Public Law 94-283
94th Congress

An Act

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

May 11, 1976
[S. 3065]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Election Campaign Act Amendments of 1976.
2 USC 431 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed— Term.

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Vacancies.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, is amended by adding at the end thereof

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Conflict-of-interest.

the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

26 USC 9001, 9031.
Jurisdiction.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

Guidelines, approval.

Post, p. 481.

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service".

Presidential appointments.
2 USC 437c note.

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until new members are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 23, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual

serving as a member of such Commission on the date of the enactment of this Act.

Transfer of personnel and property.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Act as such title existed on January 1, 1976, or under any other provision of law, are transferred to such Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

2 USC 431.

2 USC 431 note.

(2)(A) Except as provided in subparagraph (B), personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for 1 year after such transfer.

Savings provision.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, and opinions made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1), and which are consistent with the amendments made by this Act, shall continue in effect to the same extent as if such transfer had not occurred. Any rule or regulation proposed by such Commission before the date of the enactment of this Act shall be prescribed by such Commission only if, after such date of enactment, the rule or regulation is submitted to the Senate or the House of Representatives, as the case may be, in accordance with the provisions of section 315(c) of the Act (as redesignated by section 105), and it is not disapproved by the appropriate House of the Congress.

Proposed rules or regulations, submittal to Congress.

2 USC 437h.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission on the date of the enactment of this Act.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within 12 months after the date of the enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

2 USC 431 note.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract" and by striking out "expressed or implied,".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

26 USC 9001, 9031.

2 USC 434.

(d) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(1) by striking out "or" at the end of clause (E), and

(2) by inserting after clause (F) the following new clauses:

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors; or

"(H) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b); or

"(I) any honorarium (within the meaning of section 328);".

Post, p. 494.

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)), as amended by subsection (d), is amended by striking out "individual" where it appears after clause (I) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (C) the following: ", except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly

attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission";

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b); *Post*, p. 487. 2 USC 434.

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or 26 USC 9001, 9031.

"(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs: Definitions.

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976; 2 USC 431 note.

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means that (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Act (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$50".

(b) Section 302(c)(2) of the Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$50".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(d) Section 302(e)(1) of the Act, as redesignated by subsection (c), is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following new sentence: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceed $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14);

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and"; and

(4) by adding at the end thereof the following new sentence: "When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution. Statements.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure. Filing. Certification.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.". Indices of expenditures.

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively. 2 USC 437b–439c, 441.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out "a checking account" and inserting in lieu thereof the following: "a single checking account and such other accounts as the committee determines to maintain at its discretion".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code;" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and"; and 26 USC 9001, 9031.

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

Post, p. 483.

26 USC 9001, 9031.

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act and section 312(b) of the Act (2 U.S.C. 437f(a), 437f(b)), as redesignated by section 105, are amended to read as follows:

"SEC. 312. (a) The Commission shall render an advisory opinion, in writing, within a reasonable time in response to a written request by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party concerning the application of a general rule of law stated in the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a general rule of law prescribed as a rule or regulation by the Commission, to a specific factual situation. Any such general rule of law not stated in the Act or in chapter 95 or chapter 96 of the Internal Revenue Code of 1954 may be initially proposed by the Commission only as a rule or regulation pursuant to the procedures established by section 315(c). No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

Post, p. 486.

"(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.".

2 USC 437f note.

(b) The Commission shall, no later than 90 days after the date of the enactment of this Act, conform the advisory opinions issued before such date of enactment to the requirements established by section 312(a) of the Act, as amended by subsection (a) of this section. The provisions of section 312(b) of the Act, as amended by subsection (a) of this section, shall apply with respect to all advisory opinions issued before the date of the enactment of this Act as conformed to meet the requirements of section 312(a) of the Act, as amended by subsection (a) of this section.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

Complaints, filing. 26 USC 9001, 9031.

"(2) The Commission, upon receiving a complaint under paragraph (1), and if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or, if the Commission, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, has reason to believe that such a violation has occurred, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

Notification and investigation.

"(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election; *Ante*, p. 480.

"(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation

has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

Civil action. Penalty.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

Penalty.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

26 USC 9001, 9031. Violations, referral to Attorney General. *Post*, p. 494.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 329, or a knowing and willful violation of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in subparagraph (A).

Penalty.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

Penalty.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful

violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement. 26 USC 9001, 9031.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district. Subpenas.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia. Petitions, filing.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. Appeals.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent Report to the Commission.

Reports.

violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

Fines.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

Index of reports and statements.

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

Post, p. 487.

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

26 USC 9001, 9031.

(b) Section 315(c) of the Act (2 U.S.C. 438(c)), as redesignated by section 105, is amended—

(1) by inserting immediately after the second sentence of paragraph (2) the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

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

"Rule or regulation."

