or political action committees (PACs).

In the 98th and 99th Congresses, 108 bills and major amendments proposed changes in the Nation's campaign finance laws, with an emphasis on limiting campaign expenditures and altering the relative roles played by the various funding sources. Many legislative initiatives included several different proposals, addressing various perceived problems in the current system.

Twenty-two bills and amendments imposed limits on congressional campaign spending in the context of a public funding system (through either full grants, matching funds, media subsidies, postal subsidies, or 100 percent tax credits to contributors to candidates). The public funding proposals addressed issues concerning both the cost and the funding sources of congressional campaigns. Eleven other bills and amendments attempted to limit spending, primarily through either a constitutional amendment or through free media time for candidates.

The source of funding is addressed in a large number of the 108 proposed measures, with a special focus on PACs--the agents of interest groups--and the perceived disproportionate role they are playing in funding congressional elections. Apart from the public funding proposals, the most common approach to curbing the role of PACs was to impose an aggregate PAC receipts limit on candidates (included in 22 proposals) and to reduce the current \$5,000 PAC contribution limit to some lower amount (in 12 proposals). The role of funding sources is approached from a different perspective in proposals which seek not to limit PACs directly but to do so more indirectly by allowing other sources to play a greater role: 13 proposals would raise individual contribution limits, while 9 proposals would raise (or remove) the limits on party contributions and expenditures.

A third major focus among the 108 bills and amendments was the elimination or counteracting of perceived loopholes in the current system, those means by which individuals and groups spend more money than would otherwise be allowed under the law (for various reasons). Along these lines, 26 measures proposed

some form of compensation to candidates opposed by independent expenditures (in most cases, either additional public funds in public finance proposals or free broadcast response time). Other perceived loopholes addressed include "bundling" of contributions to circumvent limits (in 13 proposals), soft money (in 4 proposals), personal use of excess campaign funds by candidates (in 6 proposals), and use of union dues money for political activity (in 6 proposals).

These proposals and others are discussed in this report, in comparison with others of a similar nature, according to the concepts engendered in each. They represent most of the ideas currently being expressed in Congress, in the media, in academic publications, and among political observers, regarding ways to change the laws governing Federal campaign finance.

CAMPAIGN FINANCE REFORM: A SUMMARY AND ANALYSIS OF
LEGISLATIVE PROPOSALS IN THE 98TH AND 99TH CONGRESSES

INTRODUCTION

The campaign finance system governing Federal elections has been the subject of discussion and controversy in recent years, with issues focused on the amount of money spent and the sources of those funds (both existing and alternative). In the 98th and 99th Congresses, 108 bills and amendments were proposed (and some were considered and passed) to change the Federal campaign finance laws in some way.

This report provides a conceptual discussion and analysis of these legislative proposals and what action (if any) was taken on them, with all proposals engendering a particular concept summarized, analyzed and compared within each section or sub-section. The appendix lists all of these proposals in chronological order, with a brief general conceptual summary of each.

This report generally does not include proposals dealing with administrative or enforcement matters pertaining to the Federal Election Commission (including appropriations, disclosure functions, etc.), but is essentially confined to those proposals which regulate (or deregulate) the flow of money in elections. These proposals are at the heart of the ongoing debate.

This report offers a discussion of current proposals to change the campaign finance system, most of which are reflected in legislation of recent Congresses. It thus serves as a companion volume to two other CRS reports: Report No. 86-143 GOV (Campaign Financing in Federal Elections: A Guide to the Law and its Operation [by] Joseph E. Cantor, Aug. 8, 1986) and Issue Brief

IB87020 (Campaign Financing [by] Joseph E. Cantor and Thomas M. Durbin, continuously updated). The Guide offers an overview of the current system, including a summary of the law's provisions and data on its operation; the issue brief provides an overview of the major issues involved in the ongoing debate over campaign financing.

I. SOURCES OF FUNDS

There are five major sources of campaign funds in Federal elections: individual citizens (contributing directly to candidates), political action committees, or PACs (the agents of interest groups), political parties, candidates (giving to their own campaigns from personal and immediate family funds), and, in the case of Presidential elections only, the U.S. Treasury. The relative roles played by each of these sources has fueled much of the debate in recent years over the financing of election campaigns.

This debate has centered primarily around the four funding sources in congressional elections, as the prevalence of public funds in Presidential elections is perceived by many to have ameliorated (to a large extent) many of the potential problems arising from private funding sources. These problems, which are inherent in any democracy, involve the potential for and the perception of undue influence or corruption resulting from any possible over-reliance by candidates on particular sources of assistance in securing election and the goal of curbing disproportionate power potentially resulting from wealth.

The legislative proposals in this general area have been characterized by an effort to redistribute the relative importance of each type of funding source--boosting some, curbing others. This process is intended to leave candidates more reliant on some and less reliant on others.

Current law imposes limits on contributions from three of the four funding sources--individuals, PACs, and parties, with only candidate contributions to

their campaigns not subject to limits (in congressional elections, at least). The existing limits in some areas and the absence of limits in others have had an unmistakable impact on the flow of money in Federal elections since the law was implemented in the mid-1970s. The various limits may have made sense to policymakers when they were enacted, but to many critics, they make less sense given experience with them and today's realities of political campaigning; they make less sense, in part, because they are, for the most part, not indexed for inflation. Hence, to a great extent, legislative proposals focus on adjusting existing limits (either up or down) or adding new ones. Also, the law, through 1986 at least, has offered encouragement to certain types of contributing by means of tax incentives. Proposals from the 98th and 99th Congresses reflect interest in augmenting or altering these tax incentives to offer more or less encouragement for various types of political giving.

A. Restricting the Role of PACs

Perhaps no aspect of the debate over campaign financing has been more central than the role of political action committees. As the agents of special interests, they have served to crystalize the issues inherent in the role played by interest groups in the making of public policy and, more specifically, in the electoral process. In general, some view their role with alarm, expressing concern that too great a role by special interests may compromise the making of public policy that serves the national interest; others insist that the "national interest" is (by definition) what emerges from the interaction of the various factions inherent in our pluralistic system and that our system has sufficient safeguards against any one faction becoming inordinately powerful.

Regardless of one's philosophical views on the role of interest groups, there is little question that PACs have grown in importance as a funding source in congressional campaigns. Between 1974 and 1986, the number of PACs registered with the Federal Election Commission increased from 608 to 4,092. Whereas PACs contributed \$12.5 million to congressional candidates in 1974, they contributed \$105.3 million in 1984 (\$50.0 million in constant 1974 dollars, based on CPI). Furthermore, PAC contributions accounted for 15.7 percent of House and Senate general election candidates' receipts in 1974, rising to 29.3 percent in 1984. Data such as these have provided impetus for the calls for changes in the laws affecting PACs.

Decrease the PAC Contribution Limit

The Federal Election Campaign Act Amendments of 1974 established limitations on contributions to Federal candidates and made a critical distinction between contributions by individual citizens giving directly to candidates and those by "political committees"--groups of individuals pooling their resources for political giving. Whereas individuals were limited to contributions of \$1,000 per candidate, per election (primary, general, and run-off counting as separate elections), the political committee was granted a higher limit--\$5,000 per candidate, per election. The criteria for qualifying for the higher contribution limit were: to be in existence for at least six months, to have more than fifty contributors, and to make contributions to five or more Federal candidates. The 1976 FECA Amendments defined this type of committee as a "multicandidate committee", distinguishing not only between individuals and groups (or committees) but between certain kinds of political committees and all other "persons" (defined in law as including both

individuals and committees). In theory, this type of committee was one which was concerned with many elections, not merely as an agent of any one candidate.

The law thus provided an incentive for individuals not only to pool their resources but to take the steps necessary to qualify as a "multicandidate committee" in order to maximize their potential for influencing elections. What are commonly known as political action committees--a colloquial term, legally referred to as "political committees"--were given a signal to meet these simple criteria to qualify for the \$5,000 limit. Indeed, the overwhelming majority of political committees registered with the Federal Election Commission and not associated with either a political party or a specific candidate (i.e., a principal campaign committee) are multicandidate committees.

This has a bearing on discussion of proposals to curb PACs, as many of them involve the reduction of the multicandidate committee limit on contributions from \$5,000 to some lower amount. Such a provision was included in the House-passed Obey-Railsback Amendment to S. 832 in 1979, setting a combined primary and general election limit of \$6,000, but not more than \$5,000 per election (an extra \$3,000 was allowed in case of a runoff). Twelve legislative proposals in the 98th and 99th Congresses included a decrease in the PAC (multicandidate committee) contribution limit, most notably including the Senate-passed Boren Amendment to S. 655 (99th Congress) which set the limit at \$3,000 per election. The other proposals were:

- * H.R. 640 (Minish, 98th Congress)--\$1,000
- * H.R. 1799 (McNulty, 98th Congress)--\$1,000
- * H.R. 4157 (Howard, 98th Congress)--\$1,000
- * H.R. 4861 (Watkins, 98th Congress)--\$1,000
- * H.R. 2923 (Watkins, 99th Congress)--\$1,000
- * S. 1806 (Boren, 99th Congress)--\$3,000
- * H.R. 3799 (Synar et al., 99th Congress)--\$3,000

- * H.R. 4072 (LaFalce, 99th Congress)--\$3,000
- * H.R. 4464 (Howard, 99th Congress)--\$1,500
- * H.R. 4514 (Weaver, 99th Congress)--\$2,000
- * H.R. 5382 (Levine/Miller, 99th Congress)--\$2,500

The rationale for the decreased PAC contribution limit is to lessen both the incentive for citizens and organizations to form PACs and the value of the PAC contribution to candidates, particularly vis-a-vis contributions from individuals (some of these proposals also raise that limit). Furthermore, a lower limit would theoretically lessen the opportunity for or appearance of quid pro quo relationships between PAC contributors and legislator recipients.

Opponents of a lower PAC limit note that a \$5,000 contribution can scarcely be viewed as corrupting, in the context of the large amounts spent on campaigns today, and that this limit has already been devalued by more than half through inflation since it was established in 1974. Many have voiced concern that the more restrictive the limit on what PACs may contribute (obviously a \$1,000 limit is more restrictive than a \$3,000 one), the more PACs may channel their resources into independent expenditures as a means of assisting favored candidates, free of restrictions on spending; the latter option raises issues which may be more troublesome than those of PAC contributions (see discussion later in this report). (Some question whether a lower limit might not also cause a proliferation of PACs by one organization, but all PACs established by an organization and its subsidiaries are held to the same limit as for any single PAC.)

One important point should be mentioned regarding these proposals, specifically involving their application to multicandidate committees. While the latter term encompasses what we know of as PACs, it also includes many political committees established by the parties. Hence, proposals that lower the limit on multicandidate committees would restrict most party committees, as

well as most PACs, involved in Federal elections. The proposals discussed in this section generally make no distinction between party committees and PACs. Critics of these proposals argue the distinction must be addressed lest legislation unintentionally restrict the role of parties, which have, in the view of many, already been restricted too greatly and which may need to play an even greater role in campaign financing.

An Aggregate PAC Receipts Limit

Current law places no restriction on the extent to which a candidate may rely on PACs in general as a source of campaign funds. This proposal would impose either a dollar amount or a percentage of overall receipts beyond which a candidate for Congress may not accept donations from PACs in any election (generally meaning primary and general/special elections combined, with runoffs usually handled separately). In theory, it recognizes that interest groups may have a legitimate role in elections but that they must not be allowed to play too great a role vis-a-vis other participants. It is at the heart of most prominent legislative proposals aimed at reducing the influence of PACs.

The House-passed Obey-Railsback Amendment of the 96th Congress set a limit of \$70,000 on the amount of PAC money a House candidate could accept for a primary and general election combined, with an \$85,000 ceiling if a runoff election occurs, as well; an undetermined limit was set for Senate candidates (this measure was not enacted). Twenty-two legislative proposals in the 98th and 99th Congresses included aggregate PAC receipts limits on House and/or Senate candidates. Most notable among these was the Senate-passed Boren Amendment to S. 655 (99th Congress), which set a limit on House candidates of \$100,000 plus an additional \$25,000 in case of a runoff and \$25,000 if the candidate had primary and general election opponents, and on Senate candidates

of: the greater of \$175,000 (\$200,000 if opposed in primary and general elections) or \$35,000 times the number of districts in the State, up to \$750,000, plus, in the event of a runoff, the greater of \$25,000 or \$12,500 times the number of districts in the State.

Of the 21 other legislative proposals containing aggregate PAC receipts limits, seventeen set dollar limits and four set percentage limits. Six of the 17 with dollar limits applied to House candidates only, including:

- * H.R. 2005 (Brown, 98th Congress)--\$90,000
- * H.R. 2490 (Obey/Leach/Glickman, 98th Congress)--\$90,000
- * H.R. 4428 (Obey/Leach/Synar, 98th Congress)--\$90,000, to be adjusted annually for inflation
- * H.R. 2844 (St. Germain, 99th Congress)--\$90,000
- * H.R. 4072 (LaFalce, 99th Congress)--\$100,000, plus an additional \$25,000 in the event of a runoff and \$25,000 if opposed in both primary and general election
- * H.R. 5382 (Levine/Miller, 99th Congress)--\$100,000, plus an additional \$25,000 in the event of a runoff and \$25,000 if opposed in both primary and general election

The remaining 11 proposals with dollar limits apply to both House and Senate candidates, including:

- * H.R. 2959 (Hamilton, 98th Congress)--House: \$90,000; Senate: the greater of \$200,000 or \$40,000 times number of districts in State, up to \$600,000
- * H.R. 3262 (Synar/Anthony, 98th Congress)--House: \$75,000, plus an additional \$25,000 in event of runoff and \$25,000 if opposed in primary and general; Senate: the greater of \$75,000 or \$25,000 times number of districts in State, up to \$500,000, plus, if runoff, the greater of \$25,000 or \$12,500 times number of districts in State
- * S. 1433 (Boren, 98th Congress)--identical to H.R. 3262
- * H.R. 3610 (Lantos, 98th Congress)--House: \$75,000, plus an additional \$25,000 in event of runoff; Senate: the greater of \$75,000 or \$37,500 times number of districts in State, up to \$500,000, plus, if runoff, the greater of \$37,500 or \$12,500 times number of districts in State

* H.R. 4861 (Watkins, 98th Congress)--House and Senate:
\$50,000

* S. 297 (Boren, 99th Congress)--House: \$75,000, plus an additional \$25,000 in event of runoff and \$25,000 if opposed in primary and general; Senate: the greater of \$75,000 (\$100,000 if opposed in primary and general) or \$25,000 times number of districts in State, up to \$500,000, plus, in event of runoff, the greater of \$25,000 or \$12,500 times number of districts in State

* H.R. 2923 (Watkins, 99th Congress)--House and Senate:
\$50,000

* S. 1806 (Boren, 99th Congress)--House: \$100,000, plus an additional \$25,000 in event of runoff and \$25,000 if opposed in primary and general; Senate: the greater of \$175,000 (\$200,000 if opposed in primary and general) or \$35,000 times number of districts in State, up to \$750,000, plus, in event of runoff, the greater of \$25,000 or \$12,500 times number of districts in State

* H.R. 3799 (Synar et al., 99th Congress)--identical to S. 1806

* H.R. 4464 (Howard, 99th Congress)--identical provision to S. 1806

* H.R. 4514 (Weaver, 99th Congress)--House: \$25,000; Senate: the greater of \$125,000 or \$25,000 times number of districts in State, up to \$375,000

The above proposals establish a flat limit, with some variation allowed in the event of the added expense of either a runoff election or competitive races in both a primary and general election; also, in the case of Senate candidates, variation is generally allowed according to the size of the State. One can see that the dollar amounts tended to rise in these proposals (listed in order of introduction over the four year period), in part reflecting the general rise in campaign costs. Only one proposal (H.R. 4428, 98th Congress) provided for periodic adjustments to account for inflation.

The four other proposals in this area used a percentage figure as a ceiling for PAC donations. Three limit PAC receipts, including:

* S. 151 (Proxmire, 98th Congress)--PAC receipts may not exceed 30 percent of the spending limits included in this public finance bill (limits vary by size of State)

* S. 323 (Proxmire, 99th Congress)--PAC receipts may not exceed 30 percent of the spending limits included in this public finance bill (limits vary by size of State)

* S. 471 (Dodd/Melcher, 99th Congress)--PAC receipts may not exceed 20 percent of the spending limits included in this public finance bill (limits vary by size of State)

The other bill in this area limits the amount of PAC donations which may be spent, as opposed to raised:

* S. 1185 (Rudman, 98th Congress)--limits amount of PAC donations which may be spent by House and Senate candidates to the greater of 20 percent of total expenditures or 25 cents times the voting age population

By using a percentage rather than flat dollar amount, one can theoretically better account for the varying nature and circumstances of congressional elections and place the PAC component of campaign funding into some desired perspective. The problem with the percentage approach lies in the administrative difficulty of monitoring on an ongoing basis one's PAC receipts versus one's overall expenditures.

