

108TH CONGRESS
2D SESSION

S. 2828

To amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2004

Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. LIEBERMAN, and Mr. SCHUMER) 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 define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, 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 “527 Reform Act of
5 2004”.

1 **SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.**

2 (a) DEFINITION OF POLITICAL COMMITTEE.—Sec-
 3 tion 301(4)(A) of the Federal Election Campaign Act of
 4 1971 (2 U.S.C. 431(4)(A)) is amended to read as follows:

5 “(A) any committee, club, association, or
 6 other group of persons that—

7 “(i) during one calendar year, receives
 8 contributions aggregating in excess of
 9 \$1,000 or makes expenditures aggregating
 10 in excess of \$1,000; and

11 “(ii) has as its major purpose the
 12 nomination or election of one or more can-
 13 didates;”.

14 (b) DEFINITION OF MAJOR PURPOSE FOR SECTION
 15 527 ORGANIZATIONS.—Title III of the Federal Election
 16 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
 17 by adding at the end the following new section:

18 **“SEC. 325. DEFINITIONS AND RULES FOR DETERMINING**
 19 **ORGANIZATIONS AND DISBURSEMENTS IN-**
 20 **FLUENCING FEDERAL ELECTIONS.**

21 “(a) MAJOR PURPOSE OF SECTION 527 ORGANIZA-
 22 TIONS.—For purposes of section 301(4)(A)—

23 “(1) IN GENERAL.—A committee, club, associa-
 24 tion, or group of persons that—

1 “(A) is an organization described in sec-
2 tion 527 of the Internal Revenue Code of 1986,
3 and

4 “(B) is not described in paragraph (2),
5 has as its major purpose the nomination or election
6 of one or more candidates.

7 “(2) EXCEPTED ORGANIZATIONS.—Subject to
8 paragraph (3), a committee, club, association, or
9 other group of persons described in this paragraph
10 is—

11 “(A) an organization described in section
12 527(i)(5) of the Internal Revenue Code of
13 1986, or

14 “(B) any other organization which is one
15 of the following:

16 “(i) A committee, club, association, or
17 other group of persons whose election or
18 nomination activities relate exclusively to
19 elections where no candidate for Federal
20 office appears on the ballot.

21 “(ii) A committee, club, association,
22 or other group of persons that is orga-
23 nized, operated, and makes disbursements
24 exclusively for one or more of the following
25 purposes:

1 “(I) Influencing the selection,
2 nomination, election, or appointment
3 of one or more candidates to non-Fed-
4 eral offices.

5 “(II) Influencing one or more
6 State or local ballot initiatives, State
7 or local referenda, State or local con-
8 stitutional amendments, State or local
9 bond issues, or other State or local
10 ballot issues.

11 “(III) Influencing the selection,
12 appointment, nomination, or con-
13 firmation of one or more individuals
14 to non-elected offices.

15 “(IV) Paying expenses described
16 in the last sentence of section
17 527(e)(2) of the Internal Revenue
18 Code of 1986 or expenses of a news-
19 letter fund described in section 527(g)
20 of such Code.

21 “(3) SECTION 527 ORGANIZATIONS MAKING
22 CERTAIN DISBURSEMENTS.—A committee, club, as-
23 sociation, or other group of persons described in
24 paragraph (2)(B) shall not be considered to be de-
25 scribed in such paragraph for purposes of paragraph

1 (1)(B) if it makes disbursements for a public com-
 2 munication that promotes, supports, attacks, or op-
 3 poses a clearly identified candidate for Federal office
 4 during the period beginning on the first day of the
 5 calendar year preceding the calendar year in which
 6 the general election for the office sought by the
 7 clearly identified candidate occurs and ending on the
 8 date of the general election.”.

9 **SEC. 3. CERTAIN EXPENSES BY MAJOR PURPOSE ORGANI-**
 10 **ZATIONS TREATED AS EXPENDITURES.**

11 (a) IN GENERAL.—Section 301(9)(A)(i) of the Fed-
 12 eral Election Campaign Act of 1971 (2 U.S.C.
 13 431(9)(A)(i)) is amended by inserting “, including any
 14 amount described in section 325(b)” after “office”.

