

108TH CONGRESS
1ST SESSION

S. 1388

To amend the Federal Election Campaign Act of 1971 to replace the Federal Election Commission with the Federal Election Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2003

Mr. MCCAIN (for himself and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to replace the Federal Election Commission with the Federal Election Administration, 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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Federal Election Administration Act of 2003”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL ELECTION ADMINISTRATION

Sec. 101. Establishment of the Federal Election Administration.

“Subtitle B—Administrative Provisions

“CHAPTER 1—ESTABLISHMENT OF THE FEDERAL ELECTION
ADMINISTRATION

“Sec. 351. Establishment of the Federal Election Administration.

“Sec. 352. Composition of the Federal Election Administration.

“Sec. 353. Staff director.

“Sec. 354. General counsel.

“Sec. 355. Inspector general.

“CHAPTER 2—OPERATION OF THE FEDERAL ELECTION ADMINISTRATION

“Sec. 361. Powers of the Chair and Administration.

“Sec. 362. Independent budget requests and legislative proposals.

“Sec. 363. Advisory opinions.

“Sec. 364. Issuance and enforcement of subpoenas.

“Sec. 365. Rulemaking authority.

“Sec. 366. Litigation authority.

“Sec. 367. Availability of reports.

“Sec. 368. Audits and field examinations.

“Sec. 369. Congressional oversight.

“CHAPTER 3—ENFORCEMENT

“Sec. 371. Initiation of enforcement actions by Administration.

“Sec. 372. Complaint to initiate enforcement action.

“Sec. 373. Civil enforcement actions.

“Sec. 374. Notification of nonfilers.

“Sec. 375. Civil monetary penalties.

“Sec. 376. Cease-and-desist orders.

“Sec. 377. Collection.

“Sec. 378. Confidentiality.

“Sec. 379. Criminal penalties.

“Sec. 380. Period of limitations.

Sec. 102. Executive schedule positions.

Sec. 103. GAO examination of enforcement of campaign finance laws by the
Department of Justice.

Sec. 104. GAO study and report on appropriate funding levels.

Sec. 105. Conforming amendments.

Sec. 106. Authorization of appropriations.

TITLE II—TRANSITION PROVISIONS

Sec. 201. Transfer of functions of Federal Election Commission.

Sec. 202. Transfer of property, records, and personnel.

Sec. 203. Repeals.

Sec. 204. Conforming amendments.

Sec. 205. Effective date.

1 **TITLE I—FEDERAL ELECTION**
 2 **ADMINISTRATION**

3 **SEC. 101. ESTABLISHMENT OF THE FEDERAL ELECTION AD-**
 4 **MINISTRATION.**

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 subtitle:

8 **“Subtitle B—Administrative**
 9 **Provisions**

10 **“CHAPTER 1—ESTABLISHMENT OF THE**
 11 **FEDERAL ELECTION ADMINISTRATION**

12 **“SEC. 351. ESTABLISHMENT OF THE FEDERAL ELECTION**
 13 **ADMINISTRATION.**

14 “(a) IN GENERAL.—There is established the Federal
 15 Election Administration (in this Act referred to as the
 16 ‘Administration’).

17 “(b) INDEPENDENT ESTABLISHMENT.—The Admin-
 18 istration shall be an independent establishment (as defined
 19 in section 104 of title 5, United States Code).

20 “(c) PURPOSE.—The Administration shall admin-
 21 ister, seek to obtain compliance with, enforce, and formu-
 22 late policy in a manner that is consistent with the lan-
 23 guage and intent of Congress with respect to the following
 24 statutes:

25 “(1) This Act.

1 “(2) The Presidential Election Campaign Fund
2 Act under chapter 95 of the Internal Revenue Code
3 of 1986.

4 “(3) The Presidential Primary Matching Pay-
5 ment Account Act under chapter 96 of the Internal
6 Revenue Code of 1986.

7 “(d) EXCLUSIVE CIVIL JURISDICTION.—The Admin-
8 istration shall have exclusive jurisdiction with respect to
9 the civil enforcement of the statutes identified in sub-
10 section (c).

11 “(e) VOTING REQUIREMENT.—All decisions of the
12 Administration with respect to the exercise of its duties
13 and powers under this Act, except those expressly reserved
14 for decision by the Chair, shall be made by a majority vote
15 of its members.

16 “(f) MEETINGS AND QUORUM.—

17 “(1) MEETINGS.—The Administration shall
18 meet—

19 “(A) at least once each month; and

20 “(B) at the call of the Chair.

21 “(2) QUORUM.—A majority of the members of
22 the Administration shall constitute a quorum.

23 “(g) SEAL.—The Administration shall procure a
24 proper seal, with such suitable inscriptions and devices as
25 the President shall approve. This seal, to be known as the

1 official seal of the Federal Election Administration, shall
2 be kept and used to verify official documents, under such
3 rules and regulations as the Administration may prescribe.
4 Judicial notice shall be taken of the seal.

5 “(h) PRINCIPAL OFFICE.—The principal office of the
6 Administration shall be in or near the District of Colum-
7 bia, but the Administration may meet or exercise any of
8 its powers anywhere in the United States.

9 **“SEC. 352. COMPOSITION OF THE FEDERAL ELECTION AD-**
10 **MINISTRATION.**

11 “(a) IN GENERAL.—The Administration shall be
12 composed of 3 members, 1 of whom shall serve as the
13 Chair of the Administration. The 2 members of the Ad-
14 ministration other than the Chair shall not be affiliated
15 with the same political party.

16 “(b) APPOINTMENT.—

17 “(1) IN GENERAL.—Each member of the Ad-
18 ministration shall be appointed by the President, by
19 and with the advice and consent of the Senate.

20 “(2) CHAIR.—The President shall, at the time
21 of nomination of the first 3 members of the Admin-
22 istration, designate 1 of the 3 to serve as the Chair.
23 Any individual appointed to succeed, or to fill the
24 unexpired term of, that member (or any member
25 succeeding that member) shall serve as the Chair.

1 “(3) QUALIFICATIONS.—

2 “(A) An individual who is appointed under
3 paragraph (1) shall possess demonstrated integ-
4 rity, independence, and public credibility.

5 “(B) An individual may not be appointed
6 under paragraph (1) if—

7 “(i) such individual is serving or has
8 served as a member of the Federal Elec-
9 tion Commission subject to a term limit; or

10 “(ii) at any time during the 4-year pe-
11 riod ending on the date of the nomination
12 of such individual, the individual was—

13 “(I) a candidate, an employee of
14 a candidate, or an attorney for a can-
15 didate;

16 “(II) an elected officeholder, an
17 employee of an elected officeholder, or
18 an attorney for an elected office-
19 holder;

20 “(III) an officer or employee of a
21 political party or an attorney for a po-
22 litical party; or

23 “(IV) employed in a position in
24 the executive branch of the Govern-
25 ment of a confidential or policy-deter-

1 mining character under Schedule C of
2 subpart C of part 213 of title 5 of the
3 Code of Federal Regulations.

4 “(c) TERM OF OFFICE.—

5 “(1) IN GENERAL.—

6 “(A) CHAIR.—The Chair of the Adminis-
7 tration shall be appointed for a term of 10
8 years.

9 “(B) OTHER MEMBERS.—Subject to sub-
10 paragraph (C), the 2 members of the Adminis-
11 tration other than the Chair shall be appointed
12 for a term of 6 years.

13 “(C) INITIAL APPOINTMENTS.—Of the
14 members initially appointed under subpara-
15 graph (B), 1 member shall be appointed for a
16 term of 3 years.

17 “(2) LIMITATION TO ONE TERM.—A member of
18 the Administration may only serve 1 term, except
19 that—

20 “(A) the individual appointed under sub-
21 paragraph (B) of paragraph (1) who is ap-
22 pointed for the term described in subparagraph
23 (C) of such paragraph may be appointed to a
24 6-year term in addition to the term described in
25 such subparagraph; and

1 “(B) an individual appointed under para-
2 graph (4) to fill the remainder of an unexpired
3 term that has less than $\frac{1}{2}$ of the term remain-
4 ing may be appointed to serve another term.