"(5) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

ADDITIONAL ENFORCEMENT AUTHORITY

Repeal.

SEC. 111. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 112. Title III of the Act (2 U.S.C. 431–441) is amended—

(1) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105; and

(2) by inserting immediately after section 319 (2 U.S.C. 439c), as redesignated by section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) No person shall make contributions— 2 USC 441a.

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multicandidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

"(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term 'multicandidate political committee' means a political committee which has been registered under section 303 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. "Multicandidate political committee." 2 USC 433.

"(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal cam-

paign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of the Internal Revenue Code of 1954. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

26 USC 9001, 9031.

"(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

26 USC 9003.
26 USC 9033.

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater

of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year. Publication in Federal Register.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and "Price index."

"(B) the term 'base period' means the calendar year 1974. "Base period."

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

Voting age population estimates, certification and publication in Federal Register.

"Voting age population."

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

Rules.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

2 USC 441b.

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"Labor organization."

"(b)(1) For the purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and

which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"Contribution or expenditure."

"(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the term 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

"(3) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) it shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be

so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

"(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

"(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

"Executive or administrative personnel."

"(7) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

2 USC 441c.

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321(b)(1).

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication— 2 USC 441d.

"(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2). 2 USC 433.

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national. 2 USC 441e.

"(b) As used in this section, the term 'foreign national' means— "Foreign national."

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

2 USC 441f. "SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

2 USC 441g. "SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

2 USC 441h. "SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

2 USC 441i. "SEC. 328. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

"PENALTY FOR VIOLATIONS

2 USC 441j. "SEC. 329. (a) Any person, following the date of the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than 1 year, or both. In the case of a knowing and willful violation of section 321(b)(3), including such a violation of the provisions of such section as applicable through section 322(b), of section 325, or of section 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect. 26 USC 9001, 9031. *Ante*, p. 483.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313;

"(2) the conciliation agreement is in effect; and

"(3) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 113. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $6,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 114. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability. 2 USC 441 note.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 115. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)". 26 USC 9002.

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)". 26 USC 9032.

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such subsection and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, as amended by section 202(c), is amended—

(1) by striking out "608(c) of this title" in paragraph (f)(4)(I) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in paragraph (f)(4)(j) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in paragraph (k) and inserting in lieu thereof "309(a)".

(h) Section 301(n) of the Act (2 U.S.C. 431(n)) is amended by striking out "302(f)(1)" and inserting in lieu thereof "302(e)(1)".

(i) The third sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out "97" and inserting in lieu thereof "96".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and inserting in lieu thereof "and 602".

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the

election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b) of the Federal Election Campaign Act of 1971".

2 USC 431 note. 26 USC 9001, 9031.

Ante, p. 480.

(c) Section 591(f)(4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b) of the Federal Election Campaign Act of 1971;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

26 USC 9004.

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

26 USC 9006.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

Effective date.
26 USC 9004 note.
26 USC 9004.

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as added by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

26 USC 9006.

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

26 USC 9008, 9037.

PROVISION OF LEGAL OR ACCOUNTING SERVICES

26 USC 9008.

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

Compensation.

"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.".

REVIEW OF REGULATIONS

26 USC 9009.

SEC. 304. (a) Section 9009(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

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

"Rule or regulation."

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

(b) Section 9039(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended— 26 USC 9039.

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

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

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law." "Rule or regulation."

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended— 26 USC 9035.

(1) in the heading thereof, by striking out "**LIMITATION**" and inserting in lieu thereof "**LIMITATIONS**";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons." "Immediate family."

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item: 26 USC 9031.

"SEC. 9035. Qualified campaign expense limitations.".

(c) Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations". 26 USC 9033.

(d) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account. Effective date. 26 USC 9035 note. 26 USC 9035.

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 306. (a)(1) Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the 26 USC 9002.

following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.".

26 USC 9003. (2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last 26 USC 9002. sentence of section 9002(2), such individual—

"(1) shall no longer be eligible to receive any payments under *Ante*, p. 498. section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

"(2) shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.".

26 USC 9032. (b)(1) Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".

26 USC 9033. (2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS.—

"(1) GENERAL RULE.—Except as provided by paragraph (2), 26 USC 9037. no payment shall be made to any individual under section 9037—

"(A) if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or

"(B) more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

"(2) QUALIFIED CAMPAIGN EXPENSES; PAYMENTS TO SECRETARY.—Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to receive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).

"(3) CALCULATION OF VOTING PERCENTAGE.—For purposes of paragraph (1)(B), if the primary elections involved are held in

more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

"(4) REESTABLISHMENT OF ELIGIBILITY.—

"(A) In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1)(A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a). 26 USC 9037. Determination by Commission.