In general, the PAC receipts limit engenders the sweeping approach of controlling candidate reliance on PACs generically, not distinguishing between types of PACs, areas of interest, etc. It seeks to counteract the rising level of candidate reliance on PAC money (discussed earlier), a trend which in the aggregate masks the particular degree of reliance among certain types of candidates (e.g., winners, incumbents, House Members); more than one-third of House winners in 1984, for example, received more than half their funds from PACs.^{1/} This proposal would be most restrictive of some types of candidates, while allowing PACs to play a substantial role in most campaigns (depending upon where the limit is set).

Among the criticisms of the aggregate PAC receipts limit are the questions over constitutionality, whether such a limit might constitute a "backdoor"

^{1/} Lardner, George, Jr. One-Third of House Members Relied Mainly on Interest Group Donations. Washington Post, Jun. 12, 1985: p. A14.

means of limiting campaign expenditures or whether it might infringe on First Amendment rights of association (by PACs whose money could not be accepted--by candidates who had reached their limits). Beyond these concerns are the policy questions of whether such a limit would provide a significant advantage to larger, more affluent PACs which might be better equipped than smaller PACs with less resources to anticipate and contribute to desired candidates in advance of the latter's reaching their PAC receipts ceilings, and also to incumbents who are better positioned than challengers to use the limit strategically in urging PACs to contribute before they reach their limit. Other significant criticisms include the concerns over encouraging more independent expenditures and that many of these proposals would circumscribe activity of party committees as well as PACs because of the use of the term "multicandidate committee" (as discussed above); many specifically exclude application to party committees, but others, such as the Senate-passed Boren Amendment of 1986, make no such distinction.

An Aggregate Limit on PAC Contributions

Although current law imposes a limit on all contributions by an individual affecting Federal elections in a calendar year, there is no such limit on contributions by a PAC; a PAC may contribute unlimited amounts to Federal candidates in the aggregate. One proposal places a limit of \$500,000 on contributions to Federal candidates which any non-party multicandidate committee can make in an election cycle:

* H.R. 5382 (Levine/Miller, 99th Congress)

This proposal seeks to counteract not the degree of reliance on PACs by candidates but the potential for too much power by any one interest group. Its relatively high limit is aimed at curbing only the largest, most affluent

organizations (in 1984, for example, only 36 of some 4,000 PACs exceeded \$500,000 in donations to Federal candidates).^{2/} Some of these large PACs are particularly able to engage in independent expenditures, as some of them are already doing at an increasing rate, and herein may lie a potential circumvention and drawback of this proposal.

Disallowing Use of Tax Credits for Contributions to PACs

Between 1972 and 1986, taxpayers were permitted to take tax credits for the value of their political contributions during the year, a policy aimed at encouraging small contributors in the political process. As part of the tax reform legislation of 1986 (P.L. 99-514), these tax incentives were eliminated, as of January 1, 1987. Hence this proposal has, in effect, been enacted. Prior to the tax reform enactment, three bills proposed eliminating availability of the tax credit for donations to PACs:

- * H.R. 3737 (McHugh/Conable, 98th Congress)--disallowed the credit for contributions to PACs and other recipients, leaving the existing credit only for donations to parties (and creating a new credit for donations to House and Senate candidates)
- * H.R. 6360 (LaFalce, 98th Congress)--disallowed the credit for contributions to PACs
- * H.R. 1807 (LaFalce, 99th Congress)--disallowed the credit for contributions to PACs

These proposals were based on the view that the Federal Government should not subsidize and thereby encourage contributions to PACs, because of the injurious effect the latter were perceived to have on the political system.

^{2/} U.S. Federal Election Commission. FEC Final Report for '84 Elections Confirms Majority of PAC Money Went to Incumbents [press release]: Dec. 1, 1985.

Encouraging Earmarking of Contributions to PACs

To some observers, a central problem posed by PACs lies in the opportunity for a small number of PAC managers to accumulate power by deciding how money raised from contributors should be allocated. There is, therefore, an effort by some to encourage PACs to be more democratic not only in the raising of funds but in their dispersal, involving more people rather than fewer in the allocation decisions. One tool available in this regard is earmarking, or the designation of desired recipients of PAC donations by the contributors to the PAC. In such cases, the contribution counts against the limit of the individual donor, not the PAC, which simply acts as an intermediary in transmitting the donation. Although this option is allowed by law, many PACs do not inform their contributors of this option, preferring to retain for their managers the allocation decisions.

Two proposals address this issue by encouraging more earmarking of donations through PACs:

* S. 732 (Gorton, 98th Congress)--requires PACs to inform contributors of their right to designate preferred recipients and to act as conduits when requested by donors (or return contributed funds); allows contributors to a PAC to designate up to 75 percent of funds contributed to specified candidates

* S. 1072 (Gorton, 99th Congress)--identical provision to S. 732

As is often the case in the campaign finance area, what appears to be a remedy in some quarters appears to pose problems in others. Some PACs and party committees have been seen in recent years as evading their contribution limits by collecting donations from individuals and transmitting them to candidates, often collecting and presumably receiving credit for larger amounts of money than they are permitted to contribute themselves. This practice, known as "bundling", has been addressed in a number of proposals (to be

discussed later), and it points up the fact that while encouraging individuals to give through PACs may be desirable, it may also encourage PACs to circumvent their own contribution limits while maximizing their influence in Federal elections.

Channeling PAC Donations through a Trust Fund

To some observers, the relationship between the specific PAC contribution and the candidate poses a potential or at least perceived problem. The knowledge by the candidate of who contributed to his or her campaign and the amount of that contribution may raise questions over real or perceived quid pro quo relationships. One proposal to address this is to establish a sort of "blind trust" through which PACs may contribute to favored candidates without those candidates fully knowing the extent of the contribution:

* H.R. 1379 (Courter, 98th Congress)--establishes a trust fund to collect PAC contributions to congressional candidates, disclosing the PAC's name, the names of all candidates it contributes to, and the total PAC receipts by each candidate, but not the specific amount donated by each PAC to each candidate

* H.R. 1110 (Courter, 99th Congress)--identical to H.R. 1379

While this proposal would not allow candidates to know the amount contributed by each PAC, they would still be able to learn the identities of their benefactors. This idea raises interesting questions about both the advantage and disadvantage of public disclosure, but as a practical matter, it might pose some real difficulties in enforcement.

More Public Disclosure Regarding PAC Activity

At one pole in the campaign finance debate are those who insist that all that is desirable in the law is public disclosure, so the voters may decide

what practices are objectionable. Even among many who support major provisions of the current law, greater public disclosure is seen as desirable. One proposal seeks just that, specifically regarding the activity of PACs:

* H.R. 3620 (Annunzio, 98th Congress)--requires the Clerk of the House to annually publish in the Congressional Record a list of PACs, their sponsoring organizations, and their total receipts and expenditures

Although it is not likely that publication in the Congressional Record would reach a large number of citizens, it could facilitate greater awareness on the part of opinion leaders. Of particular usefulness would be the requirement that sponsoring organizations be listed, a fact often masked by PAC names.

Prohibit PACs by Government Contractors

The 1974 FECA Amendments gave specific authority to Government contractors to establish separate segregated funds (or PACs) through which voluntary contributions could be raised and contributed to candidates. Because many corporations and labor unions work for the Government on contract basis, this provision was seen as providing a major impetus for the proliferation of PACs in the mid-1970s, by removing a perceived ambiguity in the previously-existing law. One proposal would address this situation as follows:

* H.R. 3650 (Annunzio, 98th Congress)--prohibits government contractors from establishing PACs

This measure would have a significant impact on those PACs now in existence whose sponsoring organizations are involved, at least in part, in Government contract work. It could markedly reduce the number of PACs overall, except among the independent PACs, with no sponsoring organization.

Prohibit PAC Contributions to Parties

The Senate-passed Boschwitz Amendment to S. 655 (99th Congress) included a provision to prohibit PAC contributions to political party committees. Although PACs generally prefer to contribute directly to candidates, they can and do give money to the parties as well. This proposal might serve to limit PACs, but it is not clear what danger PAC contributions to party committees pose, if one accepts the notion of parties as the broad-based, mediating structures in our political system, channeling and distilling the pressures from the many factions.

B. Curbing Candidates' Personal Spending

The Federal Election Campaign Act of 1971 included limits on the amount of money a candidate for Federal office could spend on his or her campaign from personal and immediate family funds: \$50,000 for Presidential and Vice-presidential candidates, \$35,000 for Senate candidates, and \$25,000 for House candidates. However, these limits were struck down by the Supreme Court in its 1976 decision in Buckley v. Valeo, [424 U.S. 1 (1976)] on the ground that such limits constituted an infringement on free speech rights of candidates without any overriding governmental interest in preventing corruption of elections. There was nothing corrupting about candidates' contributions to their own campaigns, the Court argued, because there was no potential for real or perceived quid pro quo relationships. Only in the context of a public funding system could Congress limit candidates' personal spending, as part of the contractual obligation by the candidate in return for the benefits of a Government program. Hence, limits on candidates' personal spending exist today only for Presidential and Vice-presidential candidates who accept public funding.

To many, the absence of limits on candidate spending poses a threat to the integrity of the current system, in which there are limits on most sources of funding but no limits on campaign expenditures. This dichotomy, in conjunction with the high costs of running for office today, is seen as placing pressure on candidates to raise vast sums of money from circumscribed sources; in such a system, the availability of unlimited funds from any source is an attractive prospect for any candidate fortunate enough to have substantial personal (or family) wealth.

The concern that politics may be, or become, dominated by the wealthy, "buying their way" into office, is not a new one at all. Congress has traditionally included wealthy individuals, although with public disclosure of personal finances not introduced until the 1970s, there is no objective way of knowing whether this has been a rising trend during this century or whether we are simply more aware of wealthy officeholders in an era of disclosure. Nonetheless, in the context of the congressional campaign finance system which places a premium on the availability of unlimited sources of funds, many feel that increasingly only the wealthy will be able to afford to raise the kind of money needed today to run a successful campaign--particularly if opposing an incumbent with inherent name recognition and other advantages or if seeking an open seat, in which the largest amounts are typically spent.

As will be discussed later, virtually all proposals for public financing of congressional elections require candidates to abide by limits on personal (and immediate family) spending, as well as overall spending limits. Several proposals in the 98th and 99th Congresses attempt to limit arguably excessive personal spending outside the context of public funding, by introducing disincentives to large amounts of such forms of spending; these include:

* S. 732 (Gorton, 98th Congress)--triples limits on contributions by individuals and multicandidate committees to opponents of candidates whose personal spending exceeds

\$50,000 (Senate candidates in States with one or two districts and all House candidates) or \$100,000 (Senate candidates in States with three or more districts)

* H.R. 2959 (Hamilton, 98th Congress)--doubles limits on contributions by individuals and PACs, doubles aggregate PAC receipts limit, and removes limits on party contributions to and expenditures for opponents of candidates whose personal spending exceeds \$25,000 (House) or \$50,000 (Senate)

* S. 1072 (Gorton, 99th Congress)--identical to provision in S. 732

The Gorton and Hamilton proposals differ in the thresholds for triggering the removal or raising of limits, the specific limits which are raised (removed), and the factor by which limits are raised. They also differ in the inclusion of immediate family funds in the Hamilton but not the Gorton bill and the prohibition on benefits to candidates who themselves exceeded the threshold (even if their opponents had also) in the Gorton but not the Hamilton bill. The bills are alike in their application of disincentives to what is deemed excessive candidate spending, placing the onus on that candidate from making spending decisions which will trigger a substantial advantage to his or her opponent.

It is not clear exactly to what extent candidates for Congress do spend large sums of personal wealth to get elected. Calculations by CRS showed that in the 1984 elections, only three percent of House candidates and fifteen percent of Senate candidates gave or loaned their campaigns in excess of \$100,000. ^{3/} Perhaps it is only these relatively small numbers who would or should be affected by this kind of plan. It should be noted, however, that large amounts of candidate spending do not by any means guarantee election, as is continuously demonstrated. Beyond that is the question of fairness: while

^{3/} U.S. Library of Congress. Congressional Research Service. Contributions and Loans by Major Party General Election Candidates, 1984. Typed Report, by Kevin Coleman, July 25, 1986. Washington, 1986.

it may seem unfair for a candidate to have a decided electoral advantage because of personal wealth, sometimes this wealth may merely counterbalance a disadvantage in running against either a better known candidate or an incumbent, who is likely to be both better known and better equipped to raise money from PACs. And indeed, one may question, as the Supreme Court did, whether the wealthy candidate corrupts the system by the amount of funds spent, as distinct from the source of those funds. Nonetheless, concerns continue over this phenomenon, and it remains a complicated issue.

C. Boost the Role of Individual Citizens

Current law limits contributions by individuals to \$1,000 to a candidate (per election), \$5,000 to a political committee (per year), \$20,000 to a national party committee (per year), and \$25,000 to all Federal candidates and committees (per year). These limits were established by the FECA Amendments of 1974 and 1976, in order to curb the opportunities for any individual to gain or be perceived to have gained undue influence as a result of large campaign contributions; in short, these limits were aimed at curbing what had come to be known as "fat cats."

The role of individual citizens in elections is a cornerstone of our political process, and it is one for which there is widespread support. (We distinguish here between individuals contributing directly to candidates, as opposed to giving through intermediaries like PACs or parties, the latter raising generally different issues.) The disagreements arise over just where to draw the line between encouraging individuals to play an appropriate role and allowing opportunities for individuals to gain undue influence in elections. To many observers, the role of individuals in the financing of campaigns has been unduly restricted by the various limits, particularly in view of the effects of inflation since they were set and in view of the clearly

increasing role played by PACs. According to one study, contributions from individuals constituted 73 percent of House candidate receipts in 1974, declining to 47 percent in 1984, while the proportion of such contributions fell from 76 percent to 61 percent for Senate candidates during this same period. 4/

Support for augmenting the role of individuals giving as individuals (as opposed to aggregating money through parties or PACs) comes from some who see individuals as an important counterweight to the role of PACs and from others, not particularly bothered about PACs, who see the role of individuals as critical, in and of itself. Generally these proposals involve either raising limits or providing (greater) tax incentives for individual contributions.

Raising limits would appear to make sense from the standpoint that the existing limits are worth a bit less than half of what they were when set in the mid-1970s, thereby constituting less meaningful boundaries today between "fat cat" and modest contributor. Also, raising limits on individual contributions would theoretically circumscribe the importance of PAC money, in an indirect manner, with a reduced prospect of encouraging independent expenditures. However, one may question whether, even with inflation in the past decade, a \$1,000 contribution isn't still beyond the reach (or willingness) of the vast majority of taxpayers (even if the contribution is given in smaller monthly sums).

Regarding tax incentives, some proposals call for increasing the maximum dollar amount of tax credits (existing through January 1, 1987), while others envision a new credit for the full value of small donations. These proposals are aimed solely at the small contributor, whereas the increased limits would

4/ Conlon, Richard P. The Declining Role of Individual Contributions in Financing Congressional Campaigns. Prepared for Conference on Campaign Financing, University of Virginia Law School, Apr. 3-4, 1986. pp. 37, 41.

affect the more affluent individuals. They would likely add a substantial cost to taxpayers, however, and in view of the phased-out tax incentives under the tax reform legislation of 1986, the current climate would appear less favorable for their enactment. Uncertain is what dampening effect the elimination of a tax credit for political contributions will have on campaign giving, particularly among small contributors.