5 “(3) EXPIRED TERMS.—An individual may con-
6 tinue to serve as a member of the Administration
7 after the expiration of such individual’s term until
8 the earlier of—

9 “(A) the date on which such individual’s
10 successor has taken office; or

11 “(B) 1 year following the date on which
12 the term of such member expired.

13 “(4) VACANCIES.—An individual appointed
14 upon a vacancy occurring before the expiration of
15 the term for which the individual’s predecessor was
16 appointed shall be appointed only for the unexpired
17 term of the predecessor. Such vacancy shall be filled
18 in the same manner as the original appointment.

19 “(5) OTHER ACTIVITIES.—An individual may
20 not engage in any other business, vocation, or em-
21 ployment while serving as a member of the Adminis-
22 tration.

23 “(d) REMOVAL.—A member of the Administration
24 may be removed by the President only for inefficiency, ne-
25 glect of duty, or malfeasance in office.

1 **“SEC. 353. STAFF DIRECTOR.**

2 “(a) IN GENERAL.—There shall be in the Adminis-
3 tration a staff director.

4 “(b) RESPONSIBILITIES.—The staff director—

5 “(1) shall assist the Administration in its ad-
6 ministration and operations;

7 “(2) shall perform such responsibilities as the
8 Administration shall prescribe; and

9 “(3) may, with the approval of the Chair—

10 “(A) appoint and fix the pay of such addi-
11 tional personnel as the staff director considers
12 appropriate without regard to the provisions of
13 title 5, United States Code, governing appoint-
14 ments in the competitive service; and

15 “(B) procure temporary and intermittent
16 services to the same extent as is authorized by
17 section 3109(b) of title 5, United States Code,
18 but at rates for individuals not to exceed the
19 daily equivalent of the annual rate of basic pay
20 in effect for grade GS–15 of the General Sched-
21 ule (5 U.S.C. 5332).

22 “(c) APPOINTMENT.—The staff director shall be ap-
23 pointed by the Chair, after consultation with the other
24 members of the Administration.

1 “(d) OTHER ACTIVITIES.—An individual may not en-
2 gage in any other business, vocation, or employment while
3 serving as the staff director.

4 **“SEC. 354. GENERAL COUNSEL.**

5 “(a) IN GENERAL.—There shall be in the Adminis-
6 tration a general counsel.

7 “(b) RESPONSIBILITIES.—The general counsel
8 shall—

9 “(1) serve as the chief legal officer of the Ad-
10 ministration;

11 “(2) provide legal assistance to the Administra-
12 tion concerning its programs and policies;

13 “(3) advise and assist the Administration in
14 carrying out its responsibilities under section 361;
15 and

16 “(4) represent the Administration in any pro-
17 ceeding in court or before an administrative law
18 judge.

19 “(c) APPOINTMENT.—The general counsel shall be
20 appointed by the Chair, after consultation with the other
21 members of the Administration.

22 **“SEC. 355. INSPECTOR GENERAL.**

23 “‘There shall be in the Administration an inspector
24 general. The inspector general and the office of inspector

1 general shall be subject to the Inspector General Act of
2 1978 (5 U.S.C. App.).

3 **“CHAPTER 2—OPERATION OF THE**
4 **FEDERAL ELECTION ADMINISTRATION**

5 **“SEC. 361. POWERS OF THE CHAIR AND ADMINISTRATION.**

6 “(a) CHAIR.—

7 “(1) IN GENERAL.—The Chair shall be the
8 chief administrative officer of the Administration
9 with the authority to administer the Administration
10 and shall, after consultation with the other 2 mem-
11 bers of the Administration, have the power to ap-
12 point or remove the staff director and general coun-
13 sel and to establish the budget of the Administra-
14 tion.

15 “(2) OTHER POWERS.—The Chair has the
16 power—

17 “(A) to the fullest extent practicable, to re-
18 quest the assistance of other agencies and de-
19 partments of the United States, including the
20 personnel and facilities of such agencies and de-
21 partments and the heads of such agencies and
22 departments may make available to the Chair
23 such personnel, facilities, and other assistance,
24 with or without reimbursement;

1 “(B) to appoint, assign, remove, and com-
2 pensate administrative law judges in accordance
3 with title 5, United States Code;

4 “(C) to require, by special or general or-
5 ders, any person to submit, under oath, such
6 written reports and answers to questions as the
7 Chair may prescribe;

8 “(D) to administer oaths or affirmations;

9 “(E) to issue and enforce subpoenas in ac-
10 cordance with section 364;

11 “(F) in any proceeding or investigation, to
12 order testimony to be taken by deposition be-
13 fore any person who is designated by the Chair
14 and has the power to administer oaths and, in
15 such instances, to compel testimony and the
16 production of evidence in the same manner as
17 authorized under subparagraph (E);

18 “(G) to pay witnesses fees and mileage in
19 accordance with section 364(d); and

20 “(H) to make independent budget requests
21 to Congress in accordance with section 362.

22 “(b) ADMINISTRATION.—The Administration shall
23 have the power—

24 “(1) to initiate, defend, or appeal, through the
25 general counsel, any civil action in the name of the

1 Administration to enforce the provisions of this Act
2 and chapters 95 and 96 of the Internal Revenue
3 Code of 1986;

4 “(2) to assess civil penalties for violations of
5 this Act and chapters 95 and 96 of the Internal
6 Revenue Code of 1986;

7 “(3) to issue cease-and-desist orders to prevent
8 violations of this Act and chapters 95 and 96 of the
9 Internal Revenue Code of 1986;

10 “(4) to establish procedures and schedules for
11 agency adjudication that ensure timely enforcement
12 of this Act and chapters 95 and 96 of the Internal
13 Revenue Code of 1986;

14 “(5) to render advisory opinions under section
15 363;

16 “(6) to develop prescribed forms, and to make,
17 amend, and repeal rules, pursuant to section 365;

18 “(7) to establish procedures for alternative dis-
19 pute resolution of violations of this Act or of chap-
20 ters 95 or 96 of the Internal Revenue Code of 1986;

21 “(8) to conduct investigations and hearings ex-
22 peditiously, to encourage voluntary compliance, and
23 to report apparent violations to the appropriate law
24 enforcement authorities; and

1 “(9) to transmit to the President and to Con-
2 gress no later than June 1 of each year, a report
3 which states in detail the activities of the Adminis-
4 tration in carrying out its duties under this Act, and
5 which includes any recommendations for any legisla-
6 tive or other action the Administration considers ap-
7 propriate.

8 **“SEC. 362. INDEPENDENT BUDGET REQUESTS AND LEGIS-**
9 **LATIVE PROPOSALS.**

10 “(a) EXEMPTION FROM OMB OVERSIGHT.—When-
11 ever the Chair submits any budget estimate or request to
12 the President or the Office of Management and Budget,
13 the Chair shall concurrently transmit a copy of such esti-
14 mate or request to Congress.

15 “(b) AUTHORITY TO MAKE INDEPENDENT LEGISLA-
16 TIVE RECOMMENDATIONS.—Whenever the Administration
17 submits any legislative recommendation, testimony, or
18 comments on legislation requested by Congress or by any
19 Member of Congress, to the President or the Office of
20 Management and Budget, the Administration shall con-
21 currently transmit a copy thereof to Congress or to the
22 Member requesting the same. No officer or agency of the
23 United States shall have any authority to require the Ad-
24 ministration to submit its legislative recommendations,
25 testimony, or comments on legislation, to any office or

1 agency of the United States for approval, comments, or
2 review, prior to the submission of such recommendations,
3 testimony, or comments to Congress.

4 **“SEC. 363. ADVISORY OPINIONS.**

5 “(a) REQUESTS FOR ADVISORY OPINIONS.—

6 “(1) IN GENERAL.—Not later than 60 days
7 after the Administration receives from a person a
8 complete written request concerning the application
9 of this Act, chapter 95 or 96 of the Internal Rev-
10 enue Code of 1986, or a rule or regulation pre-
11 scribed by the Administration, with respect to a spe-
12 cific transaction or activity by the person, the Ad-
13 ministration shall render a written advisory opinion
14 relating to such transaction or activity to the person.

