

105TH CONGRESS  
2D SESSION

# H. R. 4786

To amend the Federal Election Campaign Act of 1971 to require the deposit of certain contributions and donations to be returned to donors in a special account, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 1998

Mr. GEKAS introduced the following bill; which was referred to the Committee on House Oversight

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## A BILL

To amend the Federal Election Campaign Act of 1971 to require the deposit of certain contributions and donations to be returned to donors in a special account, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. DEPOSIT OF CERTAIN CONTRIBUTIONS AND**  
4       **DONATIONS IN TREASURY ACCOUNT.**

5       (a) IN GENERAL.—Title III of the Federal Election  
6       Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended  
7       by adding at the end the following new section:

1 “TREATMENT OF CERTAIN CONTRIBUTIONS AND  
2 DONATIONS TO BE RETURNED TO DONORS

3 “SEC. 323. (a) TRANSFER TO COMMISSION.—

4 “(1) IN GENERAL.—Notwithstanding any other  
5 provision of this Act, if a political committee intends  
6 to return any contribution or donation given to the  
7 political committee, the committee shall transfer the  
8 contribution or donation to the Commission if—

9 “(A) the contribution or donation is in an  
10 amount equal to or greater than \$500 (other  
11 than a contribution or donation returned within  
12 60 days of receipt by the committee); or

13 “(B) the contribution or donation was  
14 made in violation of section 315, 316, 317, 319,  
15 or 320 (other than a contribution or donation  
16 returned within 30 days of receipt by the com-  
17 mittee).

18 “(2) INFORMATION INCLUDED WITH TRANS-  
19 FERRED CONTRIBUTION OR DONATION.—A political  
20 committee shall include with any contribution or do-  
21 nation transferred under paragraph (1)—

22 “(A) a request that the Commission return  
23 the contribution or donation to the person mak-  
24 ing the contribution or donation; and

“(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

“(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

“(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposit of amounts transferred under paragraph (1).

“(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

“(i) deposit the amount in the escrow account established under subparagraph (A); and

“(ii) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

“(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or

1           used for the same purposes as the donation or  
2           contribution on which it is earned.

3           “(4) TREATMENT OF RETURNED CONTRIBU-  
4           TION OR DONATION AS A COMPLAINT.—The transfer  
5           of any contribution or donation to the Commission  
6           under this section shall be treated as the filing of a  
7           complaint under section 309(a).

8           “(b) USE OF AMOUNTS PLACED IN ESCROW TO  
9           COVER FINES AND PENALTIES.—The Commission or the  
10          Attorney General may require any amount deposited in  
11          the escrow account under subsection (a)(3) to be applied  
12          toward the payment of any fine or penalty imposed under  
13          this Act or title 18, United States Code, against the per-  
14          son making the contribution or donation.

15          “(c) RETURN OF CONTRIBUTION OR DONATION  
16          AFTER DEPOSIT IN ESCROW.—

17                 “(1) IN GENERAL.—The Commission shall re-  
18          turn a contribution or donation deposited in the es-  
19          crow account under subsection (a)(3) to the person  
20          making the contribution or donation if—

21                         “(A) within 180 days after the date the  
22          contribution or donation is transferred, the  
23          Commission has not made a determination  
24          under section 309(a)(2) that the Commission  
25          has reason to believe whether that the making

1 of the contribution or donation was made in  
2 violation of this Act; or

3 “(B)(i) the contribution or donation will  
4 not be used to cover fines, penalties, or costs  
5 pursuant to subsection (b); or

6 “(ii) if the contribution or donation will be  
7 used for those purposes, that the amounts re-  
8 quired for those purposes have been withdrawn  
9 from the escrow account and subtracted from  
10 the returnable contribution or donation.

11 “(2) NO EFFECT ON STATUS OF INVESTIGA-  
12 TION.—The return of a contribution or donation by  
13 the Commission under this subsection shall not be  
14 construed as having an effect on the status of an in-  
15 vestigation by the Commission or the Attorney Gen-  
16 eral of the contribution or donation or the cir-  
17 cumstances surrounding the contribution or dona-  
18 tion, or on the ability of the Commission or the At-  
19 torney General to take future actions with respect to  
20 the contribution or donation.”.

21 (b) AMOUNTS USED TO DETERMINE AMOUNT OF  
22 PENALTY FOR VIOLATION.—Section 309(a) of such Act  
23 (2 U.S.C. 437g(a)) is amended by inserting after para-  
24 graph (9) the following new paragraph:

1       “(10) For purposes of determining the amount of a  
2 civil penalty imposed under this subsection for violations  
3 of section 323, the amount of the donation involved shall  
4 be treated as the amount of the contribution involved.”.

5       (c) DONATION DEFINED.—Section 301 of such Act  
6 (2 U.S.C. 431) is amended by adding at the end the fol-  
7 lowing:

8       “(20) DONATION.—The term ‘donation’ means a gift,  
9 subscription, loan, advance, or deposit of money or any-  
10 thing else of value made by any person to a national com-  
11 mittee of a political party or a Senatorial or Congressional  
12 Campaign Committee of a national political party for any  
13 purpose, but does not include a contribution (as defined  
14 in paragraph (8)).”.

15       (d) DISGORGEMENT AUTHORITY.—Section 309 of  
16 such Act (2 U.S.C. 437g) is amended by adding at the  
17 end the following new subsection:

18       “(e) Any conciliation agreement, civil action, or crimi-  
19 nal action entered into or instituted under this section  
20 may require a person to forfeit to the Treasury any con-  
21 tribution, donation, or expenditure that is the subject of  
22 the agreement or action for transfer to the Commission  
23 for deposit in accordance with section 323.”.

24       (e) EFFECTIVE DATE.—The amendments made by  
25 subsections (a), (b), and (c) shall apply to contributions

1 or donations refunded on or after the date of the enact-  
2 ment of this Act, without regard to whether the Federal  
3 Election Commission or Attorney General has issued regu-  
4 lations to carry out section 323 of the Federal Election  
5 Campaign Act of 1971 (as added by subsection (a)) by  
6 such date.

