

108TH CONGRESS
1ST SESSION

H. R. 3172

To amend the Federal Election Campaign Act of 1971 to establish a program under which Congressional candidates may receive public funding for carrying out campaigns for election for Federal office, to amend the Internal Revenue Code of 1986 to establish an income tax checkoff to provide funding for such program and to provide a refundable tax credit for individuals who make contributions to such candidates, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2003

Ms. MCCOLLUM introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Election Campaign Act of 1971 to establish a program under which Congressional candidates may receive public funding for carrying out campaigns for election for Federal office, to amend the Internal Revenue Code of 1986 to establish an income tax checkoff to provide funding for such program and to provide a refundable tax credit for individuals who make contributions to such candidates, 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,*

1 SECTION 1. TABLE OF CONTENTS.

2 The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—PUBLIC FUNDING PROGRAM FOR CONGRESSIONAL CANDIDATES

Sec. 101. Establishment of public funding program for Congressional candidates.

“TITLE V—PUBLIC FUNDING PROGRAM FOR CONGRESSIONAL CANDIDATES

“Subtitle A—Program Requirements

“Sec. 501. Establishment of program.

“Sec. 502. Requirements for eligibility of certified public subsidy candidates.

“Sec. 503. Requiring candidates to raise minimum amount of funds from in-State individual contributors.

“Subtitle B—General Election Payments for Certified Public Subsidy Candidates

“Sec. 511. Option to receive public subsidy payments.

“Sec. 512. Amount of payment; timing.

“Sec. 513. Treatment of minor parties.

“Subtitle C—Spending Limits and Fundraising Requirements for Certified Candidates

“Sec. 521. Limit on expenditures by certified candidates.

“Sec. 522. Source of funds used for expenditures.

“Subtitle D—Tax Rebate Certificates for Individual Contributors

“Sec. 531. Tax rebate certificates for individuals making contributions to candidate.

“Sec. 532. Coordination with Secretary of the Treasury.

“Subtitle E—Enforcement

“Sec. 541. Withdrawal of certification.

“Sec. 542. Penalties for spending in excess of limits.

Sec. 102. Effective date.

TITLE II—INCOME TAX CHECKOFF FOR FUNDING FOR CERTIFIED PUBLIC SUBSIDY CANDIDATES

Sec. 201. Designation of income tax payments for fund for certified public subsidy candidates.

TITLE III—TAX CREDIT FOR CONTRIBUTIONS TO PARTICIPATING CANDIDATES

Sec. 301. Refundable credit for contributions to certified public subsidy candidates.

1 **TITLE I—PUBLIC FUNDING PRO-**
2 **GRAM FOR CONGRESSIONAL**
3 **CANDIDATES**

4 **SEC. 101. ESTABLISHMENT OF PUBLIC FUNDING PROGRAM**
5 **FOR CONGRESSIONAL CANDIDATES.**

6 The Federal Election Campaign Act of 1971 is
7 amended by adding at the end the following new title:

8 **“TITLE V—PUBLIC FUNDING**
9 **PROGRAM FOR CONGRES-**
10 **SIONAL CANDIDATES**

11 **“Subtitle A—Program**
12 **Requirements**

13 **“SEC. 501. ESTABLISHMENT OF PROGRAM.**

14 “There is established a program under which the
15 Commission shall certify candidates for election for Fed-
16 eral office as certified public subsidy candidates in accord-
17 ance with this subtitle and make payments to such can-
18 didates in accordance with subtitle B.

19 **“SEC. 502. REQUIREMENTS FOR ELIGIBILITY OF CERTIFIED**
20 **PUBLIC SUBSIDY CANDIDATES.**

21 “(a) IN GENERAL.—In this title, a ‘certified public
22 subsidy candidate’ is a candidate for election for the office
23 of Senator or Representative in, or Delegate or Resident
24 Commissioner to, the Congress, who is certified by the

1 Commission as meeting the requirements of this title with
2 respect to the election.

3 “(b) PROCEDURE FOR CERTIFICATION.—The Com-
4 mission shall certify that a candidate meets the require-
5 ments for a certified public subsidy candidate under this
6 title if the candidate submits an application to the Com-
7 mission which contains the following information and as-
8 surances:

9 “(1) A certification that the candidate has met
10 the requirements of section 503 regarding contribu-
11 tions from in-State individual residents.

