

108TH CONGRESS
1ST SESSION

S. 1913

To amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2003

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

A BILL

To amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, 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.**

4 This Act may be cited as the “Presidential Funding
5 Act of 2003”.

6 **SEC. 2. REVISIONS TO SYSTEM OF PRESIDENTIAL PRIMARY**
7 **MATCHING PAYMENTS.**

8 (a) INCREASE IN MATCHING RATE FOR PAY-
9 MENTS.—Section 9034(a) of the Internal Revenue Code
10 of 1986 is amended by striking “an amount equal to the

1 amount” and inserting “an amount equal to 400 percent
2 of the amount”.

3 (b) ELIGIBILITY REQUIREMENTS.—

4 (1) AMOUNT OF AGGREGATE CONTRIBUTIONS
5 PER STATE.—Section 9033(b)(3) of such Code is
6 amended by striking “\$5,000” and inserting
7 “\$15,000”.

8 (2) PARTICIPATION IN SYSTEM FOR PAYMENTS
9 FOR GENERAL ELECTION.—Section 9033(b) of such
10 Code is amended—

11 (A) by striking “and” at the end of para-
12 graph (3);

13 (B) by striking the period at the end of
14 paragraph (4) and inserting “, and”; and

15 (C) by adding at the end the following new
16 paragraph:

17 “(5) if the candidate is nominated by a political
18 party for election to the office of President, the can-
19 didate will apply for and accept payments with re-
20 spect to the general election for such office in ac-
21 cordance with chapter 95, including the requirement
22 that the candidate and the candidate’s authorized
23 committees will not incur qualified campaign ex-
24 penses in excess of the aggregate payments to which
25 they will be entitled under section 9004.”.

1 (c) PERIOD OF AVAILABILITY OF PAYMENTS.—Sec-
2 tion 9032(6) of such Code is amended by striking “the
3 beginning of the calendar year” and inserting “July 1 of
4 the calendar year preceding the calendar year”.

5 (d) INCREASE IN LIMITATION ON TOTAL AMOUNT OF
6 PAYMENTS.—Section 9034(b) of such Code is amended by
7 striking “50 percent” and inserting “80 percent”.

8 **SEC. 3. REQUIRING PARTICIPATION IN PRIMARY PAYMENT**
9 **SYSTEM AS CONDITION OF ELIGIBILITY FOR**
10 **GENERAL ELECTION PAYMENTS.**

11 (a) MAJOR PARTY CANDIDATES.—Section 9003(b) of
12 the Internal Revenue Code of 1986 is amended—

13 (1) by redesignating paragraphs (1) and (2) as
14 paragraphs (2) and (3); and

15 (2) by inserting before paragraph (2) (as so re-
16 designated) the following new paragraph:

17 “(1) the candidate received payments under
18 chapter 96 for the campaign for nomination;”.

19 (b) MINOR PARTY CANDIDATES.—Section 9003(c) of
20 such Code is amended—

21 (1) by redesignating paragraphs (1) and (2) as
22 paragraphs (2) and (3); and

23 (2) by inserting before paragraph (2) (as so re-
24 designated) the following new paragraph:

1 “(1) the candidate received payments under
2 chapter 96 for the campaign for nomination;”.

3 **SEC. 4. REVISIONS TO CANDIDATE EXPENDITURE LIMITS.**

4 (a) INCREASE IN LIMIT ON COORDINATED PARTY
5 EXPENDITURES.—Section 315(d)(2) of the Federal Elec-
6 tion Campaign Act of 1971 (2 U.S.C. 441a(d)(2)) is
7 amended by striking “2 cents” and inserting “4 cents”.

8 (b) INCREASE IN EXPENDITURE LIMITS FOR PAR-
9 TICIPATING CANDIDATES; ELIMINATION OF STATE-SPE-
10 CIFIC LIMITS.—

11 (1) IN GENERAL.—Section 315(b)(1) of such
12 Act (2 U.S.C. 441a(b)(1)) is amended by striking
13 “in excess of ___” and all that follows and inserting
14 the following: “in excess of \$75,000,000 with respect
15 to a campaign for nomination for election or in ex-
16 cess of \$75,000,000 with respect to a campaign for
17 election to such office.”.

18 (2) CONFORMING AMENDMENT RELATING TO
19 TIMING OF COST-OF-LIVING ADJUSTMENT.—Section
20 315(c)(2)(B) of such Act (2 U.S.C. 441a(c)(2)(B))
21 is amended—

22 (A) in clause (i), by striking “subsections
23 (b) and (d)” and inserting “subsection (d)”;

24 (B) in clause (i), by striking “and” at the
25 end;

1 (C) in clause (ii), by striking the period at
2 the end and inserting “; and”; and

3 (D) by adding at the end the following new
4 clause:

5 “(iii) for purposes of subsection (b), cal-
6 endar year 2004.”.

