

ELECTRONIC FILING OF ELECTIONEERING  
COMMUNICATION REPORTS ACT

JUNE 3, 2024.—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

together with

ADDITIONAL VIEWS

[To accompany H.R. 7321]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 7321) to amend the Federal Election Campaign Act of 1971 to modernize certain reporting requirements for electioneering communications, and for other purposes, 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. 7321, the Electronic Filing of Electioneering Communication Reports Act, introduced by Representative Joseph Morelle (NY–25) and co-sponsored by Representative’s Bryan Steil (WI–01) and Joe Neguse (CO–02) requires entities that report more than \$50,000 in electioneering communications to file their electioneering communication reports electronically with the Federal Election Commission. The electioneering communication report is the last remaining campaign finance report *not* subject to a mandatory electronic filing. This will allow the Federal Election Commission to process and disseminate these reports more effectively and efficiently and increase public transparency as the reports will be available for download within minutes of being submitted.

## 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 individuals and other persons, including corporations and labor organizations, that make disbursements for electioneering communications aggregating over \$10,000 in the calendar year, to file an electioneering communication report with the FEC.<sup>7</sup> FECA defines an electioneering communication as any broadcast, cable, or satellite communication that refers to a clearly identified federal candidate,<sup>8</sup> is publicly distributed<sup>9</sup> within 30 days of a primary or 60 days of a general election and is targeted to the relevant electorate.<sup>10</sup> To give an example of an electioneering communication,

<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> *Id.* at § 30104(f).

<sup>8</sup> A candidate is “clearly identified” if the candidate’s name, nickname, photograph or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as “the President,” “your Representative,” or “the incumbent.” See 11 CFR § 100.29(b)(2).

<sup>9</sup> A communication is “publicly distributed” for the purposes of the rules governing electioneering communications when it is aired, broadcast, cablecast or otherwise disseminated through the facilities of a radio or television station, cable television system or a satellite system. See 11 CFR § 100.29(b)(3).

<sup>10</sup> 52 U.S.C. § 30104(f)(3)(A). A communication is “targeted to the relevant electorate” when it is receivable by 50,000 or more persons in the candidate’s district (for a House candidate) or state (for a Senate candidate). In the case of presidential and vice-presidential candidates, the communication is publicly distributed if it can be received by 50,000 or more people in a state where a primary election or caucus is being held within 30 days or anywhere in the United

the Wisconsin Right to Life once ran several radio advertisements in Wisconsin, asking voters to contact then Wisconsin Senator Russ Feingold and ask him to oppose filibustering President George W. Bush's federal judicial nominees.<sup>11</sup> The ads ran in Wisconsin, throughout August 2004, and Senator Feingold's primary was slated to take place on August 15th, 2004.<sup>12</sup>

The Bipartisan Campaign Reform Act of 2002 ("BCRA") commonly known as "McCain-Feingold"<sup>13</sup> significantly cut back on the ability of corporations and labor unions to engage in political speech. Before BCRA, corporations could engage in political speech through independent expenditures<sup>14</sup> so long as their speech did not expressly advocate the election or defeat of a clearly identified federal candidate.<sup>15</sup> The BCRA made it a crime for corporations and labor unions to use their general treasury funds to make electioneering communications ("electioneering communication prohibition").<sup>16</sup> This prohibition meant that for corporations or labor unions to fund an electioneering communication, they needed to create a separate segregated fund run by a political action committee.<sup>17</sup> The BCRA also imposed disclaimer and disclosure requirements on entities making certain electioneering communications.<sup>18</sup>

In the first constitutional challenge to the BCRA, the Supreme Court upheld a facial challenge to the electioneering communication prohibition with the caveat that the electioneering communication constituted express advocacy or its functional equivalent.<sup>19</sup> But several years later, the Supreme Court held that the BCRA, as applied to the Wisconsin electioneering communications described above, was unconstitutional as it regulated issue advertisements.<sup>20</sup> Finally, in *Citizens United v. Federal Election Commission*, the Supreme Court invalidated BCRA's electioneering commu-

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States 30 days prior to the nominating convention or 60 days prior to the general election. See 11 CFR § 100.29(b)(5).