Raising Individual Contribution Limits

Thirteen legislative proposals in the 98th and 99th Congresses would increase existing limits on individual contributions to candidates; some of them also raise the limit on contributions to political committees and on the aggregate total of all Federal contributions. Among these was the Senate-passed Boren Amendment to S. 655 (99th Congress), which increased the per candidate limit from \$1,000 to \$1,500. The remaining 12 bills set the per candidate limit as follows:

- * S. 732 (Gorton, 98th Congress)--\$2,000
- * S. 1185 (Rudman, 98th Congress)--\$2,500
- * H.R. 2959 (Hamilton, 98th Congress)--\$3,500
- * H.R. 2976 (Corcoran, 98th Congress)--\$3,000
- * S. 1433 (Boren, 98th Congress)--\$2,500 (only to congressional candidates)
- * H.R. 3262 (Synar/Anthony, 98th Congress)--identical to S. 1433
- * H.R. 3610 (Lantos, 98th Congress)--identical provision to S. 1433
- * S. 297 (Boren, 99th Congress)--identical provision to S. 1433
- * H.R. 2906 (Grotberg, 99th Congress)--\$3,000
- * S. 1806 (Boren, 99th Congress)--\$1,500

* H.R. 3799 (Synar et al., 99th Congress)--identical to S. 1806

* H.R. 4464 (Howard, 99th Congress)--\$1,500

These bills would raise the per candidate limit to a range from \$1,500 to \$3,500, with some limiting the increase only to congressional candidates.

Four of the 12 bills listed above would also raise the aggregate annual limit on individual contributions from \$25,000 to \$30,000 (S. 1185--Rudman, 98th Congress) or to \$50,000 (S. 732--Gorton, 98th Congress; H.R. 2976--Corcoran, 98th Congress; H.R. 2906--Grotberg, 99th Congress). Three of these would also raise the limit on contributions to national party committees from \$20,000 to \$40,000 per year (S. 732--Gorton, 98th Congress; H.R. 2976--Corcoran, 98th Congress; H.R. 2906--Grotberg, 99th Congress). Finally, two of them would raise the limit on contributions to other political committees (including PACs) from \$5,000 to \$10,000 (S. 732--Gorton, 98th Congress; H.R. 2906--Grotberg, 99th Congress).

In essence, all of these proposals attempt to strike a new balance between what are deemed appropriate and what are deemed excessive levels of political contributions by individual citizens. In view of both inflation and the relative role of individuals vis-a-vis other funding sources, it may well be seen as a sensible adjustment. Reservations may be voiced, however, not only with regard to whether the balance might shift back toward the previous perception of "fat cat" dominance, but as to whether the more affluent individuals who would thus benefit are not in fact representing "special interests", no less than are PACs. And, whereas PAC money may be readily connected through public disclosure to its source and its interest, large individual donations are not nearly as easily traced with these questions in mind.

Increasing the Value of Tax Incentives

From 1972 to 1986, taxpayers could claim a tax credit of half the value of all political contributions up to \$50, or \$100 on joint returns (these specific amounts went into effect in 1979). Three proposals were made in the 98th Congress which would increase the maximum amount of credits which could be claimed, as a means of encouraging (small) individual donations. These were:

* H.R. 2976 (Corcoran, 98th Congress)--quadruples maximum amount of credits, from \$50 to \$200 (individual) and from \$100 to \$400 (joint returns)

* H.R. 3172 (McCollum, 98th Congress)--increases maximum amount of credits tenfold, from \$50 to \$500 (individual) and from \$100 to \$1000 (joint returns)

* H.R. 3610 (Lantos, 98th Congress)--doubles maximum amount of credits, from \$50 to \$100 (individual) and from \$100 to \$200 (joint returns)

In light of enactment of the tax reform legislation in 1986 and the elimination of tax credits for political contributions after that year, these proposals would now appear to be moot.

Establish a 100 Percent Tax Credit for Small Individual Contributions

Beyond the general concern that the individual contributions component of campaign receipts has shrunk in recent years is the particular concern that small individual donations have been most affected by (or responsible for) these trends. The same study referred to earlier showed that contributions from individuals in amounts of under \$200 declined from 50 percent to 22 percent of House candidate receipts between 1974 and 1984, while the comparable level among Senate candidates fell from 41 percent to 26 percent during this period. 5/

5/ Ibid.

To some observers, these data signal a need to encourage not just individual contributions across the board, but to target the incentives to only small donations, which, in theory, represent grassroots participation, relatively free of the perceived drawbacks of "interested" money (i.e., donations made with a clear understanding between donor and recipient of what public policy interests are being espoused). The idea of allowing taxpayers to take a full credit on the value of small donations thus gained appeal, as a means of providing the ultimate incentive for those willing to contribute--that their contribution would cost them nothing at all.

Five proposals featuring a 100 percent tax credit (apart from those linked to a public funding system with spending limits, discussed later in this report) were offered in the 98th and 99th Congresses. One of these passed the House on December 17, 1985 (by a 230-196 vote), as an amendment to H.R. 3838, the tax reform legislation. The McHugh Amendment replaced the existing tax credit with a full credit on the value of direct (not "bundled") contributions to House and Senate candidates in the donor's State, up to \$100 (\$200 on joint returns). This provision was deleted in House-Senate conference on the tax bill. The other four proposals were:

* H.R. 2833 (Pease, 98th Congress)--adds an additional credit on the full value of contributions to House and Senate candidates in the donor's State or district, up to \$10 (\$20 on joint returns)

* H.R. 3737 (McHugh/Conable, 98th Congress)--replaces existing credit with a full credit on the value of contributions to House and Senate candidates in donor's State, up to \$50 (\$100 on joint returns)

* H.R. 889 (Pease, 99th Congress)--identical to H.R. 2833

* H.R. 3780 (McHugh et al., 99th Congress)--replaces existing credit with a full credit on the value of contributions to House and Senate candidates in donor's State, up to \$100 (\$200 on joint returns)

Although some of these proposals differed in the amount of maximum credit, they all limited the use to only House and Senate candidates in the donor's State, if not the donor's own congressional district. It could be argued that, not only would small donations be encouraged, but the linkage between constituents and their elected representatives would be fostered, as well.

While there is little doubt that such a plan would be an incentive to individual contributors, there is no way of accurately gauging to what extent this would in fact be the case. Because of the potentially significant costs to the Government of this proposal, this difficulty in predicting costs is of concern. Some observers note that, just as it has never been proven to what extent the current tax credit has served as an inducement to contributions, as opposed to merely an unanticipated "reward" for expected behavior patterns, it is not clear whether sufficient numbers of new contributors would be generated by such a plan--even with its greater inducement value--to warrant its potentially considerable and unpredictable costs.

D. Boosting the Role of Political Parties

An area which some view as central to the entire debate over campaign financing lies in the role of the major political parties in the electoral process. Many observers believe that the strength of the party system has been weakened in recent decades by a number of factors, including the limitations on their ability to assist their candidates under the FECA. Whereas many disagree over whether PACs are exerting too great a role in elections, few would disagree that the parties have a beneficial role to play, both in promoting greater cohesiveness among party members in the policymaking process and in providing a readily available and "untainted" source of financial and other campaign assistance to its candidates. Particularly in light of the debate

over whether candidates are too reliant on special interests, these observers insist that the parties ideally offer candidates a refuge from special interest pressures, by channeling resources through more broadly-based, mediating structures.

Current law allows for two principal means through which political parties may directly provide financial assistance to their candidates for Federal office; both of these forms of spending are subject to limits. The first is direct contributions, to which party committees are subject to the same limits as other political committees (\$1,000 or \$5,000 per candidate, per election, depending upon whether or not it is a multicandidate committee); a special limit of \$17,500 applies to contributions by the national and senatorial campaign committees (combined) to their Senate candidates, in the year of the general election.

A more substantial opportunity for financial assistance exists in the form of coordinated expenditures, whereby the party pays for certain campaign services (e.g., TV ads, polls, etc.) in conjunction with the candidate's organization. These expenditures, which may only be made on behalf of general election candidates, are limited as follows: for Presidential and Vice-presidential nominees--two cents times the voting age population (VAP) plus an adjustment for inflation (based on 1974 dollars); for House candidates in States with more than one district--\$10,000 plus an adjustment for inflation; and for Senate candidates (and at-large House candidates)--the greater of \$20,000 plus adjustment for inflation or two cents times the VAP plus adjustment for inflation. In 1984, the party limit for Presidential nominees was \$6.9 million; in 1986, the limit for House nominees was \$21,810 and for Senate nominees ranged from \$43,620 to \$851,681. Because the limits in congressional races apply separately to national and State party committees (and one may transfer its authority to the other), the limits are effectively

doubled; thus, in 1986, the party committees could make coordinated expenditures of up to \$43,620 on behalf of House nominees and between \$87,240 and \$1,703,362 on behalf of Senate nominees.

Critics contend that the FECA's restrictions on the parties' ability to assist their candidates has hampered their ability to serve as a useful counterforce to the growing role played by PACs in elections. The same study on funding sources cited earlier shows a somewhat steady, but modest role by parties among other sources in House and Senate campaigns, ranging from four to seven percent in the former and from three to ten percent in the latter, during the past decade. 6/ Even when calculating the party share of overall receipts by including the coordinated expenditures in the base amount, these data reveal what is--to some--too modest a role in campaign financing.

Two considerations have a significant bearing on the debate over the party role in campaign financing. First, the contributions and coordinated expenditures do not represent the extent of services by parties to candidates. Candidate training schools, opposition research, polling, and generic party media advertisements are some of the services typically provided to candidates by the party committees, which to a large extent are not allocable expenses and, hence, are not reflected in the contributions or expenditures totals. They are substantial benefits nonetheless. Second, there is a significant gap between the levels of resources of the two major political parties. As of the pre-election reporting period of the 1986 election cycle, the three major Republican national party committees had raised \$190.9 million, compared with \$37.7 million by their Democratic counterparts during this period. 7/ Therein lies an essential underlying factor in the debate over the party role--even

6/ Ibid.

7/ U.S. Federal Election Commission. FEC Reports Financial Status of National-Level Party Committees [press release]: Oct. 29, 1986.

though there is wide agreement in theory on loosening restrictions on the parties' role, as long as the Republican Party maintains its sizeable advantage in resources, it is seen as unlikely that many Democrats will accept giving the parties significantly greater leeway to assist their candidates.^{8/}

Raising or Removing Limits

Nine bills in the 98th and 99th Congresses include provisions to boost the party role in campaign funding, featuring a raising or removal of the contribution and/or coordinated expenditure limits. The following bills dealt with party contribution limits:

- * S. 732 (Gorton, 98th Congress)--triples contribution limit for Senate candidates, from \$17,500 to \$52,500
- * H.R. 2959 (Hamilton, 98th Congress)--increases limit on contributions by national party committees to House candidates from \$20,000 (combined) to \$60,000 and to Senate candidates from \$17,500 to \$50,000, over a three-election cycle period; indexes limits for inflation
- * H.R. 2976 (Corcoran, 98th Congress)--removes limits on contributions to congressional candidates
- * H.R. 3081 (Frenzel et al., 98th Congress)--increases party contribution limit from \$5,000 to \$15,000 and the limit for Senate candidates from \$17,500 to \$30,000
- * S. 1350 (Laxalt/Lugar, 98th Congress)--identical to H.R. 3081
- * S. 1072 (Gorton, 99th Congress)--identical provision to S. 732
- * H.R. 2906 (Grotberg, 99th Congress)--removes limits on contributions to congressional candidates in general/special elections
- * H.R. 3863 (Frenzel et al., 99th Congress)--identical provision to H.R. 3081

^{8/} Some have posed the question of whether the lack of aggregate financial parity between the two major parties might not be responsible for at least some of the ongoing debate.

* S. 1891 (Heinz et al., 99th Congress)--identical provision to H.R. 3081

Coordinated expenditure limit proposals were as follows:

- * S. 732 (Gorton, 98th Congress)--triples coordinated expenditure limits for congressional candidates
- * H.R. 2959 (Hamilton, 98th Congress)--increases base for coordinated expenditures for House candidates from \$10,000 to \$18,000 and for Senate candidates from two cents to four cents, over a three-election cycle period
- * H.R. 2976 (Corcoran, 98th Congress)--removes limits on coordinated expenditures for congressional candidates
- * H.R. 3081 (Frenzel et al., 98th Congress)--increases coordinated expenditure base for Presidential candidates from two cents to three cents; removes coordinated expenditure limit for congressional candidates
- * S. 1350 (Laxalt/Lugar, 98th Congress)--identical to H.R. 3081
- * S. 1072 (Gorton, 99th Congress)--identical provision to S. 732
- * H.R. 2906 (Groberg, 99th Congress)--removes limits on coordinated expenditures for congressional candidates
- * H.R. 3863 (Frenzel et al., 99th Congress)--identical provision to H.R. 3081
- * S. 1891 (Heinz et al., 99th Congress)--identical provision to H.R. 3081

The following bills contain provisions enhancing the parties' role by allowing unlimited national party expenditures for grassroots campaign materials (as State parties are currently permitted to do) and allowing unlimited (and unrestricted) contributions to party committees to defray administrative, overhead, and fundraising costs:

- * H.R. 3081 (Frenzel et al., 98th Congress)
- * S. 1350 (Laxalt/Lugar, 98th Congress)
- * H.R. 3863 (Frenzel et al., 99th Congress)
- * S. 1891 (Heinz et al., 99th Congress)

Finally, the following bills have provisions allowing greater levels of contributions to the national party committees:

* H.R. 2959 (Hamilton, 98th Congress)--removes the current \$20,000 limit on individual contributions to national party committees (while retaining the aggregate \$25,000 limit); increases multicandidate PAC limit on contributions to party committees from \$15,000 to \$35,000, and indexes limit for inflation

* H.R. 2976 (Corcoran, 98th Congress)--doubles the limit on contributions by individuals and non-multicandidate committees to national party committees, from \$20,000 to \$40,000

* H.R. 2906 (Grotberg, 99th Congress)--doubles the limit on contributions by individuals and non-multicandidate committees to national party committees, from \$20,000 to \$40,000

These proposals share a common perspective that the political parties serve a vital and beneficial function in the political system and hence should be accorded a status under the FECA which is, if not privileged, at least not below or on the same level with special interest PACs. An underlying premise of the law is that contributions by parties must be circumscribed, just as those by interest groups or wealthy individuals, and therein lies the philosophical grounds for this debate.

Granting Special Tax Incentives for Contributions to Parties

Although tax credits for political contributions no longer exist as of January 1, 1987, one proposal in the 98th Congress favored eliminating the existing credit except for contributions to political parties:

H.R. 3737 (McHugh/Conable, 98th Congress)

This provides another example of the use of tax incentives to encourage contributions to only those sectors which are deemed to be playing an undisputedly beneficial role in the political system.

II. LEVEL OF CAMPAIGN EXPENDITURES

If the source of campaign money is an overriding issue in the debate over campaign financing, the level of campaign expenditures--the amount spent by candidates to get elected--is an issue of comparable significance and one that is closely interrelated with the former. To many observers, the amount of money spent in elections today is arguably corrupting the political system--forcing candidates and officeholders to spend increasing amounts of time raising money, possibly creating pressure on them to rely on affluent individuals and special interests for campaign assistance, conceivably deterring candidates without personal fortunes from attempting to run for office, and leaving an impression among some in the electorate that elections are "bought and sold."

According to one authority, an estimated \$1.8 billion was spent on all elections in the U.S. in 1984 (\$986.5 million in constant 1976 dollars, based on CPI), compared with an estimated \$540 million in 1976. ^{9/} Candidates for the House and Senate spent a total of \$115.5 million in 1976, climbing to \$374.1 million in 1984; based on preliminary data, an estimated \$425 million was spent in 1986 (\$220.5 million in constant 1976 dollars). The average cost for a winning House candidate rose from \$87,200 in 1976 to \$288,636 in 1984 (\$158,189 in constant 1976 dollars); the average cost for a successful Senate

^{9/} Estimates by Herbert Alexander, Citizens' Research Foundation. In Center for Responsive Politics. Money and Politics: Campaign Spending Out of Control. Washington, Center for Responsive Politics, 1985. p. 3.

candidate increased from \$609,100 to \$2,954,545 (\$1,619,254 in constant 1976 dollars) during this period. ^{10/}

The issue of what are perceived to be excessive amounts of money spent on elections arises in good measure from the dichotomous campaign finance system (for congressional elections) in which sources of funds are limited but campaign expenditures are not. As stated earlier, this situation is the result of the Supreme Court's ruling in Buckley v. Valeo [424 U.S. 1 (1976)], striking down campaign spending limits except as part of a public finance system. Hence, candidates for President who opt to participate in the public funding system are subject to a series of campaign spending limits; congressional candidates are restrained by no such limits, as public funding is not available in those elections.

Most of the proposals in this section deal with some form of public financing, linked with limitations on campaign spending. It is for the latter reason that they are included in this section, rather than the previous one on funding sources. Apart from public finance proposals, this section includes some providing for free media, for a constitutional amendment to limit campaign spending, and a measure to impose limits without regard to the Buckley ruling.