12 “(2) Assurances that the candidate will meet
13 the applicable spending limits and fundraising re-
14 quirements of subtitle B.

15 “(3) Assurances that the candidate will meet
16 the requirements of subtitle C regarding the fur-
17 nishing of rebate certificates to individuals making
18 contributions to the principal campaign committee of
19 the candidate.

20 “(4) Assurances that the candidate will provide
21 the Commission with ongoing information (at such
22 times and in such form as the Commission may re-
23 quire) to enable the Commission to determine whether
24 the candidate is in compliance with the applicable
25 requirements of this title.

1 “(5) Such other information and assurances as
2 the Commission may require.

3 **“(c) DEADLINE FOR APPLICATION.—**

4 **“(1) IN GENERAL.—**A candidate who seeks to
5 be certified as a certified public subsidy candidate
6 shall submit the application described in subsection
7 (b) to the Commission at the same time that the
8 principal campaign committee of the candidate files
9 its statement of organization with the Commission
10 under section 303.

11 **“(2) SPECIAL RULE FOR GENERAL ELEC-**
12 **TIONS.—**If a candidate who is a certified public sub-
13 sidy candidate with respect to a primary election (or
14 convention or caucus of a political party which has
15 authority to nominate a candidate) wins the election
16 or is otherwise nominated to serve as the candidate
17 of the party in the general election, the candidate
18 shall be deemed to have submitted the application
19 described in subsection (b) with respect to the suc-
20 ceeding general election.

21 **“SEC. 503. REQUIRING CANDIDATES TO RAISE MINIMUM**
22 **AMOUNT OF FUNDS FROM IN-STATE INDIVI-**
23 **VIDUAL CONTRIBUTORS.**

24 **“(a) IN GENERAL.—**A candidate may not be certified
25 as a certified public subsidy candidate under this title until

1 the candidate has received contributions from in-State in-
2 dividual residents in an aggregate amount equal to or
3 greater than 2.5 percent of the maximum amount of ex-
4 penditures the candidate may make with respect to the
5 election, as determined under section 521.

6 “(b) LIMIT ON MAXIMUM AMOUNT TAKEN INTO AC-
7 COUNT.—In determining whether a candidate has received
8 the minimum amount of contributions required under sub-
9 section (a), there shall not be taken into account any
10 amounts provided in excess of \$100 by the same indi-
11 vidual.

12 “(c) IN-STATE INDIVIDUAL RESIDENT DEFINED.—
13 In this section, an ‘in-State individual resident’ is an indi-
14 vidual who resides in the State the candidate seeks to rep-
15 resent (in the case of a candidate for election for the office
16 of Senator) or the State in which the Congressional dis-
17 trict the candidate seeks to represent is located (in the
18 case of a candidate for election for the office of Represent-
19 ative in, or Delegate or Resident Commissioner to, the
20 Congress).

1 **“Subtitle B—General Election Pay-**
2 **ments for Certified Public Sub-**
3 **sidy Candidates**

4 **“SEC. 511. OPTION TO RECEIVE PUBLIC SUBSIDY PAY-**
5 **MENTS.**

6 “The Commission shall make payments in accordance
7 with this subtitle with respect to a general election to each
8 certified public subsidy candidate who notifies the Com-
9 mission that the candidate seeks such payments with re-
10 spect to the election.

11 **“SEC. 512. AMOUNT OF PAYMENT; TIMING.**

12 “Not later than 10 days after receiving notice under
13 section 511, the Commission shall make a payment to the
14 candidate in an amount equal to one-third of the max-
15 imum amount of expenditures the candidate may make
16 with respect to the election, as determined under section
17 521.

18 **“SEC. 513. TREATMENT OF MINOR PARTIES.**

19 “Notwithstanding any other provision of this title, a
20 candidate is not eligible to receive a payment under section
21 512 with respect to an election unless the candidate or
22 the candidate’s political party received 5 percent or more
23 of the total number of votes received by all candidates for
24 the office involved in the preceding general election.

