

TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO EXTEND  
THE ADMINISTRATIVE FINE PROGRAM FOR CERTAIN REPORTING VIOLA-  
TIONS

NOVEMBER 2, 2023.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. STEIL, from the Committee on House Administration,  
submitted the following

R E P O R T

[To accompany H.R. 5734]

The Committee on House Administration, to whom was referred  
the bill (H.R. 5734) to amend the Federal Election Campaign Act  
of 1971 to extend the Administrative Fine Program for certain re-  
porting violation, having considered the same, reports favorably  
thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5734, To amend the Federal Election Campaign Act of 1971  
to extend the Administrative Fine Program for certain reporting  
violations, introduced by Representative Bryan Steil (WI-01) and  
co-sponsored by Representative Joseph Morelle (NY-25) extends  
the Federal Election Commission's Administrative Fine Program  
for 10 years. Without this extension, the Federal Election Commis-

sion will lose its ability to assess civil money penalties for certain late and non-filed reports of receipts and disbursements on December 31, 2023, and be required to complete a longer, more time- and resource-consuming process to achieve compliance for these relatively minor violations. Since first authorizing this program in 1999, Congress has extended it on a bipartisan basis six times.

## BACKGROUND AND NEED FOR LEGISLATION

### BACKGROUND

Congress created the Federal Election Commission (“FEC”) in 1974<sup>1</sup> and gave it the authority to enforce all civil violations of federal campaign finance law.<sup>2</sup> The agency is a bipartisan commission of six commissioners who serve single, non-renewable six-year terms, though many commissioners “hold over” until a new commissioner is appointed.<sup>3</sup> No more than three commissioners may be affiliated with the same political party.<sup>4</sup> Commissioners are appointed by the president, traditionally upon the recommendation of Senate leadership, and are subject to confirmation by the United States Senate.<sup>5</sup> For the FEC to act, a majority vote of the commissioners is required.<sup>6</sup>

The Federal Election Campaign Finance Act (“FECA”) “requires political campaigns, parties, political action committees, and other entities that solicit funds, call for election or defeat of a candidate, or engage in specified other-campaign related activities”<sup>7</sup> to file reports of receipts and disbursements on a timely basis.<sup>8</sup> These reports detail the amount of money a regulated entity has raised and spent during the previous reporting cycle. Since 1999, the FEC has used the Administrative Fine Program to expedite resolution of non-serious reporting violations, such as late and non-filed reports. Previously, the FEC was required to use its traditional enforcement tools to compel compliance.<sup>9</sup>

The traditional enforcement process the FEC uses for violations of campaign finance law is costly, arduous, and time- and resource-consuming.<sup>10</sup> As such, it should be reserved for serious and substantive violations of federal campaign finance law, not relatively minor reporting violations. Under the traditional process, the FEC receives a complaint or referral, the agency’s general counsel notifies the respondent that it has received a complaint, and the respondent is permitted to respond.<sup>11</sup> Importantly, the general counsel is appointed by the commissioners and acts under their direc-

<sup>1</sup> Federal Election Campaign Act Amendments of 1974, 52 U.S.C. § 30106 (1974).

<sup>2</sup> *Id.* at §§ 30106(b)(1), 30107(e).

<sup>3</sup> *Id.* at § 30106(a)(2)(A)–(B). Commissioners are allowed to serve holdover terms in the event a replacement is not confirmed before their term expires. One commissioner has been at the FEC since 2002, 15 years longer than the standard term.

<sup>4</sup> *Id.* at § 30106(a)(2)(A).

<sup>5</sup> *Id.* at § 30106(a)(1).

<sup>6</sup> *Id.* at § 30106(c).

<sup>7</sup> R. Sam. Garrett, *Federal Election Commission Administrative Fine Program*, Cong. Research Serv. (Sept. 12, 2023), available at <https://crsreports.congress.gov/product/pdf/IN/IN12198>.

<sup>8</sup> *Legislative Recommendations of the Federal Election Commission 2022*, FEC (Dec. 15, 2022), available at <https://www.fec.gov/resources/cms-content/documents/legrec2022.pdf>.

<sup>9</sup> See 65 Fed. Reg. 31787 (May 19, 2000) (explaining that under the FEC’s Administrative Fine Program, it will no longer need to use traditional enforcement methods for late and non-filed reports).

<sup>10</sup> See 52 U.S.C. § 30109 with enabling regulations at 11 CFR §§ 111.1–111.24 (2023).