<sup>11</sup>See generally *Federal Election Comm'n v. Wisconsin Right to Life, Inc.*, 127 S. Ct. 2652 (2007).

<sup>12</sup>*Id.*

<sup>13</sup>See Pub. L. No. 107-155, 116 Stat. 81 (2002). The law is referred to as "McCain-Feingold" because the main sponsors of the bill were then-Senators John McCain (AZ) and Russ Feingold (WI).

<sup>14</sup>An independent expenditure is an expenditure for a communication, such as an advertisement through a website, digital device, application, advertising platform, newspaper, TV or direct mail that: expressly advocates the election or defeat of a clearly identified candidate; and is not made in consultation or cooperation with, or at the request or suggestion of any candidate, or his or her authorized committees or agents, or a political party committee or its agents. See 52 U.S.C. 30101(17).

<sup>15</sup>Wisconsin Right to Life, 127 S. Ct. at 2659.

<sup>16</sup>Wisconsin Right to Life, 127 S.Ct. at 2658-59.

<sup>17</sup>*Id.* at 2675-76 (Scalia, J., concurring in concurring in part and concurring in the judgment.)

<sup>18</sup>See 52 U.S.C. § §30104(f)(2), 30120 with enabling regulations at 11 CFR § 110.11.

<sup>19</sup>*McConnell v. Federal Election Comm'n*, 540 U.S. 93, 206 (2003). In *Federal Election Comm'n v. Wisconsin Right to Life, Inc.*, Chief Justice Roberts and Justice Alito reasoned that "a court should find that an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." Wisconsin Right to Life, 127 S.Ct. at 2667 (opinion of Roberts, C.J.). In an opinion concurring in part and concurring in the judgment, Justice Scalia, joined by Justices Kennedy and Thomas argued that McConnell's holding bifurcating between express advocacy or its functional equivalent and everything else was wrong, unconstitutionally infringed on political speech, and that part of the opinion should be overturned. *Id.* at 2684-86 (Scalia, J. concurring in part and concurring in the judgment).

<sup>20</sup>Wisconsin Right to Life, 127 S.Ct. at 2670-71. The advertisements were not express advocacy or its functional equivalent because they ". . . may reasonably be interpreted as something other than as an appeal to vote for or against a specific candidate . . . and therefore fall outside the scope of McConnell's holding." As such, the BCRA's application to the advertisements were unconstitutional under the First Amendment because the Supreme Court has never recognized a compelling government interest in regulating issue advertisements. *Id.* at 2671.

nication prohibition, thereby allowing corporations and labor unions to use their general treasury funds on any type of electioneering communications.<sup>21</sup> The Court also upheld BCRA's disclaimer and disclosure requirements and left unscathed the federal prohibition on foreign individuals or associations from engaging in political speech.<sup>22</sup>

Entities filing an electioneering communication report must file a 24 Hour Notice of Disbursements/Obligations for Electioneering Communications on Form 9 within 24 hours of the disclosure date.<sup>23</sup> This form must be received by the FEC by 11:59 p.m. Eastern Standard/Daylight Time of the day following the disclosure date.<sup>24</sup> Entities that fail to meet this deadline because they file their report late or do not file them at all are subject to a number of different FEC enforcement mechanisms.<sup>25</sup> The contents of the report must include: the identity of the entity making the disbursement, its principal place of business, the amount of each disbursement of more than \$200 during the period covered by the statement, the identity of the person to whom the disbursement was made, the election to which the communication pertains, and the names of the candidates identified or to be identified, among other requirements.<sup>26</sup>

While the scope of an electioneering communication seems broad, it comes with several exceptions. First, if a political committee were to run an electioneering communication, it would be reported as an expenditure or independent expenditure,<sup>27</sup> for which committees file separate reports.<sup>28</sup> Second, communications publicly disseminated through means *other than* broadcast, cable, or satellite do not qualify.<sup>29</sup> Communications that appear in a news story or editorial that is not owned or controlled by a political party or candidate also does not qualify.<sup>30</sup> And importantly, a candidate debate or forum or the promotion of by the sponsor of the event does not

<sup>21</sup>Citizens United v. Federal Election Comm'n, 130 S.Ct. 876, 917 (2010). Importantly, the Court rejected Citizens United's argument that its film entitled *Hillary: The Movie* was *not* express advocacy or its functional equivalent. *Id.* at 888–892. Therefore, the Court's invalidation of BCRA's electioneering communication prohibition covers both the prohibition on general treasury funds and those funds being used to fund communications that constitute express advocacy or its functional equivalent.

