

# CRS Report for Congress

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## Campaign Finance Reform Bills in the 105<sup>th</sup> Congress: Comparison of H.R. 3485 (Thomas), S. 25 (McCain-Feingold), and Current Law

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### Summary

The House plans to consider campaign reform legislation—H.R. 3485 (Thomas)—reported by the House Oversight Committee on March 18, 1998. A proposed amendment, to be offered by Mr. Thomas on March 30, would add restrictions on state party soft money spending and drop coverage of non-profit groups from the prohibition on involuntary use of funds for political purposes. The bill that has generated the most publicity in the 105<sup>th</sup> Congress is S. 25 (McCain-Feingold), as revised September 29, 1997,<sup>1</sup> introduced in the House as H.R. 3526 (Shays-Meehan). This report summarizes and compares H.R. 3485 with amendment, S. 25 as revised (H.R. 3526), and current law.

**Table 1. Comparison of H.R. 3485, S. 25, and Current Law**

| Current law             | H.R. 3485 (Thomas),<br>with amendment   | S. 25 (McCain-Feingold)/<br>H.R. 3526 (Shays-Meehan) |
|-------------------------|---|--|
| <b>SOURCES OF FUNDS</b> |   |  |
| <b>PACs</b>             |   |  |
| No provision            | Protects confidentiality of small donors or decliners to union or corporate PAC solicitations | No provision   |

<sup>1</sup> Cloture votes on S. 25 failed in the Senate on October 7, 8, and 9, 1997. In February 1998, the bill was offered as a floor amendment to S. 1663 (Lott) and further modified by the Snowe-Jeffords amendment; a cloture vote on this new version of the McCain-Feingold bill failed in the Senate February 26, 1998. This report is based on the current version of S. 25, *not* the modified floor amendment of February, and the identical H.R. 3526.

| Current law  | H.R. 3485 (Thomas),<br>with amendment   | S. 25 (McCain-Feingold)/<br>H.R. 3526 (Shays-Meehan)                                  |
|--|---|---|
| <b>Individuals</b>   |   |   |
| <i>To candidates:</i>  |   |   |
| \$1,000 per election   | \$2,000 per election  | No provision  |
| <i>To state &amp; local parties:</i>   |   |   |
| \$5,000 per year   | \$15,000 per year   | \$10,000 per year   |
| <i>To national party:</i>  |   |   |
| \$20,000 per year  | \$60,000 per year   | No provision  |
| <i>Aggregate annual limit:</i>   |   |   |
| \$25,000   | \$75,000  | \$30,000  |
| Limits not indexed for<br>inflation  | Indexes limits to 1999 base   | No provision  |
| <b>Parties</b>   |   |   |
| <i>To candidates:</i>  |   |   |
| \$5,000 per election   | \$15,000 per election   | No provision  |
| Limits not indexed for<br>inflation  | Indexes limits to 1999 base   | No provision  |
| <b>Candidates</b>  |   |   |
| No limits on candidate<br>spending from personal funds                       | <i>If candidate exceeds individual<br/>limit, up to \$150,000, in House<br/>general election:</i>   | Prohibits party coordinated<br>expenditures for Senate (or<br>House) general election |
|  | Lifts party contribution limit<br>for opponent, up to amount<br>above individual limit  | candidate who exceeds<br>voluntary limit of \$50,000 in<br>personal & family funds    |
|  | <i>If candidate exceeds \$150,000<br/>in House general election:</i>  |   |
|  | Lifts party & individual<br>contribution limits (incl.<br>aggregate annual limit) &<br>raises PAC limit by 10 times<br>for all candidates, up to<br>amount over \$150,000 |   |
|  | <i>If candidate exceeds \$150,000<br/>in House primary election:</i>  |   |
|  | Lifts individual contribution<br>limit (not incl. aggregate<br>annual limit) & raises PAC<br>limit by 10 times for all<br>candidates, up to amount over<br>\$150,000      |   |
|  |   |   |
| Law bans personal use of<br>campaign funds, as defined in<br>FEC regulations | No provision  | Codifies regulations on<br>permissible use of campaign<br>funds                       |