It should be stated at the outset that not all observers express concern over the level of campaign expenditures today. They note that it is not out of line with the cost of other goods and services today, and that Americans spend less on elections than they do on common household products. The \$1.8 billion spent on elections in 1984 constituted only a fraction of the \$1.4 trillion spent by governments at all levels; the amount spent to elect the President and Congress in 1984--\$699.1 million--was less than that spent by Proctor & Gamble

^{10/} Calculated from: U.S. Federal Election Commission. FEC Releases Final Report on 1984 Congressional Races [press release]: Dec. 8, 1985. p. 2.

(the Nation's leading advertiser) in promoting its products that year. ^{11/} Surely, they insist, the education of the electorate about those who seek to make critical decisions affecting their lives is worth at least what it costs to sell soap or toothpaste or other goods and services. If the cost of politics is higher today than in years past, they argue, it is because the cost of communication in an era of television is high; this, along with the dominance of TV in our lives, is simply a fact of life in America today. Rather than spending too much on elections, some insist we do not spend enough, and that a more serious problem is the inability of many challengers to raise sufficient funds to wage competitive races. Finally, these observers maintain that the proposed solutions to the high cost of elections would yield results even more troubling than the perceived problems.

A. Public Funding Linked to Spending Limits

To many critics of the current system, public funding of congressional elections is the ultimate solution. Not only would it enable the Government to curb spending costs, but by limiting (or eliminating) the acceptance of private sources of money, it would address the issues surrounding the reliance on special interests in getting elected. In fact, from the time public financing was first proposed by President Theodore Roosevelt in 1907 until the Buckley ruling, the impetus for passage stemmed from the concern over the source of campaign money, not the overall amount spent. In view of the Buckley decision, however, it appeared that public financing offered the only realistic means of controlling campaign expenditures in congressional elections, and the impetus for such a plan has appeared to shift more toward the level of spending than

^{11/} Alexander, Herbert E. The High Cost of Politics. In Center for Strategic Studies. Electing the President: A Program for Reform. Final Report of the Commission on National Elections. Washington, 1986. p. 61.

the source (although the latter is obviously closely related). Indeed, this apparent political reality has led some who have reservations over public financing to support it, as a last resort to curb rising campaign costs. (Most public funding plans envision funding through the voluntary taxpayer dollar checkoff--perhaps at an increased level, but funding through the regular appropriations process is an alternative option.)

Public financing is not a new concept at this point. Presidential elections have been publicly funded since 1976, with matching funds available in primaries and full subsidies provided (to major party nominees) in general elections, and full subsidies to the parties for costs of the nominating conventions. Proposals for publicly funded congressional elections have been offered in Congress since the mid-1950s, and twice--both times in the 93rd Congress--the Senate passed such a system: in 1973, it added an amendment to H.R. 11104, providing full subsidies to (major party) candidates for House and Senate in general elections, and in 1974, it included a provision in S. 3044 to provide matching funds in House and Senate primaries and full subsidies (to major party nominees) in House and Senate general elections; both provisions were later deleted in conference.

Not only do public finance supporters see it as a means of curbing reliance on private money and as a necessary tool to control campaign costs, they believe that it is appropriate that the public business should be conducted with the public's money. Furthermore, by making public funds available in elections where one candidate or party is normally heavily favored, it might inject some competitiveness into elections where there might otherwise be very little.

Opponents of public financing say that it is inappropriate to allow legislators to devise the system by which they themselves must seek election. They assert that it would distort elections by imposing the same system on 50

different States with different degrees of competitiveness in individual races and by providing even greater advantages to incumbents than already exist, thereby decreasing the competitiveness of elections. In view of the relatively low rate of participation in the voluntary dollar checkoff for the existing Presidential system (roughly one-fourth of taxpayers check "Yes"), they see little evidence that the public favors such a plan. And the added costs to the taxpayers in an era of budget deficits and cost consciousness make it an inappropriate suggestion at this time, they maintain.

Two considerations in this area bear mentioning at the outset. First, the issue of whether public financing would constitute an "incumbent protection" measure has been debated for some time. It is generally believed that spending limits, equally applied to both candidates in a race, would tend to work to the advantage of the incumbent, who begins with greater name recognition and the resources associated with his or her office. While the spending limit aspect of a public finance system may thus help incumbents more than challengers, it is also possible that public subsidy provisions could assist the challenger more than the incumbent, especially in those races where the challenger is, as is often the case, greatly underfunded by comparison with the incumbent. So this issue seems to cut both ways.

Second, all public finance measures in recent Congresses have excluded coverage of primary elections. This has been the case not so much because the sponsors do not favor such coverage but more reflective of strategic decisions about the reduced likelihood of enacting a more complicated and more expensive system. Many of these sponsors have stated that they would settle for public funding in general elections for now and hopefully later return to the primary issue after some experience with a general election system. To some, however, the lack of inclusion of primaries represents a serious flaw in recent proposals, with the prospect of private money entering the electoral system

earlier and expenditures aimed at influencing the general electorate made during primaries, all to evade the restrictions of the general election system. Whether this prospect might seriously undermine the integrity of the general elections is an added consideration for policymakers.

Full Public Subsidies with Spending Limits

Three proposals in the 99th Congress would establish a system of public funding in congressional general elections similar to that in Presidential general elections--full public grants to major party nominees, spending limits equal to the amount of that subsidy and hence no money from private sources allowed, limits on expenditures from personal and family funds, and lesser subsidies available to minor party candidates (according to their past electoral record, with the subsidy in the same ratio to the major party subsidy as were the votes received by the minor party to the average of those received by the major parties in the previous election for that office).

One of these bills would apply to House general elections only:

* H.R. 3806 (Beilenson et al., 99th Congress)--provides grants of \$200,000 to major party nominees and a lesser amount to qualifying minor party candidates; limits overall spending to \$200,000; limits personal expenditures to \$10,000; provides an additional subsidy to participating opponents of candidates who do not participate, equal to the amount by which the non-participant exceeds the spending limit

The other two bills would apply only to Senate general elections, with amount of subsidies and limits tied to the voting age population (VAP) in the State:

* S. 1787 (Mathias/Simon, 99th Congress)--provides grants to major party nominees of \$500,000 in States with a VAP of 1 million or less, 50 cents times the VAP in States with a VAP between 1 and 3 million, and 30 cents times the VAP in States with a VAP of more than 3 million (but not less than \$1.5 million); provides a lesser subsidy to minor party nominees; limits overall spending to amount of grant to major party candidates; limits personal expenditures to \$20,000; provides an additional subsidy to participating

opponents of candidates who do not participate, equal to the amount by which the non-participant exceeds the spending limit

* S. 1789 (Kerry, 99th Congress)--identical to S. 1787 (except for provision eliminating tax credits for political contributions, as a means of paying for this system)

Systems with flat grants offer the advantage of simplicity but run the risk of setting limits which do not adequately account for the nature of each contest. While \$200,000 may be sufficient in most House elections, it may fall far short of what is typically needed in an open seat race or an otherwise closely competitive contest. (While the average House candidate in the 1984 general elections spent \$217,000, the average spent by a candidate in an open seat was \$353,000.) On the Senate side, population alone may not be a sufficient variable in setting fair spending limits in each State.

One concept present in these bills which is absent from the Presidential system is the disincentives to candidates who choose not to participate and who may then exceed the spending limits associated with accepting public funding. Particularly because spending limits were set on the low side in these bills, it was thought necessary to include such disincentive provisions, lest candidates choose not to be restricted by the limits, free of any repercussions (aside from possible criticism in the press). Providing additional funds, or allowing for supplementary private funding, to participating candidates facing non-participating opponents offers protection against being greatly outspent and presumably could deter candidates considering not participating. A potential problem with these disincentives (and those discussed later) are the increased costs they would add to a public funding system (costs not easily predicted).

Matching Funds with Spending Limits

Twelve bills in the 98th and 99th Congresses would establish a matching fund system in congressional general elections, similar to that in existence in Presidential primaries, with the amount of public subsidies tied to the extent to which candidates raise small donations from individuals. The matching fund approach would generally be less expensive than the full grant approach, and it offers the advantage of linking the receipt of public money with a demonstration of voter appeal by the candidate (hence ameliorating the problem of funding "frivolous" candidacies). For some supporters of public financing, the matching fund plan is less desirable than the full grants, because it only curbs but does not eliminate private sources of money.

Six of these bills apply only to House general elections:

* H.R. 2490 (Obey/Leach/Glickman, 98th Congress)--matches \$100 donations from individuals (at least 75% must be in-State), up to \$100,000; limits overall campaign spending to \$200,000 (plus 10% for fundraising costs); limits candidate expenditures to \$20,000; removes expenditure limits and provides a two-for-one match of donations to participating candidate whose opponent does not participate; if a participating candidate is opposed by independent expenditures of more than \$5,000, provides for either free broadcast response time or public funds equal to those expenditures

* H.R. 3812 (Green, 98th Congress)--matches \$150 donations from individuals (at least 80% must be in-State), up to \$90,300; limits overall campaign spending to \$222,000 (plus \$22,200 for one pre-election mailing); limits candidate expenditures to \$37,000; removes expenditure limits and provides an additional match of up to \$88,800 to participating candidate whose opponent does not participate and exceeds either personal spending limit or raises or spends more than \$111,000; if independent expenditures or communications costs (by unions, etc.) are made in excess of \$74,000, limits are removed on participating candidates who benefit from less than one-third of such expenditures

* H.R. 2844 (St. Germain, 99th Congress)--identical to H.R. 2490

* H.R. 4072 (LaFalce, 99th Congress)--matches \$100 donations from individuals (at least 75% must be in-State),

up to \$125,000; limits overall campaign spending to \$250,000; limits candidate expenditures to \$50,000; removes expenditure limits on participating candidate whose opponent does not participate; if a participating candidate is opposed by independent expenditures of more than \$5,000, provides for public funds equal to those expenditures

* H.R. 4386 (Green, 99th Congress)--matches \$150 donations from individuals (at least 80% must be in-State), up to \$100,700; limits overall campaign spending to \$248,000 (plus \$24,800 for one pre-election mailing); limits candidate expenditures to \$41,400; removes expenditure limits and provides an additional match of up to \$99,200 to participating candidate whose opponent does not participate and exceeds either personal spending limit or raises or spends more than \$124,000; if independent expenditures or communications costs (by unions, etc.) are made in excess of \$83,000, limits are removed on participating candidates who benefit from less than one-third of such expenditures

* H.R. 5382 (Levine/Miller, 99th Congress)--matches \$100 donations from individuals (all must be in-State), up to \$100,000; limits overall campaign spending to \$350,000; limits candidate expenditures to \$20,000; removes expenditure limits and provides continuing matching of donations to participating candidate whose opponent does not participate; if a participating candidate is opposed by independent expenditures of more than \$5,000, provides for public funds equal to those expenditures

These bills all match individuals donations of either \$100 or \$150 or less, with between 75 and 100 percent required from in-State donors. The spending limits range from \$200,000 to \$350,000, with the limit on matching funds ranging from 35 to 50 percent of the spending limit. Expenditures from personal and immediate family funds are limited to between \$10,000 and \$50,000. All of the bills allow for a lifting of the spending limits if an opponent (defined as a major party opponent, or alternatively one who has raised a certain level of funds) does not participate, with most allowing additional matching funds (H.R. 2490 allows a two-for-one match); this additional match is limited in all but H.R. 5382. In order to prevent independent expenditures from unfairly disadvantaging participating candidates, most bills allow for additional public funds equal to the amount of independent expenditures either opposing the participating candidate or supporting his opponent, with some

providing an alternative option of free broadcast response time; the Green bills provide simply for the lifting of spending limits if either excessive independent expenditures or internal communications (an important political tool of organized labor) are spent in opposition to that candidate.

Six bills in these two Congresses providing matching funds only in Senate general elections:

* S. 85 (Dixon/Dodd, 98th Congress)--matches \$100 donations from individuals (at least 80% must be in-State), up to half the spending limit; limits overall campaign spending to \$250,000 plus 15 cents times the VAP (with out-of-state broadcast exemption); limits candidate expenditures to \$35,000; removes expenditure limits and provides for additional matching funds (up to half the spending limit) to participating candidate whose opponent does not participate or who is opposed by independent expenditures or communications costs of more than one-third the spending limit and has benefitted from less than one-third of them

* S. 151 (Proxmire, 98th Congress)--matches \$100 donations from individuals (at least 80% must be in-State), up to half the spending limit; limits overall campaign spending to \$600,000 plus 5 cents times the VAP (with out-of-state broadcast exemption); limits candidate expenditures to \$50,000; removes expenditure limits and provides a two-for-one match of donations to participating candidate whose opponent does not participate; if a participating candidate is opposed by independent expenditures or communication costs of more than \$5,000, provides for public funds equal to those expenditures

* S. 2283 (Mathias, 98th Congress)--matches \$100 donations from individuals (at least 80% must be in-State), up to half the spending limit; limits overall campaign spending to \$200,000 plus 16 cents times the VAP (with out-of-state broadcast exemption); limits candidate expenditures to \$35,000; removes expenditure limits and provides for additional matching funds (up to half the spending limit) to participating candidate whose opponent does not participate or who is opposed by independent expenditures or communications costs of more than one-third the spending limit and has benefitted from less than one-third of them

* S. 2415 (Mitchell, 98th Congress)--matches \$100 donations from individuals, up to half the spending limit; limits overall campaign spending to \$500,000 plus 15 cents times the VAP; limits candidate expenditures to \$35,000; removes expenditure limits and provides continuing matching of donations to participating candidate whose opponent does not participate; if a participating candidate is opposed by

independent expenditures of more than 5% of the spending limit, provides for public funds equal to those expenditures

* S. 2016 (Dixon, 99th Congress)--identical to S. 85

* S. 2131 (Mitchell, 99th Congress)--identical to S. 2415

These bills all match individuals donations of \$100 or less, with all but the Mitchell bills requiring 80 percent to have come from in-State donors. The spending limits range from \$200,000 plus 16 cents times the VAP to \$500,000 plus 15 cents times the VAP, with the limit on matching funds at 50 percent of the spending limit. An important feature in several of the Senate bills is the inclusion of only those broadcast costs under the spending limit which can be allocated to voters in that State; this was intended to ameliorate the problem arising when large media expenditures are made in a media market which includes several States (e.g., a large portion of media buys in a New Jersey election reach many voters in New York and Pennsylvania). Expenditures from personal and immediate family funds are limited to between \$35,000 and \$50,000. All of the bills allow for a lifting of the spending limits if an opponent (defined as a major party opponent, or alternatively one who has raised a certain level of funds) does not participate, with all allowing additional matching funds (S. 151 allows a two-for-one match); this additional match is limited in some of the bills. To combat the effects of independent expenditures, these bills allow for either additional public funds equal to the amount of independent expenditures opposing the participating candidate or supporting his opponent or a lifting of spending limits with additional matching funds for donations raised; some of the bills include communications costs in this provision.

In general, matching fund systems offer the advantage of not having to make difficult judgments about who is and is not a "serious" candidate, with the meeting of fundraising thresholds and the continuing raising of small donations considered an adequate means of so doing. A problem with this

approach is the same as with flat grants--the spending limits which do not distinguish between districts, election contests, etc.

100 Percent Tax Credits for Contributions to Candidates Who Abide by Limits

Three bills in the 98th and 99th Congresses adopt the approach to public funding of providing a grassroots fundraising incentive to candidates who agree to limit their expenditures. This incentive would be in the form of a 100 percent tax credit for contributions to participating candidates. Such a tax credit is a form of public funding, except that it is administered from the ground up, rather than in reverse; supporters see this as an important benefit. Presumably, the prospect of raising small donations much more easily would provide sufficient incentive for candidates to agree to limit spending. From the perspective of the political system, supporters would argue, the best kind of political money is that from individual citizens in small amounts.