<sup>22</sup>*Id.* at 911, 913–17. *See also* Bluman v. FEC, 800 F. Supp. 2d 281, 288 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012). In this case, the Supreme Court of the United States has never been presented with the question whether the foreign national prohibition violates the First Amendment, it has previously affirmed a three-judge court's decision, authored by then-Judge Kavanaugh, which upheld the foreign national prohibition with respect to foreign nationals who wanted to make contributions to federal and State candidates. In addition, on November 30, 2023, the U.S. House of Representatives Committee on House Administration passed H.R. 3229, Stop Foreign Funds in Elections Act out of committee. That legislation prohibits foreign nationals from making a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation to a State or local ballot initiative, referendum, or recall election.

<sup>23</sup>52 U.S.C. § 30104(f)(1), 11 CFR 104.20(b).

<sup>24</sup>11 CFR 104.20(b).

<sup>25</sup>*See generally* 52 U.S.C. §§ 30107, 30109–30111. Unlike reports filed by political committees that have clear deadlines, the FEC does not know when an electioneering communication report will be filed because entities can choose to make these communications at any time. As such, the FEC will often receive complaints when an entity does not file an electioneering communication report on time or at all.

<sup>26</sup>*Id.* at § 30104(f)(2).

<sup>27</sup>*Id.* at § 30104(f)(B)(ii). *See also* 11 CFR § 104.20(b) (“Political committees that make communications that are described in 11 CFR 100.29(a) must report such communications as expenditures or independent expenditures under 11 CFR 104.3 and 104.4, and not under this section.”)

<sup>28</sup>*See Id.* § 30104(a)(1)–(2).

<sup>29</sup>52 U.S.C. § 30104(f)(3)(A)(i).

<sup>30</sup>*Id.* § 30104(f)(B)(i).

qualify.<sup>31</sup> Finally, the FEC is permitted to promulgate other exceptions as well.<sup>32</sup>

Mandatory electronic filing of all reports is already required under current law once a political committee receives contributions or make expenditures in excess of \$50,000<sup>33</sup> in the calendar year or has reason to expect to do so.<sup>34</sup> Once this threshold is exceeded, the committee must file their reports electronically for the remainder of the calendar year.<sup>35</sup> Similarly, if the committee also has reason to expect to exceed the threshold during the next two calendar years once the \$50,000 threshold is exceeded and must file electronically in those years as well.<sup>36</sup> The FEC provides free electronic filing software to help committees file their reports online.<sup>37</sup> However, because political committees do not file electioneering reports, the law does *not* require entities that do file them to do so electronically. Therefore, some entities still file them on paper.

In the 117th Congress, former Ranking Member on the Committee on House Administration, Representative Rodney Davis (IL–13), introduced H.R. 8528, the American Confidence in Elections Act,<sup>38</sup> which included legislation substantially similar to Rep. Morelle’s H.R. 7321, the Electronic Filing of Electioneering Communication Reports Act.

In the 118th Congress, Representative Bryan Steil (WI–01), introduced H.R. 4563, an updated version of the American Confidence in Elections Act,<sup>39</sup> which includes Rep. Morelle’s H.R. 7321, the Electronic Filing of Electioneering Communication Reports Act.

#### NEED FOR LEGISLATION

Rep. Morelle’s (NY–25) Electronic Filing of Electioneering Communication Reports Act would require entities that report more than \$50,000 of electioneering communications in a calendar year to file their electioneering communication reports electronically with the FEC. Entities that report less than \$50,000, a threshold set by the FEC,<sup>40</sup> would still be allowed to file these reports on paper.

Despite strong political differences among the commissioners, this legislative change was the FEC’s top legislative recommendation in 2021,<sup>41</sup> a priority legislative recommendation in 2022,<sup>42</sup> and

<sup>31</sup> *Id.* at § 30104(f)(B)(iii).