15 “(2) REQUESTS BY CANDIDATES.—If an advi-
16 sory opinion is requested by a candidate, or any au-
17 thorized committee of such candidate, during the 60-
18 day period before any election for Federal office in-
19 volving the requesting party, the Administration
20 shall render a written advisory opinion relating to
21 such request no later than 20 days after the Admin-
22 istration receives a complete written request.

23 “(b) RULEMAKING REQUIRED.—Any rule of law
24 which is not stated in this Act or in chapter 95 or 96
25 of the Internal Revenue Code of 1986 may be initially pro-

1 posed by the Administration only as a rule or regulation
2 pursuant to procedures established in section 365. No
3 opinion of an advisory nature may be issued by the Admin-
4 istration or any other officer or employee of the Adminis-
5 tration except in accordance with the provisions of this
6 section.

7 “(c) RELIANCE ON ADVISORY OPINIONS.—

8 “(1) IN GENERAL.—Any advisory opinion ren-
9 dered by the Administration under subsection (a)
10 may be relied upon by—

11 “(A) any person involved in the specific
12 transaction or activity with respect to which
13 such advisory opinion is rendered; and

14 “(B) any person involved in any specific
15 transaction or activity which is indistinguish-
16 able in all its material aspects from the trans-
17 action or activity with respect to which such ad-
18 visory opinion is rendered.

19 “(2) PROTECTION FROM LIABILITY.—Notwith-
20 standing any other provisions of law, any person
21 who relies upon any provision or finding of an advi-
22 sory opinion in accordance with the provisions of
23 paragraph (1) and who acts in good faith in accord-
24 ance with the provisions and findings of such advi-
25 sory opinion shall not, as a result of any such act,

1 be subject to any sanction provided by this Act or
2 by chapter 95 or 96 of the Internal Revenue Code
3 of 1986.

4 “(d) PUBLICATION OF REQUESTS.—The Administra-
5 tion shall make public any request made under subsection
6 (a) for an advisory opinion. Before rendering an advisory
7 opinion, the Administration shall accept written comments
8 submitted by any interested party within the 10-day pe-
9 riod following the date on which the request is made pub-
10 lic.

11 **“SEC. 364. ISSUANCE AND ENFORCEMENT OF SUBPOENAS.**

12 “(a) ISSUANCE BY THE CHAIR.—If the Administra-
13 tion is conducting an investigation pursuant to section 371
14 or 372, the Chair shall, on behalf of the Administration,
15 have the power to require by subpoena the attendance and
16 testimony of witnesses and the production of all documen-
17 tary evidence relating to the execution of the Administra-
18 tion’s duties.

19 “(b) ISSUANCE BY AN ADMINISTRATIVE LAW
20 JUDGE.—Any administrative law judge presiding over an
21 enforcement action pursuant to section 373 shall have the
22 power to require by subpoena the attendance and testi-
23 mony of witnesses and the production of all documentary
24 evidence relating to the administrative law judge’s duties.

1 “(c) ISSUANCE AND ENFORCEMENT OF SUB-
2 POENAS.—

3 “(1) ISSUANCE.—Subpoenas issued under sub-
4 section (a) or (b) shall bear the signature of the
5 Chair or an administrative law judge, respectively,
6 and shall be served by any person or class of persons
7 designated by the Chair or administrative law judge
8 for that purpose.

9 “(2) ENFORCEMENT.—In the case of contu-
10 macy or failure to obey a subpoena issued under
11 subsection (a) or (b), the Federal district court for
12 the judicial district in which the subpoenaed person
13 resides, is served, or may be found may issue an
14 order requiring such person to appear at any des-
15 ignated place to testify or to produce documentary
16 or other evidence. Any failure to obey the order of
17 the court may be punished by the court as a con-
18 tempt of that court.

19 “(d) WITNESS ALLOWANCES AND FEES.—Section
20 1821 of title 28, United States Code, shall apply to wit-
21 nesses requested or subpoenaed to appear at any hearing
22 of the Administration. The per diem and mileage allow-
23 ances for witnesses shall be paid from funds available to
24 pay the expenses of the Administration.

1 “(e) JURISDICTION.—Subpoenas for witnesses who
2 are required to attend a Federal district court may run
3 into any other district.

4 **“SEC. 365. RULEMAKING AUTHORITY.**

5 “(a) IN GENERAL.—The Administration may, pursu-
6 ant to the provisions of chapter 5 of title 5, United States
7 Code, prescribe such rules and regulations as the Adminis-
8 tration deems necessary to carry out the provisions of this
9 Act and chapters 95 and 96 of the Internal Revenue Code
10 of 1986, including the authority to promulgate rules of
11 practice and procedure for agency adjudications.

12 “(b) AUTHORITY TO PROMULGATE INDEPENDENT
13 REGULATIONS.—Whenever the Administration promul-
14 gates any regulation, it shall not be required to submit
15 such regulation for review or approval to the President
16 or the Office of Management and Budget.

17 “(c) CONDUCT OF ACTIVITIES.—The Administration
18 shall prepare written rules for the conduct of its activities,
19 including procedures for the conduct of enforcement ac-
20 tions under sections 371, 372, and 373.

21 “(d) FORMS.—

22 “(1) IN GENERAL.—The Administration shall
23 prescribe forms necessary to implement this Act and
24 chapters 95 and 96 of the Internal Revenue Code of
25 1986.

1 “(2) PUBLIC PROTECTION.—Any forms pre-
2 scribed by the Administration under paragraph (1),
3 and any information-gathering activities of the Ad-
4 ministration under this Act, shall not be subject to
5 the provisions of section 3512 of title 44, United
6 States Code.

7 “(e) RELIANCE UPON RULES AND REGULATIONS.—
8 Notwithstanding any other provision of law, any person
9 who relies upon any rule or regulation prescribed by the
10 Administration in accordance with the provisions of this
11 section and who acts in good faith in accordance with such
12 rule or regulation shall not, as a result of such act, be
13 subject to any sanction provided by this Act or by chapter
14 95 or 96 of the Internal Revenue Code of 1986.

15 “(f) CONSULTATION WITH IRS.—In prescribing
16 rules, regulations, and forms under this section, the Ad-
17 ministration and the Secretary of the Treasury shall con-
18 sult and work together to promulgate rules, regulations,
19 and forms which are mutually consistent. The Administra-
20 tion shall report to Congress annually on the steps it has
21 taken to comply with this section.

22 “(g) JUDICIAL REVIEW.—

23 “(1) IN GENERAL.—Any person adversely af-
24 fected by a rule, regulation, or form promulgated by
25 the Administration may obtain judicial review of

1 such rule, regulation, or form by filing a petition in
2 the United States Court of Appeals for the District
3 of Columbia Circuit.

4 “(2) SCOPE OF REVIEW.—For purposes of con-
5 ducting the judicial review described in paragraph
6 (1), the provisions of section 706 of title 5, United
7 States Code, shall apply.

8 “(h) RULE AND REGULATION DEFINED.—In this
9 Act, the terms ‘rule’ and ‘regulation’ mean a provision or
10 series of interrelated provisions stating a single, separable
11 rule of law.

12 **“SEC. 366. LITIGATION AUTHORITY.**

13 “(a) IN GENERAL.—Notwithstanding sections 516
14 and 518 of title 28, United States Code, and section 3106
15 of title 5, United States Code, the Administration is au-
16 thorized to bring, appear in, defend against, and appeal
17 any action instituted under this Act or chapter 95 or 96
18 of the Internal Revenue Code of 1986, in any court ei-
19 ther—

20 “(1) by attorneys employed by the Administra-
21 tion; or

22 “(2) by counsel whom it may appoint, on a tem-
23 porary basis as may be necessary for such purpose,
24 without regard to the provisions of title 5, United
25 States Code, governing appointments in the competi-

1 tive service, and whose compensation it may fix
2 without regard to the provisions of chapter 51 and
3 subchapter III of chapter 53 of such title.

4 “(b) COMPENSATION OF APPOINTED COUNSEL.—
5 The compensation of counsel appointed on a temporary
6 basis under subsection (a)(2) shall be paid out of any
7 funds otherwise available to pay the compensation of em-
8 ployees of the Administration.

9 “(c) INDEPENDENCE FROM ATTORNEY GENERAL.—
10 In pursuing an action under this section, the Administra-
11 tion may act independently of the Attorney General.