7 (3) OTHER CONFORMING AMENDMENTS.—The
8 Internal Revenue Code of 1986 is amended—

9 (A) in section 9004(a)(1), by striking “sec-
10 tion 320(b)(1)(B) of the Federal Election Cam-
11 paign Act of 1971” and inserting “section
12 315(b)(1) of the Federal Election Campaign
13 Act of 1971”; and

14 (B) by striking “section 320(b)(1)(A) of
15 the Federal Election Campaign Act of 1971”
16 each place it appears in sections 9034(b) and
17 9035(a) and inserting “section 315(b)(1) of the
18 Federal Election Campaign Act of 1971”.

19 (c) REPEAL OF EXCLUSION OF FUNDRAISING COSTS
20 FROM TREATMENT AS EXPENDITURES.—Section
21 301(9)(B)(vi) of the Federal Election Campaign Act of
22 1971 (2 U.S.C. 431(9)(B)(vi)) is amended by striking “in
23 excess of an amount equal to 20 percent of the expenditure
24 limitation applicable to such candidate under section
25 315(b)” and inserting the following: “who is seeking nomi-

1 nation for election or election to the office of President
2 or Vice President of the United States”.

3 (d) INCREASE IN EXPENDITURE LIMITS FOR PRI-
4 MARY CANDIDATES PARTICIPATING IN PRIMARY PAY-
5 MENT SYSTEM WHO FACE CERTAIN NONPARTICIPATING
6 OPPONENTS.—

7 (1) IN GENERAL.—Section 315(b) of the Fed-
8 eral Election Campaign Act of 1971 (2 U.S.C.
9 441a(b)) is amended—

10 (A) in paragraph (1), by striking “No can-
11 didate” and inserting “Except as provided in
12 paragraph (3), no candidate”; and

13 (B) by adding at the end the following new
14 paragraph:

15 “(3)(A) In the case of a candidate described in para-
16 graph (1) in a campaign for nomination for election for
17 the office of President who faces a nonparticipating pri-
18 mary candidate of the same political party who receives
19 contributions or makes expenditures with respect to the
20 campaign in an aggregate amount greater than 133 per-
21 cent of the expenditure limitation under paragraph (1),
22 the limitation on expenditures applicable under such para-
23 graph shall be increased by 100 percent.

24 “(B) Each nonparticipating primary candidate who
25 receives contributions or makes expenditures with respect

1 to the campaign in an aggregate amount greater than 133
2 percent of the expenditure limitation under paragraph (1)
3 shall notify the Commission in writing not later than 24
4 hours after first receiving aggregate contributions or mak-
5 ing aggregate expenditures in such an amount.

6 “(C) Not later than 24 hours after receiving a written
7 notice from a nonparticipating primary candidate under
8 subparagraph (B), the Commission shall notify each oppo-
9 nent of the candidate to whom the increased limitation on
10 expenditures applies pursuant to subparagraph (A).

11 “(D) In this paragraph, a ‘nonparticipating primary
12 candidate’ means a candidate for nomination for election
13 for the office of President who is not eligible under section
14 9033 of the Internal Revenue Code of 1986 to receive pay-
15 ments from the Secretary of the Treasury under chapter
16 96 of such Code.”.

17 (2) NO INCREASE PERMITTED IN MATCHING
18 PAYMENTS AS A RESULT OF INCREASE IN EXPENDI-
19 TURE LIMIT.—Section 9034(b) of the Internal Rev-
20 enue Code of 1986 is amended by striking the period
21 at the end and inserting the following: “, except that
22 a candidate shall not receive any additional pay-
23 ments under subsection (a) once such candidate has
24 received a combination of payments under subsection
25 (a) and contributions which, in the aggregate, exceed

1 the expenditure limit applicable under section
2 315(b)(1) of the Act with respect to a campaign for
3 nomination for election to the office of the President
4 (notwithstanding any increase in such expenditure
5 limitation pursuant to section 315(b)(3) of such
6 Act).”.

7 **SEC. 5. REVISIONS TO DESIGNATION OF INCOME TAX PAY-**
8 **MENTS BY INDIVIDUAL TAXPAYERS.**

9 (a) INCREASE IN AMOUNT DESIGNATED.—Section
10 6096(a) of the Internal Revenue Code of 1986 is amend-
11 ed—

12 (1) in the first sentence, by striking “\$3” each
13 place it appears and inserting “\$6”; and

14 (2) in the second sentence—

15 (A) by striking “\$6” and inserting “\$12”,

16 and

17 (B) by striking “\$3” and inserting “\$6”.