<sup>32</sup> *Id.* at § 30104(f)(b)(iv).

<sup>33</sup> The FEC established the \$50,000 figure in response to a Congressional mandate for the FEC to have final rules on electronic filing in effect on January 1, 2001. See Pub. L. No. 106–58, 113 Stat. 476 (1999), as amended, *codified at* 52 U.S.C. § 30104(a)(11)(i)–(ii) with the final rule published at 60 Fed. Reg. 120 (June 21, 2000). See also 11 CFR § 104.18(a). The \$50,000 figure has not been changed since this rule was promulgated.

<sup>34</sup> 52 U.S.C. § 30103(a)(11) with enabling regulations at 11 CFR § 104.18(a).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> FECFile: the FEC’s free software, FEC, available at <https://www.fec.gov/help-candidates-and-committees/filing-reports/fecfile-software/>.

<sup>38</sup> American Confidence in Elections Act, H.R. 8528, 117th Cong. § 2 (2022).

<sup>39</sup> American Confidence in Elections Act, H.R. 4562, 118th Cong. § 1 (2023).

<sup>40</sup> *Supra* note 33.

<sup>41</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>42</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>.

a similar proposal was a priority legislative recommendation in 2023.<sup>43</sup>

Today, federal law already requires the mandatory electronic filing for political committees and other persons if they receive contributions or make expenditures in excess of \$50,000 in the current calendar year, or have reason to expect to do so.<sup>44</sup> Similarly, mandatory electronic filing is required for many independent expenditure reports.<sup>45</sup> However, as described above, because political committees do not file electioneering communication reports, federal law does *not* require entities that file electioneering communication reports to do so electronically. As such, this legislative change will ensure that all major filings with the FEC are done so electronically.

Electronic filing of electioneering communication reports also promotes transparency and public awareness. Electronic reports are received, processed, and disseminated more expeditiously than paper filings. This ensures FEC staff do not have to waste time or resources handling paper filings and uploading them to the internet. Moreover, reports filed electronically can be available for public viewing and download within minutes, whereas the FEC estimates it takes at least 48 hours before a paper filing's initial appearance on the FEC's website.<sup>46</sup> Finally, electronic filings are not subject to the impediments that paper filings face due to post office processing or disruptions in the delivery of mail.

## COMMITTEE ACTION

### INTRODUCTION AND REFERRAL

On February 13, 2024, Representative Joseph Morelle (NY-25), Ranking Member of the Committee on House Administration, joined by Representative Bryan Steil (WI-01), Chairman of the Committee on House Administration and Representative Joe Neguse (CO-02), introduced H.R. 7321, the Electronic Filing of Electioneering Communication Reports Act. 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. 7321.

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>47</sup> The committee heard testimony from all six commissioners and the agency's inspector general. The first panel of witnesses included

<sup>43</sup> *Legislative Recommendations of the Federal Election Commission 2023*, FEC (Dec. 14, 2023), available at <https://www.fec.gov/resources/cms-content/documents/legrec2023.pdf>.

<sup>44</sup> 52 U.S.C. § 30104(a)(11) with enabling regulations at 11 CFR § 104.18(a).

<sup>45</sup> *Id.*

<sup>46</sup> *Legislative Recommendations of the Federal Election Commission 2022* at page 7, FEC (Dec. 15, 2022), available at <https://www.fec.gov/resources/cms-content/documents/legrec2022.pdf>.

<sup>47</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).

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>48</sup>

#### COMMITTEE CONSIDERATION

On February 14, 2024, the Committee on House Administration met in open session and ordered the bill, H.R. 7321, the Electronic Filing of Electioneering Communication Reports Act, reported favorably to the House of Representatives, by voice vote, a quorum being present.

#### 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. 7321 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>49</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. 7321.

#### 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 (“CBO”) pursuant to section 402 of the Congressional Budget Act of 1974 was made available

<sup>48</sup> *Oversight of the Federal Election Commission: Hearing Before the H. Comm. on Admin.*, 118th Cong. (2023).

