The State of Campaign Finance Policy: Recent Developments and Issues for Congress

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SUMMARY

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The State of Campaign Finance Policy: Recent Developments and Issues for Congress

Major changes have occurred in campaign finance policy since 2002, when Congress substantially amended campaign finance law via the Bipartisan Campaign Reform Act (BCRA). BCRA stands as the most recent major amendment to campaign finance law. The Supreme Court's 2010 ruling in *Citizens United* and a related lower-court decision, *SpeechNow.org v. FEC*, arguably represented the most fundamental changes to campaign finance law in decades. *Citizens United* lifted a previous ban on corporate (and union) independent expenditures advocating election or defeat of candidates. *SpeechNow* permitted unlimited contributions supporting such expenditures and facilitated the advent of super PACs. Although campaign finance policy remains the subject of intense debate and public interest, there have been few recent major legislative or regulatory changes since BCRA and *Citizens United*.

In recent Congresses, both major parties have proposed campaign finance bills, but no major amendments have become law. Most legislative activity has emphasized alternative omnibus elections bills that have included campaign finance provisions. No major changes in campaign finance law were enacted during the 118th Congress. One enacted law, P.L. 118-26, extended authority for the Federal Election Commission's (FEC's) Administrative Fine Program until 2033. Although most campaign finance legislation proposes to amend the Federal Election Campaign Act (FECA), provisions in recent appropriations laws also have addressed campaign finance issues, such as various reporting requirements or prohibitions.

Recent Congresses also organized much of their legislative work on elections around omnibus bills spanning multiple policy issues, some of which included campaign finance provisions. In particular, during the 118th Congress, some House Members emphasized the American Confidence in Elections (ACE) Act (H.R. 4563). The Committee on House Administration ordered the ACE Act reported after a series of hearings; the House also considered some provisions from the ACE Act as stand-alone legislation. Other Members concentrated their efforts on alternative proposals, such as the Freedom to Vote Act (H.R. 11; S. 1).

More generally post-*Citizens United*, debate over disclosure has been a recurring theme in Congress and beyond. Legislation to require additional information about the flow of money among various donors—the DISCLOSE Act—passed the House during the 111th Congress and was reintroduced during subsequent Congresses. Congress also has considered alternatives that include some elements of DISCLOSE and proposals that would require additional disclosure from certain groups regulated primarily under Section 501(c) of the Internal Revenue Code (tax law). Omnibus elections bills that passed the House in the 117th Congress (H.R. 1) and the 116th Congress (H.R. 1) also contained DISLCOSE provisions. The debate over whether or how additional disclosure is needed has also extended to the FEC—and congressional oversight of the agency—and the courts.

Also post-*Citizens United*, statutory and judicial changes eased some contribution limits and affected the presidential public financing program. Most consequentially, the Supreme Court invalidated aggregate contribution limits in April 2014 (*McCutcheon v. FEC*). Also in 2014, Congress and President Obama terminated public funding for presidential nominating conventions (P.L. 113-94). Congress responded to these events by including language in the FY2015 omnibus appropriations law (P.L. 113-235) that increased limits for some contributions to political party committees, including for conventions. More recently, in May 2022 (*Federal Election Commission v. Ted Cruz for Senate*), the Court invalidated a FECA limit on the amount of post-election campaign contributions that could be used to repay loans from the candidate to the campaign. During the 118th Congress, a provision in consolidated appropriations law P.L. 118-47 transferred $320 million from the Presidential Election Campaign Fund (PECF) to the U.S. Secret Service for 2024 election-cycle protection.

This report considers these and other developments in campaign finance policy and comments on areas of potential conflict and consensus. This report emphasizes issues that have been most prominent in recent Congresses. It also discusses major elements of campaign finance policy. This report will be updated occasionally to reflect major developments.

Contents

Tables

Contacts

Introduction

Federal law has regulated money in elections for more than a century.[1] Concerns about limiting the potential for corruption and informing voters have been at the heart of that law and related regulations and judicial decisions. Restrictions on private money in campaigns, particularly large contributions, have been a common theme throughout the history of federal campaign finance law. The roles of corporations, unions, interest groups, and private funding from individuals have attracted consistent regulatory attention. Congress has also required that certain information about campaigns' financial transactions be made public. Collectively, three principles embodied in this regulatory tradition—limits on sources of funds, limits on contributions, and disclosure of information about these funds—constitute ongoing themes in federal campaign finance policy.

Throughout most of the 20th century, campaign finance policy was marked by broad legislation enacted sporadically. Major legislative action on campaign finance issues remains rare. Since the 1990s, however, momentum on federal campaign finance policy, including regulatory and judicial action, has arguably increased. Congress last enacted major campaign finance legislation in 2002. The Bipartisan Campaign Reform Act (BCRA) largely banned unregulated *soft money*[2] in federal elections and restricted funding sources for pre-election broadcast advertising known as *electioneering communications* (ECs). As BCRA was implemented, regulatory developments at the Federal Election Commission (FEC), and some court cases, stirred controversy and renewed popular and congressional attention to campaign finance issues. Since BCRA, Congress has also continued to explore legislative options and has made comparatively minor amendments to the nation's campaign finance law. The most substantial recent statutory changes occurred in 2014, when Congress eliminated public financing for presidential nominating conventions and increased limits for some contributions to political parties.

Some of the most notable campaign finance developments beyond Congress have occurred at the Supreme Court. The 2010 *Citizens United* ruling spurred substantial legislative action during the

[1] The 1907 Tillman Act (34 Stat. 864), which prohibited federal contributions from nationally chartered banks and corporations, is generally regarded as the first major federal campaign finance law. Congress extended those restrictions to unions temporarily in 1943 and, permanently, in 1947, with the Smith-Connolly (57 Stat. 163; 57 Stat. 167) and Taft-Hartley Acts (61 Stat. 136; 61 Stat. 159) respectively. The 1925 Federal Corrupt Practices Act (43 Stat. 1070) was arguably the first federal statute combining multiple campaign finance provisions, particularly disclosure requirements first enacted in 1910 and 1911 (36 Stat. 822 and 37 Stat. 25). An 1867 statute barred requiring political contributions from naval yard workers (14 Stat. 489 (March 2, 1867)). This appears to be the first federal law concerning campaign finance. The Pendleton Act (22 Stat. 403), which created the civil service system is also sometimes cited as an early campaign finance measure because it banned receiving a public office in exchange for a political contributions (see 22 Stat. 404). For additional historical discussion of the evolution of campaign finance law and policy, see Anthony Corrado et al., *The New Campaign Finance Sourcebook* (Brookings Institution Press, 2005), pp. 7-47. See also, for example, Kurt Hohenstein, *Coining Corruption: The Making of the American Campaign Finance System* (Northern Illinois University Press, 2007), Robert E. Mutch, *Campaigns, Congress, and Courts: The Making of Federal Campaign Finance Law* (Praeger, 1988), Robert E. Mutch, *Buying the Vote: A History of Campaign Finance Reform* (Oxford University Press, 2014), Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform* (University of Michigan Press, 2008), pp. 43-80, and *Money and Politic$*, ed. Paula Baker (The Pennsylvania State University Press, 2002). On the federal role in campaigns versus elections, see CRS Report R45302, *Federal Role in U.S. Campaigns and Elections: An Overview*, by R. Sam Garrett.

[2] *Soft money* is a term of art referring to funds generally believed to influence federal elections but not regulated under federal election law. Soft money stands in contrast to *hard money*. The latter is a term of art referring to funds that are generally subject to regulation under federal election law, such as restrictions on funding sources and contribution amounts. These terms are not defined in federal election law. For an overview, see, for example, David B. Magleby, "Outside Money in the 2002 Congressional Elections," in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, ed. David B. Magleby and J. Quin Monson (Brookings Institution Press, 2004), pp. 10-13.

111th Congress and continued interest during subsequent Congresses.[3] In another 2010 decision, *SpeechNow.org v. Federal Election Commission*, the U.S. Court of Appeals for the District of Columbia held that contributions to political action committees (PACs) that make only independent expenditures (IEs) cannot be limited—a development that led to formation of "super PACs." Both decisions continue to shape campaign finance policy debates and options. As noted later in this report, rulings in 2014 (*McCutcheon*) and 2022 (*Ted Cruz for Senate*) addressed narrower regulatory topics but nonetheless continue to affect policy options.

This report is intended to provide an accessible overview of major policy issues facing Congress. Citations to other CRS products, which provide additional information, appear where relevant.[4] The report discusses selected litigation to demonstrate how those events have changed the campaign finance landscape and affected the policy issues that may confront Congress, but it is not a constitutional or legal analysis. As in the past, this version of the report contains both additions of new material and deletions of old material compared with previous versions.[5] This update emphasizes those topics that appear to be most relevant for Congress, while also providing historical background that is broadly applicable. The report emphasizes campaign finance issues that are contained in statutory or regulatory provisions, or proposals that have been the focus of substantial legislative activity.[6] This report will be updated occasionally as events warrant.

Development of Modern Campaign Finance Law

Policy Background

Dozens or hundreds of campaign finance bills have been introduced in each Congress since the 1970s. Nonetheless, major changes in campaign finance law have been rare. A generation passed between the Federal Election Campaign Act (FECA) and BCRA, the two most prominent campaign finance statutes of the past 50 years. Federal courts and the FEC played active roles in interpreting and implementing both statutes and others. Over time and in all facets of the policy process, anti-corruption themes have been consistently evident. Specifically, federal campaign finance law seeks to limit corruption or apparent corruption in the lawmaking process that might result from monetary contributions. Campaign finance law also seeks to inform voters about sources and amounts of contributions. In general, Congress has attempted to limit potential corruption and increase voter information through two major policy approaches:

- limiting sources and amounts of financial contributions, and
- requiring disclosure about contributions and expenditures.

Another hallmark of the nation's campaign finance policy concerns spending restrictions. Congress has occasionally placed restrictions on the amount candidates can spend, as it did initially through FECA. Today, candidates and political committees can generally spend unlimited

[3] For additional discussion of activity during the 111th Congress, see CRS Report R41054, *Campaign Finance Policy After Citizens United v. Federal Election Commission: Issues and Options for Congress*, by R. Sam Garrett; and CRS Report R41264, *The DISCLOSE Act: Overview and Analysis*, by R. Sam Garrett, L. Paige Whitaker, and Erika K. Lunder.

[4] As explained in the text, this report does not address constitutional or legal issues except to provide policy context. For additional discussion, see, in particular, CRS Report R46521, *Political Campaign Contributions and Congress: A Legal Primer*, by L. Paige Whitaker; and CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker.

[5] Congressional requesters may contact the author for additional information.