One bill would apply only to House general elections:

* H.R. 4428 (Obey/Leach/Synar, 98th Congress)--provides a full tax credit of up to \$100 for contributions to a candidate (\$200 to all qualified candidates, doubled on joint returns) who raises a threshold amount in donations (at least 80% in-State) and agrees to limit overall campaign expenditures to \$240,000 and personal expenditures to \$20,000; limits removed and lower postal rates (the same as available to party committees) would be provided to participating candidates whose opponents do not participate; provides either free response time or lower postal rates to candidates opposed by independent expenditures

Two bills would apply only to Senate general elections:

* S. 323 (Proxmire, 99th Congress)--provides a full tax credit of up to \$100 for contributions to a candidate (\$200 to all qualified candidates, doubled on joint returns) who raises a threshold amount in donations (at least 80% in-State) and agrees to limit overall campaign expenditures to \$600,000 plus 5 cents times the VAP (with out-of-state broadcast exemption) and personal expenditures to \$50,000; limits removed and lower postal rates (the same as

available to party committees) would be provided to participating candidates whose opponents do not participate; provides lower postal rates to candidates opposed by independent expenditures

* S. 471 (Dodd/Melcher, 99th Congress)--provides a full tax credit of up to \$100 for contributions to a candidate (\$200 to all qualified candidates, doubled on joint returns) who raises a threshold amount in donations (at least 80% in-State) and agrees to limit overall campaign expenditures to \$500,000 plus 15 cents times the VAP and personal expenditures to \$35,000; limits removed and lower postal rates (the same as available to party committees) would be provided to participating candidates whose opponents do not participate; provides free response time or lower postal rates to candidates opposed by independent expenditures

These bills are structured very much like other public funding bills, with limits on overall and personal spending, disincentives to non-participation by candidates, and compensation to participating candidates opposed by independent expenditures. They differ from other public funding bills in their provision of 100 percent tax credits to contributors rather than direct subsidies to the candidates.

Public Subsidies for Media Expenditures with Limits

Two identical bills in the 98th and 99th Congresses proposed public subsidies for specified allotments of advertising costs in House general elections, provided that the candidate limit advertising expenditures to the amount of the specific subsidies and not accept any contributions from PACs. This proposal seeks to subsidize and thereby control expenditures for media time (and space), the single largest component of the typical campaign budget and the biggest single factor in the rise of campaign costs in recent years. These bills are:

* H.R. 1893 (Jacobs, 98th Congress)--provides for allotments of advertising time and space to House general election candidates who accept no PAC donations and who agree not to make additional expenditures for purposes for which an allotment is received; provides 90 minutes of TV

time and 135 minutes of radio time (in segments of at least 5 minutes), the greater of 126 column inches or 1 page of newspaper space (in blocks of at least 10 inches), and all costs of installation of phones and other equipment for question-and-answer formats on TV or radio; FEC certifies charges, to be payed by Treasury to vendor

* H.R. 122 (Jacobs, 99th Congress)--identical to H.R. 1893

By providing subsidies specifically for media costs, these proposals may escape some of the potential problems associated with public subsidies for general campaign costs and also focus on what many consider the biggest single problem in campaign financing--the high cost of media. The proposal does not, however, escape one major objection to public funding plans--the equal distribution of benefits to all candidates and the tendency thereof to provide an advantage to the incumbent or better-known candidate. In addition, some observers note numerous and complex problems associated with districts in high density, high cost media markets, which may cause complications in implementing this plan.

Lower Postal Rates for Candidates Who Agree to Spending Limits

Another proposal which seeks to draw candidates into acceptance of campaign spending limits is one which offers participating candidates lower postal rates--those currently available to political party committees. The proposal applies only to House general election candidates:

* H.R. 2005 (Brown, 98th Congress)--provides lower postal rate to candidates who raise threshold level of funds, agree to limit overall campaign expenditures to \$180,000 and personal expenditures to \$20,000, and who submit content of mailings for review by opposing candidate and local election review board; mailings may be blocked if found to be libelous, not documented, or containing deliberately and maliciously misleading language

Apart from the potential logistical problems in a prior review of campaign literature by opponents, one may raise questions as to the extent a lower postal rate may serve as a sufficient inducement to candidates to limit their

campaign spending. Postage is not the largest component in a typical campaign budget, although it may well be more important in House races than in Senate races, especially in high-density media markets where media costs are seen as often prohibitively expensive. (It should be noted here that, as discussed in the section on 100 percent tax credit/spending limits proposals, S. 323-- Proxmire, 99th Congress--provided the lower postal rate to opponents of candidates who exceeded spending ceilings.)

Conditional Public Subsidies to Opponents of Candidates Who Exceed Limits

A unique approach to public funding and spending limits was engendered in one proposal in the 99th Congress. This bill establishes spending ceilings in Senate general elections which, if exceeded by one of the two (major party) candidates, would trigger a public subsidy equal to that limit to the lesser funded candidate; the latter candidate would then be limited to 150 percent of the limit. The subsidy would not be triggered if both candidates agreed to abide by the limit or if neither candidate so agreed. The bill is designed to curb arguably excessive campaign spending (its limits are set fairly high) without incurring the expense to the taxpayers that most public finance systems would. It would be applied on a very selective basis and would seek to act as a strong inhibitor against only the most excessive campaign spending. The bill is:

* S. 2940 (Gore, 99th Congress)--provides public subsidies to Senate general election candidates whose opponent exceeds overall limit on campaign spending: 50 cents times the VAP plus: \$1.5 million in States with a VAP of 5 million or less, \$1 million in States with a VAP of between 5 and 10 million, and \$500,000 in States with a VAP of more than 10 million; subsidy would equal the limit; candidate receiving subsidy would then be eligible for a spending limit of 150% of the original limit

This bill is similar to one proposed in the 96th Congress (S. 1339, Stone).

B. Free Media Time for Federal Candidates

Two proposals in the 99th Congress would require broadcasters to provide free media time to Federal candidates as a condition of their licenses. These proposals, which have received some support in congressional hearings and in newspaper commentaries, are based on the view that the public owns the airwaves and should be provided with a discussion of public policy issues at no cost. Furthermore, to the extent that these costs are removed from candidates, the overall cost of elections could be significantly curbed. These proposals are:

* H.R. 761 (Stratton, 99th Congress)--requires broadcasters to provide free radio or TV time to Federal candidates beginning 30 days prior to the general election, with at least 75% in prime time; Allotments for major party candidates: for President--2 1/2 hours, for Senate--2 hours, for House--1 hour; lesser allotments for minor party candidates; limits on how much time can be used in a 5 or 10 day period; requires a minimum of 1 minute per program; requires at least 75% of program to contain candidate remarks; requires simultaneous transmission by networks or TV stations for Presidential or Senatorial candidates

* S. 2837 (Pell, 99th Congress)--requires broadcasters to provide free time to national political parties to distribute through State committees to candidates for Federal office; to be provided beginning 30 days prior to general election; time must be between 7:30-8:00 PM on weekdays; no time allotments specified, but includes restrictions similar to H.R. 761 on minimal use and content

While such proposals are offered as a possible solution to the high cost of elections, they would undoubtedly invite strong opposition from the broadcast industry and, it could be argued, they would require complex regulations to implement and administer.

C. A Constitutional Amendment to Limit Campaign Expenditures

Seven proposals in the 98th and 99th Congresses call for a constitutional amendment to allow (or require) Congress (and the States) to pass laws limiting campaign contributions and expenditures. These proposals would thus circumvent

the restrictions imposed by the Supreme Court's Buckley ruling, although they would require passage by a two-thirds vote of both House and Senate and the ratification by the legislatures of three-fourths of the States--a considerable barrier on any issue. Five proposals call for an amendment to allow both Congress and the States to limit (or regulate) campaign expenditures and contributions:

- * H.J. Res. 77 (Vento, 98th Congress)
- * H.J. Res. 141 (Donnelly, 98th Congress)
- * H.J. Res. 188 (Brown, 98th Congress)
- * H.J. Res. 231 (Rinaldo, 98th Congress)
- * H.J. Res. 88 (Vento, 99th Congress)

One proposal would allow only the regulation of contributions and expenditures in Federal elections:

- * S.J. Res. 313 (Hollings, 99th Congress)

Finally, one proposal would require--not allow--Congress to limit contributions and expenditures in Federal elections:

- * S.J. Res. 110 (Stevens, 98th Congress)

D. Impose Spending Limits Without Regard to the Supreme Court's Ruling

Two similar proposals in the 98th and 99th Congresses include campaign expenditure limits in Federal elections, without regard to the constraints posed by the Buckley decision. As argued by their sponsor, the perceived excessive levels of campaign spending in the years since the Court issued its 1976 ruling might lead the Court to reverse its decision, on the ground that today's campaign finance patterns pose a threat to the integrity of the political system (even if the Court perceived they did not ten years ago). On that basis, these bills include spending limits for House and Senate candidates

and for Presidential candidates (as public funding is repealed under the bills):

* S. 1684 (Goldwater, 98th Congress)--limits Presidential candidates to expenditures of \$15 million in primaries and \$25 million in general elections; limits Senate candidates to expenditures of the greater of \$150,000 or 12 cents times the VAP in primaries and the greater of \$250,000 or 22 cents times the VAP in general elections; limits House candidates to expenditures of \$100,000 in primaries or general elections; limits indexed for inflation; limits include spending from personal or family funds

* S. 59 (Goldwater, 99th Congress)--identical to S. 1684

Even if the Court upheld the limits today, not the most likely prospect, the imposition of spending limits without public funding might tend to assist the incumbent candidate, without the mitigating factor of the public subsidies which might assist the challenger.

III. CLOSING PERCEIVED LOOPHOLES IN THE SYSTEM

There may be perceived to be two poles of opinion regarding the campaign finance system: one side generally urging more regulation of the flow of money in campaigns, the other side generally urging less (or no) regulation but full disclosure of money raised and spent. On the latter point, there is widespread agreement in both camps, but the divergence of opinion on the desirable extent of regulation underlies the entire campaign finance debate. Both sides recognize that a fundamental problem exists with any efforts to regulate campaign financing--the opportunities for determined, resourceful individuals and groups to legally circumvent whatever limitations are imposed. The deregulation faction points to this as proof that attempts at regulation are futile, as they are based on the naive premise that human behavior (particularly where important interests are at stake) can be controlled; they note that any regulations in this area have and will continue to result in unforeseen efforts to circumvent them, efforts more likely to escape disclosure, thus perhaps posing even greater problems. The pro-regulation faction recognizes the reality of unforeseen consequences and the potential for inspiring efforts at circumvention, but they maintain that the regulation is still needed and that policymakers must redouble their efforts to correct significant circumventive practices as they develop, if not foresee them and respond to them in advance.

Since the current system took effect in the mid-1970s, numerous methods of circumventing or otherwise escaping coverage by the law have been discovered;

some have been authorized in law, others have developed on an ad hoc basis. These include (but are not limited to): independent expenditures, "bundling" of campaign contributions by PACs and parties, "soft money", use of labor union dues money for political purposes, and the use of excess campaign funds for personal use by some Members of Congress. All of these are perceived as "loopholes" by many (varying) observers, a term used here with no pejorative implication. This section discusses these perceived loopholes in the context of proposals from the 98th and 99th Congresses designed to counteract them.

A. Independent Expenditures

The Federal Election Campaign Act, in 2 U.S.C. 431 (17), defines independent expenditure as:

. . . an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

The FECA Amendments of 1974 had limited such expenditures to \$1,000, but the Supreme Court's Buckley v. Valeo ruling struck down this limit, along with other spending limits, as constituting undue infringements on First Amendment rights. Specifically regarding independent expenditures, the Court argued that because of the absence of coordination with any candidate, there is no issue of potential quid pro quo relationships (as with contributions to candidates) and hence no overriding governmental interest which might warrant some curbs on otherwise protected political expression.

Thus, the Buckley decision offered a vehicle to those who felt constrained by the limitations of the FECA and Presidential public funding system, to make their own communications with voters, in support of or opposition to Federal

candidates. As long as they meet the criteria of keeping their efforts truly independent of a candidate's campaign, they could spend unlimited amounts on such endeavors. Independent expenditures thus emerged as the first significant opportunity for legally avoiding the law's restrictions on the flow of money in campaigns, a practice which continues today.

According to FEC data, increasing amounts have been spent on such activities: from \$2.0 million in 1976 to \$16.1 million in 1980 to \$23.4 million in 1984 (\$11.1 million in constant 1976 dollars). It is worth noting that between 75 and 85 percent of expenditures in those Presidential election years were for or against candidates for President; clearly the public funding system available in those elections offers the most significant restrictions on the flow of private money and hence the greatest incentives for interested and resourceful persons to conduct independent campaigns. The amount specifically targeted for or against congressional candidates ranged from less than \$400,000 in 1976 to \$6.0 million in 1984.

Independent expenditures came to public attention in 1978 and 1980 as a result of their prominent and perceived successful use by some large conservative PACs in congressional elections; some of these efforts were widely criticized as injecting excessive negativism and distortion into campaigns and they raised issues of lack of accountability. Increasingly, other groups began to wage independent expenditures, including some liberal PACs, some wealthy individuals, and, increasingly, some large trade and membership organizations. Among the latter category, such efforts are more commonly characterized as supporting rather than opposing specific candidates.

Clearly, independent expenditures constitute a legal loophole available to those who feel excessively constrained by the law, and their potential for growth looms as a source of concern to policymakers considering further regulation of the flow of campaign money. Particularly in the public funding

proposals for congressional campaigns, sponsors have generally felt a need to anticipate the growth in this area and to respond accordingly; these were dealt with in the previous section (primarily dealing with provisions for additional public funds to compensate targets of independent expenditures).

Many other bills address the independent expenditure issue in the context of PAC limitations, with the prospect of provoking circumvention a clear concern; still other proposals deal with this issue in and of itself. Some observers have noted that this issue may have been exaggerated based on experience to date, as a possibly large (and indeterminate) portion of what have been reported to the FEC as independent expenditures actually may have been spent on overhead and fundraising by the group involved, leaving only a fraction of the seemingly high amounts for actual voter communications. Also, it is by no means clear that independent expenditures--as a general matter--truly benefit those candidates favored or harm those candidates opposed; indeed, some have raised concerns over whether such campaigns may even have negative repercussions, if done in too heavy-handed a manner. Nonetheless, the possibility that further restrictions may lead to increased independent expenditures is a common concern. Proposals in this section respond to independent expenditures by compensating the targets, tightening the legal definitions and requirements, allowing candidates to incorporate them, and limiting them without regard to the Buckley ruling.

Compensate Targets of Independent Expenditures

Fourteen legislative proposals in the 98th and 99th Congresses provided for some form of compensation to candidates who were either opposed by independent expenditures or had opponents supported by independent expenditures (generally including some threshold amount of expenditures before the

compensation would be provided). (These do not include the provisions of previously-discussed measures which would offer public funds as a form of compensation, as such would necessarily be part of an overall public funding scheme.) These proposals offer free broadcast response time, lower postal rates, or higher limits on party contributions for candidates opposed (or where the opponent is supported) by independent expenditures. They seek to place the onus on the independent spenders that their communications will trigger some benefit for the candidates they oppose.

In general, these measures seek to impose sufficient disincentives on independent spenders so as to discourage their efforts. It is possible that such disincentives might be avoided by ingenious individuals (such as running ads ostensibly opposing a candidate, but with messages designed to improve their favorable standing among voters). More serious problems arguably may arise, however, if these schemes work as intended. Broadcasters, for example, are not required to accept ads from independent groups (as they are from candidates), and, faced with the certain knowledge that their acceptance of an ad would incur financial loss when response time is demanded, they may be unlikely to accept any such ads in the first place. While this may well be the intention of supporters (and for valid policy reasons), such a plan might be seen as having a chilling effect on the also legitimate rights of individuals and groups to communicate their own political message to other voters. From the perspective of the political system, one can argue that these communications serve as a pressure valve, by allowing a certain degree of opinions outside the "mainstream" or established channels to be heard. These are among the considerations for policymakers.

Free Broadcast Response Time

Requirements that broadcasters provide free response time to candidates opposed by independent expenditures are included in fourteen proposals, most notably including the Senate-passed Boren Amendment to S. 655 (99th Congress). This provision was immediately negated by the Boschwitz Amendment. Similar provisions are included in:

- * H.R. 2490 (Obey/Leach/Glickman, 98th Congress)--with alternative option of additional public funds
- * H.R. 2959 (Hamilton, 98th Congress)
- * S. 1346 (Bentsen, 98th Congress)
- * H.R. 4428 (Obey/Leach/Synar, 98th Congress)
- * S. 471 (Dodd/Melcher, 99th Congress)
- * S. 1310 (Danforth et al., 99th Congress)
- * H.R. 2844 (St. Germain, 99th Congress)--identical to H.R. 2490
- * H.R. 3045 (Lantos, 99th Congress)
- * H.R. 3440 (Neal, 99th Congress)
- * S. 1806 (Boren, 99th Congress)
- * H.R. 3799 (Synar et al., 99th Congress)
- * H.R. 4464 (Howard, 99th Congress)
- * H.R. 4514 (Weaver, 99th Congress)

Reduced Postal Rates

Two of the above proposals allow for reduced postal rates (the same rate as currently exists for party committees) to candidates opposed by independent expenditures as an alternative to free broadcast response time. This was intended to protect candidates when opposed by communications in non-broadcast form (e.g., newspapers ads, direct mail, etc.). These bills are:

* H.R. 4428 (Obey/Leach/Synar, 98th Congress)

* S. 471 (Dodd/Melcher, 99th Congress)

One proposal not listed above would provide for lower postal rates as the only form of compensation for targets of independent expenditures:

* S. 323 (Proxmire, 99th Congress)

Increased Limits on Party Contributions

One proposal listed in the free response time section would provide for increased party contributions to candidates opposed by non-broadcast independent expenditures. Under this proposal, party committees could match the amount of independent expenditures with their own contributions to the candidate:

* H.R. 2959 (Hamilton, 98th Congress)

This measure was intended to simultaneously combat independent expenditures while boosting the role of the political parties.