"(B) Notwithstanding the provisions of paragraph (1)(B), a candidate whose payments have been terminated under paragraph (1)(B) may again receive payments (including amounts he would have received but for paragraph (1)(B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act. Effective date. 26 USC 9002 note.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended— 26 USC 9008.

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and 2 USC 439c.

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971". 26 USC 9034.

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code" and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971". 26 USC 9035.

(d) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971". 26 USC 9004.

26 USC 9007. (e) Section 9007(b)(3) of the Internal Revenue Code of 1954 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

26 USC 9012. (f) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

Approved May 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-917 accompanying H.R. 12406 (Comm. on House Administration) and No. 94-1057 (Comm. of Conference).
SENATE REPORT No. 94-677 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Mar. 15-18, 23, 24, considered and passed Senate.
Apr. 1, considered and passed House, amended, in lieu of H.R. 12406.
May 3, House agreed to conference report.
May 4, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 20:
May 11, Presidential statement.

Public Law 94-284
94th Congress

An Act

To amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes.

May 11, 1976
[S. 644]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consumer Product Safety Commission Improvements Act of 1976.
15 USC 2051 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Consumer Product Safety Commission Improvements Act of 1976".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, not to exceed— 15 USC 2076.

"(1) $51,000,000 for the fiscal year ending June 30, 1976;

"(2) $14,000,000 for the period beginning July 1, 1976, and ending September 30, 1976;

"(3) $60,000,000 for the fiscal year ending September 30, 1977; and

"(4) $68,000,000 for the fiscal year ending September 30, 1978.".

LIMITATIONS ON JURISDICTION

SEC. 3. (a) Section 2(2) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471(2)) is amended by (1) striking out subparagraph (B), and (2) redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) Section 3(a)(1)(D) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(D)) is amended by striking out "economic poisons" and inserting in lieu thereof "pesticides".

(c) Section 2(f)2 of the Federal Hazardous Substances Act (15 U.S.C. 1261(f)(2)) is amended by inserting immediately before "but such term" the following: "nor to tobacco and tobacco products,".

(d) Section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)) is amended by (1) inserting "other" before "limitations" in the last sentence, and (2) inserting before such sentence the following: "Except for the regulation under this Act or the Federal Hazardous Substances Act of fireworks devices or any substance intended for use as a component of any such device, the Commission shall have no authority under the functions transferred pursuant to section 30 of this Act to regulate any product or article described in subparagraph (E) of this paragraph or described, without regard to quantity, in section 845(a)(5) of title 18, United States Code.". 15 USC 2079.

Manufacture or sale of firearms. 15 USC 2080 note.

(e) The Consumer Product Safety Commission shall make no ruling or order that restricts the manufacture or sale of firearms, firearms ammunition, or components of firearms ammunition, including black powder or gunpowder for firearms.

(f) The second sentence of section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)) is amended by (1) striking out "of the Administrator of the Environmental Protection Agency and"; and (2) striking out "Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970" and inserting in lieu thereof "Federal Food, Drug, and Cosmetic Act (15 U.S.C. 301 et seq.)".

21 USC 301.

BUDGET AND EMPLOYEE PROVISIONS

SEC. 4. (a) Section 4(f) of the Consumer Product Safety Act (15 U.S.C. 2053(f)) is amended by adding at the end thereof the following new paragraph:

"(3) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairman without the prior approval of the Commission.".

(b) Section 4(g) of such Act (15 U.S.C. 2053(g)) is amended by (1) striking out "full-time" in paragraph (2) and inserting in lieu thereof "regular", and (2) adding after such paragraph the following new paragraphs:

"(3) In addition to the number of positions authorized by section 5108(a) of title 5, United States Code, the Chairman, subject to the approval of the Commission, and subject to the standards and procedures prescribed by chapter 51 of title 5, United States Code, may place a total of twelve positions in grades GS-16, GS-17, and GS-18.

5 USC 5101 *et seq.*
5 USC 5332 note.

"(4) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President."

ACCOUNTABILITY

SEC. 5. (a) Section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) is amended by adding at the end the following new subsection:

"(i) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1978, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1978, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encour-

aging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable.".

(b) Section 32 of such Act (15 U.S.C. 2081) is amended by adding at the end the following new subsection:

"(c) No funds appropriated under subsection (a) may be used to pay any claim described in section 4(i) whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.".

SAMPLING PLANS

SEC. 6. Section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)) is amended by (1) inserting "(1)" immediately after "(a)", (2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and (3) adding at the end the following new paragraph:

"(2) No consumer product safety standard promulgated under this section shall require, incorporate, or reference any sampling plan. The preceding sentence shall not apply with respect to any consumer product safety standard or other agency action of the Commission under this Act (A) applicable to a fabric, related material, or product which is subject to a flammability standard or for which a flammability standard or other regulation may be promulgated under the Flammable Fabrics Act, or (B) which is or may be applicable to glass containers.". 15 USC 1191 note.