[6] Unless otherwise noted, the report does not discuss executive orders.

amounts on their campaigns, as long as those funds are not coordinated with other parties or candidates.[7]

The Federal Election Campaign Act (FECA)

Modern campaign finance law was largely shaped in the 1970s, particularly through FECA.[8] First enacted in 1971 and substantially amended in 1974, 1976, and 1979, FECA remains the foundation of the nation's campaign finance law.[9] As originally enacted, FECA subsumed previous campaign finance statutes, such as the 1925 Corrupt Practices Act, which, by the 1970s, were largely regarded as ineffective, antiquated, or both.[10] The 1971 FECA principally mandated reporting requirements similar to those in place today, such as quarterly disclosure of a political committee's receipts and expenditures. Subsequent amendments to FECA played a major role in shaping campaign finance policy as it is understood today. In brief

- Among other requirements, the 1974 amendments, enacted in response to the Watergate scandal, placed contribution and spending limits on campaigns. The 1974 amendments also established the FEC.
- After the 1974 amendments were enacted, the first in a series of prominent legal challenges (most of which are beyond the scope of this report) came before the Supreme Court.[11] In its landmark *Buckley v. Valeo* (1976) ruling, the Court declared mandatory spending limits unconstitutional (except for publicly financed presidential candidates) and invalidated the original appointment structure for the FEC.
- Congress responded to *Buckley* through the 1976 FECA amendments, which reconstituted the FEC, established new contribution limits, and addressed various PAC and presidential public financing issues.
- The 1979 amendments simplified reporting requirements for some political committees and individuals.

To summarize, the 1970s were devoted primarily to establishing and testing limits on contributions and expenditures, creating a disclosure regime, and constructing the FEC to administer the nation's campaign finance laws.

Despite minor amendments, FECA remained essentially uninterrupted for the next 20 years. Although there were relatively narrow legislative changes to FECA and other statutes, such as the

[7] *Political committees* include candidate committees, party committees, and PACs. See 52 U.S.C. §30101 (previously codified at 2 U.S.C. §431(4), as explained later in this report).

[8] FECA is 52 U.S.C. §30101 et seq. (previously codified at 2 U.S.C. §431 et seq.). Congress first addressed modern campaign finance issues in the 1970s through the 1971 Revenue Act, which established the presidential public financing program. The 1970s are primarily remembered, however, for enactment of and amendments to FECA. See CRS Report RL34534, *Public Financing of Presidential Campaigns: Overview and Analysis*, by R. Sam Garrett.

[9] On the 1971 FECA, see P.L. 92-225. On the 1974, 1976, and 1979 amendments, see P.L. 93-443, P.L. 94-283, and P.L. 96-187 respectively.

[10] The Corrupt Practices Act, which FECA generally supersedes, is 43 Stat. 1070.

[11] For additional discussion, see CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

1986 repeal[12] of tax credits for political contributions, much of the debate during the 1980s and early 1990s focused on the role of interest groups, especially PACs.[13]

The Bipartisan Campaign Reform Act (BCRA) and Beyond

By the 1990s, attention began to shift to perceived loopholes in FECA. Two issues—soft money and issue advocacy (issue advertising)—were especially prominent. *Soft money* is a term of art referring to funds generally perceived to influence elections but not regulated by campaign finance law. At the federal level before BCRA, soft money came principally in the form of large contributions from otherwise prohibited sources, and went to party committees for "party-building" activities that indirectly supported elections. Similarly, *issue advocacy* traditionally fell outside FECA regulation because these advertisements praised or criticized a federal candidate—often by urging voters to contact the candidate—but did not explicitly call for election or defeat of the candidate (which would be *express advocacy*).

In response to these and other concerns, BCRA specified several reforms.[14] Among other provisions, the act banned national parties, federal candidates, and officeholders from raising soft money in federal elections; increased most contribution limits; and placed additional restrictions on pre-election issue advocacy. Specifically, the act's *electioneering communications* provision prohibited corporations and unions from using their treasury funds to air broadcast ads referring to clearly identified federal candidates within 60 days of a general election or 30 days of a primary election or caucus.[15]

After Congress enacted BCRA, momentum on federal campaign finance policy issues arguably shifted to the FEC and the courts. Implementing and interpreting BCRA were especially prominent issues. Noteworthy post-BCRA events include the following:

- The Supreme Court upheld most of BCRA's provisions in a 2003 facial challenge (*McConnell v. Federal Election Commission*).[16]
- Over time, the Court held aspects of BCRA unconstitutional as applied to specific circumstances. These included a 2008 ruling related to additional fundraising permitted for congressional candidates facing self-financed opponents (the "Millionaire's Amendment," *Davis v. Federal Election Commission*) and a 2007 ruling on the electioneering communication provision's restrictions on advertising by a 501(c)(4) advocacy organization (*Wisconsin Right to Life v. Federal Election Commission*).[17]
- Since 2002, the FEC has undertaken several rulemakings related to BCRA and other topics. Complicated subject matter, protracted debate among

[12] See P.L. 99-514 §112. Congress repealed a tax deduction for political contributions in 1978. See P.L. 95-600 §113.

[13] See, for example, Robert E. Mutch, *Campaigns, Congress, and Courts: The Making of Federal Campaign Finance Law* (Praeger, 1988); and *Risky Business? PAC Decisionmaking in Congressional Elections*, ed. Robert Biersack, Clyde S. Wilcox, and Paul S. Herrnson (M.E. Sharpe, 1994).

[14] BCRA is P.L. 107-155; 116 Stat. 81. BCRA amended FECA, which appears at 52 U.S.C. §30101 *et seq*. (previously codified at 2 U.S.C. §431 *et seq*.) BCRA is also known as *McCain-Feingold*.

[15] On the definition of *electioneering communications*, see 52 U.S.C. §30104 (previously codified at 2 U.S.C. §434 (f)(3)).

[16] For additional discussion, see CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

[17] For additional discussion, see CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker; and CRS Report RL34324, *Campaign Finance: Legislative Developments and Policy Issues in the 110th Congress*, by R. Sam Garrett.

commissioners, and litigation have made some rulemakings lengthy and controversial.[18]

- Congress enacted some additional amendments to campaign finance law since BCRA. The 2007 Honest Leadership and Open Government Act (HLOGA) placed new disclosure requirements on lobbyists' campaign contributions (certain bundled contributions) and restricted campaign travel aboard private aircraft.[19] In 2014, as discussed below, Congress raised some limits for contributions to political parties.

Major Issues: What Has Changed Post-*Citizens United* and What Has Not

The following discussion highlights those topics that appear to be enduring and significant in the current policy environment. The discussion begins with changes directly affected by *Citizens United* because those developments most fundamentally altered the campaign finance landscape.

What Has Changed

Unlimited Corporate and Union Spending on Independent Expenditures and Electioneering Communications

In January 2010, the Supreme Court issued a 5-4 decision in *Citizens United v. Federal Election Commission*.[20] In brief, the opinion invalidated FECA's prohibitions on corporate and union treasury funding of independent expenditures and electioneering communications. As a consequence of *Citizens United*, corporations and unions are free to use their treasury funds to air political advertisements and make related purchases explicitly calling for election or defeat of federal or state candidates (*independent expenditures*) or advertisements that refer to those candidates during pre-election periods, but do not necessarily explicitly call for their election or defeat (*electioneering communications*).[21] Previously, such advertising would generally have had to be financed through voluntary contributions raised by PACs affiliated with unions or corporations.

DISCLOSE Act Consideration Following Citizens United

Since *Citizens United*, the House and Senate have considered various legislation designed to increase public availability of information (*disclosure*) about corporate and union spending. Particularly in the immediate aftermath of the decision, during the 111th Congress, most

[18] For example, rulemakings on various BCRA provisions resulted in a series of at least three lawsuits covering six years. These are the *Shays and Meehan v. Federal Election Commission* cases.

[19] For additional discussion, see CRS Report R40091, *Campaign Finance: Potential Legislative and Policy Issues for the 111th Congress*, by R. Sam Garrett. HLOGA is primarily an ethics and lobbying statute. For additional discussion, see, for example, CRS Report R40245, *Lobbying Registration and Disclosure: Before and After the Enactment of the Honest Leadership and Open Government Act of 2007*, by Jacob R. Straus.

[20] 130 S.Ct. 876 (2010). For additional discussion, see, for example, CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker.

[21] *Independent expenditures* explicitly call for election or defeat of political candidates (known as *express advocacy*), may occur at any time, and are usually (but not always) broadcast advertisements. They must also be uncoordinated with the campaign in question. On the definition of *independent expenditures*, see 52 U.S.C. §30101 (previously codified at 2 U.S.C. 431 §17). As noted previously, electioneering communications refer to clearly identified candidates during pre-election periods but do not contain express advocacy.

congressional attention responding to the ruling focused on the DISCLOSE Act (H.R. 5175; S. 3295; S. 3628). The DISCLOSE Act has been the most consistent focus of generally proregulatory legislative activity on disclosure issues since *Citizens United*.

The House of Representatives passed H.R. 5175, with amendments, on June 24, 2010, by a 219-206 vote. By a 57-41 vote, the Senate declined to invoke cloture on companion bill S. 3628 on July 27, 2010.[22] A second cloture vote failed (59-39) on September 23, 2010.[23] No additional action on the bill occurred during the 111th Congress. The DISCLOSE Act text has remained a focal point of legislative activity in subsequent Congresses for those who support additional reporting requirements.

This period during the 111th Congress marked the most substantial legislative progress that the DISCLOSE Act made initially, and the bill has never become law. Versions of the bill were introduced in both chambers in subsequent Congresses. In the 112th Congress, the Senate debated a motion to proceed to the measure in July 2012 but declined (by a 53-45 vote) to invoke cloture. In the 113th Congress, the Senate Rules and Administration Committee held a hearing on a version of the bill, S. 2516. The 114th and 115th Congresses considered the DISCLOSE Act again, but no substantial legislative activity occurred. DISCLOSE Act text was included in H.R. 1, Division B, Subtitle B, which the House passed in March 2019. Stand-alone versions of DISCLOSE (H.R. 2977 and S. 1147) did not advance in the 116th Congress. In the 117th Congress, a version of DISCLOSE was included in H.R. 1. The House passed the bill (220-210) in March 2021. The Senate did not invoke cloture on the motion to proceed to a Senate companion bill (S. 2093; see also S. 1). Versions of the DISCLOSE Act were introduced in the 118th Congress, either as components of other bills or as stand-alone measures; none advanced beyond committee referral.[24]

Unlimited Contributions to Independent-Expenditure-Only Political Action Committees (Super PACs)

On March 26, 2010, the U.S. Court of Appeals for the District of Columbia held in *SpeechNow.org v. Federal Election Commission*[25] that contributions to PACs that make only independent expenditures—but not contributions—could not be constitutionally limited. As a result, these entities, commonly called *super PACs*, may accept previously prohibited amounts and sources of funds, including large corporate, union, or individual contributions used to advocate for election or defeat of federal candidates. Existing reporting requirements for PACs apply to super PACs, meaning that contributions and expenditures must be disclosed to the FEC.

Unlimited Contributions to Certain Nonconnected Political Action Committees (PACs)

As the ramifications of *Citizens United* and *SpeechNow* continued to unfold, other forms of unlimited fundraising were also permitted. In October 2011, the FEC announced that, in response to an agreement reached in a case brought after *SpeechNow* (*Carey v. FEC*),[26] the agency would

[22] "DISCLOSE Act—Motion to Proceed," Senate vote 220, *Congressional Record*, daily edition, vol. 156 (July 27, 2010), p. S6285.

[23] "DISCLOSE Act—Motion to Proceed—Resumed," Senate vote 240, *Congressional Record*, daily edition, vol. 156 (September 23, 2010), p. S7388.

[24] See, in the 118th Congress, H.R. 11; H.R. 1118; S. 1; S. 512; and S. 2344.

[25] 599 F.3d 686 (D.C. Cir. 2010).