12 **“SEC. 367. AVAILABILITY OF REPORTS.**

13 “(a) IN GENERAL.—The Administration shall—

14 “(1) prepare, publish, and furnish to all persons
15 required to file reports and statements under this
16 Act a manual recommending uniform methods of
17 bookkeeping and reporting;

18 “(2) develop a filing, coding, and cross-indexing
19 system consistent with the purposes of this Act;

20 “(3) within 48 hours after the time of the re-
21 ceipt by the Administration of reports and state-
22 ments filed with the Administration, make them
23 available for public inspection, and copying, at the
24 expense of the person requesting such copying, ex-
25 cept that any information copied from such reports

1 or statements may not be sold or used by any person
2 for the purpose of soliciting contributions or for
3 commercial purposes, other than using the name and
4 address of any political committee to solicit contribu-
5 tions from such committee;

6 “(4) keep such designations, reports, and state-
7 ments for a period of 10 years from the date of re-
8 ceipt and maintain computerized records of such
9 designations, reports, and statements thereafter;

10 “(5)(A) compile and maintain a cumulative
11 index of designations, reports, and statements filed
12 under this Act, publish the index at regular inter-
13 vals, and make the index available for purchase di-
14 rectly or by mail;

15 “(B) compile, maintain, and revise a separate
16 cumulative index of reports and statements filed by
17 multicandidate committees, including in such index a
18 list of multicandidate committees; and

19 “(C) compile and maintain a list of multi-
20 candidate committees, which shall be revised and
21 made available monthly;

22 “(6) prepare and publish periodically lists of
23 authorized committees which fail to file reports as
24 required by this Act; and

1 “(7) serve as a national clearinghouse for the
2 compilation of information and review of procedures
3 with respect to the administration of Federal elec-
4 tions.

5 “(b) PSEUDONYMS.—For purposes of subsection
6 (a)(3), a political committee may submit 10 pseudonyms
7 on each report filed in order to protect against the illegal
8 use of names and addresses of contributors, but only if
9 such committee attaches a list of such pseudonyms to the
10 appropriate report. The Administration shall exclude these
11 lists from the public record.

12 “(c) CONTRACTS.—The Administration may enter
13 into contracts for the purpose of performing the duties
14 described in subsection (a).

15 “(d) AVAILABILITY OF REPORTS.—Reports or other
16 information described in subsection (a) shall be available
17 to the public, except that—

18 “(1) copies shall be made available without cost,
19 upon request, to agencies and branches of the Fed-
20 eral Government; and

21 “(2) information made available as a result of
22 the application of paragraph (7) of such subsection
23 shall be made available to the public only upon the
24 payment of the cost thereof.

1 **“SEC. 368. AUDITS AND FIELD EXAMINATIONS.**

2 “(a) IN GENERAL.—The Administration may, in ac-
3 cordance with the provisions of this section, conduct audits
4 and field investigations of any political committee required
5 to file a report under section 304.

6 “(b) PRIORITY.—All audits and field investigations
7 concerning the verification for, and receipt and use of, any
8 payments received by a candidate or committee under
9 chapter 95 or 96 of the Internal Revenue Code of 1986
10 shall be given priority.

11 “(c) AUDITS AND FIELD EXAMINATIONS WHERE
12 THRESHOLDS NOT MET.—

13 “(1) INTERNAL REVIEW.—The Administration
14 shall conduct an internal review of reports filed by
15 selected committees to determine if the reports filed
16 by a particular committee meet the threshold re-
17 quirements for substantial compliance with the Act.
18 Such thresholds for compliance shall be established
19 by the Administration.

20 “(2) AUDITS AND FIELD EXAMINATIONS.—The
21 Administration may vote to conduct an audit and
22 field investigation of any committee which it deter-
23 mines under paragraph (1) does not meet the
24 threshold requirements established by the Adminis-
25 tration. Such audits shall be commenced within 30
26 days of such vote, except that any audit under the

1 provisions of this subsection of an authorized com-
2 mittee of a candidate shall be commenced within 6
3 months of the election for which such committee is
4 authorized.

5 “(d) RANDOM AUDITS.—

6 “(1) IN GENERAL.—In addition to any audits
7 conducted under subsection (c), the Administration
8 may, subject to paragraph (2), conduct audits of any
9 committee selected at random to ensure compliance
10 with this Act. The selection of any committee under
11 this paragraph shall be based on standards and pro-
12 cedures adopted by the Administration, except that
13 in any calendar year such audits may be initiated
14 against no more than 3 percent of all authorized
15 candidate campaign committees.

16 “(2) APPLICABLE RULES.—

17 “(A) IN GENERAL.—If the Administration
18 selects a committee for audit under paragraph
19 (1), the Administration shall promptly notify
20 the committee of the selection and commence
21 the audit within 30 days of the selection.

22 “(B) SPECIAL RULES FOR AUTHORIZED
23 COMMITTEES.—If the committee selected under
24 paragraph (1) is an authorized committee of a
25 candidate, the audit—

1 “(i) shall be commenced and actively
2 undertaken within 6 months of the election
3 for which the committee is authorized; and

4 “(ii) may examine compliance with
5 this Act only with respect to that election.

6 “(3) EXCEPTION.—This subsection shall not
7 apply to an authorized committee of a candidate for
8 President or Vice President subject to audit under
9 section 9007 or 9038 of the Internal Revenue Code
10 of 1986.

11 **“SEC. 369. CONGRESSIONAL OVERSIGHT.**

12 “Nothing in this Act shall be construed to limit, re-
13 strict, or diminish any investigatory, informational, over-
14 sight, supervisory, or disciplinary authority or function of
15 Congress or any committee of Congress with respect to
16 elections for Federal office.

17 **“CHAPTER 3—ENFORCEMENT**

18 **“SEC. 371. INITIATION OF ENFORCEMENT ACTIONS BY AD-**
19 **MINISTRATION.**

20 “(a) IN GENERAL.—The Administration may initiate
21 a civil enforcement action under section 373 if, after con-
22 ducting an investigation, the Administration finds reason-
23 able grounds to believe that a violation of this Act or of
24 chapter 95 or 96 of the Internal Revenue Code of 1986
25 has occurred or is about to occur.

1 “(b) BASIS FOR FINDINGS.—The Administration
2 may make a finding under subsection (a) based on any
3 information available to the Administration, including the
4 filing of a complaint under section 372.

5 “(c) NOTICE AND OPPORTUNITY TO DEMONSTRATE
6 NO VIOLATION.—Prior to initiating an enforcement action
7 under subsection (a), the Administration shall give any
8 person under investigation notice and the opportunity to
9 demonstrate that there are no reasonable grounds to be-
10 lieve a violation has occurred or is about to occur, but the
11 Administration’s decision on such matter shall not be sub-
12 ject to judicial review.

13 **“SEC. 372. COMPLAINT TO INITIATE ENFORCEMENT AC-**
14 **TION.**

15 “(a) FILING OF COMPLAINT.—

16 “(1) IN GENERAL.—Any person may file a com-
17 plaint with the Administration alleging a violation of
18 this Act or of chapter 95 or 96 of the Internal Rev-
19 enue Code of 1986.

20 “(2) TECHNICAL REQUIREMENTS.—A complaint
21 filed under paragraph (1) shall be—

22 “(A) in writing, signed, and sworn to by
23 the person filing such complaint;

24 “(B) notarized; and

1 “(C) made under penalty of perjury and
2 subject to the provisions of section 1001 of title
3 18, United States Code.

4 “(3) ACTION BY THE ADMINISTRATION.—Sub-
5 ject to paragraph (4), based on the allegations in a
6 complaint filed under paragraph (1), and such inves-
7 tigations the Administration deems necessary and
8 appropriate, the Administration may—

9 “(A) initiate a civil enforcement action
10 under section 373 if the Administration finds
11 reasonable grounds to believe a violation has oc-
12 curred or is about to occur; or

13 “(B) dismiss the complaint.

14 “(4) PROHIBITION OF ANONYMOUS COM-
15 PLAINTS.—The Commission may not conduct any
16 investigation or take any other action under this sec-
17 tion solely on the basis of a complaint of a person
18 whose identity is not disclosed to the Administration.