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|--|--|--|
| <b>SOFT MONEY</b>  |  |  |
| <b>Party soft money</b>  |  |  |
| No limits on national party receipt of soft money  | Bans national parties from soliciting, receiving, directing, transferring, or spending soft money  | Bans national parties from soliciting, receiving, directing, transferring, or spending soft money  |
| State parties must follow allocation formulae in FEC regulations for determining appropriate share of hard & soft money for mixed (federal-state-local) activities | <ul style="list-style-type: none"> <li>- Bans use of soft money by state parties on mixed activities, aimed at influencing federal and non-federal elections (<i>e.g.</i>, voter registration, get-out-the-vote drives, and general political advertising)</li> <li>- Bans transfers of non-federally-permissible funds between state parties</li> </ul> | <ul style="list-style-type: none"> <li>- Bans state/local parties from spending soft money for: registration drives in last 120 days of federal election; voter ID, get-out-the-vote drives, &amp; generic activity if federal candidate is on ballot; &amp; messages that refer to federal candidate with intent of election influence</li> <li>- Allows soft money on solely non-federal activities</li> </ul> |
| No provision   | No provision   | No soft money to raise funds   |
| Disclosure by national parties since 1991 FEC regulations  | No provision   | Codifies & increases disclosure requirements   |
| Contributions to party building funds are exempt from FECA definition of contribution  | No provision   | Removes building fund exemption for national parties   |
| <b>Candidate soft money raising</b>  |  |  |
| No provision   | Bans federal candidates & officials raising: soft money for federal election; money from sources beyond federal restrictions in non-federal races; & soft money for messages that identify federal candidates; exempts attendance at state/local party fundraisers in home state   | Prohibits federal candidates & officials from raising soft money for any federal election activity; exempts attendance at state/local party fundraisers  |
| <b>Non-party soft money</b>  |  |  |
| Under <i>Beck</i> and other court rulings, dues-paying non-members have right to disallow political use of their funds   | Requires pre-authorization for unions' political use of dues, fees, or payments from members or non-members  | Requires unions to notify dues-paying non-members (Beck workers) of rights to disallow political use of their funds  |
| No provision   | Requires pre-authorization from corporate & national bank employees & stockholders for political use of dues, fees, or payments as condition of employment   | No provision   |
| No provision   | Corporate stockholders may withhold % share of stocks used for expected political spending, per annual notice  | No provision   |

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|--|--|--|
| No union or corporate disclosure for exempt activities, except internal communications above \$2,000 per election  | No provision   | Requires disclosure of exempt activities (incl. internal communications referring to federal candidate only), above \$50,000 per year  |
| No provision   | Denies public funding to presidential candidates who raise soft money  | No provision   |
|  | <b>Tax-exempt activity</b>   |  |
| No provision   | No provision   | Bans parties from raising money for or giving to tax-exempt groups   |
| <b>ISSUE ADVOCACY</b>  | <b>ISSUE ADVOCACY</b>  |  |
| Based on court rulings, only spending for communications that use express advocacy language (e.g., vote for, defeat) are subject to disclosure rules, source limits & prohibitions of FECA | Requires FEC disclosure of spending and sources of funds for communications that identify federal candidates or parties within 90 days of election, over \$250 threshold | - Defines express advocacy, as communications for or against candidate by explicit language that in context can have no other reasonable meaning; paid broadcast citing a candidate within 60 days of election, or unmistakable, unambiguous election advocacy, taken as a whole, with limited reference to external events<br>- Voter guide exemption |
| Expenditure defined in FECA as money spent to influence a federal election   | No provision   | Amends definition to incl. payment for message with express advocacy, or refers to clearly identified candidate (coordinated), to influence federal election   |
| <b>INDEPENDENT EXPENDITURES</b>  | <b>INDEPENDENT EXPENDITURES</b>  |  |
| Prohibits cooperation and coordination of independent expenditures with candidates   | No provision   | Tightens definition of what constitutes coordination and cooperation   |
| Based on 1996 <i>Colorado</i> ruling, parties may make independent expenditures for candidates (without limit)   | No provision   | Prohibits parties from making both coordinated and independent expenditures for a general election candidate   |
| Requires prompt disclosure in last 20 days of election   | No provision   | Augments disclosure of large expenditures near election  |