1 **“Subtitle C—Spending Limits and**
2 **Fundraising Requirements for**
3 **Certified Candidates**

4 **“SEC. 521. LIMIT ON EXPENDITURES BY CERTIFIED CAN-**
5 **DIDATES.**

6 “(a) GENERAL ELECTION.—The amount of expendi-
7 tures made with respect to a general election by the prin-
8 cipal campaign committee of a certified public subsidy
9 candidate may not exceed an amount equal to the product
10 of \$1 and—

11 “(1) in the case of a candidate for the office of
12 Representative in, or Delegate or Resident Commis-
13 sioner to, the Congress, the population of the district
14 the candidate seeks to represent; or

15 “(2) in the case of a candidate for the office of
16 Senator, the population of the State the candidate
17 seeks to represent.

18 “(b) PRIMARY ELECTION.—The amount of expendi-
19 tures made with respect to an election other than a general
20 election by the principal campaign committee of a certified
21 public subsidy candidate may not exceed 50 percent of the
22 limit established under subsection (a) for expenditures
23 with respect to a general election.

24 “(c) INCREASE IN LIMIT FOR CANDIDATES FACING
25 NONPARTICIPATING OPPONENTS.—

1 “(1) IN GENERAL.—The amount of the limit es-
2 tablished under subsection (a) or subsection (b) with
3 respect to a candidate in an election shall be in-
4 creased by an amount equal to the product of—

5 “(A) the limit established under such sub-
6 section; and

7 “(B) the number of candidates seeking the
8 same office in the election who are not certified
9 public subsidy candidates under this title with
10 respect to the election.

11 “(2) TREATMENT OF CANDIDATES OF MINOR
12 PARTIES.—In determining the number of candidates
13 under paragraph (1)(B), there shall not be taken
14 into account any candidate who is ineligible to re-
15 ceive a payment under this title pursuant to section
16 513.

17 **“SEC. 522. SOURCE OF FUNDS USED FOR EXPENDITURES.**

18 “(a) IN GENERAL.—The funds used by the principal
19 campaign committee of a certified public subsidy can-
20 didate for making expenditures with respect to an election
21 shall be derived as follows:

22 “(1) Not more than one-third of the funds shall
23 be derived from contributions made to the committee
24 by other political committees, except that not more
25 than 10 percent of the funds may be derived from

1 contributions made by political committees of polit-
2 ical parties.

3 “(2) Except as provided in subsection (b), the
4 remainder of the funds shall be derived from con-
5 tributions made to the committee by individuals.

6 “(b) **TREATMENT OF CANDIDATES RECEIVING PUB-**
7 **LIC SUBSIDY PAYMENTS FOR GENERAL ELECTION.**—In
8 the case of the principal campaign committee of a certified
9 public subsidy candidate receiving public subsidy pay-
10 ments for a general election under subtitle B, one-third
11 of the funds used for such election by the committee shall
12 be provided by the Commission as a payment under sec-
13 tion 512.

14 **“Subtitle D—Tax Rebate Certifi-**
15 **cates for Individual Contribu-**
16 **tors**

17 **“SEC. 531. TAX REBATE CERTIFICATES FOR INDIVIDUALS**
18 **MAKING CONTRIBUTIONS TO CANDIDATE.**

19 “Each certified public subsidy candidate shall provide
20 a tax rebate certificate to each individual who makes a
21 contribution to the candidate’s principal campaign com-
22 mittee after the candidate is certified under section 502,
23 for purposes of enabling the individual to receive the re-
24 fundable credit provided under section 36 of the Internal
25 Revenue Code of 1986.

1 **“SEC. 532. COORDINATION WITH SECRETARY OF THE**
2 **TREASURY.**

3 “In issuing regulations to carry out this subtitle, the
4 Commission shall consult with the Secretary of the Treas-
5 ury.

6 **“Subtitle E—Enforcement**

7 **“SEC. 541. WITHDRAWAL OF CERTIFICATION.**

8 “If the Commission determines that a certified public
9 subsidy candidate has made expenditures in excess of the
10 applicable limits under section 521, has failed to meet any
11 other requirement of this title, or otherwise no longer
12 meets the requirements for certification under subtitle A,
13 the Commission shall revoke the candidate’s certification.