19 “(b) NOTICE AND OPPORTUNITY TO DEMONSTRATE
20 NO VIOLATION.—Prior to initiating an enforcement action
21 under subsection (a)(3)(A), the Administration shall give
22 any person named in a complaint notice and an oppor-
23 tunity to demonstrate that there are no reasonable
24 grounds to believe a violation described in such subsection
25 has occurred or is about to occur, but the Administration’s

1 determination under subsection (a)(3) shall not be subject
2 to judicial review in an action brought by such person.

3 “(c) FAILURE BY THE ADMINISTRATION TO TAKE
4 TIMELY ACTION.—

5 “(1) IN GENERAL.—If the Administration—

6 “(A) dismisses a complaint filed under
7 subsection (a); or

8 “(B) fails to initiate a civil enforcement ac-
9 tion under section 373 within 180 days of the
10 filing of such a complaint,

11 the person filing the complaint under subsection (a)
12 may seek judicial review of the Administration’s dis-
13 missal, or failure to act, in Federal district court in
14 the District of Columbia or in the district in which
15 such person resides.

16 “(2) SCOPE OF REVIEW.—The court shall re-
17 view the Administration’s dismissal of the complaint
18 or failure to act in accordance with the provisions of
19 section 706 of title 5, United States Code.

20 “(3) COURT ORDERS.—The court may order
21 the Administration to initiate an enforcement action
22 or to conduct a further investigation of the com-
23 plaint within a time set by the court.

1 **“SEC. 373. CIVIL ENFORCEMENT ACTIONS.**

2 “(a) IN GENERAL.—The Administration shall have
3 the authority to impose a civil monetary penalty under sec-
4 tion 375, issue a cease-and-desist order under section 376,
5 or do both, if the Administration finds, by an order made
6 on the record after notice and an opportunity for hearing
7 before an administrative law judge pursuant to subchapter
8 II of chapter 5 of title 5, United States Code, that a per-
9 son has violated (or, in the case of a cease-and-desist
10 order, has violated or is about to violate) this Act or chap-
11 ter 95 or 96 of the Internal Revenue Code of 1986. The
12 general counsel shall represent the Administration in any
13 proceeding before an administrative law judge.

14 “(b) NOTICE AND REQUEST FOR HEARING.—

15 “(1) NOTICE.—If the Administration finds
16 under section 371 or 372 that there are reasonable
17 grounds to believe a violation has occurred or is
18 about to occur, the Administration shall serve writ-
19 ten notice of the charges on each respondent, and
20 shall conduct such further investigation as the Ad-
21 ministration deems necessary and appropriate.

22 “(2) REQUEST FOR HEARING.—Each respond-
23 ent shall have an opportunity to request, prior to the
24 date that is 30 days after the date on which the no-
25 tice is received, a hearing on the charges before an
26 administrative law judge.

1 “(3) EFFECT OF FAILURE TO REQUEST A
2 HEARING.—If no hearing is requested, the Adminis-
3 tration shall make a finding on the charges, and
4 shall issue whatever relief the Administration deems
5 appropriate under sections 375 and 376.

6 “(c) CONCILIATION.—

7 “(1) PROCEDURES FOR ENTERING INTO CON-
8 CILIATION AGREEMENTS.—

9 “(A) IN GENERAL.—If the respondent re-
10 quests a hearing under subsection (b)(2), the
11 Administration shall attempt, for a period that
12 does not exceed 60 days (or 15 days if the hear-
13 ing is requested within 60 days of an election),
14 to correct or prevent such violation by informal
15 methods of conference, conciliation, and persua-
16 sion, and to enter into a conciliation agreement
17 with the respondent. In the case of a hearing
18 that is requested at a time other than within 60
19 days of an election, the period for conciliation
20 shall not be less than 30 days unless an agree-
21 ment is reached before then.

22 “(B) INCLUSION OF CIVIL MONETARY PEN-
23 ALTIES.—A conciliation agreement may include
24 a requirement that the person involved in such
25 conciliation shall pay a civil monetary penalty

1 that does not exceed the amounts set forth in
2 subsection (a) of section 375 or, in the case of
3 a knowing and willful violation, the amounts set
4 forth in subsection (b) of such section. The con-
5 ciliation agreement may also include the re-
6 quirement that the person involved consent to
7 the terms of a cease-and-desist order, as pro-
8 vided in section 376.

9 “(C) REPRESENTATION BY GENERAL
10 COUNSEL.—The general counsel shall represent
11 the Administration in any negotiations for a
12 conciliation agreement and any such concilia-
13 tion agreement shall be subject to the approval
14 of the Administration.

15 “(D) BAR TO FURTHER ACTION.—A con-
16 ciliation agreement, unless violated, is a com-
17 plete bar to any further action by the Adminis-
18 tration.

19 “(2) CONFIDENTIALITY.—No action by the Ad-
20 ministration or any other person, and no informa-
21 tion derived in connection with any conciliation at-
22 tempt by the Administration may be made public by
23 the Administration, without the written consent of
24 the respondent, except that if a conciliation agree-
25 ment is agreed upon and signed by the Administra-

1 tion and the respondent, the Administration shall
2 make such agreement public.

3 “(3) VIOLATION OF CONCILIATION AGREE-
4 MENT.—In any case in which a person has entered
5 into a conciliation agreement with the Administra-
6 tion under paragraph (1), the Administration may
7 institute a civil action for relief if the Administration
8 believes the person has violated any provision of
9 such conciliation agreement. Such civil action shall
10 be brought in the Federal district court for the dis-
11 trict in which the respondent resides or has its prin-
12 cipal place of business, or for the District of Colum-
13 bia. Such court shall have jurisdiction to issue any
14 relief appropriate under sections 375 and 376. For
15 the Administration to obtain relief in any such ac-
16 tion, the Administration need only establish that the
17 person has violated, in whole or in part, any require-
18 ment of such conciliation agreement.

19 “(d) HEARING.—At the request of any respondent,
20 a hearing on the charges served under subsection (b)(1)
21 shall be conducted before an administrative law judge, who
22 shall make such findings of fact and conclusions of law
23 as the administrative law judge deems appropriate. The
24 administrative law judge shall also have the authority to
25 impose a civil monetary penalty on the respondent, issue

1 a cease-and-desist order, or both. The decision of the ad-
2 ministrative law judge shall constitute final agency action
3 unless an appeal is taken under subsection (e).

4 “(e) APPEAL TO ADMINISTRATION.—

5 “(1) RIGHT TO APPEAL.—The general counsel
6 and each respondent shall each have a right to ap-
7 peal to the Administration from any final determina-
8 tion made by an administrative law judge.

9 “(2) REVIEW OF ALJ DETERMINATIONS.—In
10 the event of an appeal under paragraph (1), the Ad-
11 ministration shall review the determination of the
12 administrative law judge to determine whether—

13 “(A) a finding of material fact is not sup-
14 ported by substantial evidence;

15 “(B) a conclusion of law is erroneous;

16 “(C) the determination of the administra-
17 tive law judge is contrary to law or to the duly
18 promulgated rules or decisions of the Adminis-
19 tration;

20 “(D) a prejudicial error of procedure was
21 committed; or

22 “(E) the decision or the relief ordered is
23 otherwise arbitrary, capricious, or an abuse of
24 discretion.

1 “(3) FINAL AGENCY ACTION.—The decision of
2 the Administration shall constitute final agency ac-
3 tion.

4 “(f) JUDICIAL REVIEW.—

5 “(1) IN GENERAL.—Any party aggrieved by a
6 final agency action and who has exhausted all ad-
7 ministrative remedies, including requesting a hearing
8 before an administrative law judge and appealing an
9 adverse decision of an administrative law judge to
10 the Administration, may obtain judicial review of
11 such action in the United States Court of Appeals
12 for any circuit wherein such person resides or has its
13 principal place of business, or in the United States
14 Court of Appeals for the District of Columbia Cir-
15 cuit.

16 “(2) SCOPE OF REVIEW.—For purposes of con-
17 ducting the judicial review described in paragraph
18 (1), the provisions of section 706 of title 5, United
19 States Code, shall apply.