[26] Civ. No. 11-259-RMC (D.D.C. 2011).

permit *nonconnected* PACs—those that are unaffiliated with corporations or unions—to accept unlimited contributions for use in independent expenditures. The agency directed PACs choosing to do so to keep the independent expenditure contributions in a separate bank account from the one used to make contributions to federal candidates.[27] As such, nonconnected PACs that want to raise unlimited sums for independent expenditures may create a separate bank account and meet additional reporting obligations rather than forming a separate super PAC. Super PACs have, nonetheless, continued to be an important force in American politics because only some traditional PACs qualify for the *Carey* exemption to fundraising limits.[28] PACs that utilize both the super PAC and traditional PAC approach simultaneously have come to be known as *Carey PACs* or *hybrid PACs*.[29]

FEC Rules Implementing Parts of Citizens United

Implementing *Citizens United* and *SpeechNow* fell to the FEC. The commission issued advisory opinions (AOs) within a few months of the rulings recognizing corporate independent expenditures and super PACs. Afterward, some corporations, unions, and other organizations began making previously prohibited expenditures or raising previously prohibited funds for electioneering communications or independent expenditures.[30]

Despite progress on post-*Citizens United* AOs, agreement on final rules took years. A December 2011 Notice of Proposed Rulemaking (NRPM) posing questions about what form post-*Citizens United* rules should take[31] remained open until late 2014, reflecting an apparent stalemate over the scope of the agency's *Citizens United* response. In October 2014, the commission approved rules essentially to remove portions of existing regulations that *Citizens United* had invalidated, such as spending prohibitions on corporate and union treasury funds.[32] The 2014 rules did not require additional disclosure surrounding independent spending, which some commenters had urged, but which others argued was beyond the agency's purview.[33] Other rules discussed throughout this report have referenced *Citizens United*, but the commission has not approved comprehensive rules to implement the decision, just as Congress has not enacted substantial legislation to do so.

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[27] Federal Election Commission, "FEC Statement on Carey v. FEC: Reporting Guidance for Political Committees that Maintain a Non-Contribution Account," press release, October 5, 2011, http://www.fec.gov/press/Press2011/20111006postcarey.shtml.

[28] In particular, the exemption only applies to nonconnected PACs (i.e., those that exist independently as PACs and are not affiliated with a parent organization, such as an interest group or labor union).

[29] See generally, for example, Diana Dwyer and Robin Kolodny, *The Fundamentals of Campaign Finance in the U.S.: Why we Have the System we Have* (University of Michigan Press, 2024), pp. 171-172.

[30] Perhaps most notably, the FEC issued AOs 2010-09 (Club for Growth) and 2010-11 (Commonsense Ten), recognizing corporate independent expenditures and super PACs. For additional discussion, see CRS Report R42042, *Super PACs in Federal Elections: Overview and Issues for Congress*, by R. Sam Garrett. AOs provide an opportunity to pose questions about how the commission interprets the applicability of FECA or FEC regulations to a specific situation (e.g., a planned campaign expenditure). AOs apply only to the requester and within specific circumstances, but can provide general guidance for those in similar situations. See 52 U.S.C. §30108 (previously codified at 2 U.S.C. §437f).

[31] Federal Election Commission, "Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations," 248 *Federal Register* 80803, December 27, 2011.

[32] Federal Election Commission, "Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations," 79 *Federal Register* 62797, October 21, 2014.

[33] Some Senators filed comments calling for additional donor disclosure. See Letter from Sen. Jeanne Shaheen et al. to Commissioner Caroline Hunter, Chair, FEC, February 21, 2012. The document may be obtained from the FEC rulemaking comments search function at http://sers.fec.gov/fosers/.

Aggregate Caps on Individual Campaign Contributions

On April 2, 2014, the Supreme Court invalidated aggregate contribution limits in *McCutcheon v. FEC*. "Base" limits capping the amounts that donors may give to individual candidates still apply.[34] For 2013-2014—pre-*McCutcheon*—individual contributions could total no more than $123,200. Of that amount, $48,600 could go to candidates, with the remaining $74,600 to parties and PACs. Following *McCutcheon*, individuals may contribute to as many candidates as they wish provided that they adhere to the base contribution limits (e.g., $3,500 per candidate, per election for the 2026 election cycle).

Higher Contribution Limits and Special Accounts for Political Party Committees

For the first time since enacting BCRA in 2002, Congress raised the statutory limit on some campaign contributions in December 2014. Specifically, the FY2015 omnibus appropriations law, P.L. 113-235, increased contribution limits to national political party committees.[35] Most prominently, these party committees include the Democratic National Committee (DNC), Democratic Congressional Campaign Committee (DCCC), Democratic Senatorial Campaign Committee (DSCC), Republican National Committee (RNC), National Republican Congressional Committee (NRCC), and the National Republican Senatorial Committee (NRSC). The FY2015 law also permits these committees to establish special accounts, each with separate contribution limits, to support party conventions,[36] facilities, and recounts or other legal matters.

Under inflation adjustments announced in January 2025, individuals could contribute $1,063,200 to national party committees annually in 2025-2026.[37] Political action committees (PACs) may also make larger contributions to parties. For multicandidate PACs—the most common type of PAC—contributions to a national party increased from $45,000 to at least $360,000 annually. Unlike limits for individual contributions, those for PACs are not adjusted for inflation.[38]

Some Public Financing Issues

Two notable public financing changes have occurred since 2010, although neither is directly related to *Citizens United.* Most relevant for federal campaign finance policy, P.L. 113-94, enacted in April 2014, terminated public financing for presidential nominating conventions.[39] The 2016 conventions were the first since 1972 funded entirely with private money.[40]

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[34] For additional policy discussion, as well as citations to other CRS products that cover legal issues, see CRS Report R43334, *Campaign Contribution Limits: Selected Questions About McCutcheon and Policy Issues for Congress*, by R. Sam Garrett.

[35] See P.L. 113-235; 128 Stat. 2130; and, especially, 128 Stat. 2772.

[36] As noted elsewhere in this report, only the "headquarters" committees (e.g., the DNC or RNC) could collect additional funds for conventions.

[37] CRS calculated this figure from individual-account adjustments that appear in Federal Election Commission, "Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold," 90 *Federal Register* 8526, January 30, 2025; see especially p. 8528.

[38] For historical discussion of the provisions' enactment, see CRS Report R43825, *Increased Campaign Contribution Limits in the FY2015 Omnibus Appropriations Law: Frequently Asked Questions*, by R. Sam Garrett.

[39] 128 Stat. 1085.

[40] See CRS Report R43976, *Funding of Presidential Nominating Conventions: An Overview*, by R. Sam Garrett and Shawn Reese; CRS Report RL34630, *Federal Funding of Presidential Nominating Conventions: Overview and Policy Options*, by R. Sam Garrett and Shawn Reese; and CRS Report R41604, *Proposals to Eliminate Public Financing of* (continued...)

The second major development occurred in 2011 and primarily affects state-level candidates but also has implications for federal policy options. On June 27, 2011, the Supreme Court issued a 5-4 opinion in the consolidated case *Arizona Free Enterprise Club's Freedom Club PAC et al. v. Bennett* and *McComish v. Bennett*.[41] The decision invalidated portions of Arizona's public financing program for state-level candidates.[42] The majority opinion, authored by Chief Justice Roberts, held that the state's use of matching funds (also called *trigger funds, rescue funds*, or *escape hatch funds*) unconstitutionally burdened privately financed candidates' free speech and did not meet a compelling state interest. The decision has been most relevant for state-level public financing programs, as a similar matching fund system does not operate at the federal level. However, the decision also appears to preclude rescue funds in future federal proposals to restructure the existing presidential public financing program or create a congressional public financing program.

The presidential public financing program remains in operation, but has not been substantially utilized since the 2012 election cycle.[43] In the 118th Congress, a provision in consolidated appropriations law P.L. 118-47 transferred $320 million from the Presidential Election Campaign Fund (PECF), the repository for public financing checkoff designations, to the U.S. Secret Service for 2024 election-cycle protection duties.

What Has Not Changed

Federal Ban on Corporate and Union Treasury Contributions

Corporations and unions are still banned from making contributions in federal elections.[44] PACs affiliated with, but legally separate from, those corporations and unions may contribute to candidates, parties, and other PACs. As noted elsewhere in this report, corporations and unions may use their treasury funds to make electioneering communications, independent expenditures, or both, but this spending is not considered a *contribution* under FECA.[45]

Federal Ban on Soft Money Contributions to Political Parties

The prohibition on using soft money in federal elections remains in effect. This includes prohibiting the pre-BCRA practice of large, generally unregulated contributions to national party committees for generic "party building" activities.

As noted elsewhere in this report, in December 2014, Congress enacted legislation, which President Obama signed (P.L. 113-235), permitting far larger contributions to political parties than had been permitted previously.[46] These funds are not soft money, in that they are subject to contribution limits and other FECA requirements (e.g., disclosure). Nonetheless, some might

Presidential Campaigns, by R. Sam Garrett. On appropriated security funding, which is separate from campaign finance policy, see also CRS In Focus IF11555, *Presidential Candidate and Nominating Convention Security*, by Shawn Reese.

[41] 131 S.Ct. 2806 (2011). The slip opinion is available at http://www.supremecourt.gov/opinions/10pdf/10-238.pdf.

[42] For additional discussion of state-level public financing, see the "State Experiences with Public Financing" section of CRS Report RL33814, *Public Financing of Congressional Campaigns: Overview and Analysis*, by R. Sam Garrett.

[43] For historical discussion, see CRS Report R41604, *Proposals to Eliminate Public Financing of Presidential Campaigns*, by R. Sam Garrett.

[44] 52 U.S.C. §30118 (previously codified at 2 U.S.C. §441b).

[45] On the definition of *contribution*, see, in particular, 52 U.S.C. §30101 and 52 U.S.C. §30118 (previously codified at 2 U.S.C. §431(8)(A) and 2 U.S.C. §441(b)(b)(2)).

[46] For the codified text, see 52 U.S.C. §30116(a)(9).

contend that the spirit of these contributions resembles soft money. Others contend that the increased limits allow parties to compete with newly empowered groups, such as super PACs, that are not subject to contribution limits.

Some Contribution Limits Remain Intact

Base limits on contributions to campaigns, parties, and PACs generally remain in effect. Despite *Citizens United's* implications for independent expenditures and electioneering communications, the ruling did not affect the prohibition on corporate and union treasury contributions in federal campaigns. As noted above, *SpeechNow* permitted unlimited contributions to independent-expenditure-only PACs (*super PACs)*. The FEC has not issued rules regarding super PACs per se. In July 2011 the commission issued an advisory opinion stating that federal candidates (including officeholders) and party officials could solicit funds for super PACs, but that those solicitations were subject to the limits established in FECA and discussed below. Also as noted elsewhere in this report, the FEC announced in October 2011, per an agreement reached in *Carey v. FEC*, that nonconnected PACs would be permitted to raise unlimited amounts for independent expenditures if those funds are kept in a separate bank account.

Although major contribution limits remain in place, as noted above, some party contribution limits have increased. More consequentially, post-*McCutcheon* aggregate contribution limits no longer apply. Therefore, although individuals are, for example, still prohibited from contributing more than $3,500 per candidate, per election during the 2026 cycle, the total amount of such giving is no longer capped.[47] **Table 1** below and the table notes provide additional information, as do other CRS products.[48]

[47] Statutory inflation adjustments as administered by the FEC, based on Department of Labor data, did not increase the individual contribution limit, which was $2,700 per candidate, per election during 2016-2018 as well. The inflation adjustments are codified at 52 U.S.C. §30116(c).