Tighten Legal Definitions and Requirements

Six proposals include identical provisions tightening the perceived loopholes in the legal definition of independent expenditures and requiring a disclaimer on broadcast independent expenditures by PACs. The new legal terminology would seek to preclude perceived evasions of the law by providing a detailed definition of what constitutes "cooperation or consultation with any candidate." Specifically this is aimed at removing ambiguities over situations in which a candidate and an independent spender share the services of a political consultant or other vendor within a short period of time. The new disclaimer is aimed at informing the public who has sponsored an advertisement and that its cost is not subject to any contribution limits. These provisions

were included in the Senate-passed Boren Amendment to S. 655 (99th Congress), and the following bills:

- * S. 1806 (Boren, 99th Congress)
- * H.R. 3799 (Synar et al., 99th Congress)
- * H.R. 4072 (LaFalce, 99th Congress)
- * H.R. 4464 (Howard, 99th Congress)
- * H.R. 4514 (Weaver, 99th Congress)

These proposals seek essentially to curb independent expenditures by more narrowly construing what they are; expenditures which are not deemed to be independent expenditures qualify instead as campaign contributions, subject to limitations.

Incorporate Independent Expenditures by Candidates

Another proposal to deal with independent expenditures would allow a candidate to unilaterally declare to the FEC that independent expenditures made on his behalf or against his opponent are part of his campaign, thus subjecting the outside group or individual to contribution limits. This proposal is engendered in two similar proposals:

- * S. 732 (Gorton, 98th Congress)
- * S. 1072 (Gorton, 99th Congress)

This idea is based on the desire to clarify any confusion in the public's perceptions over communications by candidates as opposed to those by outside forces. It places the onus on the candidate to pre-empt these activities, in hopes of avoiding public dissatisfaction by not doing so; once such a declaration was made, the onus would be on the independent spender to prove that there was truly no coordination with the candidate, thus allowing continued, unrestricted expenditures. While its sponsor recognized potential

drawbacks to it, such as in only allowing but not requiring such a declaration, its primary intent is to make independent expenditures more troublesome for those who engage in them.

Limit Independent Expenditures Without Regard to Supreme Court's Ruling

Finally, one proposal would establish limits on independent expenditures, on the ground that the Supreme Court might rule differently today than it did in the 1976 Buckley case, in view of the level and controversy over independent expenditures since that time. Its sponsor conjectures that the Court might now view such expenditures as a threat to the integrity of the political system, thus warranting some restriction. These bills would limit independent expenditures to \$5,000 per year for any individual or group:

- * S. 1684 (Goldwater, 98th Congress)
- * S. 59 (Goldwater, 99th Congress)

B. Bundling of Contributions

Current limitations on contributions apply only to the individual making the contribution and do not apply to any agent which acts as a conduit by collecting such contributions and transmitting them to a candidate. This practice is known as "bundling" and is related to the term "earmarking"; where the latter has had the positive connotation associated with promoting democracy within PACs by allowing individuals to retain the right to designate recipients, the former practice has taken on a more negative connotation--of constituting an avoidance of contribution limits by agents which actively collect such contributions and stand to accrue benefits with candidates they assist in this manner. Several reported instances have occurred in recent times in which a PAC or a political party committee has raised money in this

manner, effectively exceeding the limit on what it could itself contribute to a candidate.

At least thirteen proposals in the 98th and 99th Congresses sought to counteract this practice by counting contributions channeled through an intermediary or conduit against the limit not only of the donor but of the conduit as well. This was included in the Senate-passed Boren Amendment to S. 655 (99th Congress), as well as the following measures:

- * H.R. 2490 (Obey/Leach/Glickman, 98th Congress)
- * H.R. 4428 (Obey/Leach/Synar, 98th Congress)
- * S. 2415 (Mitchell, 98th Congress)
- * S. 471 (Dodd/Melcher, 99th Congress)
- * H.R. 2844 (St. Germain, 99th Congress)
- * S. 1806 (Boren, 99th Congress)
- * H.R. 3799 (Synar et al., 99th Congress)
- * H.R. 4072 (LaFalce, 99th Congress)
- * S. 2131 (Mitchell, 99th Congress)
- * H.R. 4464 (Howard, 99th Congress)
- * H.R. 4514 (Weaver, 99th Congress)
- * H.R. 5382 (Levine/Miller, 99th Congress)

Current law requires the reporting of contributions collected by intermediaries, although it is not clear to what extent this requirement is observed in practice.

C. Soft Money

The term "soft money" is generally defined as any money raised and spent outside the purview (i.e., restrictions) of the Federal Election Campaign Act, which is spent on activities intended to affect--at least indirectly--Federal

elections. As such, it would include money from wealthy individuals, from unions and corporations, and from other sources either prohibited from contributing in Federal elections or having reached their maximum allowed level of such contributions. It could be spent in States which have no prohibitions against political donations from union dues money or corporate profits or which do not limit (or have relatively high limits on) contributions from individuals. In recent years, the two major national parties have engaged in efforts to raise "soft money" and channel it into States where it is permitted to be spent, with the expressed intent of assisting particular State parties or candidates but with the presumed intent of assisting, perhaps indirectly, the entire party ticket in the general election (including the Federal candidates).

This issue is a rather recent one and, as yet, still subject to considerable misunderstanding. This misunderstanding arises in part because such money is not required to be reported at the Federal level, but rather it must be disclosed in the relevant States, according to their varied disclosure laws. Hence, there is no centralized method of keeping track of money raised and spent in this manner and for these purposes.

Two proposals in the 99th Congress would seek to alleviate this lack of knowledge by requiring disclosure of soft money:

* H.R. 5382 (Levine/Miller, 99th Congress)--requires disclosure to the FEC of all contributions in excess of \$1,000 which cross State lines

* S. 655--Amendment no. 2690 (Boschwitz, 99th Congress)--requires national party committees to disclose money raised and spent other than to influence a Federal election; amendment passed the Senate by a 58-42 vote, but no action taken on S. 655

The latter proposal would require disclosure by party committees of money it actually collected and spent other than to influence Federal elections, while the former proposal sought to monitor large contributions which cross State

lines, on the presumption that, to some extent, this money may have been directed--if not actually collected--by an intermediate agent.

Two other proposals in the 99th Congress dealt with another aspect of the soft money issue--tax-exempt foundations. Recent reports in the media about tax-exempt educational organizations engaging in activity aimed at--at least indirectly--influencing Federal elections have led to calls for correcting any perceived abuses. Some of these foundations are closely associated with elected officials and prospective Presidential candidates. If these foundations are actually engaged in political activity, their tax-exempt status would be jeopardized; in the meantime, they may be seen as circumventing, if not violating, the contribution limits and disclosure provisions of the FECA. Two 99th Congress bills would address this situation as follows:

* S. 2415 (Hart, 99th Congress)-- prohibits Members of Congress from being closely associated with tax-exempt organizations which do not publicly disclose contributions and expenditures; establishes a panel to study the potential development of unregulated campaign expenditures by charitable educational organizations

* H.R. 5089 (Neal, 99th Congress)--requires foundations which seek to influence U.S. elections be treated as political committees, subject to the provisions of the FECA

In a relatively recent and not thoroughly explored issue as this one (soft money, tax-exempt foundations, etc.), proposals typically address it through calls for greater disclosure or clarification of perceived ambiguities.

D. Personal Use of Excess Campaign Funds by Members of Congress

The FECA Amendments of 1979 contained a provision prohibiting the personal use of excess campaign funds by Federal candidates, but excluded Members of Congress in office at the time of enactment (January 8, 1980) from its coverage. However, Senate Rule XXXVIII prohibits conversion of excess campaign funds to personal use by Senators and former Senators. House Rule XLIII

imposes such a restriction on House Members but does not cover former Members. Hence, while the exemption of then-serving Members under the 1979 FECA Amendments is effectively negated by Senate Rules, the opportunity still exists for House Members in office at the time of enactment to convert excess campaign funds to personal use once they leave the House. This perceived loophole has been the subject of criticism in the press, and it would effectively be closed by a proposal to remove the exemption in the FECA and extend coverage to all current and former Members of Congress. This proposal is engendered in five similar bills in the 98th and 99th Congresses:

- * H.R. 1458 (Jacobs, 98th Congress)
- * H.R. 123 (Jacobs, 99th Congress)
- * H.R. 668 (Hamilton, 99th Congress)
- * H.R. 988 (Tauke, 99th Congress)
- * H.R. 5210 (Frenzel, 99th Congress)

E. Use of Union Dues Money for Political Purposes

Current law prohibits labor unions from spending treasury money in connection with Federal elections, but permits three specific politically related activities to be funded with this money: partisan internal communications with its membership, non-partisan get-out-the-vote and registration drives aimed at its membership, and the costs of establishing, administering and soliciting voluntary contributions from its membership for a separate segregated fund--or PAC.

While labor PACs formerly dominated the field of PACs, they have increasingly been overshadowed by business PACs; whereas half of PAC contributions to Federal candidates in 1974 were from labor PACs, labor PAC donations constituted only one-fourth of PAC contributions in 1984. However,

labor has continued to exercise its political interests through the use of its internal communications, get-out-the-vote and registration drives, and the administration of PACs. While political in nature, these activities are permitted under the law and, except for internal communications exceeding \$2,000, they are not required to be disclosed to the FEC. Hence, there is little way of accurately gauging the extent of union expenditures for these activities.

Union Dues Collected as a Condition of Employment

Because many employees are required either by State law or agency shop agreement to join--and pay dues to--a union as a condition of employment, some have argued that it is unfair to allow a portion of such involuntarily donated money to pay for the union's political activities, with which the member may disagree. Two Supreme Court cases considered complaints by such union members and found that, to the extent their dues money was used for purposes other than collective bargaining, their rights were violated, as they were compelled to pay for political activities with which they disagreed. ^{12/}

While the Court rulings allowed dissenting union members to be reimbursed, five bills and two amendments in the 98th and 99th Congresses sought--as uniform public policy--the prohibition of the use of union dues collected as a condition of employment for political activities. The proposals were included in these five bills:

- * H.R. 3024 (Dickinson, 98th Congress)
- * S. 1333 (Helms et al., 98th Congress)
- * S. 1881 (Helms, 98th Congress)

^{12/} International Association of Machinists v. Street [367 U.S. 740 (1961)]; Abood v. Detroit Board of Education [430 U.S. 209 (1977)]

* H.R. 2534 (Dickinson, 99th Congress)

* S. 1563 (Helms, 99th Congress)

The proposal was included in Amendment no. 3111 (Helms, 98th Congress) to H.R. 5174, which was tabled by a 65-32 vote on May 22, 1984. An amendment by Mr. Bliley to H.R. 3036 (99th Congress), which required the FEC to promulgate regulations preventing unions from using dues money collected as a condition of employment for political purposes, was ruled out of order by the House on July 26, 1985.

Disclosure of Union Treasury Money Used for Political Purposes

In order to compensate for the relative absence of disclosure of union political activity, one bill in the 98th Congress required unions to disclose all expenditures on internal communications (beyond the current \$2,000 triggering threshold), get-out-the-vote and registration drives, and administration of and solicitation for separate segregated funds. This proposal was included in:

* H.R. 6114 (Bethune, 98th Congress)

Of note is that this bill did not require corporations to disclose their similar activities (corporations are specifically permitted to use corporate profits for the same purposes as unions). While unions are far more heavily involved in the first two areas, excluding corporations would, some would argue, leave the public still uninformed about corporate expenses in running PACs--a possible considerable activity on their part.

IV. A STUDY COMMISSION

In view of the complexity and controversy surrounding campaign finance issues and the apparent lack of consensus on either defining or solving perceived problems, several proposals were offered in the 98th and 99th Congresses to establish bipartisan study commissions to study and recommend changes in the law. Two of these were identical bills offered in the 98th Congress:

* H.R. 2876 (Simon, 98th Congress)--establishes a Commission to Reform Federal Campaign Finance to make recommendations for changes in the role of PACs in Federal elections

* S. 911 (Chiles, 98th Congress)--identical to H.R. 2876

Two identical bills in the 99th Congress changed the focus of the earlier bills from just PACs to the entire campaign finance system:

* H.R. 1284 (Udall/Frenzel, 99th Congress)--establishes a Bipartisan Commission on Congressional Campaign Financing to study and recommend changes in the system

* S. 528 (Rudman, 99th Congress)--identical to H.R. 1284

On August 13, 1986, the Senate Governmental Affairs Committee reported S. 528 to the Senate, the day following passage of the Boren and Boschwitz Amendments to S. 655. No further action was taken on S. 528 in the 99th Congress.

V. THE PRESIDENTIAL PUBLIC FUNDING SYSTEM

Most of the attention in the campaign finance area has centered around the congressional system, as the public funding system in Presidential elections since 1976 has been perceived by many observers as ameliorating some of the basic problems of prior years. Aside from interest in closing loopholes (such as soft money and independent expenditures) which especially affect Presidential election practices, little legislative attention has been directed toward the Presidential system. What proposals exist range from adjusting some of the limits to outright abolition of the system.

A. Repeal Public Funding of Presidential Elections

Years after its implementation, public funding of Presidential elections continues to be opposed on philosophical grounds by some observers. Three proposals in the 98th and 99th Congresses call for repeal of this system:

- * H.R. 3234 (McDonald, 98th Congress)
- * S. 1684 (Goldwater, 98th Congress)
- * S. 59 (Goldwater, 99th Congress)

In the latter two bills, public funding is abolished but limitations on expenditures are retained, without regard to the Supreme Court's Buckley ruling.

B. Express Support for Retention of Public Funding

As submitted to the Congress in 1985, President Reagan's tax reform legislation proposed abolition of the dollar tax checkoff--the source of funds for the public funding system. Although it was not stated, many saw this as an attempt to abolish the public funding system itself, by presumably leaving its funding to the normal appropriations process. One bill expressed the sense of the Congress that the President's proposal not be enacted:

* H.Con.Res. 169 (LaFalce, 99th Congress)

The President's proposal was omitted from both House and Senate versions of the tax reform legislation and, accordingly, from the enacted statute as well.

C. Increase Expenditure Limits

Under current law, primary expenditures are limited to \$10 million plus adjustment for inflation (based on 1974 dollars); general election expenditures are limited to \$20 million plus the inflation adjustment. In 1984, these limits were set at \$20.2 million in primaries and \$40.4 million in the general elections. In the latter case, the subsidy to major party nominees equals the spending limit, while in the primaries, the limit on subsidies is half the limit on spending.

Four bills in the 98th and 99th Congresses would have changed the base limit in the law from \$10 million to \$18 million in primaries and from \$20 million to \$30 million in the general elections. By changing the limits, these bills would, of course, also change the level of public subsidies. These bills are:

* H.R.3081 (Frenzel, 98th Congress)

* S. 1350 (Laxalt/Lugar, 98th Congress)

* S. 1891 (Heinz et al., 99th Congress)

* H.R. 3863 (Frenzel et al., 99th Congress)

D. Increase Subsidy for Nominating Conventions

Prior to the 1984 elections, the amount of public subsidy available to the major parties for the costs of their nominating convention (and hence the spending limit for those conventions) was set at \$3 million plus adjustment for inflation (since 1974). Faced with a request by the two major parties for additional funding for the 1984 conventions, Congress enacted a measure to raise the base amount to \$4 million. This proposal was included in:

* H.R. 5950 (Rostenkowski, 98th Congress)--P.L. 98-355

In 1984, the amount of subsidy for each party's convention was \$8.1 million.