STANDARDS DEVELOPMENT

SEC. 7. (a) The last sentence of section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended to read as follows: "An invitation under paragraph (4)(B) shall specify the period of time in which the offeror of an accepted offer is to develop the proposed standard. The period specified shall be a period ending 150 days after the date the offer is accepted unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.".

(b) Section 7(e)(1) of such Act (15 U.S.C. 2056(e)(1)) is amended to read as follows:

"(e)(1) If the Commission publishes a notice pursuant to subsection (b) to commence a proceeding for the development of a consumer product safety standard for a consumer product and if— Notice.

"(A) the Commission does not, within 30 days after the date of publication of such notice, accept an offer to develop such a standard, or

"(B) the development period (specified in paragraph (3)) for such standard ends,

the Commission may develop a proposed consumer product safety rule respecting such product and publish such proposed rule.".

(c) Section 7(f) of such Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) to commence a proceeding for the development of a consumer product safety standard and if— Publication in Federal Register.

"(1) no offer to develop such a standard is submitted to, or, if such an offer is submitted to the Commission, no such offer is accepted by, the Commission within a period of 60 days from the publication of such notice (or within such longer period as the

Commission may prescribe by a notice published in the Federal Register stating good cause therefor), the Commission shall—

"(A) by notice published in the Federal Register terminate the proceeding begun by the subsection (b) notice, or

"(B) develop proposals for a consumer product safety rule for a consumer product identified in the subsection (b) notice and within a period of 150 days (or within such longer period as the Commission may prescribe by a notice published in the Federal Register stating good cause therefor) from the expiration of the 60-day (or longer) period—

"(i) by notice published in the Federal Register terminate the proceeding begun by the subsection (b) notice, or

"(ii) publish a proposed consumer product safety rule; or

"(2) an offer to develop such a standard is submitted to and accepted by the Commission within the 60-day (or longer) period, then not later than 210 days (or such later time as the Commission may prescribe by notice published in the Federal Register stating good cause therefor) after the date of the acceptance of such offer the Commission shall take the action described in clause (i) or (ii) of paragraph (1)(B).".

ADVANCE PAYMENTS; RENT

SEC. 8. (a) Section 7(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(2)) is amended by adding at the end thereof the following: "Payments under agreements entered into under this paragraph may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).".

(b) Section 27(b) of such Act (15 U.S.C. 2076(b)) is amended by—

(1) striking out "and" at the end of paragraph (7), and

(2) redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

"(8) to lease buildings or parts of buildings in the District of Columbia, without regard to the Act of March 3, 1877 (40 U.S.C. 34), for the use of the Commission; and".

CONSIDERATION OF THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

SEC. 9. Section 9(b) of the Consumer Product Safety Act (15 U.S.C. 2058(b)) is amended by adding at the end the following new sentence: "In the promulgation of such a rule the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule.".

ATTORNEYS' AND EXPERT WITNESSES' FEES

SEC. 10. (a) Section 10(e) of the Consumer Product Safety Act (15 U.S.C. 2059(e)) is amended by adding after paragraph (3) the following new paragraph:

"(4) In any action under this subsection the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28, United States Code, or any other provision of law. For purposes of this

paragraph and sections 11(c), 23(a), and 24, a reasonable attorney's fee is a fee (A) which is based upon (i) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection, and (ii) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (B) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.". 15 USC 2060, 2072, 2073.

(b) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by inserting after the first sentence the following: "A court may in the interest of justice include in such relief an award of the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4) and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28, United States Code, or any other provision of law.".

(c) Section 23(a) of such Act (15 U.S.C. 2072(a)) is amended (1) by striking out "and shall" and inserting in lieu thereof "shall", and (2) by striking out ", and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court." and inserting in lieu thereof ", and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees.".

(d) Section 24 of such Act (15 U.S.C. 2073) is amended by striking out the last sentence and inserting in lieu thereof the following: "In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees.".

CIVIL LITIGATION

SEC. 11. (a) The third sentence of section 11(a) of the Consumer Product Safety Act (15 U.S.C. 2060(a)) is amended to read as follows: "The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28, United States Code.".

(b) The second sentence of section 22(a) of such Act (15 U.S.C. 2071(a)) is amended by striking out "(with the concurrence of the Attorney General)" and inserting in lieu thereof "(without regard to section 27(b)(7)(A))".

(c) Section 27(b)(7) of such Act (15 U.S.C. 2076(b)(7)) is amended to read as follows:

"(7) to—

"(A) initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and

"(B) initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action,

for the purpose of enforcing the laws subject to its jurisdiction;".