<sup>49</sup> U.S. CONST. art. I, § 8, cl. 18.

to the Committee in time for the filing of this report. CBO estimated that implementing H.R. 7321 would cost less than \$500,000 over the 2024–2029 period. The CBO report is attached with the committee report materials submitted to the Clerk.

| <b>H.R. 7321, Electronic Filing of Electioneering Communication Reports Act</b>                        |      |   |                      |
|--|------|---|----------------------|
| As ordered reported by the House Committee on House Administration on February 14, 2024                |      |   |                      |
| By Fiscal Year, Millions of Dollars  | 2024 | 2024-2029                                 | 2024-2034            |
| Direct Spending (Outlays)  | 0    | 0   | 0                    |
| Revenues   | *    | *   | *                    |
| Increase or Decrease (-) in the Deficit  | *    | *   | *                    |
| Spending Subject to Appropriation (Outlays)  | *    | *   | not estimated        |
| Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035? | No   | Statutory pay-as-you-go procedures apply? | Yes                  |
|  |      | <b>Mandate Effects</b>                    |                      |
| Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?  | No   | Contains intergovernmental mandate?       | No                   |
|  |      | Contains private-sector mandate?          | Yes, Under Threshold |
| * = between -\$500,000 and \$500,000.  |      |   |                      |

H.R. 7321 would amend the Federal Election Campaign Act of 1971 to require the Federal Election Commission (FEC) to expand the communication reporting requirements for candidates running for federal office. Using information from the FEC, CBO estimates that implementing H.R. 7321 would cost less than \$500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

The bill also could increase the collection of fines and penalties from violations of campaign finance laws, which are recorded in the budget as revenues. However, CBO estimates that any additional collections of penalties and fines resulting from the legislation would not be significant because of the small number of anticipated violations.

H.R. 7321 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by expanding the reporting requirements on candidates running for federal office. The bill would require candidates for federal office to report electioneering communications in excess of a threshold to be determined by the FEC. Because federal campaigns are subject to existing requirements and the duty would impose only a minor additional burden, CBO estimates that the cost of the mandate would fall below the private-sector threshold established in UMRA (\$200 million in 2024, adjusted annually for inflation).

H.R. 7321 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs) and Grace Watson (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
Director, Congressional Budget Office.



#### PERFORMANCE GOALS AND OBJECTIVES

The performance goals and objectives of H.R. 7321 are to require entities that report more than \$50,000 in electioneering communications to file their electioneering communication reports electronically with the Federal Election Commission.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 7321 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

#### ADVISORY ON EARMARKS

In accordance with clause 9 of House rule XXI, H.R. 7321 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. 7321 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. Short title*

This section provides a short title for the bill, the Electronic Filing of Electioneering Communication Reports Act.

##### *Section 2. Modernization of certain reporting requirements for Electioneering Communications*

This section requires entities that report more than \$50,000 in electioneering communications to file their electioneering communication reports electronically with the Federal Election Commission.

#### 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 (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**

\* \* \* \* \*

**REPORTS**

SEC. 304. (a)(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating \$100,000 or made expenditures aggregating \$100,000 or anticipates receiving contributions ag-

gregating \$100,000 or more or making expenditures aggregating \$100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of \$100,000 or makes expenditures in excess of \$100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year.

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed

no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii) or subsection (g)(1)) is sent by registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, the United States postmark shall be considered the date of filing the designation, report or statement. If a designation, report or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or subsection (g)(1)) is sent by an overnight delivery service with an on-line tracking system, the date on the proof of delivery to the delivery service shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term “expenditure from personal funds” means—

(I) an expenditure made by a candidate using personal funds; and

(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate’s authorized committee.

(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with—

(I) the Commission; and

(II) each candidate in the same election.

(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

- (I) the Commission; and
- (II) each candidate in the same election.

(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed \$10,000 with—

- (I) the Commission; and
- (II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

- (I) the name of the candidate and the office sought by the candidate;
- (II) the date and amount of each expenditure; and
- (III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.

(E) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election

which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures or *makes electioneering communications* in excess of a threshold amount determined by the Commission; and

(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form if not required to do so under the regulation promulgated under clause (i).

(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.

(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(D) As used in this paragraph, the term “report” means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.