18 (b) INDEXING.—Section 6096 of such Code is amend-
19 ed by adding at the end the following new subsection:

20 “(d) INDEXING OF AMOUNT DESIGNATED.—

21 “(1) IN GENERAL.—With respect to each tax-
22 able year after 2004, each amount referred to in
23 subsection (a) shall be increased by the percent dif-
24 ference described in paragraph (2), except that if
25 any such amount after such an increase is not a

1 multiple of \$1, such amount shall be rounded to the
2 nearest multiple of \$1.

3 “(2) PERCENT DIFFERENCE DESCRIBED.—The
4 percent difference described in this paragraph with
5 respect to a taxable year is the percent difference
6 determined under section 315(c)(1)(A) of the Fed-
7 eral Election Campaign Act of 1971 with respect to
8 the calendar year during which the taxable year be-
9 gins, except that the base year involved shall be
10 2004.”.

11 (c) ENSURING TAX PREPARATION SOFTWARE DOES
12 NOT PROVIDE AUTOMATIC RESPONSE TO DESIGNATION
13 QUESTION.—Section 6096 of such Code, as amended by
14 subsection (b), is amended by adding at the end the fol-
15 lowing new subsection:

16 “(e) ENSURING TAX PREPARATION SOFTWARE DOES
17 NOT PROVIDE AUTOMATIC RESPONSE TO DESIGNATION
18 QUESTION.—The Secretary shall promulgate regulations
19 to ensure that electronic software used in the preparation
20 or filing of individual income tax returns does not auto-
21 matically accept or decline a designation of a payment
22 under this section.”.

23 (d) PUBLIC INFORMATION PROGRAM ON DESIGNA-
24 TION.—Section 6096 of such Code, as amended by sub-

1 sections (b) and (c), is amended by adding at the end the
 2 following new subsection:

3 “(f) PUBLIC INFORMATION PROGRAM.—

4 “(1) IN GENERAL.—The Federal Election Com-
 5 mission shall conduct a program to inform and edu-
 6 cate the public regarding the purposes of the Presi-
 7 dential Election Campaign Fund, the procedures for
 8 the designation of payments under this section, and
 9 the effect of such a designation on the income tax
 10 liability of taxpayers.

11 “(2) USE OF FUNDS FOR PROGRAM.—Amounts
 12 in the Presidential Election Campaign Fund shall be
 13 made available to the Commission to carry out the
 14 program under this subsection, except that the
 15 amount made available for this purpose may not ex-
 16 ceed \$10,000,000 with respect to any Presidential
 17 election cycle. In this paragraph, a ‘Presidential elec-
 18 tion cycle’ is the 4-year period beginning with Janu-
 19 ary of the year following a Presidential election.”.

20 **SEC. 6. ADDITIONAL GENERAL ELECTION PAYMENTS TO**
 21 **PARTICIPATING CANDIDATES FACING CER-**
 22 **TAIN NONPARTICIPATING OPPONENTS.**

23 (a) IN GENERAL.—Section 9004(a)(1) of the Internal
 24 Revenue Code of 1986 is amended—

1 (1) by striking “(1) The eligible candidates”
2 and inserting “(1)(A) Except as provided in sub-
3 paragraph (B), the eligible candidates”; and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(B) In addition to the payments described in
7 subparagraph (A), each eligible candidate of a major
8 party in a presidential election with an opponent in
9 the election who is not eligible to receive payments
10 under section 9006 and who receives contributions
11 or makes expenditures with respect to the primary
12 and general elections in an aggregate amount great-
13 er than 133 percent of the combined expenditure
14 limitations applicable to eligible candidates under
15 section 315(b)(1) of the Federal Election Campaign
16 Act of 1971 shall be entitled to equal payments
17 under section 9006 in an amount equal to 100 per-
18 cent of the expenditure limitation applicable under
19 such section with respect to a campaign for election
20 to the office of President.”.

21 (b) SPECIAL RULE FOR MINOR PARTY CAN-
22 DIDATES.—Section 9004(a)(2)(A) of such Code is amend-
23 ed—

1 (1) by striking “(A) The eligible candidates”
2 and inserting “(A)(i) Except as provided in clause
3 (ii), the eligible candidates”; and

4 (2) by adding at the end the following new
5 clause:

6 “(ii) In addition to the payments described in
7 clause (ii), each eligible candidate of a minor party
8 in a presidential election with an opponent in the
9 election who is not eligible to receive payments
10 under section 9006 and who receives contributions
11 or makes expenditures with respect to the primary
12 and general elections in an aggregate amount great-
13 er than 133 percent of the combined expenditure
14 limitations applicable to eligible candidates under
15 section 315(b)(1) of the Federal Election Campaign
16 Act of 1971 shall be entitled to equal payments
17 under section 9006 in an amount equal to 100 per-
18 cent of the payments to which such candidate is en-
19 titled under clause (i).”.