[48] For additional discussion, see CRS Report R43334, *Campaign Contribution Limits: Selected Questions About McCutcheon and Policy Issues for Congress*, by R. Sam Garrett; and CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

Table 1. Major Federal Contribution Limits, 2025-2026

(See table notes below for additional information)

	Recipient			
Contributor	**Principal Campaign Committee**	**Multicandidate Committee (most PACs, including leadership PACs)**	**National Party Committee (DSCC; NRCC, etc.)**	**State, District, Local Party Committee**
Individual	$3,500 per election*	$5,000 per year	$44,300 per year[a] *Additional $132,900 limit for each special party account*[a,b]	$10,000 per year (combined limit)
Principal Campaign Committee	$2,000 per election	$5,000 per year	Unlimited transfers to party committees	Unlimited transfers to party committees
Multicandidate Committee (most PACs, including leadership PACs)[c]	$5,000 per election	$5,000 per year	$15,000 per year *Additional $45,000 limit for each special party account*[b]	$5,000 per year (combined limit)
State, District, Local Party Committee	$5,000 per election (combined limit)	$5,000 per year (combined limit)	Unlimited transfers to party committees	Unlimited transfers to party committees
National Party Committee	$5,000 per election	$5,000 per year	Unlimited transfers to party committees	Unlimited transfers to party committees

Source: CRS adaptation from FEC, "Contribution Limits for 2025-2026 Federal Elections," https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/. See also Federal Election Commission, "Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold," 90 *Federal Register* 8526, January 30, 2025.

Notes: The table assumes that leadership PACs would qualify for multicandidate status. The original source, noted above, includes additional information and addresses nonmulticandidate PACs (which are relatively rare). The national party committee and the national party Senate committee (e.g., the DNC and DSCC or RNC and NRSC) share a combined 2025-2026 per-candidate limit of $62,000 per six-year cycle. This limit is adjusted biennially for inflation.

a. These limits are adjusted biennially for inflation.

b. As noted elsewhere in this report, national party committees may accept these contributions for separate accounts for (1) presidential nominating conventions (headquarters committees (e.g., DNC; RNC) only); (2) recounts and other legal compliance activities; and (3) party buildings. For additional historical discussion, see CRS Report R43825, *Increased Campaign Contribution Limits in the FY2015 Omnibus Appropriations Law: Frequently Asked Questions*, by R. Sam Garrett.

c. *Multicandidate committees* are those that have been registered with the FEC for at least six months; have received federal contributions from more than 50 people; and (except for state parties) have made contributions to at least five federal candidates. See 11 C.F.R. §100.5(e)(3). In practice, most PACs attain this status automatically over time.

Reporting Requirements

Other recent developments notwithstanding, disclosure requirements enacted in FECA and BCRA remain intact.[49] In general, political committees must regularly[50] file reports with the FEC providing information about

- receipts and expenditures, particularly those exceeding an aggregate of $200;
- the identity of those making contributions of more than $200, or receiving more than $200, in campaign expenditures per election cycle; and
- the purpose of expenses.

Those making independent expenditures or electioneering communications, such as party committees and PACs, have additional reporting obligations. Among other requirements:

- Independent expenditures aggregating at least $10,000 must be reported to the FEC within 48 hours; 24-hour reports for independent expenditures of at least $1,000 must be made during periods immediately preceding elections.[51]
- The existing disclosure requirements concerning electioneering communications mandate 24-hour reporting of communications aggregating at least $10,000.[52] Donor information must be included for those who designated at least $200 toward the independent expenditure, or $1,000 for electioneering communications.[53]
- If 501(c) or 527[54] organizations make independent expenditures or electioneering communications, those activities would be reported to the FEC.

Potential Policy Considerations and Emerging Issues for Congress

Recent Legislative Activity

As discussed above, recent Congresses generally have not made substantial amendments to federal campaign finance law. Since the 115th Congress, Congress has considered recurring proposals related to disclosure; foreign interference and funds in U.S. elections; contribution

[49] This excludes requirements that were subsequently invalidated, such as reporting associated with the now-defunct Millionaire's Amendment (which required additional reporting for self-funding above certain levels and for receipt of contributions in response to such funding).

[50] Reporting typically occurs quarterly. Pre- and post-election reports must also be filed. Noncandidate committees may also file monthly reports. See, for example, 52 U.S.C. §30104 (previously codified at 2 U.S.C. §434) and the FEC's *Campaign Guide* series for additional discussion of reporting requirements.

[51] See, for example, 52 U.S.C. §30104 (previously codified at 2 U.S.C. §434(g)).

[52] 52 U.S.C. §30104 (previously codified at 2 U.S.C. §434(f)).

[53] Higher thresholds apply if the expenditures are made from a designated account. For additional summary information, see Table 1 in CRS Report R41264, *The DISCLOSE Act: Overview and Analysis*, by R. Sam Garrett, L. Paige Whitaker, and Erika K. Lunder. Donor information is reported in regularly filed financial reports rather than in independent expenditure reports.

[54] As the term is commonly used, *527* refers to groups registered with the Internal Revenue Service (IRS) as political organizations that seemingly intend to influence federal elections. By contrast, political committees (which include candidate committees, party committees, and political action committees) are regulated by the FEC and federal election law. There is a debate regarding which 527s are required to register with the FEC as political committees.

limits or spending restrictions; and public financing of presidential campaigns. The Committee on House Administration and Senate Rules and Administration Committee are the primary committees of jurisdiction on campaign finance policy issues.

119th Congress

As of this writing, the 119th Congress has not enacted legislation substantially addressing campaign finance policy. Other potentially notable developments for Congress include the following:

- As discussed in another CRS product, as of April 30, 2025, the FEC lost its policymaking quorum after President Trump dismissed one commissioner and two others voluntarily departed the agency.[55] As of this writing, three commissioners remain in office. FECA prohibits the FEC from taking major enforcement or policymaking actions without agreeing votes from at least four commissioners. In the interim, the agency remains open for business and campaign finance law and regulation remain in effect. The Senate could consider nominations if they occurred in the future.
- In April and May 2025, House committees released staff reports on an investigation into fundraising platform ActBlue, and on the state of the FEC on the occasion of the agency's 50th anniversary.[56]
- At least two executive orders (E.O.s) that President Trump issued in early 2025 could be relevant for congressional consideration of campaign finance legislation, oversight, or both. Both executive orders are subject to ongoing litigation that is beyond the scope of this report. In addition, executive orders do not alter the statutory provisions discussed elsewhere in this report. As such, the executive orders' ultimate significance for campaign finance policy remains to be seen.
    - First, on February 18, 2025, President Trump issued an E.O. placing various requirements on many federal agencies, specifically including the FEC.[57] Among other provisions, the E.O. requires agencies to submit "significant regulatory actions" to the Office of Information and Regulatory Affairs (OIRA) for review, and declares that the President or the Attorney General "shall provide authoritative interpretations of law for the executive branch," including covered agencies.[58] The ranking members of the Committee on

[55] See CRS Report R45160, *Federal Election Commission: Membership and Policymaking Quorum, In Brief*, by R. Sam Garrett.

[56] See U.S. Congress, Committees on House Administration, the Judiciary, and Oversight and Government Reform, *Fraud on ActBlue: How the Democrats' Top Fundraising Platform Opens the Door for Illegal Election Contributions*, interim staff report, April 2, 2025, https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/2025-04/04.02.25_FRAUD_ON_ACTBLUE_HOW_THE_DEMOCRATS_TOP_FUNDRAISING_PLATFORM_OPENS_THE_DOOR_FOR_ILLEGAL_ELECTION_CONTRIBUTIONS_w_appendix.pdf; and U.S. Congress, Committee on House Administration, Ranking Member Joseph D. Morelle, *Staff Report on the Federal Election Commission at 50: The Deregulators are Winning*, minority staff report, May 2025, https://democrats-cha.house.gov/sites/evo-subsites/democrats-cha.house.gov/files/evo-media-document/Report-The-Deregulators-Are-Winning.pdf.

[57] See Executive Order 14215, "Ensuring Accountability for All Agencies," 90 *Federal Register* 10447, February 24, 2025. On inclusion of the FEC, see p. 10448.

[58] See Executive Order 14215, "Ensuring Accountability for All Agencies," pp. 10448-10449. For additional discussion of OIRA, which is generally beyond the scope of this report, see CRS Report R48546, *The Office of Information and Regulatory Affairs (OIRA): Overview and Major Responsibilities*, coordinated by Meghan M. Stuessy and Taylor N. Riccard.

House Administration and Senate Committee on Rules and Administration wrote to members of the FEC to "oppose [FEC] action in response to this EO and have great concerns that there is no clear way for the FEC to reach decisions on these matters given its bipartisan and independent structure."[59]

- Second, on March 25, 2025, President Trump issued an executive order that primarily concerns election administration and voting issues that are beyond the scope of this report.[60] The E.O. also directs the Attorney General, in consultation with the Secretary of the Treasury, to prioritize enforcement of the FECA prohibition on contributions from or expenditures by foreign nationals.[61]

In addition, on June 30, 2025, the Supreme Court agreed to hear a First Amendment challenge to the coordinated party expenditure limits during its term beginning in October 2025.[62] Brief additional discussion of coordinated party expenditures appears in the "Revisiting Limits on Contributions or Coordinated Party Expenditures" section of this report.

118th Congress

The 118th Congress did not enact major statutory changes affecting campaign finance policy, but the House and Senate consistently considered campaign finance matters.

- P.L. 118-26 extended authority for the FEC's Administrative Fine Program until 2033. Authority for the program previously expired in 2023.[63]
- A provision in consolidated appropriations law P.L. 118-47 transferred $320 million from the Presidential Election Campaign Fund (PECF), the repository for public financing checkoff designations, to the U.S. Secret Service for 2024 election-cycle protection duties. Another provision in the bill also prohibited certain campaign finance disclosure as a condition of the government-contracting process.[64]
- On December 16, 2024, the House passed, by voice vote, H.R. 9488 (Steil), the Secure Handling of Internet Electronic Donations (SHIELD) Act. The legislation would have prohibited political committees from accepting internet credit-card contributions without obtaining card verification value (CVV) numbers, or from accepting contributions via gift cards.
- On July 13, 2023, after several hearings, the Committee on House Administration ordered reported H.R. 4563 (Steil), the American Confidence in Elections (ACE)

[59] Letter from Hon. Alex Padilla and Hon. Joseph D. Morelle, Ranking Members, Senate Committee on Rules and Administration and Committee on House Administration, to James E. "Trey" Trainor III, Shana M. Broussard, Allen Dickerson, and Dara Lindenbaum, Commissioners, Federal Election Commission, February 26, 2025, https://www.padilla.senate.gov/wp-content/uploads/02.26.25_Padilla-Morelle-FEC-Independent-Agency-EO.pdf.

[60] Executive Order 14248, "Preserving and Protecting the Integrity of American Elections," 90 *Federal Register* 14005, March 25, 2025. See also H.R. 2499, which proposes to codify the E.O.

[61] See Executive Order 14248, "Preserving and Protecting the Integrity of American Elections," p. 14009. On the FECA foreign-national prohibition, see 52 U.S.C. §30121.

[62] See Supreme Court of the United States, Order List, June 30, 2025, https://www.supremecourt.gov/orders/courtorders/063025zor_7647.pdf. The case is *NRSC et al. v. FEC et al*.