<sup>11</sup> 11 CFR §§ 111.4–111.6 (2023).

tion.<sup>12</sup> Next, the commissioners vote whether to find “reason to believe” the complaint’s allegations.<sup>13</sup> If the Commission finds reason to believe the complaint’s allegations, the FEC’s general counsel is directed to commence an investigation or negotiate a compromise.<sup>14</sup>

If no compromise is reached, the FEC’s general counsel investigates the matter further. If the investigation determines there is “probable cause” that the respondent engaged in unlawful activity, the general counsel files a brief with the commissioners explaining why there is reason to believe the respondent is in violation of the law.<sup>15</sup> The commissioners then vote on whether to continue enforcement action based on information in that brief.<sup>16</sup> If a majority of the commissioners agree with the brief the general counsel is empowered by the commissioners to continue to negotiate with the respondent.<sup>17</sup> If that negotiation fails, the FEC will file suit in federal court.<sup>18</sup> In all, this process could take over a year for the FEC to secure a final judgment holding that the respondent is in violation of the law.

The FEC’s Administrative Fine Program was first authorized by Congress in 1999;<sup>19</sup> it has been extended six times, always on a bipartisan basis, to allow the FEC to assess standardized fines for low-severity campaign finance reporting violations. In stark contrast to the traditional enforcement method, the administrative fine program simplifies and expedites the process. Following an examination of the matter, the commissioners vote whether to find “reason to believe” that the regulated entity failed to file its report on time.<sup>20</sup> If a majority of the commissioners agree with the finding, the FEC notifies the entity of the penalty amount.<sup>21</sup> Regulated entities then have 40 days to pay the fine or to submit a written challenge with the FEC.<sup>22</sup> If the fine is challenged, the FEC will conduct a secondary of the timeliness of the filing in question and review the calculated fine amount for accuracy.<sup>23</sup> If the respondent disagrees with the FEC’s final determination, it may file an appeal with the federal district court for the district in which the respondent resides or conducts business.<sup>24</sup>

Under the Administrative Fine Program, most reports are considered to be “filed late” if they are received within 30 days after the deadline and are considered “not filed” if they are received after 30 days after the deadline.<sup>25</sup> Election-sensitive reports, or reports that are required to be filed close to an election, are considered “filed late” if they are filed after the due date up through five days before the election and considered “not filed” if they are received later.<sup>26</sup>

Under this program, the FEC assesses civil monetary penalties for late reports based on a number of factors: (1) the amount of ac-

<sup>12</sup> 52 U.S.C. § 30106(f)(1).

<sup>13</sup> 11 CFR § 111.9(a) (2023).

<sup>14</sup> 11 CFR §§ 111.7–111.10 (2023).

<sup>15</sup> 11 CFR § 111.16 (2023) (this is known as the general counsel’s probable cause brief).

<sup>16</sup> 11 CFR § 111.17 (2023).

<sup>17</sup> 11 CFR § 111.18 (2023).

<sup>18</sup> 11 CFR §§ 111.18–111.19 (2023).

<sup>19</sup> Pub. L. No. 106–58, § 640, 113 Stat. 476 (1999) (creating the administrative fine program as part of FY2000 appropriations).

<sup>20</sup> 11 CFR § 111.32 (2023).

<sup>21</sup> *Id.*

<sup>22</sup> 11 CFR §§ 111.33–111.35 (2023).

<sup>23</sup> 11 CFR § 111.36–111.37 (2023).

<sup>24</sup> 11 CFR §§ 111.38 (2023).

<sup>25</sup> *Legislative Recommendations of the Federal Election Commission*, *supra* note 8.

<sup>26</sup> *Id.*

tivity on the report; (2) the number of days the report was late; and (3) any prior penalties for violations under the administrative fine regulations.<sup>27</sup> For non-filed reports, the FEC assesses civil monetary penalties based on the estimated activity on the report and any prior violations by the committee.<sup>28</sup>

According to the FEC, its Administrative Fine Program is one of the most cost-effective and successful programs in its history. Since its enactment, the FEC has processed and finalized<sup>29</sup> 4,011 cases, with almost \$9 million in fines assessed.<sup>30</sup> In 2022 alone, the FEC assessed over \$1 million in fines.<sup>31</sup> These fines do not increase the FEC's budget but are deposited into the general funds of the U.S. Treasury.<sup>32</sup> Over the course of the program's history, the number of late and non-filed reports has decreased dramatically. Today, the percentage of late-filed reports is below 10 percent.<sup>33</sup> In the 1992 through 2000 election cycles, an average of 21 percent of reports were filed late.<sup>34</sup>

In all, Congress has acted six times, always on a bipartisan basis, to extend the Administrative Fine Program, extending the initial covered period from two years to 24 years.<sup>35</sup> Most recently, President Donald Trump signed legislation on December 21, 2018, that extended the program through December 31, 2023.<sup>36</sup>

#### NEED FOR LEGISLATION

The FEC's authority to assess civil money penalties for certain late and non-filed reports expires on December 31, 2023. For the FEC to continue operating this very successful program, Congress must pass legislation authorizing it to do so.