(12) SOFTWARE FOR FILING OF REPORTS.—

(A) IN GENERAL.—The Commission shall—

(i) promulgate standards to be used by vendors to develop software that—

(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

(III) allows the Commission to post the information on the Internet immediately upon receipt; and

(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

(B) ADDITIONAL INFORMATION.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

(C) REQUIRED USE.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

(D) REQUIRED POSTING.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of the Internal Revenue Code of 1954;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), or in any lesser amount if the reporting committee should so elect,

together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;



(iv) expenditures made under section 315(d) of this Act; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 315(b);

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office) in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such

independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 315(d) in the Act, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office) from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office); and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

(c)(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2), and shall include—

(A) the information required by subsection (b)(6)(B)(iii), indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported

under subsection (b)(6)(B)(iii), made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

(d)(1) Any person who is required to file a statement under subsection (c) or (g) of this section, except statements required to be filed electronically pursuant to subsection (a)(11)(A)(i) may file the statement by facsimile device or electronic mail, in accordance with such regulations as the Commission may promulgate.

(2) The Commission shall make a document which is filed electronically with the Commission pursuant to this paragraph accessible to the public on the Internet not later than 24 hours after the document is received by the Commission.

(3) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying the documents covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(e) POLITICAL COMMITTEES.—

(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—

The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—

(A) IN GENERAL.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than \$5,000.

(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY.—Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of \$200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).

(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.—

(1) STATEMENT REQUIRED.—Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of \$10,000 during any calendar year shall, within 24 hours of

each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

(B) The principal place of business of the person making the disbursement, if not an individual.

(C) The amount of each disbursement of more than \$200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

(A) IN GENERAL.—(i) The term “electioneering communication” means any broadcast, cable, or satellite communication which—

(I) refers to a clearly identified candidate for Federal office;

(II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term “electioneering communication” means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

(B) EXCEPTIONS.—The term “electioneering communication” does not include—

(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

(C) TARGETING TO RELEVANT ELECTORATE.—For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is “targeted to the relevant electorate” if the communication can be received by 50,000 or more persons—

(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

(4) DISCLOSURE DATE.—For purposes of this subsection, the term “disclosure date” means—

(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of \$10,000; and

(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of \$10,000 since the most recent disclosure date for such calendar year.

(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

(7) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.

(g) TIME FOR REPORTING CERTAIN EXPENDITURES.—

(1) EXPENDITURES AGGREGATING \$1,000.—

(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$1,000 with respect to the same election as that to which the initial report relates.

(2) EXPENDITURES AGGREGATING \$10,000.—

(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to the same election as that to which the initial report relates.

(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

(A) shall be filed with the Commission; and

(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.

(4) TIME OF FILING FOR EXPENDITURES AGGREGATING \$1,000.—Notwithstanding subsection (a)(5), the time at which the state-

ment under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.

(h) **REPORTS FROM INAUGURAL COMMITTEES.**—The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.

(i) **DISCLOSURE OF BUNDLED CONTRIBUTIONS.**—

(1) **REQUIRED DISCLOSURE.**—Each committee described in paragraph (6) shall include in the first report required to be filed under this section after each covered period (as defined in paragraph (2)) a separate schedule setting forth the name, address, and employer of each person reasonably known by the committee to be a person described in paragraph (7) who provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold (as defined in paragraph (3)) during the covered period, and the aggregate amount of the bundled contributions provided by each such person during the covered period.

(2) **COVERED PERIOD.**—In this subsection, a “covered period” means, with respect to a committee—

(A) the period beginning January 1 and ending June 30 of each year;

(B) the period beginning July 1 and ending December 31 of each year; and

(C) any reporting period applicable to the committee under this section during which any person described in paragraph (7) provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold.

(3) **APPLICABLE THRESHOLD.**—

(A) **IN GENERAL.**—In this subsection, the “applicable threshold” is \$15,000, except that in determining whether the amount of bundled contributions provided to a committee by a person described in paragraph (7) exceeds the applicable threshold, there shall be excluded any contribution made to the committee by the person or the person’s spouse.

(B) **INDEXING.**—In any calendar year after 2007, section 315(c)(1)(B) shall apply to the amount applicable under subparagraph (A) in the same manner as such section applies to the limitations established under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) of such section, except that for purposes of applying such section to the amount applicable under subparagraph (A), the “base period” shall be 2006.