[63] For additional discussion, see CRS Insight IN12198, *Federal Election Commission Administrative Fine Program*, by R. Sam Garrett.

[64] See Title V, §546(e), and Title §VII, 735, respectively.

Act.[65] Title III of the ACE Act included several provisions related to campaign finance and to certain tax-exempt organizations. The bill generally proposed deregulation, modernization, or clarification of current provisions in FECA or parts of the Internal Revenue Code (IRC).

- On August 14, 2023, the House Ways and Means Committee majority released a "request for information" seeking public input about, among other topics, whether the Internal Revenue Service (IRS) should update its guidance on what constitutes campaign intervention by organizations operating under Sections 501(c)(3) and 501(c)(4) of the IRC. The request also posed questions concerning relationships between super PACs and tax-exempt organizations.[66] Recent appropriations laws have prohibited the Department of the Treasury (which houses the IRS) from spending appropriated funds to issue rules or guidance concerning 501(c)(4) tax-exempt status.[67] The "Politically Active Tax-Exempt Organizations and Internal Revenue Service Disclosure Issues" section of this report contains additional discussion of potentially related topics.
- On September 20, 2023, the Committee on House Administration held an oversight hearing on the Federal Election Commission.
- On September 27, 2023, the Senate Rules and Administration Committee held a hearing on artificial intelligence and elections.
- On April 17, 2024, the Senate Committee on the Judiciary, Subcommittee on Privacy, Technology, and the Law held a hearing on artificial intelligence and election "deepfakes."
- On December 18, 2024, the Committee on House Administration held a hearing entitled "American Confidence in Elections: Prohibiting Foreign Interference."
- Some hearings held during the 118th Congress that were devoted primarily to other topics also included discussion of campaign finance policy and related issues.[68]

[65] For additional discussion, see CRS In Focus IF12451, *H.R. 4563, the American Confidence in Elections (ACE) Act*, coordinated by Karen L. Shanton; and CRS In Focus IF12453, *H.R. 4563, the American Confidence in Elections Act (ACE Act): Legal Background*, by L. Paige Whitaker.

[66] Letter from Rep. Jason Smith, Chairman, Committee on Ways and Means, and Rep. David Schweikert, Chairman, Subcommittee on Oversight, Committee on Ways and Means, *Request for Information: Understanding and Examining the Political Activities of Tax-Exempt Organizations under Section 501 of the Internal Revenue Code*, August 14, 2023, https://waysandmeans.house.gov/wp-content/uploads/2023/08/RFI-on-501c3-and-c4-Activities-FINAL.pdf. For additional discussion, see, for example, Samantha Handler, "GOP Concerns About Tax-Exempt Groups May Prompt Probes, Guidance," *Bloomberg*, September 6, 2023.

[67] See, for example, §123 of the Department of the Treasury administrative provisions in the FY2023 Consolidated Appropriations Act, P.L. 117-328, 136 Stat. 4659-4660.

[68] See, for example, U.S. Congress, Senate Committee on the Budget, *Dollars and Degrees: Investigating Fossil Fuel Dark Money's Systemic Threats to Climate and the Federal Budget*, 118th Cong., 1st sess., June 21, 2023. As of this writing, the hearing has not been published. See https://www.budget.senate.gov/hearings/dollars-and-degrees-investigating-fossil-fuel-dark-moneys-systemic-threats-to-climate-and-the-federal-budget.

117th Congress

No major campaign finance law amendments were enacted during the 117th Congress.[69] The House passed three bills that contained several provisions related to campaign finance, election administration, and voting issues.

- H.R. 1 (Sarbanes), the For the People Act, proposed major changes that, among other provisions, would have affected disclosure and disclaimer requirements; the FECA foreign national provision; foreign interference in U.S. campaigns and elections; and public financing for federal campaigns.[70] The House passed the bill (220-210) in March 2021. The Senate did not invoke cloture on the motion to proceed to a Senate companion bill (S. 2093; see also S. 1).
- H.R. 5314 (Schiff), the Protecting Our Democracy Act, primarily addressed non-campaign finance topics. It also contained provisions concerning the FECA foreign national provision and foreign interference in U.S. campaigns and elections. The House passed the bill (220-208) in December 2021.
- H.R. 5746 (Beyer) served as a legislative vehicle for the Freedom to Vote: John R. Lewis Act. The legislation primarily contained election administration and voting provisions. It also included some provisions related to campaign finance disclosure; the FECA foreign national provision; and foreign interference in U.S. campaigns and elections. The House passed the bill (220-203) on January 13, 2022, and sent it to the Senate in the form of an amendment between the houses on an unrelated bill, H.R. 5746.[71] On January 19, 2022, the Senate did not agree to a cloture motion on the text.

Also during the 117th Congress, the Senate did not invoke cloture on motions to proceed to other legislation containing disclosure and foreign-national provisions. These included the Freedom to Vote Act, S. 2747 (Klobuchar), and the DISCLOSE Act, S. 4822 (Whitehouse).

In addition, the FY2023 Consolidated Appropriations Act (P.L. 117-328) endorsed committee report language directing the Government Accountability Office (GAO) to update a report on public financing of political campaigns, with attention to state-level developments during the past five election cycles.[72] The law's general provisions also contain language relevant for campaign finance policy. Section 735 prohibits reporting certain political contributions or expenditures as a condition of the government contracting process. The law also prohibits certain IRS activity on

[69] For a brief summary of legislative activity related to campaign finance, elections, and voting issues during the 117th Congress, see CRS In Focus IF12291, *Elections and Voting: Policy and Legal Issues for the 118th Congress*, by R. Sam Garrett and L. Paige Whitaker.

[70] For an overview, see CRS In Focus IF11097, *H.R. 1 and S. 1: Overview and Related CRS Products*, coordinated by R. Sam Garrett. A CRS congressional distribution memorandum, *Major Provisions in S. 1 and H.R. 1, the For the People Act of 2021*, coordinated by R. Sam Garrett and Sarah J. Eckman, is available to congressional readers upon request.

[71] The Freedom to Vote: John R. Lewis Act combined elements of other election administration and voting legislation, including parts of H.R. 1 and H.R. 4, the John R. Lewis Voting Rights Advancement Act (Sewell).

[72] H.Rept. 117-393, p. 67. The 2010 GAO report is U.S. Government Accountability Office, *Campaign Finance Reform: Experiences of Two States That Offered Full Public Funding for Political Candidates*, 10-390, May 28, 2010, https://www.gao.gov/products/gao-10-390. For the subsequent report, see U.S. Government Accountability Office, *Campaign Finance: Observations on Public Financing Programs in Selected States and Localities*, 25-106650, December 19, 2024, https://www.gao.gov/products/gao-25-106650.

501(c)(4) rules, and prohibits the Securities and Exchange Commission (SEC) from issuing rules regarding disclosure of corporate trade association dues or political activity.[73]

Finally, also during the 117th Congress, in May 2022, the U.S. Supreme Court issued an opinion concerning campaign finance. As another CRS product discusses, in *Federal Election Commission (FEC) v. Ted Cruz for Senate*, the Court "invalidated a [FECA] provision … establishing a $250,000 limit on the amount of post-election campaign contributions that may be used to repay candidates for personal loans made to their campaign committees pre-election."[74]

Previous versions of this report contain discussion of congressional activities during other Congresses.[75]

Foreign Money and Foreign Interference in U.S. Elections

Two issues related to foreign interference in U.S. campaigns may be particularly relevant for campaign finance policy. First, and the focus of more policy attention historically, is prohibiting foreign money that could impermissibly influence U.S. campaigns. Second, and a more recent development, is the connection between foreign interference and campaign security. This section provides brief additional discussion of both.

Since the 2016 election cycle, some congressional hearings and proposed legislation have continued to address foreign funds. As noted in the "118th Congress" and "119th Congress" sections of this report, as of this writing, some congressional hearings, an interim staff report, and an executive order have continued to address foreign money.[76] Subsequent activity is possible. As of this writing, Congress has not made any recent changes in federal campaign finance law regarding contributions from foreign nationals.

Foreign Money

The possibility of foreign money affecting U.S. campaigns emerged as a component of some congressional hearings and agency activity beginning in the 2016 election cycle. FECA prohibits foreign nationals from making contributions, or giving other things of value, or making expenditures, in U.S. federal, state, or local elections.[77] Some Members of Congress and Federal Election Commissioners have raised questions about whether prohibited foreign funds could have influenced recent elections, whether additional legislative or regulatory safeguards are necessary

[73] See §123 of the Department of the Treasury administrative provisions, and §633 of general provisions, in the FY2023 Consolidated Appropriations Act, P.L. 117-328, 136 Stat. 4659-4660, 4703.

[74] For additional discussion, see CRS Legal Sidebar LSB10796, *Supreme Court Invalidates Cap on Repayment of Candidate Loans Under the First Amendment: Considerations for Congress*, by L. Paige Whitaker.

[75] Congressional requesters may contact the author of this report for additional information.

[76] In addition, in April 2025, President Trump directed the Attorney General, in consultation with the Secretary of the Treasury, "to investigate allegations regarding the unlawful use of online fundraising platforms to make 'straw' or 'dummy' contributions or foreign contributions to political candidates and committees" and to take appropriate enforcement action. See White House, Memorandum to the Secretary of the Treasury, the Attorney General, and the Counsel to the President, *Investigation into Unlawful "Straw Donor" and Foreign Contributions in American Elections*, April 24, 2025, https://www.whitehouse.gov/presidential-actions/2025/04/investigation-into-unlawful-straw-donor-and-foreign-contributions-in-american-elections/.

[77] 52 U.S.C. §30121(a)(1). For additional discussion, see CRS In Focus IF10697, *Foreign Money and U.S. Campaign Finance Policy*, by R. Sam Garrett; and CRS Legal Sidebar WSLG1857, *Foreign Money and U.S. Elections*, by L. Paige Whitaker.

to protect future elections, or both. Some Members of Congress also raised the issue at various oversight hearings.[78]

In September 2018, the FEC reported to congressional appropriators about the agency's enforcement of the FECA ban on foreign funds. Congress required the report in joint explanatory language accompanying the FY2018 Financial Services and General Government portion of the omnibus appropriations law (H.R. 1625; P.L. 115-141). The report summarized commission processes for identifying possible foreign funds and enforcing the existing FECA ban; it did not propose additional action.[79]

Also, as noted previously, late in the 118th Congress, the House passed H.R. 9488 (Steil), the SHIELD Act. The legislation would have prohibited political committees from accepting internet credit-card contributions without obtaining CVV numbers, or from accepting contributions via gift cards. Supporters of the legislation argued that the bill could provide additional safeguards against illegal funds, including foreign ones.[80]

Foreign Interference and Campaign Operations

Political committees are responsible for their own operations, including security.[81] More generally, no federal agency has specific responsibility for coordinating security preparations for political campaigns or other political committees.[82] Federal law enforcement agencies, particularly the Federal Bureau of Investigation (FBI), can and do receive reports of, and investigate, suspected criminal activity. In preparation for the 2020 elections, the FBI established a "Protected Voices" program that provides political campaigns,[83] private companies, and individuals with information about how to guard against and respond to cyberattacks and foreign influence campaigns. In addition, the Department of Homeland Security's (DHS's) Cybersecurity and Infrastructure Security Agency (CISA), the FBI, and the Office of the Director of National

[78] For example, a June 26, 2018, Judiciary Committee, Subcommittee on Crime and Terrorism, hearing included discussions of at least two bills (S. 1989; S. 2939) that addressed potential foreign influence in U.S. elections, in addition to other topics.