Despite strong political differences among the commissioners, the permanent extension of this program was the FEC's highest-priority bipartisan legislative recommendation in 2022<sup>37</sup> and a top bipartisan legislative recommendation in 2021.<sup>38</sup> Moreover, the United States Senate passed a bill identical to H.R. 5734, S. 2747, A bill to amend the Federal Election Campaign Act of 1971 to extend the Administrative Fine Program for certain reporting violations,<sup>39</sup> by voice vote on September 7, 2023.

Without an extension, the FEC will be forced to use its traditional enforcement mechanism for all alleged violations, which will lead to greater costs and operational inefficiencies for the agency,

<sup>27</sup> *Id.* See also 11 CFR § 111.43 (2023).

<sup>28</sup> *Id.* See also 11 CFR § 111.43 (2023) (detailing the schedule of penalties).

<sup>29</sup> See 11 CFR § 111.42 (2023) (describing that the FEC makes administrative fine enforcement files available to the public).

<sup>30</sup> *Legislative Recommendations of the Federal Election Commission*, *supra* note 8.

<sup>31</sup> Garrett, *supra* note 7.

<sup>32</sup> *Id.*

<sup>33</sup> *Legislative Recommendations of the Federal Election Commission 2022*, *supra* note 8.

<sup>34</sup> *Id.*

<sup>35</sup> Pub. L. No. 107-67, § 642, 115 Stat. 514, 555 (2001) (extending program through 2003 reports), Pub. L. No. 108-199, § 639, 118 Stat. 3, 359 (2004) (extending program through 2005 reports, leaving gap in coverage from January 1 to February 10, 2004); Pub. L. No. 109-155, § 721, 119 Stat. 2396, 2493-94 (2005) (extending program through 2008 reports); Pub. L. No. 110-433, 122 Stat. 4971 (2008) (extending program through 2013 reports); Pub. L. No. 113-72, 127 Stat. 1210 (2013) (extending program through 2018 reports); and Pub. L. No. 115-386, 132 Stat. 5161 (2018) (extending program through 2023 reports).

<sup>36</sup> See Pub. L. No. 115-386, 132 Stat. 5161 (2018), *codified at* 52 U.S.C. § 30109(a)(4)(C)(v).

<sup>37</sup> *Legislative Recommendations of the Federal Election Commission 2022*, *supra* note 8.

<sup>38</sup> *Legislative Recommendations of the Federal Election Commission 2021*, FEC (May 6, 2021), available at <https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf>.

<sup>39</sup> A bill to amend the Federal Election Campaign Act of 1971 to extend the Administrative Fine Program for certain reporting violations, S. 2747, 118th Cong. (2023).

as well as reintroduce the likelihood of a mismatch between the enforcement tools available and the relatively minor nature of violations covered by the Administrative Fine Program. As a result, the FEC will have fewer resources and less money to devote to other issues. The number of late-filed reports decreased following the creation of the Administrative Fines Program; it is possible that going back to the traditional enforcement process for these sorts of minor violations would again increase late-filed committee reports, thereby depriving the public of critical information with respect to the amount of money raised and spent by political committees.

## COMMITTEE ACTION

### INTRODUCTION AND REFERRAL

On September 26, 2023, Representative Bryan Steil (WI-01), Chairman of the Committee on House Administration, joined by Representative Joseph Morelle (NY-25), Ranking Member of the Committee on House Administration, introduced H.R. 5734, To amend the Federal Election Campaign Act of 1971 to extend the Administrative Fine Program for certain reporting violations. The bill was referred to the U.S. House of Representatives Committee on House Administration.

### HEARINGS

For the purposes of clause 3(c)(6)(A) of House rule XIII, in the 118th Congress, the Committee held one full committee hearing to develop H.R. 5734.

1. On September 20, 2023, the Committee held a full committee hearing titled, “Oversight of the Federal Elections Commission.” The hearing represented the first traditional oversight hearing of the Federal Election Commission in more than a decade.<sup>40</sup> The committee heard testimony from all six commissioners and the agency’s inspector general. The first panel of witnesses included the Honorable Dara Lindenbaum, Chairwoman, the Honorable Sean Cooksey, Vice Chairman, the Honorable Shana Broussard, Commissioner, the Honorable Allen Dickerson, Commissioner, the Honorable Ellen Weintraub, Commissioner, and the Honorable James Trainor, Commissioner. The second panel featured Mr. Christopher Skinner, Inspector General.<sup>41</sup>

### COMMITTEE CONSIDERATION

On September 28, 2023, the Committee on House Administration met in open session and ordered the bill, H.R. 5734, To amend the Federal Election Campaign Act of 1971 to extend the Administrative Fine Program for certain reporting violations, reported favorably to the House of Representatives, by voice vote, a quorum being present.