20 (c) PROCESS FOR DETERMINATION OF ELIGIBILITY
21 FOR ADDITIONAL PAYMENT.—

22 (1) IN GENERAL.—Section 9005 of such Code
23 is amended—

24 (A) by redesignating subsection (b) as sub-
25 section (c); and

1 (B) by inserting after subsection (a) the
2 following new subsection:

3 “(b) SPECIAL RULES FOR CERTIFICATION OF ELIGI-
4 BILITY FOR ADDITIONAL PAYMENTS.—

5 “(1) REPORTS ON EXPENDITURES BY INELI-
6 GIBLE CANDIDATES.—If a candidate in a presi-
7 dential election who is not eligible to receive pay-
8 ments under section 9006 receives contributions or
9 makes expenditures with respect to the primary and
10 general elections in an aggregate amount greater
11 than 133 percent of the combined expenditure limi-
12 tations applicable to eligible candidates under sec-
13 tion 315(b)(1) of the Federal Election Campaign
14 Act of 1971, the candidate shall notify the Commis-
15 sion in writing that the candidate has made aggre-
16 gate expenditures in such an amount not later than
17 24 hours after first receiving aggregate contributions
18 or making aggregate expenditures in such an
19 amount.

20 “(2) CERTIFICATION.—Not later than 24 hours
21 after receiving a written notice under paragraph (1),
22 the Commission shall certify to the Secretary of the
23 Treasury for payment to any eligible candidate who
24 is entitled to an additional payment under section
25 9004(a)(1)(B) or section 9004(a)(2)(A)(ii) that the

1 candidate is entitled to payment in full of the addi-
2 tional payment under such section.”.

3 (2) CONFORMING AMENDMENT.—Section
4 9005(e) of such Code (as redesignated under para-
5 graph (1)(A)) is amended by striking “subsection
6 (a)” and inserting “this section”.

7 (d) EXCLUSION OF ADDITIONAL PAYMENT FROM
8 DETERMINATION OF EXPENDITURE LIMITS.—Section
9 315(b)(2) of the Federal Election Campaign Act of 1971
10 (2 U.S.C. 441a(b)(2)) is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (A);

13 (2) by striking the period at the end of sub-
14 paragraph (B) and inserting “; and”; and

15 (3) by adding at the end the following new sub-
16 paragraph:

17 “(C) the amount of expenditures made by a
18 candidate shall be reduced by the amount of any ad-
19 ditional payment received by the candidate under
20 section 9004(a)(1)(B) of the Internal Revenue Code
21 of 1986.”.

22 **SEC. 7. DETERMINATION OF AMOUNTS IN PRESIDENTIAL**
23 **ELECTION CAMPAIGN FUND.**

24 Section 9006(c) of the Internal Revenue Code of
25 1986 is amended by adding at the end the following new

1 sentence: “In making a determination of whether there are
2 insufficient moneys in the fund for purposes of the pre-
3 vious sentence, the Secretary shall take into account in
4 determining the balance of the fund for a Presidential
5 election year the Secretary’s best estimate of the amount
6 of moneys which will be deposited into the fund during
7 the year, except that the amount of the estimate may not
8 exceed the average of the annual amounts deposited in the
9 fund during the previous 3 years.”.

10 **SEC. 8. REPEAL OF PRIORITY IN USE OF FUNDS FOR POLIT-**
11 **ICAL CONVENTIONS.**

12 (a) IN GENERAL.—Section 9008(a) of the Internal
13 Revenue Code of 1986 is amended by striking the period
14 at the end of the second sentence and all that follows and
15 inserting the following: “, except that the amount depos-
16 ited may not exceed the amount available after the Sec-
17 retary determines that amounts for payments under sec-
18 tion 9006 and section 9037 are available for such pay-
19 ments.”.

20 (b) CONFORMING AMENDMENT.—The second sen-
21 tence of section 9037(a) of such Code is amended by strik-
22 ing “section 9006(c) and for payments under section
23 9008(b)(3)” and inserting “section 9006”.

1 **SEC. 9. EFFECTIVE DATE.**

2 The amendments made by this Act shall apply with
3 respect to elections occurring after January 1, 2005.

○