20 “(3) PETITION FOR JUDICIAL REVIEW.—To ob-
21 tain judicial review under paragraph (1), an ag-
22 grieved party described in such paragraph shall file
23 a petition with the court during the 30-day period
24 beginning on the date on which the order was
25 issued. A copy of such petition shall be transmitted

1 forthwith by the clerk of the court to the Adminis-
2 tration, and thereupon the Administration shall file
3 in the court the record upon which the order com-
4 plained of was entered, as provided in section 2112
5 of title 28, United States Code.

6 **“SEC. 374. NOTIFICATION OF NONFILERS.**

7 “(a) NOTIFICATION.—Before taking any action under
8 section 373 against any person who has failed to file a
9 report required under section 304(a)(2)(A)(iii) for the cal-
10 endar quarter immediately preceding the election involved,
11 or in accordance with section 304(a)(2)(A)(i), the Admin-
12 istration shall notify the person of such failure to file the
13 required reports.

14 “(b) OPPORTUNITY FOR RESPONSE.—If a satisfac-
15 tory response is not received within 4 business days after
16 the date of notification, the Administration shall, pursuant
17 to section 367(a)(6), publish before the election the name
18 of the person and the report or reports such person has
19 failed to file.

20 **“SEC. 375. CIVIL MONETARY PENALTIES.**

21 “(a) IN GENERAL.—Any person who violates this
22 Act, or chapter 95 or 96 of the Internal Revenue Code
23 of 1986, shall be liable to the United States for a civil
24 monetary penalty for each violation which does not exceed
25 the greater of \$5,000 or an amount equal to any contribu-

1 tion or expenditure involved in such violation. Such pen-
2 alty shall be imposed by the Administration pursuant to
3 section 373.

4 “(b) KNOWING AND WILLFUL VIOLATIONS.—Any
5 person who commits a knowing and willful violation of this
6 Act, or of chapter 95 or 96 of the Internal Revenue Code
7 of 1986, shall be liable to the United States for a civil
8 monetary penalty for each violation which does not exceed
9 the greater of \$10,000 or an amount equal to 200 percent
10 of any contribution or expenditure involved in such viola-
11 tion (or, in the case of a violation of section 320, which
12 is not less than 300 percent of the amount involved in
13 the violation and is not more than the greater of \$50,000
14 or 1,000 percent of the amount involved in the violation).
15 Such penalty shall be imposed by the Administration pur-
16 suant to section 373.

17 “(c) DETERMINATION OF CIVIL MONETARY PEN-
18 ALTY.—In determining the amount of a civil monetary
19 penalty under this section with respect to a violation de-
20 scribed in this section, the Administration or an adminis-
21 trative law judge shall take into account the nature, cir-
22 cumstances, extent, and gravity of the violation and, with
23 respect to the violator, any prior violation, the degree of
24 culpability, and such other matters as justice may require.

25 “(d) REFERRAL TO ATTORNEY GENERAL.—

1 “(1) IN GENERAL.—If the Administration de-
2 termines that a knowing and willful violation of this
3 Act which is subject to section 379, or a knowing
4 and willful violation of chapter 95 or 96 of the Inter-
5 nal Revenue Code of 1986, has occurred or is about
6 to occur, the Administration may refer such appar-
7 ent violation to the Attorney General without regard
8 to any limitations set forth under section 373.

9 “(2) REPORTING BY THE ATTORNEY GEN-
10 ERAL.—Whenever the Administration refers an ap-
11 parent violation to the Attorney General, the Attor-
12 ney General shall report to the Administration any
13 action taken by the Attorney General regarding the
14 apparent violation. Each report shall be transmitted
15 within 60 days after the date the Administration re-
16 fers an apparent violation, and every 30 days there-
17 after until the final disposition of the apparent viola-
18 tion.

19 **“SEC. 376. CEASE-AND-DESIST ORDERS.**

20 “(a) IN GENERAL.—If the Administration finds,
21 after notice and opportunity for hearing under section
22 373, that any person is violating, has violated, or is about
23 to violate any provision of this Act, or chapter 95 or 96
24 of the Internal Revenue Code of 1986, or any rule or regu-
25 lation thereunder, the Administration may publish any

1 findings and enter an order requiring such person, or any
2 other person that is, was, or would be a cause of the viola-
3 tion due to an act or omission the person knew or should
4 have known would contribute to such violation, to cease
5 and desist from committing or causing such violation and
6 any future violation of the same provision, rule, or regula-
7 tion. Such order may, in addition to requiring a person
8 to cease and desist from committing or causing a violation,
9 require such person to comply (or to take steps to effect
10 compliance) with such provision, rule, or regulation, upon
11 such terms and conditions and within such time as the
12 Administration may specify in such order.

13 “(b) TEMPORARY ORDER.—Whenever the Adminis-
14 tration determines that an alleged violation or threatened
15 violation specified in the notice initiating a civil enforce-
16 ment action under section 373, or the continuation there-
17 of, is likely to result in violation of this Act, or of chapter
18 95 or 96 of the Internal Revenue Code of 1986, and sub-
19 stantial harm to the public interest, the Administration
20 may apply to the Federal district court for the district in
21 which the respondent resides or has its principal place of
22 business, in which the alleged or threatened violation oc-
23 curred or is about to occur, or for the District of Colum-
24 bia, for a temporary restraining order or a preliminary
25 injunction requiring the respondent to cease and desist

1 from the violation or threatened violation and to take such
2 action to prevent the violation or threatened violation. The
3 Administration may apply for such order without regard
4 to any limitation under section 373.

5 **“SEC. 377. COLLECTION.**

6 “If any person fails to pay an assessment of a civil
7 penalty—

8 “(1) after the order making the assessment has
9 become a final order and such person has not timely
10 filed a petition for judicial review of the order in ac-
11 cordance with section 373(f)(2) or if the order of the
12 Administration is upheld after judicial review; or

13 “(2) after a court in an action brought under
14 section 373(c)(3) has entered a final judgment no
15 longer subject to appeal in favor of the Administra-
16 tion,

17 the Attorney General shall recover the amount assessed
18 (plus interest at currently prevailing rates from the date
19 of the expiration of the 30-day period referred to in section
20 373(f)(2) or the date of such final judgment, as the case
21 may be) in an action brought in any appropriate district
22 court of the United States. In such an action, the validity,
23 amount, and appropriateness of such penalty shall not be
24 subject to review.

1 **“SEC. 378. CONFIDENTIALITY.**

2 “(a) PRIOR TO A FINDING OF REASONABLE
3 GROUNDS.—Any proceedings conducted by the Adminis-
4 tration prior to a finding that there are reasonable
5 grounds to believe a violation of the law has occurred or
6 is about to occur, including any investigation pursuant to
7 section 371 or pursuant to a complaint filed under section
8 372, shall be confidential and none of the Administration’s
9 records concerning the complaint shall be made public, ex-
10 cept that the person filing a complaint pursuant to section
11 372 is permitted to make such complaint public.

12 “(b) AFTER A FINDING OF REASONABLE
13 GROUNDS.—Except as provided in subsection (d), if the
14 Administration makes a finding pursuant to section 371
15 or 372 that there are reasonable grounds to believe that
16 a violation of law has occurred or is about to occur—

17 “(1) the finding of the Administration as well
18 as any complaint filed under section 372, any notice
19 of charges, and any answer or similar documents
20 filed with the Administration shall be made public;
21 and

22 “(2) all proceedings conducted before an admin-
23 istrative law judge under section 373, and all docu-
24 ments used during such proceedings, shall be made
25 public.

1 “(c) AFTER DISMISSAL OF A COMPLAINT OR CON-
2 CLUSION OF PROCEEDINGS FOLLOWING A FINDING OF
3 REASONABLE GROUNDS.—Subject to subsection (d), fol-
4 lowing the Administration’s dismissal of a complaint filed
5 under section 372 or the termination of proceedings fol-
6 lowing a finding of reasonable grounds under section 371
7 or 372, the Administration shall, not later than the date
8 that is 30 days after such dismissal or termination, make
9 public—

10 “(1) the complaint, any notice of charges, and
11 any answer or similar documents filed with the Ad-
12 ministration (unless such information has already
13 been made public under subsection (b)(1));

14 “(2) any order setting forth the Administra-
15 tion’s final action on the complain;

16 “(3) any findings made by the Administration
17 in relation to the action; and

18 “(4) all documentary materials and testimony
19 constituting the record on which the Administration
20 relied in taking its actions.