E. Abolish the State-by-State Spending Limits in Primaries

One of the most controversial aspects of the Presidential system has been the limits on what primary candidates may spend in each State, apart from the overall National limit. These limits are set at the greater of \$200,000 plus inflation adjustment or 16 cents times the VAP plus inflation adjustment. Because they are based strictly on the population of the States, they do not take into account the strategic, political realities of Presidential primary campaigns. States like New Hampshire and Iowa have relatively low limits, reflecting their size, but their importance in the process is enhanced because of their early primaries so that candidates invariably feel frustrated by the limits in those States. Thus, candidates have typically sought means of circumventing the restrictive limits in the early States, whereas for later States, the limits have had little practical effect. Among others, the FEC has for years recommended abolition of these State limits in its annual report to

Congress. Four bills in the 98th and 99th Congresses would eliminate these limits:

- * H.R.3081 (Frenzel, 98th Congress)
- * S. 1350 (Laxalt/Lugar, 98th Congress)
- * S. 1891 (Heinz et al., 99th Congress)
- * H.R. 3863 (Frenzel et al., 99th Congress)

VI. NEGATIVE CAMPAIGNING

Much discussion was heard during the 1986 elections about the perceived increase in negative campaign advertisements by candidates for Federal office. In the view of some observers, this alleged widespread "mudslinging" on the airwaves was linked in some way to the large amounts of money available in today's election campaigns and the tendency to use that money in increasingly sophisticated and hard-hitting communications with voters. To some, this perception of increased negativity in campaigns is yet another reason why campaign expenditures must be limited.

It is not clear whether the perception is correct that there has been an increase in negativity and whether, even if it is correct, there is any real relation to the level of money in campaigns. First of all, negative campaigning has always been a part of American elections; there is obviously more awareness of it in today's TV-dominated campaigns. Second, to the extent candidates are using more attacks on their opponents in TV ads (as opposed to stressing their own qualifications and record), it may be more a function of the view among political consultants and experts that such strategies are effective. What may really be the source of concern to some of those expressing these views is the professionalization of politics--the increasing reliance on full-time political consultants, pollsters, etc., with their sophisticated, "high-tech" approach to politics (including their willingness to rely on "negative" campaigns if they are thought likely to prove successful).

While there is a campaign finance issue involved here, it does not appear to be the central underlying issue.

The campaign finance-related issue of negative campaigns was raised in the early 1980s in connection with independent expenditures, particularly some highly publicized ones waged by some prominent conservative PACs. Here the issues of accountability stemming from the nature of independent expenditures came into play, of which the negative nature of some advertisements were a focal point. Today there seems to be less criticism of negativity as it concerns independent expenditures (particularly as much of such efforts today are seen as more "positive" in nature), in part because some candidates themselves may have been seen as adopting some of the negative tactics.

Because the issue of negative campaigning is one that is essentially peripheral to the campaign finance (as opposed to the electoral) system, proposals that address this issue are mentioned here only briefly. Five bills in the 98th and 99th Congresses included provisions with content requirements for media advertisements by Federal candidates. In essence, they require candidates to appear in person, speaking directly into the camera, when references are made to his or her opponent, and that production material (use of backdrops, "gimmicks", etc.) are to be eliminated or kept to a minimum. These proposals are aimed in promoting greater accountability and responsibility in political communications, on the premise that negativity may be curbed if the onus for the attacks or charges is placed on the candidate. These proposals include:

- * H.R. 5307 (Conable/McHugh, 98th Congress)
- * S. 2509 (Rudman/Inouye, 98th Congress)
- * S. 1310 (Danforth et al., 99th Congress)
- * H.R. 3045 (Lantos, 99th Congress)
- * H.R. 3440 (Neal, 99th Congress)

It should be noted that content requirements are included in H.R. 2005 (Brown, 98th Congress)--discussed under the public funding section--which allowed lower postal rates for candidates who agreed to spending limits and prior review of mailings, to mitigate against libel, non-documentation, and malicious and distorted charges. The linkage to a public funding system might ameliorate some of the constitutional issues which could be raised regarding the above-mentioned proposals for content requirements in political communications.

One other legislative proposal regarding negative campaigns bears mention. Because of the controversy over negative independent expenditures a few years ago, some raised the issue of whether tax credits should be allowed for contributions to groups which oppose--rather than support--Federal candidates (26 U.S.C. 24(c)(1)(B) defined an eligible contribution as one made to "further the candidacy" of an individual). One proposal was offered to clarify the law to specifically permit credits for contributions to groups which oppose as well as support candidates for office:

* H.R. 977 (Frenzel, 98th Congress)

VII. MISCELLANEOUS PROPOSALS

This section offers a brief discussion of campaign finance proposals which do not logically fit into the other categories of this report. They are not insignificant proposals but their rationale or impetus simply does not unite them with other concepts outlined here.

A. Index Contribution Limits for Inflation

Three bills in the 98th and 99th Congresses would index all contribution limits for inflation, not so much out of a desire to boost the role of any particular sector but to account for the effects of inflation on (virtually) all contributors in Federal elections (the limits were set in 1974 and 1976 and are generally worth a bit less than half in today's dollars). (Proposals increasing or indexing the limits on specific sectors are discussed in the first section of this report.) These bills are:

* S. 732 (Gorton, 98th Congress)--indexes all individual and multicandidate (including PAC and party) contribution limits

* S. 810 (Humphrey/Denton, 98th Congress)--indexes all contribution limits

* S. 1072 (Gorton, 99th Congress)--identical provision to S. 732

B. Repeal Tax Credit for Political Contributions

Under the new tax reform statute, tax credits for political contributions are eliminated as of January 1, 1987. This provision was included in H.R. 3838 (Rostenkowski, 99th Congress), which became Public Law 99-514 on October 22, 1986. Essentially, this elimination was revenue driven, as roughly a quarter of a billion dollars a year was taken in such credits in recent tax years; ^{13/} furthermore there was no conclusive evidence that these credits promoted individual contributions to any appreciable extent. The repeal of the credit was a feature of six other bills in the 99th Congress, including the following four principal tax reform packages:

- * H.R. 800 (Gephardt, 99th Congress)
- * S. 409 (Bradley, 99th Congress)
- * H.R. 2222 (Kemp, 99th Congress)
- * S. 1006 (Kasten, 99th Congress)

The following bills would have repealed the credit as a means of saving revenue, to be available for funding for the public finance systems established in these bills:

- * S. 1789 (Kerry, 99th Congress)
- * S. 2131 (Mitchell, 99th Congress)

C. Prohibit Contributions from U.S. Ambassadors

One bill in the 98th Congress prohibits U.S. ambassadors from making contributions and participating in political campaigns:

- * S. 845 (DeConcini, 98th Congress)

^{13/} U.S. Internal Revenue Service. Statistics of Income: Individual Tax Returns. (Annual Series).

This proposal is aimed at reducing any perceived linkage between these appointed foreign service officers and the political process. Prior to the FECA, there was considerable, sporadic controversy over the appointment of ambassadors who were large campaign contributors.

D. Value of In-Kind Contributions

One bill in the 98th Congress seeks to clarify perceived ambiguities in the law regarding the valuation of non-monetary, or in-kind, contributions to Federal campaigns. Such donations of goods or services are held to the same limits as direct monetary contributions. This bill sets more detailed standards in law as to how appropriately to establish their value:

* H.R. 3144 (Minish, 98th Congress)

E. Bank Loans

One bill seeks to clarify and tighten restrictions on bank loans to political committees, out of concern that unpaid loans may constitute contributions, in violation of the law. This bill requires bank loans to political committees and other persons to be collateralized and reported, and it requires the FEC to determine that such loans are legitimate and not campaign contributions:

* H.R. 5462 (Kindness, 99th Congress)

F. Party Receipts Limit

Although many proposals in the 98th and 99th Congresses attempt to boost the role of political parties, one proposal places an aggregate limit on the amount of party contributions which may be spent by Federal candidates. This

bill, which also places a similar limit on spending of PAC contributions, limits congressional candidates to expenditures from party receipts of the greater of 25 cents times the voting age population or 30 percent of total expenditures. This bill is:

* S. 1185 (Rudman, 98th Congress)

The proposal would thus seek to keep both PAC receipts and party receipts in some kind of balance in a campaign budget, with party receipts allowed to occupy a larger role in this specific case.

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APPENDIX A: CAMPAIGN FINANCE LEGISLATION IN THE 98th CONGRESS

House Bills and Amendments

- H.J. Res. 77 (Vento, Jan. 6, 1983)
* Proposes a constitutional amendment to allow Congress and the States to regulate amounts of election campaign contributions and expenditures
- H.J. Res. 141 (Donnelly, Feb. 15, 1983)
* Proposes a constitutional amendment to allow Congress and the States to regulate amounts of election campaign contributions and expenditures
- H.J. Res. 188 (Brown, Mar. 10, 1983)
* Proposes a constitutional amendment to allow Congress and the States to regulate amounts of election campaign contributions and expenditures
- H.J. Res. 231 (Rinaldo, Apr. 11, 1983)
* Proposes a constitutional amendment to allow Congress and the States to regulate amounts of election campaign contributions and expenditures
- H.R. 640 (Minish, Jan. 6, 1983)
* Lowers the PAC contribution limit
- H.R. 977 (Frenzel, Jan. 26, 1983)
* Clarifies law to allow tax credit for contributions to political committees which oppose, as well as those which support, candidates
- H.R. 1379 (Courter, Feb. 10, 1983)
* Establishes a trust fund to collect PAC contributions for distribution to congressional candidates, disclosing the PAC's name, candidates it contributes to, and total PAC receipts by candidates, but not the specific amount donated by each PAC to each candidate
- H.R. 1458 (Jacobs, Feb. 15, 1983)
* Prohibits conversion of excess Federal campaign funds to the candidate's personal use
- H.R. 1799 (McNulty, Mar. 2, 1983)
* Lowers the PAC contribution limit

- H.R. 1893 (Jacobs, Mar. 3, 1983)
* Provides public subsidies for specified allotments of advertising costs in House general election campaigns, if candidate limits expenditures for such purposes to the amount of subsidy and does not accept contributions from PACs
- H.R. 2005 (Brown, Mar. 9, 1983)
* Makes available nonprofit postal rate to House general election candidates who agree to limit overall campaign expenditures and submit content of mailings to prior review; imposes an aggregate PAC receipts limit on House candidates
- H.R. 2490 (Obey, Leach and Glickman, Apr. 12, 1983)
* Establishes a matching fund system of public financing in House general elections, with limits on overall campaign and candidates' personal expenditures, with a two for one match if a candidate's opponent does not participate, and with additional public funds or free response time if opposed by independent expenditures; imposes an aggregate PAC receipts limit on House candidates; prohibits "bundling" of contributions to circumvent limits
- H.R. 2833 (Pease, Apr. 28, 1983)
* Provides a 100% tax credit for contributions to House and Senate candidates in donor's district or State
- H.R. 2876 (Simon, May 3, 1983)
* Establishes Commission to Reform Federal Campaign Finance Act of 1983 to make recommendations for changes in the role of PACs in Federal campaign financing [identical to S. 911]
- H.R. 2959 (Hamilton, May 10, 1983)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; raises the individual contribution limit; removes the limit on individual contributions to parties (while retaining the aggregate limit on individual contributions); raises the limit on PAC contributions to parties; increases limits on party contributions and coordinated expenditures in stages over three election cycles; requires broadcasters to provide free response time to candidates opposed by independent expenditures; allows additional party contributions to candidates opposed by non-broadcast independent expenditures; provides for doubling of individual and PAC contribution limits and the aggregate PAC receipts limit and removing of party contribution and expenditure limits for candidates whose opponents exceed specified personal/family spending ceilings; indexes limits on party contributions and on PAC contributions to parties for inflation
- H.R. 2976 (Corcoran, May 11, 1983)
* Increases limits on individual contributions, to candidates, parties, and in the aggregate; increases limit on contributions by individuals and non-multicandidate PACs to parties; eliminates party limits on contributions to and coordinated expenditures for congressional candidates; increases the maximum tax credit for political contributions

- H.R. 3024 (Dickinson, May 17, 1983)
* Prohibits the use of union dues collected as a condition of employment for political activities [identical to S. 1333 and S. 1881]
- H.R. 3081 (Frenzel et al., May 23, 1983)
* Enhances the role of political parties as funding sources by: increasing their contribution limits, removing their coordinated expenditure limits (for congressional candidates), allowing unlimited party assistance to candidates, and allowing unlimited contributions to party committees for administrative and overhead costs; increases the base limit on expenditures in Presidential elections; increases party coordinated expenditure limit for Presidential nominees; eliminates state-by-state spending limits in Presidential primaries [identical to S. 1350]
- H.R. 3144 (Minish, May 25, 1983)
* Establishes a standard for determining the value of non-monetary (in-kind) contributions to candidates
- H.R. 3172 (McCollum, May 26, 1983)
* Increases amount of maximum tax credit for political contributions
- H.R. 3234 (McDonald, Jun. 6, 1983)
* Repeals public financing of Presidential elections
- H.R. 3262 (Synar and Anthony, Jun. 8, 1983)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; increases the individual contribution limit in congressional elections [identical to S. 1433]
- H.R. 3610 (Lantos, Jul. 20, 1983)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; increases the individual contribution limit in congressional elections; increases the maximum tax credit for political contributions
- H.R. 3620 (Annunzio, Jul. 21, 1983)
* Requires the Clerk of the House to annually publish in the Congressional Record a list of PACs, their sponsoring organizations, and their total receipts and expenditures
- H.R. 3650 (Annunzio, Jul. 26, 1983)
* Prohibits government contractors from establishing PACs
- H.R. 3737 (McHugh and Conable, Aug. 2, 1983)
* Provides for a 100% tax credit for contributions to House and Senate candidates in donor's State; limits existing 50% tax credit to contributions to political parties only, eliminating credit for donations to State and local and Presidential candidates, to PACs, and to newsletter funds; requires candidates to remit to Treasury unobligated surpluses over specified amount (but not more than was raised in credit-eligible contributions)
- H.R. 3812 (Green, Aug. 4, 1983)
* Establishes a matching fund system of public financing in House general elections, with limits on overall campaign and candidates' personal spending, and additional public funds if opponent exceeds either limit

- H.R. 4157 (Howard, Oct. 19, 1983)
* Reduces the limit on PAC contributions
- H.R. 4428 (Obey, Leach and Synar, Nov. 16, 1983)
* Provides 100% tax credits for individual contributions to House general election candidates who reach a fundraising threshold and agree to abide by overall campaign and candidates' personal expenditure limits, with free broadcast response time or reduced postal rates for candidates opposed by independent expenditures; imposes an aggregate PAC receipts limit on House candidates; prohibits "bundling" of contributions to circumvent limits
- H.R. 4861 (Watkins, Feb. 9, 1984)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; reduces the limit on PAC contribution
- H.R. 5307 (Conable and McHugh, Mar. 30, 1984)
* Requires that paid broadcasts for Federal candidates adhere to content requirements, especially that the candidate or alternative speaker appear directly before the camera with no contrived backdrops [identical to S. 2509]
- H.R. 5950 (Rostenkowski, Jun. 28, 1984)
* Raises the base public subsidy for Presidential nominating conventions; P.L. 98-355, Jul. 11, 1984
- H.R. 6114 (Bethune, Aug. 9, 1984)
* Requires labor unions to disclose all expenditures on partisan communications and get-out-the-vote and registration drives, and all administrative and solicitation costs of separated segregated funds (PACs)
- H.R. 6360 (LaFalce, Oct. 2, 1984)
* Disallows tax credit on contributions to PACs

Senate Bills and Amendments

- S.J. Res. 110 (Stevens, May 26, 1983)
* Proposes a constitutional amendment to require Congress to limit Federal election campaign contributions and expenditures
- S. 85 (Dixon and Dodd, Jan. 26, 1983)
* Establishes a matching fund system of public financing in Senate general elections, with limits on overall campaign and candidates' personal spending and additional public funds if opposed by independent expenditures or communication costs
- S. 151 (Proxmire, Jan. 26, 1983)
* Establishes a matching fund system of public financing in Senate general elections, with limits on overall campaign spending (with a broadcast allocation exemption) and candidates' personal expenditures, additional public funds if opposed by independent expenditures, and a two for one match if opponent does not participate; imposes an overall PAC receipts limit on Senate candidates