14 **“SEC. 542. PENALTIES FOR SPENDING IN EXCESS OF LIM-
15 ITS.**

16 “(a) NOTIFICATION OF EXCESS EXPENDITURES.—If
17 the Commission determines that a certified public subsidy
18 candidate with respect to an election has made expendi-
19 tures for the election in excess of the applicable limit
20 under section 521, the Commission shall notify the can-
21 didate.

22 “(b) ASSESSMENT OF PENALTY.—Any certified pub-
23 lic subsidy candidate with respect to an election who
24 makes expenditures for the election in excess of the appli-
25 cable limit under section 521 shall pay a civil money pen-

1 alty to the Commission in an amount determined as fol-
2 lows:

3 “(1) In the case of a candidate who makes ex-
4 penditures which exceed the limit by 2.5 percent or
5 less, an amount equal to the amount of the excess
6 expenditures.

7 “(2) In the case of a candidate who makes ex-
8 penditures which exceed the limit by more than 2.5
9 percent and less than 5 percent, an amount equal to
10 three times the amount of the excess expenditures.

11 “(3) In the case of a candidate who makes ex-
12 penditures which exceed the limit by more than 5
13 percent, an amount equal to three times the amount
14 of the excess expenditures plus (if the Commission
15 determines that the candidate knowingly and will-
16 fully made such excess expenditures) an additional
17 civil money penalty in an amount determined by the
18 Commission.”.

19 **SEC. 102. EFFECTIVE DATE.**

20 The amendments made by section 101 shall apply
21 with respect to elections occurring after December 2004.

1 **TITLE II—INCOME TAX CHECK-**
2 **OFF FOR FUNDING FOR CER-**
3 **TIFIED PUBLIC SUBSIDY CAN-**
4 **DIDATES**

5 **SEC. 201. DESIGNATION OF INCOME TAX PAYMENTS FOR**
6 **FUND FOR CERTIFIED PUBLIC SUBSIDY CAN-**
7 **DIDATES.**

8 (a) IN GENERAL.—Subchapter A of chapter 61 of the
9 Internal Revenue Code of 1986 (relating to information
10 and returns) is amended by adding at the end the fol-
11 lowing new part:

12 **“PART IX—DESIGNATION OF INCOME TAX PAY-**
13 **MENTS TO CERTIFIED PUBLIC SUBSIDY CAN-**
14 **DIDATE FUND**

“Sec. 6098. Designation to Certified Public Subsidy Candidate Fund.

15 **“SEC. 6098. DESIGNATION TO CERTIFIED PUBLIC SUBSIDY**
16 **CANDIDATE FUND.**

17 “(a) IN GENERAL.—Every individual (other than a
18 nonresident alien) whose adjusted income tax liability for
19 the taxable year is \$1 or more may designate that \$1 shall
20 be paid over to the Certified Public Subsidy Candidate
21 Fund in accordance with the provisions of section 9511.
22 In the case of a joint return of husband and wife having
23 an adjusted income tax liability of \$2 or more, each spouse
24 may designate that \$1 shall be paid to the fund.

1 “(b) ADJUSTED INCOME TAX LIABILITY.—For pur-
2 poses of subsection (a), the term ‘adjusted income tax li-
3 ability’ means, for any individual for any taxable year, the
4 excess (if any) of—

5 “(1) the income tax liability (as defined in sec-
6 tion 6096(b)) of the individual for the taxable year,
7 over

8 “(2) any amount designated by the individual
9 (and, in the case of a joint return, any amount des-
10 ignated by the individual’s spouse) under section
11 6096(a) for such taxable year.

12 “(c) MANNER AND TIME OF DESIGNATION.—A des-
13 ignation under subsection (a) may be made with respect
14 to any taxable year—

15 “(1) at the time of filing the return of the tax
16 imposed by chapter 1 for such taxable year, or

17 “(2) at any other time (after the time of filing
18 the return of the tax imposed by chapter 1 for such
19 taxable year) specified in regulations prescribed by
20 the Secretary.