21 Subject to subsection (d), the affirmative disclosure re-
22 quirement of this subsection is without prejudice to the
23 right of any person to request and obtain records relating
24 to an investigation under section 552 of title 5, United
25 States Code.

1 “(d) CONFIDENTIALITY OF RECORDS AND PRO-
2 CEEDINGS OTHERWISE SUBJECT TO DISCLOSURE.—

3 “(1) IN GENERAL.—The Administration shall
4 issue regulations providing for the protection of in-
5 formation the disclosure of which under subsection
6 (b) or (c) would impair any person’s constitutionally
7 protected right of privacy, freedom of speech, or
8 freedom of association. The Administration shall
9 also issue regulations addressing the application of
10 exemptions from disclosure contained in section 552
11 of title 5, United States Code, to records comprising
12 the Administration’s investigative files. Such regula-
13 tions shall consider the need to protect any person’s
14 constitutionally protected rights to privacy, freedom
15 of speech, and freedom of association, as well as the
16 need to make information about the Administra-
17 tion’s activities and decisions widely accessible to the
18 public.

19 “(2) PETITION TO MAINTAIN CONFIDEN-
20 TIALITY.—

21 “(A) IN GENERAL.—Any person who would
22 be adversely affected by any disclosure of infor-
23 mation about the person made pursuant to sub-
24 section (b) or (c), or by the conduct in public
25 of a hearing or other proceeding conducted pur-

1 suant to section 373, shall have the right to pe-
2 tition the Administration to maintain the con-
3 fidentiality of such information or such pro-
4 ceeding on the ground that such information
5 falls within the scope of any exemption from
6 disclosure contained in section 552 of title 5,
7 United States Code, or is prohibited from dis-
8 closure under the Administration's regulations,
9 the Constitution, or any other provision of law.
10 Upon the receipt of such petition, the Adminis-
11 tration shall make a prompt determination
12 whether the information should be kept con-
13 fidential, and shall withhold such information
14 from disclosure pending this determination. The
15 Administration shall notify the petitioner in
16 writing of the determination.

17 “(B) REGULATIONS.—The Administration
18 shall prescribe regulations governing the consid-
19 eration of petitions under this paragraph. Such
20 regulations shall provide for public notice of the
21 pendancy of any petition filed under subpara-
22 graph (A) and the right of any interested party
23 to respond to or comment on such petition.

24 “(e) PENALTIES.—Any member or employee of the
25 Administration, or any other person, who violates the pro-

1 visions of this section shall be fined not more than \$2,000.
2 Any such member, employee, or other person who know-
3 ingly and willfully violates the provisions of this section
4 shall be fined not more than \$5,000.

5 **“SEC. 379. CRIMINAL PENALTIES.**

6 “(a) KNOWING AND WILLFUL VIOLATIONS.—Any
7 person who knowingly and willfully commits a violation of
8 any provision of this Act that involves the making, receiv-
9 ing, or reporting of any contribution, donation, or expendi-
10 ture—

11 “(1) aggregating \$25,000 or more during a cal-
12 endar year shall be fined under title 18, United
13 States Code, or imprisoned for not more than 5
14 years, or both; or

15 “(2) aggregating \$2,000 or more (but less than
16 \$25,000) during a calendar year shall be fined under
17 such title, or imprisoned for not more than 1 year,
18 or both.

19 “(b) CONTRIBUTIONS OR EXPENDITURES BY NA-
20 TIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZA-
21 TIONS.—In the case of a knowing and willful violation of
22 section 316(b)(3), the penalties set forth in subsection (a)
23 shall apply to each violation involving an amount aggre-
24 gating \$250 or more during a calendar year. Such a viola-

1 tion of section 316(b)(3) may incorporate a violation of
2 section 317(b), 320, or 321.

3 “(c) FRAUDULENT MISREPRESENTATION OF CAM-
4 PAIGN AUTHORITY.—In the case of a knowing and willful
5 violation of section 322, the penalties set forth in sub-
6 section (a) shall apply without regard to whether the mak-
7 ing, receiving, or reporting of a contribution or expendi-
8 ture of \$1,000 or more is involved.

9 “(d) PROHIBITION OF CONTRIBUTIONS IN NAME OF
10 ANOTHER.—Any person who knowingly and willfully com-
11 mits a violation of section 320 involving an amount aggre-
12 gating more than \$10,000 during a calendar year shall
13 be—

14 “(1) imprisoned for not more than 2 years if
15 the amount is less than \$25,000 and subject to im-
16 prisonment under subsection (a) if the amount is
17 \$25,000 or more;

18 “(2) fined not less than 300 percent of the
19 amount involved in the violation and not more than
20 the greater of—

21 “(A) \$50,000; or

22 “(B) 1,000 percent of the amount involved
23 in the violation; or

1 “(3) both imprisoned as provided under para-
2 graph (1) and fined as provided under paragraph
3 (2).

4 “(e) EFFECT OF CONCILIATION AGREEMENTS.—

5 “(1) EVIDENCE OF LACK OF KNOWLEDGE AND
6 INTENT.—In any criminal action brought for a viola-
7 tion of any provision of this Act or of chapter 95 or
8 96 of the Internal Revenue Code of 1986, any de-
9 fendant may evidence their lack of knowledge or in-
10 tent to commit the alleged violation by introducing
11 as evidence a conciliation agreement entered into be-
12 tween the defendant and the Administration under
13 section 373(c)(1) which specifically deals with the
14 act or failure to act constituting such violation and
15 which is still in effect.

16 “(2) CONSIDERATION BY COURTS.—In any
17 criminal action brought for a violation of any provi-
18 sion of this Act or of chapter 95 or 96 of the Inter-
19 nal Revenue Code of 1986, the court before which
20 such action is brought shall take into account, in
21 weighing the seriousness of the violation and in con-
22 sidering the appropriateness of the penalty to be im-
23 posed if the defendant is found guilty, whether—

24 “(A) the specific act or failure to act which
25 constitutes the violation for which the action

1 was brought is the subject of a conciliation
2 agreement entered into between the defendant
3 and the Administration under section 373(c)(1);

4 “(B) the conciliation agreement is in ef-
5 fect; and

6 “(C) the defendant is, with respect to the
7 violation involved, in compliance with the concil-
8 iation agreement.

9 **“SEC. 380. PERIOD OF LIMITATIONS.**

10 “No person shall be prosecuted, tried, or punished
11 for any violation of this Act, unless the indictment is found
12 or the information is instituted within 5 years after the
13 date of the violation.”.

14 **SEC. 102. EXECUTIVE SCHEDULE POSITIONS.**

15 (a) EXECUTIVE SCHEDULE LEVEL III POSITION.—
16 Section 5314 of title 5, United States Code, is amended
17 by adding at the end the following:

18 “Chair, Federal Election Administration.”.

19 (b) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—
20 Section 5315 of title 5, United States Code, is amended
21 by adding at the end the following:

22 “Members (other than the Chair), Federal Elec-
23 tion Administration.

24 “Staff Director, Federal Election Administra-
25 tion.

1 “Inspector General, Federal Election Adminis-
2 tration.”.

3 (c) EXECUTIVE SCHEDULE LEVEL V POSITION.—
4 Section 5316 of title 5, United States Code, is amended
5 by adding at the end the following:

6 “General Counsel, Federal Election Administra-
7 tion.”.

8 **SEC. 103. GAO EXAMINATION OF ENFORCEMENT OF CAM-**
9 **PAIGN FINANCE LAWS BY THE DEPARTMENT**
10 **OF JUSTICE.**

11 (a) EXAMINATION.—The Comptroller General of the
12 United States shall conduct a thorough examination of the
13 enforcement of the criminal provisions of the Federal
14 Election Campaign Act of 1971 (2 U.S.C. 431 et seq.)
15 and chapters 95 and 96 of the Internal Revenue Code of
16 1986 by the Attorney General.