15 (b) APPLICABLE COMMUNICATIONS.—Section 325 of
 16 the Federal Election Campaign Act of 1971 (as added by
 17 section 2(b)) is amended by adding at the end the fol-
 18 lowing new subsection:

19 “(b) CERTAIN EXPENDITURES FOR MAJOR PURPOSE
 20 ORGANIZATIONS.—

21 “(1) IN GENERAL.—Subject to paragraph (2), a
 22 purchase, payment, distribution, loan, advance, de-
 23 posit, or gift of money or anything of value for—

24 “(A) a public communication that refers to
 25 a clearly identified candidate for Federal office

1 or to a political party (regardless of whether a
 2 candidate for State or local office is also men-
 3 tioned or identified) and that promotes, sup-
 4 ports, attacks, or opposes a candidate for that
 5 office or a political party (regardless of whether
 6 the communication expressly advocates a vote
 7 for or against a candidate), or

8 “(B) voter registration activity, voter iden-
 9 tification, get-out-the-vote activity, or generic
 10 campaign activity conducted in connection with
 11 an election in which a candidate for Federal of-
 12 fice appears on the ballot (regardless of whether
 13 a candidate for State or local office also ap-
 14 pears on the ballot),

15 shall be an expenditure under section 301(9)(A)(i) if
 16 made by, or on behalf of, a political committee (as
 17 defined in section 301(4)) or a committee, club, as-
 18 sociation, or other group of persons for which the
 19 nomination or election of one or more candidates is
 20 its major purpose.

21 “(2) EXCEPTION.—Any funds used for pur-
 22 poses described in paragraph (1) that, in accordance
 23 with allocation rules set forth in section 325(c), are
 24 disbursed from a non-Federal account shall not be
 25 treated as expenditures.”.

1 **SEC. 4. RULES FOR ALLOCATION OF EXPENSES BETWEEN**
 2 **FEDERAL AND NON-FEDERAL ACTIVITIES.**

3 Section 325 of the Federal Election Campaign Act
 4 of 1971 (as added by section 2(b) and amended by section
 5 3) is amended by adding at the end the following:

6 “(c) ALLOCATION AND FUNDING RULES FOR EX-
 7 PENSES OF SEPARATE SEGREGATED FUNDS AND NON-
 8 CONNECTED COMMITTEES RELATING TO FEDERAL AND
 9 NON-FEDERAL ACTIVITIES.—

10 “(1) IN GENERAL.—In the case of any dis-
 11 bursements by any separate segregated fund or non-
 12 connected committee for which allocation rules are
 13 provided under paragraph (2)—

14 “(A) the disbursements shall be allocated
 15 between Federal and non-Federal accounts in
 16 accordance with this subsection and regulations
 17 prescribed by the Commission, and

18 “(B) in the case of disbursements allocated
 19 to non-Federal accounts, may be paid only from
 20 a qualified non-Federal account.

21 “(2) COSTS TO BE ALLOCATED AND ALLOCA-
 22 TION RULES.—Disbursements by any separate seg-
 23 regated fund or nonconnected committee in connec-
 24 tion with Federal and non-Federal elections for any
 25 of the following categories of activity shall be allo-
 26 cated as follows:

1 “(A) At least 50 percent of any adminis-
2 trative expenses, including rent, utilities, office
3 supplies, and salaries not attributable to a
4 clearly identified candidate shall be paid with
5 funds from a Federal account, except that for
6 a separate segregated fund such expenses may
7 be paid instead by its connected organization.

8 “(B) At least 50 percent of the direct costs
9 of a fundraising program or event, including
10 disbursements for solicitation of funds and for
11 planning and administration of actual fund-
12 raising events, where Federal and non-Federal
13 funds are collected through such program or
14 event shall be paid with funds from a Federal
15 account, except that for a separate segregated
16 fund such costs may be paid instead by its con-
17 nected organization.