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|--|--|---|
| <b>FOREIGN NATIONAL MONEY</b>  |  |   |
| Federal law ban contributions from foreign nationals or raising such funds in connection with U.S. elections; exempts permanent resident aliens (with green cards) | <ul style="list-style-type: none"> <li>- Ends green card exemption</li> <li>- Bans foreign national independent expenditures or soft money donations</li> <li>- Doubles penalties for violations</li> </ul>  | Bans direct or indirect foreign national contributions, including soft money, in connection with any election   |
| <b>FEDERAL ELECTION COMMISSION</b>   |  |   |
| <b>Disclosure</b>  |  |   |
| Optional electronic filing   | Requires electronic filing by all committees above \$50,000 per year   | Requires electronic filing by all committees above FEC-determined level, with Internet posting within 24 hours  |
| No provision   | Candidates may disclose all activity in 24 hours in last 90 days; prompt Internet posting  | No provision  |
| Candidates must disclose in 48 hours \$1000+ contributions in last 20 days of election   | Candidates must make such notice within 24 hours   | No provision  |
| Independent expenditures of \$1000+ must be disclosed in 24 hours in last 20 days  | FEC must receive such notices within 24 hours of being made  | No provision  |
| Candidate disclosure on calendar year basis  | Candidate disclosure on election cycle basis   | No provision  |
| No provision   | Requires reports on payments of \$500+ by secondary payees   | No provision  |
| Law requires post-election reports   | Requires aggregate totals through election on reports  | No provision  |
| Contributions of \$200+ must incl. name, address, occupation, & employer; best efforts required to obtain information  | Requires candidate reports to show cumulative amounts received from itemized contributors  | <ul style="list-style-type: none"> <li>- Prohibits candidates from depositing contributions over \$200 without required ID</li> <li>- Lowers itemization threshold to \$50 for contributions</li> </ul> |
| No provision   | Requires disclosure of push polls within 90 days of election if results are not made public  | No provision  |
| FEC may audit only if it has reason to believe a violation occurred  | No provision   | Allows random audits of campaigns within 12 months after election   |
| <b>Enforcement</b>   |  |   |
| Ambiguities in law may be clarified through FEC advisory opinions, issued with majority support of commissioners   | <ul style="list-style-type: none"> <li>- Allows written responses to written requests where law is unambiguous</li> <li>- Requires FEC to publish &amp; index responses</li> <li>- Provides safe harbor protection for anyone acting in good faith, based on response</li> </ul> | No provision  |
| FEC required to notify object of a complaint   | Enhances notice with assertion that object of complaint has not been found guilty  | No provision  |

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|--|--|---|
| <p>FEC may initiate enforcement action with “reason to believe” a violation may have occurred</p> <p><i>Penalties:</i> maximums are prescribed in election law</p>     | <p>Changes FEC criteria to “reason to investigate” standard</p> <p>Indexes penalties for inflation</p>   | <p>Changes FEC criteria to “reason to investigate” standard</p> <ul style="list-style-type: none"> <li>- Increases knowing and willful violation penalties</li> <li>- Automatic late filing penalties</li> <li>- Equitable remedies in conciliation agreements</li> </ul> |
| <p>Law specifies timetable for enforcement actions</p> <p>FEC may refer suspected violations to Justice only if probable cause to believe a violation has occurred</p> | <p>No provision</p> <p>No provision</p>  | <p>Expedites FEC enforcement procedures late in election</p> <p>Allows FEC referrals at any time</p>  |
| <b>MISCELLANEOUS</b>   |  |   |
| <p>No provision</p>  | <p><i>Barriers to vote fraud:</i></p> <ul style="list-style-type: none"> <li>- Pilot programs on voter eligibility confirmation</li> <li>- Incl. citizenship &amp; naturalization information on registration forms (unless waived by states)</li> <li>- Allows address checks on recent non-voters</li> </ul> | <p>No provision</p>   |
| <p>FECA bans solicitation of campaign funds, as defined, from federal govt. buildings</p>  | <p>No provision</p>  | <p>Includes raising soft money in ban on solicitation from government buildings</p>   |
| <p>No provision</p>  | <p><i>Push poll</i> sponsors must identify selves to respondents</p>   | <p>No provision</p>   |
| <p>Imposes penalties on publicly-funded presidential candidates who evade voluntary spending limits and, in general election, raise private funds</p>                  | <p>Increases fines on presidential candidates seeking to evade spending limits by raising non-public funds</p>   | <p>No provision</p>   |
| <p>Bans cash contributions over \$100</p>  | <p>Bans receipt of such contributions</p>  | <p>No provision</p>   |
| <p>Bans House franked mass mailings 90 days from election</p>  | <p>No provision</p>  | <p>Bans franked mass mailings in Member’s election year</p>   |
| <p>Requires disclaimers on broadcast and print ads</p>   | <p>No provision</p>  | <p>Enhances disclaimer requirements</p>   |
| <p>No provision</p>  | <p>No provision</p>  | <p>Bans false representation to raise funds</p>   |
| <p>No provision</p>  | <p>No provision</p>  | <p>Bans non-candidate committee use of candidate names</p>  |
| <p>No provision</p>  | <p>No provision</p>  | <p>Bans donations by individuals 17 years &amp; younger</p>   |