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{ REPORT
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INTERNATIONAL FREE PRESS AND OPEN MEDIA ACT
OF 2004

MARCH 18, 2004.—Ordered to be printed

Filed under authority of the order of the Senate of March 12, 2004.

Mr. LUGAR, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 2096]

The Committee on Foreign Relations, having had under consideration a bill (S. 2096) to promote a free press and open media through the National Endowment for Democracy and for other purposes, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE

The legislation seeks to provide greater focus on, and more coordination of, U.S. Government programs to develop free, fair, legally protected, and self-sustaining press and media in the world. It directs the Secretary of State to provide the necessary funding to the National Endowment for Democracy for the work of a free press institute.

II. COMMITTEE ACTIONS

Based on expert testimony presented to the committee on February 26, 2004 and following studies by the Congressional Research Service and General Accounting Office (GAO), as well as numerous interviews by the committee staff, the committee makes the following findings: a free press is essential for a truly open and pluralistic democracy; a free press must be guaranteed by constitutional or basic law protections; it must be protected from political intimidation; it must be practiced under rules governing open access, libel, and defamation; it must be financially sustainable; U.S. Government efforts to help support the development of free press and open media in transitional societies have been successful, but require greater coordination; these programs must be long-term in scope, and clearly separated from public diplomacy initiatives; greater coordination is also required among the private media sector, foundations, and international non-governmental organizations; the National Endowment for Democracy provides the best funding mechanism and leadership for a better organized public-private initiative to support the development of an international free press and open media.

The committee recognizes that for many years the United States Government has engaged in promotion of independent media abroad through several foreign policy agencies, including the United States Information Agency (USIA) (which was merged into the Department of State in 1999), the Department of State, and the Agency for International Development. Additionally, in the late 1980s, Secretary of State James Baker endorsed the International Media Fund, a private sector charitable organization which received funding from the Agency of International Development (USAID); however, in the mid-1990s, USAID ended support of the Media Fund, and it ceased operations. USAID has continued to fund various media training and development programs, but they are not a central objective of the Agency.

The committee notes that our nation's strong and vibrant private media sector should be encouraged to participate in American efforts to help develop indigenous free press and media throughout the world.

Indigenous free media not only ensures that governments are held accountable to the people that they represent, but also provides those not in power with a peaceful outlet for political expression. A free media, in other words, is an important element in any open and democratic society. Additionally, the committee believes that expanding the presence of free media will go far to ensure that we are able to disseminate more successfully the issues and stories that promote American values and ideas.

The committee notes that the National Endowment for Democracy (NED), a non-governmental organization, has been providing excellent work in the field of human rights and democratic institution building. The NED was founded in 1983 and recognized by Congress in the National Endowment of Democracy Act (P.L. 98-164) to “. . . support the participation of the two major American political parties, labor, business and other United State private sector groups in fostering cooperation with those abroad dedicated to

the cultural values, institutions and organizations of democratic pluralism . . .”

In the intervening 21 years, bipartisan congressional support has sustained the NED and its institutes. A major reason has been the degree to which GAO and Department of State oversight and auditing of the NED and its institutes have ensured fiscal discipline and responsibility.

The NED currently provides much of its support via four “core” grantees: the International Republican Institute (IRI), the National Democratic Institute (NDI), the Center for International Private Enterprise (CIPE), and the Free Trade Union Institute (FTUI).

At the time of the creation of the first four grantees, a fifth institute dedicated to the promotion of free media was also envisioned. It was, however, never created due to questions over its function and independence and uncertainty as to the longevity of the NED. Now, long-ago doubts about the merit or the integrity of the NED and its institutes have been laid to rest. The committee believes it is crucial that the NED promote greater free media throughout the world.

As such, and in conjunction with the administration’s decision to seek a doubling of the NED budget to \$80 million in fiscal year 2005, the committee intends to ensure that at least 10% of that funding is directed toward free media programs. One of the prime reasons for directing this money through the NED is not only the NED’s proven track record of excellence and government oversight, but also its status as a 501(c)(3) organization, which enables private sector entities to participate, partner or donate money, time and materiel. In fact, the committee has heard unofficially from several major U.S. news organizations, media companies and film studios that they are already donating staff time, equipment, programs and funds to fledging media throughout the world but would be able to do so on a more sustained and generous basis if afforded the tax advantages that come with working with 501(c)(3) organizations.