18 “(C) At least 50 percent of the expenses
19 for public communications or voter drive activi-
20 ties that refer to a political party, but do not
21 refer to any clearly identified Federal or non-
22 Federal candidate, shall be paid with funds
23 from a Federal account.

24 “(D) 100 percent of the expenses for pub-
25 lic communications or voter drive activities that

1 refer to a political party, and refer to one or
2 more clearly identified Federal candidates, but
3 do not refer to any clearly identified non-Fed-
4 eral candidates, shall be paid with funds from
5 a Federal account.

6 “(E) At least 50 percent of the expenses
7 for public communications or voter drive activi-
8 ties that refer to a political party, and refer to
9 one or more clearly identified non-Federal can-
10 didates, but do not refer to any clearly identi-
11 fied Federal candidates, shall be paid with
12 funds from a Federal account, except that this
13 subparagraph shall not apply to communica-
14 tions or activities that relate exclusively to elec-
15 tions where no candidate for Federal office ap-
16 pears on the ballot.

17 “(F) At least 50 percent of the expenses
18 for public communications and voter drive ac-
19 tivities that refer to one or more clearly identi-
20 fied candidates for Federal office and one or
21 more clearly defined non-Federal candidates,
22 without regard to whether the communication
23 refers to a political party, shall be paid with
24 funds from a Federal account.

1 “(3) QUALIFIED NON-FEDERAL ACCOUNT.—For
2 purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 non-Federal account’ means an account which
5 consists solely of amounts—

6 “(i) that, subject to the limitations of
7 subparagraphs (B) and (C), are raised by
8 the separate segregated fund or noncon-
9 nected committee only from individuals,
10 and

11 “(ii) with respect to which all other
12 requirements of Federal, State, or local
13 law are met.

14 “(B) LIMITATION ON INDIVIDUAL DONA-
15 TIONS.—

16 “(i) IN GENERAL.—A separate seg-
17 regated fund or nonconnected committee
18 may not accept more than \$25,000 in
19 funds for its qualified non-Federal account
20 from any one individual in any calendar
21 year.

22 “(ii) AFFILIATION.—For purposes of
23 this subparagraph, all qualified non-Fed-
24 eral accounts of separate segregated funds
25 or nonconnected committees which are di-

rectly or indirectly established, financed,
maintained, or controlled by the same per-
son or persons shall be treated as one ac-
count.

“(C) FUNDRAISING LIMITATION.—No do-
nation to a qualified non-Federal account may
be solicited, received, directed, transferred, or
spent by or in the name of any person described
in subsection (a) or (e) of section 323.

“(4) VOTER DRIVE ACTIVITY AND FEDERAL AC-
COUNT DEFINED.—For purposes of this sub-
section—

“(A) VOTER DRIVE ACTIVITY.—The term
‘voter drive activity’ means any of the following
activities conducted in connection with an elec-
tion in which a candidate for Federal office ap-
pears on the ballot (regardless of whether a
candidate for State or local office also appears
on the ballot):

“(i) Voter registration activity.

“(ii) Voter identification.

“(iii) Get-out-the-vote activity.

“(iv) Generic campaign activity.

“(B) FEDERAL ACCOUNT.—The term
‘Federal account’ means an account which con-

1 sists solely of contributions subject to the limi-
2 tations, prohibitions, and reporting require-
3 ments of this Act. Nothing in this subsection or
4 in section 323(b)(2)(B)(iii) shall be construed
5 to infer that a limit other than the limit under
6 section 315(a)(1)(C) applies to contributions to
7 the account.”.

8 **SEC. 5. CONSTRUCTION.**

9 No provision of this Act, or amendment made by this
10 Act, shall be construed—

11 (1) as approving, ratifying, or endorsing a regu-
12 lation promulgated by the Federal Election Commis-
13 sion, or

14 (2) as establishing, modifying, or otherwise af-
15 fecting the definition of political organization for
16 purposes of the Internal Revenue Code of 1986.

17 **SEC. 6. EFFECTIVE DATE.**

18 The amendments made by this Act shall take effect
19 on January 1, 2005.

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