[79] See Federal Election Commission, "FEC Report to the Committees on Appropriations on Enforcing the Foreign National Prohibition," September 18, 2018, https://www.fec.gov/resources/cms-content/documents/Foreign_National_Report_To_Congress.pdf. Democratic Commissioner Ellen Weintraub wrote to congressional appropriators offering alternative views about the report. See Letter from Ellen L. Weintraub, Vice Chair, Federal Election Commission, to Congressional Appropriations Committees, September 28, 2018, https://www.fec.gov/documents/896/2018-09-28-ELW-Approps-Committees-reply.pdf.

[80] See, for example, U.S. House of Representatives, Committee on House Administration (majority), "Chairman Steil, Senator Johnson Demand Classified Briefings on Potential Foreign Influence in U.S. Elections," press release, October 22, 2024, https://cha.house.gov/2024/10/chairman-steil-senator-johnson-demand-classified-briefings-on-potential-foreign-influence-in-u-s-elections. See also discussion in U.S. Congress, House Committee on House Administration, *Secure Handling of Internet Electronic Donations Act*, report to accompany H.R. 9488, 118th Cong., 2nd sess., September 20, 2024, H.Rept. 118-696 (GPO, 2024).

[81] For additional discussion, see CRS Insight IN12581, *Campaign Finance Policy and Campaign Security*, by R. Sam Garrett.

[82] The Cybersecurity and Infrastructure Security Agency (CISA) offers assistance to campaigns on a voluntary basis. For additional background, see, for example, testimony of Matthew Masterson, Senior Cybersecurity Advisor, Cybersecurity and Infrastructure Security Agency, U.S. Department of Homeland Security, in U.S. Congress, House Committee on the Judiciary, *Securing America's Elections Part II: Oversight of Government Agencies*, hearing, 116th Cong., 1st sess., October 22, 2019, p. 6, at https://docs.house.gov/meetings/JU/JU00/20191022/110106/HHRG-116-JU00-Wstate-MastersonM-20191022.pdf.

[83] The program also appears to provide services to political parties, and perhaps to other political committees (e.g., political action committees).

Intelligence (ODNI) jointly briefed some 2020 federal political campaigns on security threats and best practices.[84]

As of this writing, it appears that at least some executive branch activities aimed at combatting foreign interference during the 2020 and 2024 election cycles have been curtailed or eliminated. For example, in February 2025, Attorney General Bondi announced that the FBI's Foreign Influence Task Force was being disbanded.[85] The task force previously served to coordinate bureau activities to identify and counter foreign interference.[86] Much of CISA's elections work also reportedly has been curtailed.[87]

Selected FEC Activity on Foreign Interference and Cybersecurity

Due partially to foreign-interference concerns, following the 2016 election cycle, corporations and other entities sought to provide free or reduced-cost advisory services to campaigns on cybersecurity matters.

- In 2018, the FEC determined that the FECA ban on corporate contributions does not prohibit campaigns from accepting certain information technology (IT) services, at least in some circumstances. In particular, in August 2018, Microsoft asked the FEC whether it could provide free enhanced security services to "election-sensitive users" of its Office 365 email service, and other services without making a prohibited corporate in-kind contribution. In its request, Microsoft stated that these security services would be available to federal, state, and local campaigns, as well as parties, vendors, and "think-tank" organizations involved in campaigns. The commission determined that Microsoft's proposal was permissible because the company "would be providing [enhanced security] services based on commercial and not political considerations, in the ordinary course of its business, and not merely for promotional consideration or to generate goodwill."[88]
- In 2019, citing the "demonstrated, currently enhanced threat of foreign cyberattacks against party and candidate committees," the FEC granted permission for Defending Digital Campaigns, a 501(c)(4) organization, to offer reduced-cost cybersecurity advisory services to political committees.[89] In a separate 2019 opinion, the FEC granted permission for reduced-fee services for campaigns responding to phishing attacks.[90]

[84] See above-cited testimony from CISA Senior Cybersecurity Advisor (and former EAC Commissioner) Matthew Masterson, at October 22, 2019, House Judiciary Committee oversight hearing, *Security America's Elections Part II: Oversight of Government Agencies*. As of this writing, the hearing record does not appear to have been published. Video and written materials are available on the committee website, https://judiciary.house.gov/legislation/hearings/securing-america-s-elections-part-ii-oversight-government-agencies.

[85] See U.S. Department of Justice, Memorandum from the Attorney General (Bondi) for all departmental employees, "General Policy Regarding Charging, Plea Negotiations, and Sentencing," February 5, 2025, https://www.justice.gov/ag/media/1388541/dl.

[86] See, for example, Derek B. Johnson, "DOJ Disbands Foreign Influence Task Force, Limits Scope of FARA Prosecutions," *Cyberscoop*, February 6, 2025, https://cyberscoop.com/doj-disbands-foreign-influence-task-force/.

[87] See, for example, Jen Fifield, "U.S. Agency Has Stopped Supporting States on Election Security, Official Confirms," *Votebeat*, March 11, 2025, https://www.votebeat.org/2025/03/11/cisa-ends-support-election-security-nass-nased/.

[88] The approved version is AO 2018-11, p. 3, https://www.fec.gov/files/legal/aos/2018-11/2018-11.pdf. Members of Congress should consult with a campaign attorney, the FEC, or both regarding individual compliance guidance.

[89] See the approved version of AO 2018-12, p. 1, https://www.fec.gov/files/legal/aos/2018-12/2018-12.pdf.

[90] See the approved version of AO 2019-12, https://www.fec.gov/files/legal/aos/2019-12/2019-12.pdf.

- As discussed in the next section, the FEC also has issued advisory opinions and regulations on security spending, including, in some cases, related to cybersecurity.

FEC Activity on Funding for Certain Candidate Security and Child Care Expenses

Beginning in 2017, through advisory opinions (AOs), the FEC has permitted using campaign funds for two types of spending that might otherwise be considered prohibited personal use of campaign funds.[91] These are (1) using campaign funds for certain security expenses; and (2) using campaign funds for certain child care expenses. The following discussion provides additional background, including about rules on security spending issued in 2024.

- After the June 14, 2017, attack[92] on several Members of Congress, staff, and U.S. Capitol Police officers in Alexandria, VA, House Sergeant at Arms Paul Irving wrote to the FEC requesting guidance about the permissibility of using campaign funds to pay for residential security systems.[93] The FEC treated the letter as an AO request. On July 13, 2017, citing similar previous requests and specific threat information and recommendations from the Capitol Police and Sergeant at Arms, the FEC approved the request.[94] Similarly, the commission approved a December 2020 advisory opinion request from a Member of Congress. The AO granted permission to use campaign funds to install a home security system, based on consultations with the House Sergeant at Arms.[95] The commission subsequently granted similar requests.[96] In September 2024, the FEC issued regulations codifying major aspects of the AOs noted above, and others related to payments for campaign security, including certain cybersecurity expenses.[97] Under the regulations, security expense must be made to "address ongoing dangers or threats that would not exist irrespective of the individual's status or duties as a federal candidate or officeholder."[98] Second, the campaign must pay the "usual and normal charge" for security goods or services.[99] Another CRS product provides additional detail.[100]

[91] For additional discussion, see CRS Report R46878, *Permissible and Prohibited Uses of Campaign Funds: Frequently Asked Questions and Policy Overview*, by R. Sam Garrett.

[92] For additional discussion, see CRS Insight IN10719, *Violence Against Members of Congress and Their Staff: A Brief Overview*, by R. Eric Petersen (available to congressional clients upon request); and CRS Report R41609, *Violence Against Members of Congress and Their Staff: Selected Examples and Congressional Responses*, by R. Eric Petersen and Jennifer E. Manning.

[93] Letter from Paul D. Irving, Sergeant at Arms, U.S. House of Representatives, to Steven T. Walther, Chairman, Federal Election Commission, June 21, 2017. The letter is attached to July 13, 2017, open-meeting Agenda Document No. 17-29-A, https://www.fec.gov/updates/july-13-2017-open-meeting/.

[94] The approved version is July 13, 2017, open-meeting Agenda Document No. 17-32-D, https://www.fec.gov/updates/july-13-2017-open-meeting/. Members of Congress should consult with a campaign attorney, the FEC, or both regarding individual compliance guidance.

[95] See AO 2020-06. Other AOs, cited in 2020-06, provide related discussion.

[96] See, for example, AOs 2023-04 and 2022-25.

[97] Federal Election Commission, "Use of Campaign Funds for Candidate and Officeholder Security," 89 *Federal Register* 78201, September 25, 2024; and 11 C.F.R. §113.1(g)(10).

[98] 11 C.F.R. §113.1(g)(10).

[99] 11 C.F.R. §113.1(g)(10).

[100] See CRS Insight IN12581, *Campaign Finance Policy and Campaign Security*, by R. Sam Garrett.

- In May 2018, the FEC granted congressional candidate Liuba Grechen Shirley's request to use campaign funds to pay for certain child care expenses.[101] The commission based its decision on a related 1995 AO request (1995-42) and the agency's determination that the child care the candidate required resulted directly from her candidacy. Several Members of Congress urged the FEC to grant the request. Some legislation also has proposed expanding the personal-use provision in FECA to include such expenses.[102] The FEC also heard comments on the personal-use provision, particularly for child care and health care expenses, at a March 2023 hearing on a Notice of Proposed Rulemaking (NPRM) concerning candidate salaries. As of this writing, it is unclear how or whether the commission will proceed on the issue. According to press reports, several candidates have relied on the child-care AO.[103]

Regulation and Enforcement by the FEC or Through Other Areas of Policy and Law

This section briefly discusses recent congressional or agency activity related to developing topics in other policy areas, which are generally not discussed elsewhere in this report, that could implicate campaign finance policy as well.

- Particularly in the 118th and 119th Congresses, some legislative attention to developments in artificial intelligence (AI) has included campaign finance issues. Throughout 2023 and 2024, the FEC considered rulemaking petitions on whether a FECA prohibition on "fraudulent misrepresentation of campaign authority" applies to political advertising generated with AI. On September 19, 2024, the commission approved an interpretive rule, based on existing regulation and statute, confirming that the FECA fraudulent misrepresentation provision also covers communications generated using AI. The commission did not issue new rules concerning AI. Rather, it clarified that the existing fraudulent misrepresentation provisions in FECA and FEC regulations apply to communications generated using AI.[104] Those actions do not affect AI or campaign finance beyond the fraudulent misrepresentation provision, nor do they require additional disclaimers on political advertising. Another CRS product provides additional detail.[105]
- Some Members of Congress have proposed requiring companies to provide additional information to shareholders if the companies choose to make electioneering communications or independent expenditures. These proposals are sometimes referred to as "shareholder protection" measures, although the extent to which they would benefit shareholders or companies is subject to debate. In

[101] AO 2018-06.

[102] For additional discussion, see CRS Report R46878, *Permissible and Prohibited Uses of Campaign Funds: Frequently Asked Questions and Policy Overview*, by R. Sam Garrett.

[103] See, for example, Stephanie Akin, "Campaign Spending on Child Care Growing Steadily Since FEC Allowed It," *Roll Call*, May 18, 2021, https://rollcall.com/2021/05/18/campaign-spending-on-child-care-growing-steadily-since-fec-allowed-it/.