The committee intends that the NED should create a new, fifth institute that coordinates future programs directed at free media, evaluates free media projects and leverages resources from both the public and private sector to ensure the viability of both the institute and the programs it facilitates.

At a business meeting on March 4, 2004, the committee considered S. 2096. No amendments were offered. The committee ordered the bill reported by a vote of 19 to 0. Ayes: Senators Lugar, Hagel, Chafee, Allen, Brownback, Enzi, Voinovich, Alexander, Coleman, Sununu, Biden, Sarbanes, Dodd, Kerry, Feingold, Boxer, Nelson, Rockefeller, and Corzine.

III. SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section designates the title of the bill.

Section 2. Findings

This section lists findings that explain the need for the legislation and its purpose.

Section 3. Amendments to the National Endowment for Democracy Act

This section amends the National Endowment for Democracy Act to include free media as one of the major objectives of the NED. The Secretary of State is requested to ensure that 10 percent of the funding for the NED be directed to programs to promote freedom of the press and other media.

IV. COST ESTIMATE

In accordance with rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides the following estimate of the cost of this legislation prepared by the Congressional Budget Office.

UNITED STATES CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 2004.

Honorable RICHARD G. LUGAR, *Chairman*
Committee on Foreign Relations,
United States Senate,
Washington, DC.

DEAR MR. CHAIRMAN:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 2096, the International Free Press and Open Media Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director*

Enclosure.

S. 2096—INTERNATIONAL FREE PRESS AND OPEN MEDIA ACT OF
2004

S. 2096 would authorize the National Endowment for Democracy (NED) to promote freedom of the press and other media around the world, and would earmark not less than 10 percent of funds made available to the NED for 2005 for this purpose. The NED is a private, nonprofit corporation that makes grants to private-sector and nonprofit entities to undertake activities to encourage free and democratic institutions throughout the world.

The NED received an appropriation of \$40 million for 2004, and CBO's baseline projection for 2005 is also about \$40 million. In order to maintain its existing activities and earmark 10 percent of its budget for programs authorized by this bill, the NED would need an additional \$4 million in 2005.

The President has requested an appropriation of \$80 million for 2005; under S. 2096, \$8 million of that amount would be allocated to promote freedom of the press and other media. S. 2144, the Foreign Affairs Authorization Act, Fiscal Year 2005, as ordered reported by the Senate Committee on Foreign Relations on March 4, 2004, would also authorize \$80 million for the NED in 2005.

S. 2096 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact is Sunita D'Monte. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

V. EVALUATION OF REGULATORY IMPACT

In accordance with rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has concluded that there is no regulatory impact from this legislation.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman).

TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY

SHORT TITLE

SEC. 501. This title may be cited as the “National Endowment for Democracy Act”.

NATIONAL ENDOWMENT FOR DEMOCRACY

SEC. 502. (a) The Congress finds that there has been established in the District of Columbia a private, nonprofit corporation known as the National Endowment for Democracy (hereafter in this title referred to as the “Endowment”) which is not an agency or establishment of the United States Government.

(b) The purposes of the Endowment, as set forth in its articles of incorporation, are—

(1) to encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human [rights]) *rights and freedom of the press and other media* which are essential to the functioning of democratic institutions;

(2) to facilitate exchanges between United States private sector groups (especially the two major American political parties, labor, [and business]) *business, and media*; and democratic groups abroad;

(3) to promote United States nongovernmental participation (especially through the two major American political parties, labor, business, *media*, and other private sector groups) in democratic training programs and democratic institution-building abroad;

(4) to strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

(5) to support the participation of the two major American political parties, labor, business, *media*, and other United

States private sector groups in fostering cooperation with those abroad dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) to encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by programs funded by the Endowment.

GRANTS TO THE ENDOWMENT

SEC. 503. (a) * * *

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[(e) Of the amounts made available to the Endowment for each of the fiscal years 1984 and 1985 to carry out programs in furtherance of the purposes of this Act—

[(1) not less than \$13,800,000 shall be for the Free Trade Union Institute; and

[(2) not less than \$2,500,000 shall be to support private enterprise development programs of the National Chamber Foundation.]

(e) Not less than 10 percent of the amounts made available to the Endowment for fiscal year 2005 should be made available for programs to promote freedom of the press and other media.