(4) **PUBLIC AVAILABILITY.**—The Commission shall ensure that, to the greatest extent practicable—

(A) information required to be disclosed under this subsection is publicly available through the Commission website in a manner that is searchable, sortable, and downloadable; and

(B) the Commission's public database containing information disclosed under this subsection is linked electronically to the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995.

(5) REGULATIONS.—Not later than 6 months after the date of enactment of the Honest Leadership and Open Government Act of 2007, the Commission shall promulgate regulations to implement this subsection. Under such regulations, the Commission—

(A) may, notwithstanding paragraphs (1) and (2), provide for quarterly filing of the schedule described in paragraph (1) by a committee which files reports under this section more frequently than on a quarterly basis;

(B) shall provide guidance to committees with respect to whether a person is reasonably known by a committee to be a person described in paragraph (7), which shall include a requirement that committees consult the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995;

(C) may not exempt the activity of a person described in paragraph (7) from disclosure under this subsection on the grounds that the person is authorized to engage in fundraising for the committee or any other similar grounds; and

(D) shall provide for the broadest possible disclosure of activities described in this subsection by persons described in paragraph (7) that is consistent with this subsection.

(6) COMMITTEES DESCRIBED.—A committee described in this paragraph is an authorized committee of a candidate, a leadership PAC, or a political party committee.

(7) PERSONS DESCRIBED.—A person described in this paragraph is any person, who, at the time a contribution is forwarded to a committee as described in paragraph (8)(A)(i) or is received by a committee as described in paragraph (8)(A)(ii), is—

(A) a current registrant under section 4(a) of the Lobbying Disclosure Act of 1995;

(B) an individual who is listed on a current registration filed under section 4(b)(6) of such Act or a current report under section 5(b)(2)(C) of such Act; or

(C) a political committee established or controlled by such a registrant or individual.

(8) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) BUNDLED CONTRIBUTION.—The term “bundled contribution” means, with respect to a committee described in paragraph (6) and a person described in paragraph (7), a contribution (subject to the applicable threshold) which is—

(i) forwarded from the contributor or contributors to the committee by the person; or



(ii) received by the committee from a contributor or contributors, but credited by the committee or candidate involved (or, in the case of a leadership PAC, by the individual referred to in subparagraph (B) involved) to the person through records, designations, or other means of recognizing that a certain amount of money has been raised by the person.

(B) LEADERSHIP PAC.—The term “leadership PAC” means, with respect to a candidate for election to Federal office or an individual holding Federal office, a political committee that is directly or indirectly established, financed, maintained or controlled by the candidate or the individual but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that such term does not include a political committee of a political party.

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## ADDITIONAL VIEWS

H.R. 7321 is a meaningful, bipartisan bill to ensure that the public receives important information about election-relevant communications. It would amend the Federal Election Campaign Act of 1971 to require electioneering communications to be filed electronically with the Federal Election Commission (“FEC”).

As the FEC has informed Congress, “[c]ompared to data from paper reports, data from electronically filed reports is received, processed and disseminated more easily and efficiently, resulting in better use of resources. Reports that are filed electronically are normally available to the public, and may be downloaded, within minutes.”<sup>1</sup> In contrast, paper filings take days to be available—they provide critical information for the public. This bill would aid transparency by including electioneering communications among those accessible to the public online.

The United States Supreme Court has long recognized that disclosure requirements are vitally important to provide the electorate with information “as to where political campaign money comes from and how it is spent.”<sup>2</sup> American voters are best equipped to choose our leaders when they have the most fulsome, most up-to-date information at hand. H.R. 7321 will aid every American voter as they exercise their fundamental rights.

JOSEPH D. MORELLE,  
*Ranking Member.*



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<sup>1</sup>*Legislative Recommendations of the Federal Election Commission 2023*, FED. ELECTION COMM’N (Dec. 14, 2023), <https://www.fec.gov/resources/cms-content/documents/legrec2023.pdf>.

<sup>2</sup>*Buckley v. Valeo*, 424 U.S. 1, 66 (1976).