[104] 11 C.F.R. §110.16(a).

[105] See CRS Insight IN12222, *Artificial Intelligence (AI) and Campaign Finance Policy: Recent Developments*, by R. Sam Garrett; and CRS In Focus IF12468, *Artificial Intelligence (AI) in Federal Election Campaigns: Legal Background and Constitutional Considerations for Legislation*, by L. Paige Whitaker.

2013, the Securities and Exchange Commission (SEC) dropped plans to consider additional corporate disclosure of political spending, although some advocates continue to urge the agency to consider the topic.[106] Since then, some advocates of additional campaign finance regulation have continued to urge the SEC to take regulatory action to require campaign-related disclosure. As noted previously, Congress has prohibited requiring additional disclosure to the SEC, through some recent appropriations measures, including during recent Congresses. Other legislation has proposed repealing the prohibition.[107]

- In July 2010, citing *Citizens United*, the SEC issued new "pay-to-play" rules—which are otherwise beyond the scope of this report—to prohibit investment advisers from seeking business from municipalities if the adviser made political contributions to elected officials responsible for awarding contracts for advisory services.[108] Although the rules appeared not to be targeted to federal candidates, they can implicate state-level officeholders seeking federal office. This includes, for example, governors running for President.[109]
- During the spring of 2011, media reports indicated that the Obama Administration was considering a draft executive order to require additional disclosure of government contractors' political spending.[110] Although the executive order was never issued, the topic continued to garner attention. The House Committee on Oversight and Government Reform and Committee on Small Business held a joint hearing on the topic on May 12, 2011. As noted previously, subsequent Congresses have generally adopted appropriations language prohibiting additional contractor disclosure as a condition of the government-contracting process.

[106] In 2012, the SEC's contribution to the Office of Information and Regulatory Affairs (OIRA) "Unified Agenda" (formally the *Unified Agenda of Regulatory and Deregulatory Actions*) indicated that the agency was considering developing a rule requiring disclosure of certain corporate political spending. The version of the Unified Agenda published in the fall of 2013 explained that the SEC was "withdrawing" the proposal but that future action was possible. On the Unified Agenda, see http://www.reginfo.gov/public/do/eAgendaMain. For brief additional discussion of the proposed rule, see, for example, Kenneth P. Doyle, "Disclosure of Corporate Political Spending Left Off SEC Agenda for New Regulations," *Daily Report for Executives*, December 3, 2013, p. A-1. See also Yin Wilczek, "Proponents File More Than 100 Proposals Calling for Political Spending Transparency," *Daily Report for Executives*, April 14, 2015, p. EE-9.

[107] For examples of contrasting legislative approaches, see, for example, for example, H.R. 376 (115th Congress) and §635 of the FY2017 Consolidated Appropriations Act (P.L. 115-31), respectively, and H.R. 4863 (118th Congress).

[108] See Securities and Exchange Commission, "Political Contributions by Certain Investment Advisers," 75 *Federal Register* 41018-41071, July 14, 2010. See also Municipal Securities Rulemaking Board (MSRB) Rule G-37, *Political Contributions and Prohibitions on Municipal Securities Business and Municipal Advisory Business*, http://msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-37.aspx.

[109] See, for example, Jake Bernstein, "How an Obscure Federal Rule Could Be Shaking Up Presidential Politics," ProPublica, August 28, 2012, http://www.propublica.org/article/how-an-obscure-federal-rule-could-be-shaking-up-presidential-politics; and Kenneth P. Doyle, "Judges Skeptical of Challenge to SEC Rule on Political Money From Investment Advisers," *Daily Report for Executives*, March 24, 2015, p. A-6. This report does not include a detailed discussion of this topic, including subsequent updates unless they appear to substantially affect federal campaign finance policy.

[110] See, for example, Kenneth P. Doyle, "Anticipated Obama Order Would Require Disclosure of Contractors' Political Money," *Daily Report for Executives*, April 21, 2011, p. A-6.

Politically Active Tax-Exempt Organizations and Internal Revenue Service Disclosure Issues

Politically active tax-exempt organizations, regulated primarily by the IRC, have been engaged in campaign activity since at least the early 2000s. Some suggest that *Citizens United* provided clearer permission for incorporated 501(c)(4) social welfare groups and 501(c)(6) trade associations to make electioneering communications and independent expenditures. Unions, 501(c)(5)s, have long participated in campaigns, but *Citizens United* has been interpreted to permit labor organizations to use their treasury funds, like corporations, to make ECs and IEs. This section provides historical background given consistent congressional activity concerning the intersection of campaign finance and tax issues. This report does not otherwise discuss tax policy or law.[111]

Currently, because 501(c) organizations are not *political committees* as defined in FECA, they do not fall under FEC or FECA requirements unless they make ECs or IEs.[112] Nonetheless, many such groups engage in activity that might influence campaigns. Various issues, briefly noted below, concerning politically active tax-exempt organizations' influence on federal campaigns remain topics of debate.[113]

- During the Obama Administration, the IRS announced but subsequently withdrew a rulemaking proposal to require additional disclosure about politically active tax-exempt organizations' political spending.[114] The issue remained unresolved for the remainder of the Obama Administration.
- In May 2020, the IRS and the Department of the Treasury issued rules that permitted certain politically active tax-exempt organizations (e.g., 501(c)(4)s) to withhold information identifying donors from their annual information returns (schedule B of IRS form 990).[115] Previously, although this donor information was not made public, filers generally had to report it to the IRS. Proponents of more campaign finance reporting requirements generally opposed the IRS rule change, arguing that the information is one of the few sources of donor information for money that sometimes ultimately affects campaigns, even if the reports are not publicly available. Those favoring less regulation generally contended that the reports were burdensome and of limited value for campaign finance disclosure and enforcement, especially since they are filed with the IRS rather than the FEC.[116] Under the 2020 rules, the organizations must maintain donor information in case the IRS requests it.

[111] For additional discussion, see, for example, CRS Report RL33377, *Tax-Exempt Organizations Under Internal Revenue Code Section 501(c): Political Activity Restrictions*, by Justin C. Chung.

[112] If the groups had an affiliated super PAC, the super PAC would report to the FEC as a political committee.

[113] See, for example, CRS In Focus IF11005, *Donor Disclosure: 501(c) Groups and Campaign Spending*, by R. Sam Garrett.

[114] For historical discussion, see, for example, Diane Freda, "IRS Plans for Broadening Political Activity Rules Trigger Stern Warning From Hatch," *Daily Report for Executives*, April 14, 2015, p. G-7.

[115] See Department of the Treasury, Internal Revenue Service, "Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations," 85 *Federal Register* 31959, May 28, 2020. See also CRS In Focus IF11005, *Donor Disclosure: 501(c) Groups and Campaign Spending*, by R. Sam Garrett.

[116] See discussion of comments submitted in response to the proposed 2020 rules, and IRS responses, in Department of the Treasury, Internal Revenue Service, "Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations," 85 *Federal Register* 31959, May 28, 2020.

- In August 2023, the House Ways and Means Committee majority released a "request for information" seeking public input about, among other topics, whether the IRS should update its guidance on what constitutes campaign intervention by certain tax-exempt organizations. Recent appropriations laws have prohibited the Department of the Treasury (which houses the IRS) from spending appropriated funds to issue rules or guidance concerning 501(c)(4) tax-exempt status.[117]

Selected Recent Litigation About Donor Disclosure in Independent Spending

One of the most controversial elements of campaign finance disclosure concerns identifying donors to organizations that make electioneering communications and independent expenditures. Amid recent litigation, donor disclosure requirements can vary depending on whether a group chooses to make ECs versus IEs. This section provides brief context about policy issues and debates that took root in recent, selected litigation, but does not address the litigation in detail or provide legal analysis. In brief, currently, it appears that greater donor disclosure is required in IE reports than in EC reports.

- FECA requires that those giving more than $200 "for the purpose of furthering" IEs must be identified in political committees' disclosure reports filed with the FEC.[118] By contrast, the "purpose of furthering" language does not appear in the portion of FECA covering ECs. Nonetheless, FEC regulations implementing FECA also use the "purpose of furthering" language as a threshold for identifying donors to corporations or unions making ECs.[119] In practice, this meant that, before developments noted below, the FEC applied similar donor disclosure requirements to both ECs and IEs.
- Some contend that the EC regulations improperly permit those contributing to ECs to avoid disclosure by making unrestricted contributions (i.e., *not* "for the purpose of furthering" ECs).[120] On the basis of that argument and others, then-Representative Van Hollen sued the FEC in 2011. A series of federal district and appellate court rulings occurred thereafter. In January 2016, the U.S. Court of Appeals for the D.C. Circuit upheld the FEC rules.[121] There have been no major subsequent developments. As such, those making ECs may continue omitting donor information from EC reports in some cases.[122]
- Another case, *CREW v. FEC*, considered the "purpose of furthering" donor-disclosure standard for IEs rather than ECs.[123] In November 2012, Citizens for Responsibility and Ethics in Washington (CREW), which identifies itself as a

[117] See, for example, §123 of the Department of the Treasury administrative provisions in the FY2023 Consolidated Appropriations Act, P.L. 117-328, 136 Stat. 4659-4660.

[118] 52 U.S.C. §30104(c)(2)(C).

[119] 11 C.F.R. §104.20(c)(9).

[120] The same argument is made concerning IE disclosure, although the absence of the "purpose of furthering" language is unique to EC provisions in FECA.

[121] For additional discussion, CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

[122] For additional discussion, see CRS In Focus IF11398, *Campaign Finance Law: Disclosure and Disclaimer Requirements for Political Campaign Advertising*, by L. Paige Whitaker.

[123] For additional discussion, see CRS In Focus IF11005, *Donor Disclosure: 501(c) Groups and Campaign Spending*, by R. Sam Garrett; and CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker.

"watchdog" group, filed a complaint with the FEC, alleging, among other things, that 501(c)(4) group Crossroads GPS failed to disclose its donors as required under FECA and agency regulations. In November 2015, FEC commissioners deadlocked on whether Crossroads GPS had violated commission regulations and FECA (Matter Under Review 6696). CREW then sued the commission in federal district court for, among other things, allegedly failing to enforce disclosure requirements. In August 2018, the U.S. District Court for the District of Columbia ruled in CREW's favor. After the court ruling took effect on September 18, 2018, certain groups that previously did not disclose some of their donors to the FEC in IE reports were required do so. In August 2020, the U.S. Circuit Court of Appeals for the D.C. Circuit upheld the district court ruling that invalidated the relevant portion of the FEC's IE rules.[124] A future rulemaking providing additional clarification is possible.

The policy implications from cases such as these are important primarily for ongoing debates in Congress and beyond about how and when donors' identities are reported to the FEC and, therefore, to the public. As noted above, those requirements have varied most recently with developments in litigation, rulemaking, or both. Congress has considered various legislation to make disclosure requirements more uniform (e.g., in versions of the DISCLOSE Act) across different kinds of political advertising.