- S. 732 (Gorton, Mar. 9, 1983)
* Indexes multicandidate committee and individual contribution limits for inflation; increases all limits on contributions by individuals; encourages earmarking of individual contributions to PACs; increases party contribution and expenditure limits; allows candidates to incorporate independent expenditures into their campaigns; increases limits on contributions to opponents of candidates who exceed specified personal spending ceilings
- S. 810 (Humphrey and Denton, Mar. 15, 1983)
* Adjusts all contribution limits for inflation
- S. 845 (DeConcini, Mar. 17, 1983)
* Prohibits ambassadors from making contributions and participating in political campaigns
- S. 911 (Chiles, Mar. 23, 1983)
* Establishes Commission to Reform Federal Campaign Finance Act of 1983 to make recommendations for changes in the role of PACs in Federal campaign financing [identical to H.R. 2876]
- S. 1185 (Rudman, May 2, 1983)
* Increases limits on individual contributions, per candidate and in the aggregate; limits expenditures from PAC and party receipts to specified ratios of overall expenditures, with personal spending by candidates not included in calculating such expenditures
- S. 1333 (Helms et al., May 19, 1983)
* Prohibits the use of union dues collected as a condition of employment for political activities [identical to H.R. 3024 and S. 1881]
- S. 1346 (Bentsen, May 23, 1983)
* Requires broadcasters to provide free response time to candidates opposed by independent expenditures
- S. 1350 (Laxalt and Lugar, May 24, 1983)
* Enhances the role of political parties as funding sources by: increasing their contribution limits, removing their coordinated expenditure limits (for congressional candidates), allowing unlimited party assistance to candidates, and allowing unlimited contributions to party committees for administrative and overhead costs; increases the base limit on expenditures in Presidential elections; increases party coordinated expenditure limit for Presidential nominees; eliminates state-by-state spending limits in Presidential primaries [identical to H.R. 3081]
- S. 1433 (Boren, Jun. 8, 1983)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; increases the limit on individual contributions in congressional elections [identical to H.R. 3262]
- S. 1684 (Goldwater, Jul. 27, 1983)
* Repeals public financing of Presidential elections; imposes limits on overall campaign expenditures by Federal candidates (including from personal and family funds); limits independent expenditures

- S. 1881 (Helms, Sept. 26, 1983)
* Prohibits the use of union dues collected as a condition of employment for political activities [identical to H.R. 3024 and S. 1333]
- S. 2283 (Mathias, Feb. 9, 1984)
* Establishes a matching fund system of public financing in Senate general elections, with limits on overall campaign and candidates' personal expenditures
- S. 2415 (Mitchell, Mar. 13, 1984)
* Establishes a matching fund system of public financing in Senate general elections, with limits on overall campaign and candidates' personal expenditures and additional public funds if opposed by independent expenditures; prohibits "bundling" of contributions to circumvent limits
- S. 2509 (Rudman and Inouye, Mar. 30, 1984)
* Requires that paid broadcasts for Federal candidates adhere to content requirements, especially that the candidate or alternative speaker appear directly before the camera with no contrived backdrops [identical to H.R. 5307]
- H.R. 5174--Amendment No. 3111 (Helms, May 22, 1984)
* Prohibits use of union dues collected as a condition of employment for political activities; tabled by a 65-32 vote

APPENDIX B: CAMPAIGN FINANCE LEGISLATION IN THE 99th CONGRESS

House Bills and Amendments

- H.J. Res. 88 (Vento, Jan. 22, 1985)
* Proposes a constitutional amendment to allow Congress and the States to regulate election campaign contributions and expenditures
- H.Con. Res. 169 (LaFalce, Jun. 21, 1985)
* Expresses the sense of the Congress that the President's proposal to repeal the dollar tax checkoff should not be enacted
- H.R. 122 (Jacobs, Jan. 3, 1985)
* Provides public subsidies for specified allotments of advertising costs in House general election campaigns, if candidate limits expenditures for such purposes to the amount of subsidy and does not accept contributions from PACs
- H.R. 123 (Jacobs, Jan. 3, 1985)
* Prohibits conversion of excess Federal campaign funds to the candidate's personal use
- H.R. 668 (Hamilton, Jan. 24, 1985)
* Repeals provision of law that allows certain Members of Congress to convert excess campaign funds to personal use
- H.R. 761 (Stratton, Jan. 28, 1985)
* Provides for specified allotments of free radio and television time to candidates for Federal office
- H.R. 800 (Gephardt, Jan. 30, 1985)
* Repeals tax credits for political contributions (part of tax reform measure) [identical to S. 409]
- H.R. 889 (Pease, Jan. 31, 1985)
* Provides for 100 percent tax credits for contributions to House and Senate candidates in donor's district/State
- H.R. 988 (Tauke, Feb. 6, 1985)
* Repeals provision of law that allows certain Members of Congress to convert excess campaign funds to personal use

- H.R. 1110 (Courter, Feb. 19, 1985)
* Establishes a trust fund to collect PAC contributions for distribution to congressional candidates, disclosing the PAC's name, candidates it contributes to, and total PAC receipts by candidates, but not the specific amount donated by each PAC to each candidate
- H.R. 1284 (Udall and Frenzel, Feb. 26, 1985)
* Establishes a one year Bipartisan Commission on Congressional Campaign Financing, to study and recommend changes in the system [identical to S. 528]
- H.R. 1807 (LaFalce, Mar. 28, 1985)
* Eliminates the tax credit for contributions to PACs
- H.R. 2222 (Kemp, Apr. 25, 1985)
* Repeals tax credits for political contributions (part of tax reform measure) [identical to S. 1006]
- H.R. 2534 (Dickinson, May 16, 1985)
* Prohibits the use of union dues collected as a condition of employment for political activities [identical to S. 1563]
- H.R. 2844 (St. Germain, Jun. 21, 1985)
* Establishes a matching fund system of public financing in House general elections, with limits on overall campaign and candidates' personal expenditures, with a two for one match if a candidate's opponent does not participate, and with additional public funds or free response time if opposed by independent expenditures; imposes an aggregate PAC receipts limit on House candidates; prohibits "bundling" of contributions to circumvent limits
- H.R. 2906 (Grotberg, Jun. 27, 1985)
* Increases all individual contribution limits (per candidate, per committee, and in the aggregate); eliminates limits on party contributions to and expenditures for congressional candidates in general and special elections
- H.R. 2923 (Watkins, Jun. 27, 1985)
* Decreases the limit on PAC contributions per candidate; imposes an aggregate PAC receipts limit on congressional candidates
- H.R. 3036--Amendment (Bliley, Jul. 26, 1985)
* Amendment to Treasury-Postal Service Appropriations bill, earmarks money to the FEC to promulgate regulations preventing the use of union dues collected as a condition of employment for political activities; ruled out of order
- H.R. 3045 (Lantos, Jul. 18, 1985)
* Requires broadcasters to provide free response time to candidates opposed by independent expenditures; requires candidates to appear in person when references are made to opponents in broadcast ads [identical to S. 1310]

- H.R. 3440 (Neal, Sept. 26, 1985)
* Requires broadcasters to provide free response time to candidates opposed by independent expenditures; requires candidates to appear in person when references are made to opponents in broadcast ads
- H.R. 3780 (McHugh et al., Nov. 19, 1985)
* Replaces existing 50% tax credit for political contributions with a 100% credit for donations only to House and Senate candidates in donor's State
- H.R. 3799 (Synar et al., Nov. 20, 1985)
* Imposes an aggregate PAC receipts limit on congressional candidates; raises the individual contribution limit; decreases the PAC contribution limit; requires broadcasters to provide free response time to candidates opposed by independent expenditures; tightens the definition of and regulations governing independent expenditures; prevents "bundling" of contributions to circumvent limits [identical to the Boren proposal--S. 1806 and Amendment to S. 655]
- H.R. 3806 (Beilenson et al., Nov. 21, 1985)
* Provides public funding in House general elections, through full grants to major party candidates and a lesser share to minor party candidates, with limits on overall expenditures (equal to the major party candidates' subsidy) and on candidates' personal expenditures
- H.R. 3838 (Rostenkowski, Dec. 3, 1985)
* Tax reform measure deleted the existing tax credit for political contributions, after 1986; P.L. 99-514, Oct. 22, 1986
- H.R. 3838--Amendment to House-passed Tax Bill (McHugh, Dec. 17, 1985)
* Replaces the existing 50% political contributions tax credit with a 100% credit for direct (not "bundled") contributions to House and Senate candidates in donor's State; attached to H.R. 3838 by a 230-196 vote, but deleted in House-Senate conference
- H.R. 3863 (Frenzel et al., Dec. 5, 1985)
* Enhances the role of political parties as funding sources by: increasing their contribution limits, removing their coordinated expenditure limits (for congressional candidates), allowing unlimited party assistance to candidates, and allowing unlimited contributions to party committees for administrative and overhead costs; increases the base limit on expenditures in Presidential elections; increases party coordinated expenditure limit for Presidential nominees; eliminates state-by-state spending limits in Presidential primaries
- H.R. 4072 (LaFalce, Jan. 29, 1986)
* Establishes a matching fund system of public financing for House general elections, with limits on overall campaign and candidates' personal expenditures and additional public funding if a participating candidate is opposed by independent expenditures; tightens definition and regulation of independent expenditures; lowers the PAC contribution limit; imposes an aggregate PAC receipts limit on House candidates; prohibits "bundling" of contributions to circumvent limits

- H.R. 4386 (Green, Mar. 12, 1986)
* Establishes a matching fund system of public financing for House general elections, with limits on overall campaign and candidates' personal expenditures and additional public funding if opponent exceeds either limit
- H.R. 4464 (Howard, Mar. 20, 1986)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; lowers the PAC contribution limit; raises the individual contribution limit; prevents "bundling" of contributions to circumvent limits; requires broadcasters to provide free response time to candidates opposed by independent expenditures; tightens the definition of independent expenditures
- H.R. 4514 (Weaver, Mar. 25, 1986)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; lowers the PAC contribution limit; prevents "bundling" of contributions to circumvent limits; requires broadcasters to provide free response time to candidates opposed by independent expenditures; tightens the definition of independent expenditures
- H.R. 5089 (Neal, Jun. 25, 1986)
* Requires that foundations which seek to influence U.S. elections be treated as political committees, subject to the requirements and limitations of the FECA
- H.R. 5210 (Frenzel, Jul. 21, 1986)
* Repeals provision of law that allows certain Members of Congress to convert excess campaign funds to personal use
- H.R. 5382 (Levine and Miller, Aug. 11, 1986)
* Establishes a matching fund system of public financing in House general elections, with limits on overall campaign and candidates' personal expenditures and additional public funding if a participating candidate is opposed by independent expenditures; imposes an aggregate PAC receipts limit on House candidates; lowers the PAC contribution limit; imposes an aggregate limit on contributions by a PAC; prevents "bundling" of contributions to circumvent limits; requires disclosure of "soft money"
- H.R. 5462 (Kindness, Aug. 15, 1986)
* Requires that bank loans to political committees and other persons be collateralized and reported; requires the FEC to determine that such loans are legitimate and not campaign contributions

Senate Bills and Amendments

- S. J. Res. 313 (Hollings, Mar. 18, 1986)
* Proposes a constitutional amendment to allow Congress to limit campaign expenditures in (and affecting) Federal elections

- S. 59 (Goldwater, Jan. 3, 1985)
* Repeals public financing of Presidential elections; imposes limits on overall campaign expenditures by Federal candidates (including from personal and family funds); limits independent expenditures
- S. 297 (Boren, Jan. 24, 1985)
* Imposes an aggregate PAC receipts limit on House and Senate candidates; raises the individual contribution limit in congressional elections [earlier version of S. 1806]
- S. 323 (Proxmire, Jan. 31, 1985)
* Provides for a 100% tax credit to contributors to Senate candidates who agree to limit overall and personal campaign expenditures, with lower postal rates to opponents of candidates who do not participate; allows candidates opposed by independent expenditures to benefit from lower postal rates; imposes an aggregate PAC receipts limit on Senate candidates
- S. 409 (Bradley, Feb. 6, 1985)
* Repeals tax credits for political contributions (part of tax reform measure [identical to H.R. 800])
- S. 471 (Dodd and Melcher, Feb. 19, 1985)
* Provides for a 100% tax credit to contributors to Senate candidates who agree to limit overall and personal campaign expenditures; allows candidates opposed by independent expenditures to benefit from the same postal rates as political parties and to receive free broadcast response time; imposes an aggregate PAC receipts limit on Senate candidates; prohibits "bundling" of contributions to circumvent limits
- S. 528 (Rudman et al., Feb. 27, 1985)
* Establishes a one year Bipartisan Commission on Congressional Campaign Financing, to study and recommend changes in the system [identical to H.R. 1284]; reported by Senate Governmental Affairs Committee on Aug. 13, 1986
- S. 655--Amendment No. 1168 (Boren, Aug. 12, 1986)
* Imposes an aggregate PAC receipts limit on congressional candidates; raises the individual contribution limit; decreases the PAC contribution limit; requires broadcasters to provide free response time to candidates opposed by independent expenditures; tightens the definition of and regulations governing independent expenditures; prevents "bundling" of contributions to circumvent limits [identical to S. 1806 and H.R. 3799]; amendment passed Senate by a 69-30 vote; S. 655 never passed
- S. 655--Amendment No. 2690 (Boschwitz, Aug. 12, 1986)
* Repeals the Boren Amendment's provision of free response time for candidates opposed by independent expenditures; prohibits PAC contributions to national party committees; requires parties to disclose "soft money" funds; Amendment passed by a 58-42 vote; S. 655 never passed
- S. 1006 (Kasten, Apr. 25, 1985)
* Repeals tax credits for political contributions (part of tax reform measure) [identical to H.R. 2222]

- S. 1072 (Gorton, May 6, 1985)
* Indexes multicandidate committee and individual contribution limits for inflation; increases party contribution and expenditure limits; increases limits on individual and PAC contributions to candidates whose opponents exceed suggested personal spending ceilings; encourages candidates to incorporate independent expenditures into their campaigns; encourages earmarking of contributions to PACs
- S. 1310 (Danforth et al., Jun. 17, 1985)
* Requires broadcasters to provide free response time to candidates opposed by independent expenditures; requires candidates to appear in person when references are made to opponents in broadcast ads [identical to H.R. 3045]
- S. 1563 (Helms, Aug. 1, 1985)
* Prohibits the use of union dues collected as a condition of employment for political activities [identical to H.R. 2534]
- S. 1787 (Mathias and Simon, Oct. 24, 1985)
* Provides for public financing of Senate elections through full grants to major party candidates and a lesser amount to minor party candidates, with limits on overall campaign expenditures (equal to major party candidate grant) and on candidates' personal spending
- S. 1789 (Kerry, Oct. 24, 1985)
* Provides for public financing of Senate elections through full grants to major party candidates and a lesser amount to minor party candidates, with limits on overall campaign expenditures (equal to major party candidate grant) and on candidates' personal spending; repeals tax credits for political contributions as a means of funding the public financing provisions [public finance section identical to S. 1787]
- S. 1806 (Boren, Oct. 29, 1985)
* Imposes an aggregate PAC receipts limit on congressional candidates; raises the individual contribution limit; decreases the PAC contribution limit; requires broadcasters to provide free response time to candidates opposed by independent expenditures; tightens the definition of and regulations governing independent expenditures; prevents "bundling" of contributions to circumvent limits [identical to H.R. 3799 and Amendment to S. 655]
- S. 1891 (Heinz et al., Dec. 3, 1985)
* Enhances the role of political parties as funding sources by: increasing their contribution limits, removing their coordinated expenditure limits (for congressional candidates), allowing unlimited party assistance to candidates, and allowing unlimited contributions to party committees for administrative and overhead costs; increases the base limit on expenditures in Presidential elections; increases party coordinated expenditure limit for Presidential nominees; eliminates state-by-state spending limits in Presidential primaries
- S. 2016 (Dixon, Jan. 23, 1986)
* Establishes a matching fund system of public financing in Senate elections, with limits on overall campaign and candidates' personal

expenditures and additional public funds if participating candidate is opposed by independent expenditures

S. 2131 (Mitchell, Feb. 28, 1986)

* Establishes a matching fund system of public financing in Senate elections, with limits on overall campaign and candidates' personal expenditures and additional public funds if participating candidate is opposed by independent expenditures; eliminates tax credit for political contributions; prohibits "bundling" of contributions to circumvent limits

S. 2415 (Hart, May 6, 1986)

* Prohibits Members of Congress from being closely associated with tax-exempt organizations which do not publicly disclose contributions and expenditures; establishes a panel to study the potential development of unregulated campaign expenditures by charitable educational organizations

S. 2837 (Pell, Sept. 18, 1986)

* Requires broadcasters to provide free prime media time to the national committees of political parties for allocation among Federal candidates

S. 2940 (Gore, Oct. 17, 1986)

* Provides for conditional public financing in Senate elections, based on voluntary spending limits and on public subsidies (equal to the limit) to candidates whose opponents exceed those limits