17 (b) REPORT.—Not later than 1 year after the date
18 of enactment of this Act, the Comptroller General shall
19 submit to the Attorney General and Congress a report on
20 the examination conducted under subsection (a) together
21 with recommendations on how the Attorney General may
22 improve the enforcement of the criminal provisions of the
23 Federal Election Campaign Act of 1971 (2 U.S.C. 431
24 et seq.) and chapters 95 and 96 of the Internal Revenue
25 Code of 1986, including recommendations on the re-

1 sources that the Attorney General would require to effec-
2 tively enforce such criminal provisions.

3 **SEC. 104. GAO STUDY AND REPORT ON APPROPRIATE**
4 **FUNDING LEVELS.**

5 (a) STUDY.—The Comptroller General of the United
6 States shall conduct an ongoing study on the level of fund-
7 ing that constitutes an adequate level of resources for the
8 Federal Election Administration to competently execute
9 the responsibilities imposed on the Administration by this
10 Act.

11 (b) REPORT.—Not later than 1 year after the date
12 of enactment of this Act, and once every 2 years there-
13 after, the Comptroller General shall submit to the Director
14 of the Office of Management and Budget and Congress
15 a report on the study conducted under subsection (a) to-
16 gether with recommendations for such legislation and ad-
17 ministrative action as the Comptroller General determines
18 to be appropriate.

19 **SEC. 105. CONFORMING AMENDMENTS.**

20 (a) INDEPENDENT AGENCY.—Section 104 of title 5,
21 United States Code, is amended—

22 (1) in paragraph (1), by striking “and” after
23 the semicolon;

24 (2) in paragraph (2), by striking the period and
25 inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(3) the Federal Election Administration.”.

4 (b) COVERAGE UNDER INSPECTOR GENERAL ACT.—
5 Section 8G(a)(2) of the Inspector General Act of 1978 (5
6 U.S.C. App.) is amended by striking “Federal Election
7 Commission” and inserting “Federal Election Administra-
8 tion”.

9 (c) COVERAGE OF PERSONNEL UNDER HATCH
10 ACT.—Section 7323(b) of title 5, United States Code, is
11 amended—

12 (1) in paragraph (1), by striking “Federal Elec-
13 tion Commission” and inserting “Federal Election
14 Administration”; and

15 (2) in paragraph (2)(B)(i)(I), by striking “Fed-
16 eral Election Commission” and inserting “Federal
17 Election Administration”.

18 (d) EXCLUSION FROM SENIOR EXECUTIVE SERV-
19 ICE.—Section 3132(a)(1)(C) of title 5, United States
20 Code, is amended by striking “Federal Election Commis-
21 sion” and inserting “Federal Election Administration”.

22 (e) SUBTITLE A.—Title III of the Federal Election
23 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
24 by inserting before section 301 the following:

1 **“Subtitle A—General Provisions”.**

2 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

3 Section 314 of the Federal Election Campaign Act
4 of 1971 (2 U.S.C. 439c) is amended to read as follows:

5 “AUTHORIZATION OF APPROPRIATIONS

6 “SEC. 314. For each fiscal year, there are authorized
7 to be appropriated to the Administration such sums as
8 may be necessary for the purpose of carrying out its func-
9 tions under this Act and under chapters 95 and 96 of the
10 Internal Revenue Code of 1986.”.

11 **TITLE II—TRANSITION**
12 **PROVISIONS**

13 **SEC. 201. TRANSFER OF FUNCTIONS OF FEDERAL ELEC-**
14 **TION COMMISSION.**

15 There are transferred to the Federal Election Admin-
16 istration established under section 351 of the Federal
17 Election Campaign Act of 1971 (as added by section 101)
18 all functions that the Federal Election Commission exer-
19 cised before the date described in section 205(a).

20 **SEC. 202. TRANSFER OF PROPERTY, RECORDS, AND PER-**
21 **SONNEL.**

22 (a) PROPERTY AND RECORDS.—The contracts, liabil-
23 ities, records, property, and other assets and interests of,
24 or made available in connection with, the offices and func-
25 tions of the Federal Election Commission which are trans-

1 ferred by this title are transferred to the Federal Election
2 Administration.

3 (b) PERSONNEL.—The personnel employed in con-
4 nection with the offices and functions of the Federal Elec-
5 tion Commission which are transferred by this title are
6 transferred to the Federal Election Administration.

7 **SEC. 203. REPEALS.**

8 The following provisions of the Federal Election
9 Campaign Act of 1971 are repealed:

10 (1) Section 306 (2 U.S.C. 437c).

11 (2) Section 307 (2 U.S.C. 437d).

12 (3) Section 308 (2 U.S.C. 437f).

13 (4) Section 309 (2 U.S.C. 437g).

14 (5) Section 310 (2 U.S.C. 437h).

15 (6) Section 311 (2 U.S.C. 438).

16 (7) Section 314 (2 U.S.C. 439c).

17 (8) Section 406 (2 U.S.C. 455).

18 **SEC. 204. CONFORMING AMENDMENTS.**

19 (a) Title III of the Federal Election Campaign Act
20 of 1971 (2 U.S.C. 431 et seq.) is amended—

21 (1) in section 301, by striking paragraph (10)
22 and inserting the following:

23 “(10) The term ‘Administration’ means the Federal
24 Election Administration.”;

1 (2) by striking “Federal Election Commission”
2 and inserting “Administration” each place it ap-
3 pears; and

4 (3) by striking “Commission” and inserting
5 “Administration” each place it appears.

6 (b) Section 3502(1)(B) of title 44, United States
7 Code, is amended by striking “Federal Election Commis-
8 sion” and inserting “Federal Election Administration”.

9 (c) Section 207(j)(7)(B)(i) of title 18, United States
10 Code, is amended by striking “the Federal Election Com-
11 mission by a former officer or employee of the Federal
12 Election Commission” and inserting “the Federal Election
13 Administration by a former officer or employee of the Fed-
14 eral Election Commission or the Federal Election Admin-
15 istration”.

16 (d) Section 103 of the Ethics in Government Act of
17 1978 (5 U.S.C. App.) is amended—

18 (1) in subsection (e), by striking “the Federal
19 Election Commission” and inserting “the Federal
20 Election Administration”; and

21 (2) in subsection (k), by striking “the Federal
22 Election Commission” and inserting “the Federal
23 Election Administration”.

24 (e)(1) Section 9002(3) of the Internal Revenue Code
25 of 1986 is amended to read as follows:

1 “(3) The term ‘Administration’ means the Fed-
2 eral Election Administration established under sec-
3 tion 351 of the Federal Election Campaign Act of
4 1971.”.

5 (2) Chapter 95 of the Internal Revenue Code of 1986
6 is amended by striking “Commission” and inserting “Ad-
7 ministration” each place it appears.

8 (f)(1) Section 9032(3) of the Internal Revenue Code
9 of 1986 is amended to read as follows:

10 “(3) The term ‘Administration’ means the Fed-
11 eral Election Administration established under sec-
12 tion 351 of the Federal Election Campaign Act of
13 1971.”.

14 (2) Chapter 96 of the Internal Revenue Code of 1986
15 is amended by striking “Commission” and inserting “Ad-
16 ministration” each place it appears.

17 (g) Section 6 of the National Voter Registration Act
18 of 1993 (42 U.S.C. 1973gg-4) is amended by striking
19 “Federal Election Commission” and inserting “Federal
20 Election Administration”.

21 (h) Section 9 of the National Voter Registration Act
22 of 1993 (42 U.S.C. 1973gg-7) is amended by striking
23 “Federal Election Commission” and inserting “Federal
24 Election Administration”.

1 (i) Section 3(c) of the Voting Accessibility for the El-
2 derly and Handicapped Act (42 U.S.C. 1973ee-1(c)) is
3 amended—

4 (1) in paragraph (1), by striking “Federal Elec-
5 tion Commission” and inserting “Federal Election
6 Administration”; and

7 (2) in paragraph (2), by striking “Federal Elec-
8 tion Commission” and inserting “Federal Election
9 Administration”.

10 **SEC. 205. EFFECTIVE DATE.**

11 (a) IN GENERAL.—This title and the amendments
12 made by this title shall take effect on the date that is 6
13 months after the date of enactment of this Act.

14 (b) TERMINATION OF THE FEDERAL ELECTION COM-
15 MISSION.—Notwithstanding any other provision of, or
16 amendment made by, this Act, the members of the Federal
17 Election Commission shall be removed from office on the
18 date described in subsection (a).

○