Federal Communications Commission Rules on Political Advertising Disclosure

Campaign finance law generally addresses only advertising that mentions political candidates or elections. In particular, some legislation focused on political advertising (such as the Honest Ads Act, discussed previously) primarily proposes amending FECA, but also draws on or proposes amendments to concepts addressed in telecommunications law or regulation. Another CRS report provides additional detail on the latter.[125]

In BCRA, Congress required broadcasters to place information about political advertising prices and purchases in a "political file" available for public inspection.[126] Partially in response to *Citizens United*, in 2011 the FCC revisited rulemaking proceedings the agency began in 2007 to consider whether broadcasters should be required to make information from the political file available on the internet rather than only through paper records at individual television stations. On April 27, 2012, the FCC approved rules to require television broadcasters affiliated with the ABC, CBS, Fox, and NBC networks in the top 50 designated market areas (DMAs) to post political file information on the commission's website.[127] These rules took effect on August 2, 2012. Stations outside the top 50 DMAs or unaffiliated with the top four networks were required

[124] For additional discussion, see also Zainab Smith, *Appeals Court Affirms Invalidation of Disclosure Rule in Crossroads GPS v. CREW (18-5261)*, Federal Election Commission, *Record* newsletter, August 26, 2020, https://www.fec.gov/updates/appeals-court-affirms-invalidation-disclosure-rule-crossroads-gps-v-crew-18-5261/.

[125] See CRS Report R46516, *Identifying TV Political and Issue Ad Sponsors in the Digital Age*, by Dana A. Scherer.

[126] The relevant provision appears in §504 of BCRA (P.L. 107-155). Although BCRA primarily amended FECA (2 U.S.C. §431 *et seq*.), the "political file" requirement amended the 1934 Communications Act. See 47 U.S.C. §315.

[127] Federal Communications Commission, *Second Report and Order*, In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Docket No. 00-168, April 27, 2012, http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0427/FCC-12-44A1.pdf. See also Federal Communications Commission, "Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations," 77 *Federal Register* 27631, May 11, 2012.

to comply as of July 2014.[128] In February 2016, the FCC extended the online-disclosure requirements to cable and satellite operators and broadcast radio.[129] In addition, in 2019 and 2020, the FCC issued clarifications to political file rules concerning availability of information about advertising that addresses certain policy or legislative issues.[130]

Revisiting Disclosure Requirements

Historically, disclosure aimed at reducing the threat of real or apparent corruption has received bipartisan support. In fact, disclosure typically has been regarded as one of the least controversial aspects of an otherwise often-contentious debate over the nation's campaign finance policy. Disclosure, then, could yield opportunities for cooperation among Members of both major parties and across both chambers. On the other hand, some recent disclosure efforts have generated controversy. Particularly since the 111th Congress consideration of the DISCLOSE Act, some lawmakers raised concerns about whether the legislation applied fairly to various kinds of organizations (e.g., corporations versus unions), and how much information those airing independent messages rather than making direct candidate contributions should be required to report to the FEC.

Post-*Citizens United* legislative activity among those who favor additional disclosure has generally emphasized the DISCLOSE Act, but, as noted elsewhere in this report, some have also proposed reporting particular kinds of spending to agencies such as the IRS or the SEC. As noted previously, litigation and FEC rulemakings in the past decade have also considered the applicability of the "purpose of furthering" donor-disclosure standard for ECs and IEs.

Additional disclosure poses the advantage of making it easier to track the flow of political money. Disclosure, however, does not guarantee complete information, nor does it necessarily guard against all forms of potential corruption. For example, current requirements generally make it possible to identify which people or organizations were involved in a political transaction. This information promotes partial transparency, but does not, in and of itself, provide detailed information about what motivates those transactions or, in some cases, where the funds in question originated.[131] Additional disclosure requirements from Congress, the FEC, or the IRS could provide additional clarity.

Disclosure and Disclaimers in Online and Digital Communications

Disclosure and the related topic of disclaimers (referring to statements of attribution in political advertising) in online advertising have been especially prominent topics in recent years. In particular, after the *Citizens United* decision, and reports of foreign interference in the 2016 elections using social media, renewed interest in online advertising appeared in Congress and at the FEC.

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[128] See Federal Communications Commission, "Media Bureau Reminds Television Broadcasters of July 1, 2014 Online Political File Deadline," press release, April 4, 2014, http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0404/DA-14-464A1.pdf.

[129] See Federal Communications Commission, "Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees," 81 *Federal Register* 10105, February 29, 2016; and Federal Communications Commission, "Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees," 80 *Federal Register* 8031, February 13, 2015.

[130] For additional discussion, see CRS Report R46516, *Identifying TV Political and Issue Ad Sponsors in the Digital Age*, by Dana A. Scherer.

[131] Some refer to obscuring the original source of funds that eventually affect candidate campaigns as "dark money," although the term is unofficial.

In 2011, the FEC announced an Advanced Notice of Proposed Rulemaking (ANPRM) to receive comments on whether it should update its rules concerning internet disclaimers, but the agency did not advance new rules. In 2016, amid the increased online activity surrounding the 2016 election cycle, the FEC announced that it was reopening the comment period on the 2011 ANPRM. It again reopened the comment period in October 2017. Several Members of Congress filed comments. On November 16, 2017, the FEC voted to draft revised internet-disclaimer rules (a notice of proposed rulemaking) for paid advertising. The commission may consider adopting those revised rules in the future.[132]

Congress has not enacted legislation focused specifically on online campaign activity, although elements of existing statute and FEC rules address internet communications. As noted elsewhere in this report, Congress has considered legislation that proposes additional disclosure and disclaimer requirements in online advertising. The Honest Ads Act, which originated in the 115th Congress (2017-2018), has been the most prominent such legislation and has been introduced both as stand-alone legislation and as a component of other bills thereafter.

In October 2017, the Honest Ads Act (H.R. 4077; S. 1989) was introduced to amend FECA to further regulate some online ads. On October 24, 2018, the House Committee on Oversight and Government Reform, Subcommittee on Information Technology, held a hearing that addressed disclaimers and disclosures surrounding online political advertising generally. Honest Ads Act language was reintroduced as stand-alone legislation, as components of broader legislation, or both, in subsequent Congresses (e.g., H.R. 2592 and S. 1356 in the 116th Congress; H.R. 11, H.R. 2599 and S. 486 in the 118th Congress).

Revisiting Limits on Contributions or Coordinated Party Expenditures

After *Citizens United*, one potential concern is how candidates will be able to field competitive campaigns amid unlimited expenditures from super PACs, 501(c) organizations, corporations, or unions. One option for providing additional financial resources to candidates, parties, or both, would be to raise or eliminate contribution limits. Particularly if contribution limits were eliminated, corruption concerns that motivated FECA and BCRA could reemerge. As noted previously, Congress raised limits for some contributions to political parties in 2014.

Another option, which Congress has occasionally considered in recent years, would be to raise or eliminate current limits on coordinated party expenditures.[133] Coordinated expenditures allow parties to buy goods or services on behalf of a campaign—in limited amounts—and to discuss those expenditures with the campaign.[134] In a post-*Citizens United* and post-*McCutcheon* environment, additional party-coordinated expenditures could provide campaigns facing increased outside advertising with additional resources to respond. Permitting parties to provide additional coordinated expenditures may also strengthen parties as institutions by increasing their relevance for candidates and the electorate. A potential drawback of this approach is that some

[132] For brief additional discussion, see CRS In Focus IF10758, *Online Political Advertising: Disclaimers and Policy Issues*, by R. Sam Garrett.

[133] This option would not provide campaigns with additional funding per se, but it could ease the financial burden on campaigns for those purchases that parties make on the campaign's behalf.

[134] Coordinated party expenditures are subject to limits based on office sought, state, and voting-age population (VAP). Exact amounts are determined by formula and updated annually by the FEC. For additional discussion, see CRS Report RS22644, *Coordinated Party Expenditures in Federal Elections: An Overview*, by R. Sam Garrett and L. Paige Whitaker; and CRS Report R41054, *Campaign Finance Policy After Citizens United v. Federal Election Commission: Issues and Options for Congress*, by R. Sam Garrett.

campaigns may feel compelled to adopt party strategies at odds with the campaign's wishes to receive the benefits of coordinated expenditures.[135] Those concerned with the influence of money in politics may object to any attempt to increase contribution limits or coordinated party expenditures, even if those limits were raised in an effort to respond to labor- or corporate-funded advertising. Additional funding in some form, however, may be attractive to those who feel that greater resources will be necessary to compete in the modern era, or perhaps to those who support increased contribution limits as a step toward campaign deregulation.

On June 30, 2025, the Supreme Court agreed to hear a First Amendment challenge to the coordinated party expenditure limits during its term beginning in October 2025.[136]

Revisiting Coordination Requirements

Both before and after *Citizens United*, questions have persisted about whether unlimited independent expenditures permit parties, PACs, and other groups to subsidize candidate campaigns despite FECA's contribution limits. Such concerns first emerged in the 1980s with PAC spending. After *Citizens United*, the emergence of super PACs and increased activity by 501(c) organizations increased attention to a concept known as *coordination*. A product of FEC regulations, coordination restrictions are designed to ensure that valuable goods or services—such as polling or staff expertise—are not provided to campaigns in excess of federal contribution limits. In practice, establishing coordination is difficult. Existing regulations require satisfying a complex three-part test examining conduct, communications, and payment.[137] Some Members of Congress and advocacy groups have proposed that Congress specify a more precise coordination standard by enacting legislation. Depending on the outcome of the litigation, the Supreme Court litigation discussed in the previous section also could have implications for reconsidering coordination requirements.

Conclusion

Some elements of federal campaign finance policy have substantially changed since 2010; others have remained unchanged. Enactment of BCRA in 2002 marked the culmination of efforts to limit soft money in federal elections and place additional regulations on political advertising airing before elections. BCRA was an extension of efforts begun in the 1970s, with enactment of FECA, to regulate and document the flow of money in federal elections. BCRA's soft-money ban and some other provisions remain in effect; but *Citizens United*, *SpeechNow*, and other litigation since BCRA have reversed major elements of modern campaign finance law.

[135] The long-running debate about relationships between parties and candidates is well documented. For a brief overview, see, for example, Marjorie Randon Hershey, *Party Politics in America*, 12th ed., pp. 65-83; and Paul S. Herrnson, *Congressional Elections: Campaigning at Home and in Washington*, 4th ed., pp. 86-128.

[136] See Supreme Court of the United States, Order List, June 30, 2025, https://www.supremecourt.gov/orders/courtorders/063025zor_7647.pdf. The case is *NRSC et al. v. FEC et al.*

[137] On coordination and the three-part regulatory test for coordination, see, respectively 52 U.S.C. §30116 (previously codified at 2 U.S.C. §441a(a)(7)(B)) and 11 C.F.R. §109.21. See also CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker.

The changes discussed in this report suggest that the nation's campaign finance policy may be a continuing issue for Congress. Disclosure requirements, a hallmark of federal campaign finance policy, remain unchanged, but the topic has taken on new controversy. Additional information would be required to fully document the sources and rationales behind all political expenditures. For some, such disclosure would improve transparency and discourage corruption. For others, additional disclosure might be viewed with suspicion and as a potential sign of government intrusion. Particularly in recent years, tension has also developed between competing perspectives about whether disclosure limits potential corruption or stigmatizes those who might choose to support unpopular candidates or groups.

Fundraising, spending, and reporting questions have been at the forefront of recent debates in campaign finance policy, but they are not the only issues that may warrant attention. Even if no legislative changes are made, additional regulation and litigation are likely, as is the constant debate over the role of money in politics. Although some of the specifics are new, these themes discussed throughout this report have been present in campaign finance policy for decades.

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