<sup>40</sup>The last traditional oversight hearing of the Federal Election Commission before the Committee on House Administration occurred on November 3, 2011. See *Federal Election Commission: Reviewing Policies, Processes and Procedures: Hearing Before the Subcomm. on Elections of the H. Comm. on Admin.*, 112th Cong. (2011).

<sup>41</sup>*Oversight of the Federal Election Commission: Hearing Before the H. Comm. on Admin.*, 118th Cong. (2023).

## COMMITTEE VOTES

In compliance with clause 3(b) of House rule XIII, the following vote occurred during the Committee's consideration of H.R. 5734:

1. Vote to report H.R. 5734 favorably to the House of Representatives, passed by voice vote.

## STATEMENT OF CONSTITUTIONAL AUTHORITY

Congress has the power to enact this legislation pursuant to the following:

- Article I, Section 8, Clause 18—"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."<sup>42</sup>

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## STATEMENT OF BUDGET AUTHORITY AND RELATED ITEMS

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(I) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. The Committee believes that there will be no additional costs attributable to H.R. 5734.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such an estimate to be printed in the Congressional Record if it is received by the Committee.

## PERFORMANCE GOALS AND OBJECTIVES

The performance goals and objectives of H.R. 5734 are to extend for an additional 10 years the statutory authorization of the FEC's very successful Administrative Fine Program.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 5734 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

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<sup>42</sup>U.S. CONST. art. I, § 8, cl. 18.

## ADVISORY ON EARMARKS

In accordance with clause 9 of House rule XXI, H.R. 5734 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House rule XXI.

## FEDERAL MANDATES STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such an estimate to be printed in the Congressional Record if it is received by the Committee.

## ADVISORY COMMITTEE STATEMENT

H.R. 5734 does not establish or authorize any new advisory committees.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Extension of Administrative Fine Program*

This section extends the authorization of the Federal Election Commission's Administrative Fine Program for an additional 10 years with a sunset date of December 31, 2033.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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 italics, and existing law in which no change is proposed is shown in roman):

**FEDERAL ELECTION CAMPAIGN ACT OF 1971**

\* \* \* \* \*

## TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

\* \* \* \* \*

## ENFORCEMENT

SEC. 309. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under pen-

alty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4)(A)(i) Except as provided in clauses (ii) and subparagraph (C), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).



(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make public such determination.

(C)(i) Notwithstanding subparagraph (A), in the case of a violation of a qualified disclosure requirement, the Commission may—

(I) find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and

(II) based on such finding, require the person to pay a civil money penalty in an amount determined, for violations of each qualified disclosure requirement, under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate.

(ii) The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity to be heard before the Commission.

(iii) Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination in the district court of the United States for the district in which the person resides, or transacts business, by filing in such court (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.

(iv) In this subparagraph, the term “qualified disclosure requirement” means any requirement of—

(I) subsections (a), (c), (e), (f), (g), or (i) of section 304; or

(II) section 305.

(v) This subparagraph shall apply with respect to violations that relate to reporting periods that begin on or after January 1, 2000, and that end on or before **[December 31, 2023]** *December 31, 2033*.

(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may re-

quire that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation).

(C) If the Commission by an affirmative vote of 4 of its members, determined that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d), or a knowing and willful violation of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, by the methods specified in paragraph (4), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation).

(7) In any action brought under paragraph (5) or (6), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(8)(A) Any party aggrieved by an order to the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12)(A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than \$2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than \$5,000.

(b) Before taking any action under subsection (a) against any person who has failed to file a report required under section 304(a)(2)(A)(iii) for the calendar quarter immediately preceding the election involved, or in accordance with section 304(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 311(a)(7), publish before the election the name of the person and the report or reports such person has failed to file.

(c) Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and

every 30 days thereafter until the final disposition of the apparent violation.

(d)(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

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

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

(B) In the case of a knowing and willful violation of section 316(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating \$250 or more during a calendar year. Such violation of section 316(b)(3) may incorporate a violation of section 317(b), 320, or 321.

(C) In the case of a knowing and willful violation of section 322, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of \$1,000 or more is involved.

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

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

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

(I) \$50,000; or

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

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

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved,  
in compliance with the conciliation agreement.

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