21 Such designation shall be made in such manner as the
22 Secretary prescribes by regulations except that, if such
23 designation is made at the time of filing the return of the
24 tax imposed by chapter 1 for such taxable year, such des-

1 1gnation shall be made either on the first page of the re-
2 turn or on the page bearing the taxpayer's signature."

3 (b) CERTIFIED PUBLIC SUBSIDY CANDIDATE
4 FUND.—Subchapter A of chapter 98 of such Code (relat-
5 ing to establishment of trust funds) is amended by adding
6 at the end the following new section:

7 **“SEC. 9511. CERTIFIED PUBLIC SUBSIDY CANDIDATE FUND.**

8 “(a) CREATION OF TRUST FUND.—There is estab-
9 lished in the Treasury of the United States a trust fund
10 to be known as the ‘Certified Public Subsidy Candidate
11 Fund’, consisting of such amounts as may be appropriated
12 or credited to such fund as provided in this section or sec-
13 tion 9602(b).

14 “(b) TRANSFERS TO TRUST FUND.—There are here-
15 by appropriated to the Certified Public Subsidy Candidate
16 Fund amounts equivalent to the amounts designated
17 under section 6098.

18 “(c) EXPENDITURES.—Amounts in the Certified
19 Public Subsidy Candidate Fund shall be available, as pro-
20 vided in appropriation Acts, for purposes of making pay-
21 ments to certified public subsidy candidates under title V
22 of the Federal Election Campaign Act of 1971, to the ex-
23 tent that such amounts exceed the aggregate of all Federal
24 administrative costs attributable to the implementation of

1 section 6098, subsections (a) and (b) of this section, and
2 (with respect to such fund) section 9602.”

3 (c) CLERICAL AMENDMENTS.—

4 (1) The table of parts for subchapter A of chapter
5 61 of such Code is amended by adding at the
6 end the following new item:

“Part IX. Designation of income tax payments to Certified Public
Subsidy Candidate Fund.”

7 (2) The table of sections for subchapter A of chapter
8 98 of such Code is amended by adding at the
9 end the following new item:

“Sec. 9511. Certified Public Subsidy Candidate Fund.”

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2003.

13 **TITLE III—TAX CREDIT FOR
14 CONTRIBUTIONS TO PARTICI-
15 PATING CANDIDATES**

16 **SEC. 301. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO
17 CERTIFIED PUBLIC SUBSIDY CANDIDATES.**

18 (a) IN GENERAL.—Subpart C of part IV of chapter A of chapter 1 of the Internal Revenue Code of
19 20 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after
21 22 section 35 the following new section:

1 **“SEC. 36. CREDIT FOR CONTRIBUTIONS TO CERTIFIED PUB-**2 **LIC SUBSIDY CANDIDATES.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
4 dividual, there shall be allowed as a credit against the tax
5 imposed by this subtitle for the taxable year an amount
6 equal to the aggregate amount of contributions to certified
7 public subsidy candidates made by such individual during
8 such taxable year.

9 “(b) LIMITATION.—The amount of the credit allowed
10 under subsection (a) for a taxable year shall not exceed
11 \$100.

12 “(c) CONTRIBUTIONS TO CERTIFIED PUBLIC SUB-
13 SIDY CANDIDATES.—For purposes of subsection (a), the
14 term ‘contributions to certified public subsidy candidates’
15 means the amount of a contribution for which a tax rebate
16 certificate is issued under section 531 of the Federal Elec-
17 tion Campaign Act of 1971.”.

18 (b) TECHNICAL AMENDMENTS.—

19 (1) Paragraph (2) of section 1324(b) of title
20 31, United States Code, is amended by inserting “or
21 from section 36 of such Code” before the period at
22 the end.

23 (2) The table of sections for such subpart C of
24 the Internal Revenue Code of 1986 is amended by
25 striking the item relating to section 36 and inserting
26 the following new items:

“Sec. 36. Credit for contributions to certified public subsidy can-
didates.

“Sec. 37. Overpayment of taxes.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made with respect
3 to elections occurring after December 31, 2004, in taxable
4 years beginning after such date.

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