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Campaign Finance Bills in the 105th Congress: Comparison of H.R. 2183 (Hutchinson-Allen), H.R. 3526 (Shays-Meehan), and Current Law

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Summary

As pledged by Speaker Gingrich, the House renewed consideration of campaign finance reform in May 1998. The principal bill is H.R. 2183, known as the freshman bipartisan bill, introduced July 17, 1997, by Messrs. Hutchinson and Allen. Selected floor amendments and substitutes will be in order. The legislation that has generated the most publicity in the 105th Congress has been the McCain-Feingold bill (S. 25), offered on March 19, 1998, as H.R. 3526 by Messrs. Shays and Meehan;¹ this has also been offered as substitute amendment no. 13 to H.R. 2183 in the current debate. Table 1 highlights key differences between the two bills, and Table 2 summarizes and compares H.R. 2183, H.R. 3526, and current law.

Table 1. Key Differences between Freshman and Shays-Meehan Bills^a

Subject	Freshman bill	Shays-Meehan
Party soft money	Ban inter-state party transfers	Ban state party soft money spending on certain activities at some times
Non-party soft money	No provision	* Codify Beck decision * Increase disclosure * No party funds to tax-exempt groups

¹ The McCain-Feingold legislation has been revised twice in the 105th Congress. The first revision (September 29, 1997) was the subject of three failed cloture votes in the fall of 1997, on October 7, 8, and 9. The second revision (February 1998) was in the form of a floor amendment (to S. 1663), as modified by the Snowe-Jeffords amendment. (A cloture vote on this version failed in the Senate February 26, 1998.) The Shays-Meehan bill is based on the current version of S. 25, considered by the Senate in 1997, *not* February's modified floor amendment.

Subject	Freshman bill	Shays-Meehan
Issue advocacy	Disclosure only (of expenditures, not sources of funds)	Redefine express advocacy (apply all fed. limits, prohibitions & disclosure)
Hard (federal) money	* No party coordinated expenditure limits * Double individual aggregate limit * Index contribution limits	Minor increases in limits on individual giving to parties
Wealthy candidates	No provision	No party spending for candidate over \$50,000
Independent expenditures	No provision	* Tighten definitions * Ban party independent & coordinated spending for same candidate
Foreign nationals	No provision	Ban party soft money from foreign nationals
Fed. bldg. ban on fundraising	No provision	Include soft money in ban
Enforcement	No provision	Increase FEC authority

Table 2. Comparison of H.R. 2183, H.R. 3526, and Current Law^a

Current law	H.R. 2183 (Hutchinson-Allen)	H.R. 3526 (Shays-Meehan)
SOURCES OF FUNDS		
PACs		
Contribution limits not inflation-indexed	Indexes limits by CPI every presidential election year, rounded to nearest \$100	No provision
Individuals		
<i>To state & local parties:</i> \$5,000 per year	No provision	\$10,000 per year
<i>To national party:</i> \$20,000 per year	\$25,000 per year	No provision
<i>Aggregate annual limit:</i> \$25,000 to parties, candidates, & PACs	\$25,000 to all party committees, plus \$25,000 to candidates & PACs	\$30,000
Contribution limits not inflation-indexed	Indexes limits by CPI every presidential election year, rounded to nearest \$100	No provision
Parties		
<i>Coordinated expenditures</i> Party spending for general election candidates limited (1998: House race=\$65,100; \$130,200 in 1-district state)	Repeals coordinated expenditure limits	No provision

Current law	H.R. 2183 (Hutchinson-Allen)	H.R. 3526 (Shays-Meehan)
Contribution limits not inflation-indexed	Indexes limits by CPI every presidential election year, rounded to nearest \$100	No provision
Candidates		
No limits on candidate spending from personal funds	No provision	Bans party coordinated expenditures for House general election candidates who exceed \$50,000 volunt. limit on personal/family funds; fines candidates who pledge to abide & exceed
Law bans personal use of campaign funds, as defined in FEC regulations	No provision	Codifies regulations on permissible use of campaign funds
INDEPENDENT EXPENDITURES		
Prohibits cooperation & coordination of spenders with candidates	No provision	Tightens definition of what constitutes coordination & cooperation
Requires filing within 24 hours of \$1000+ in last 20 days of election	No provision	Increases frequency of disclosure of large amounts close to election
Based on 1996 <i>Colorado</i> ruling, parties may make independent expenditures for candidates (no limit)	No provision	Bans parties from making both coordinated & independent expenditures for a general election candidate
SOFT MONEY		
Party soft money		
No limits on national party receipt of soft money	Bans national parties from soliciting, receiving, directing, transferring, or spending soft money	Bans national parties from soliciting, receiving, directing, transferring, or spending soft money
State parties must follow allocation formulas in FEC regulations for determining appropriate share of hard & soft money for mixed (federal-state-local) activities	No provision	Bans state/local party soft money for <i>federal election activity</i> : registration drives in last 120 days of fed. election; voter ID, get-out-the-vote drives, & generic activity if federal candidate on ballot; & messages referring to fed. cand. with intent to influence election; allows soft money on solely non-federal activities
<i>Inter-state transfers</i> No provision	Bans transfers of non-federally-permissible funds between state parties	No provision
No provision	No provision	Bans use of soft money to raise funds

Current law	H.R. 2183 (Hutchinson-Allen)	H.R. 3526 (Shays-Meehan)
Disclosure by national parties (1991 FEC regs.)	No provision	Codifies & increases disclosure requirements
Contributions to party building funds are exempt from contribution definition	No provision	Removes building fund exemption for national parties
Candidate soft money raising		
No provision	Bans fed. candidates or officials raising: soft money for fed. elections; money from sources beyond fed. restrictions in nonfed. races; & soft money for messages referring to fed. candidates	Prohibits federal candidates & officials from raising soft money for <i>federal election activity</i> (see above)
	Exempts federal officials' own non-federal races	Exempts federal officials' own non-federal races
	Exempts attendance at state party events in home state	Exempts attendance at state party events
Non-party soft money		
Per <i>Beck</i> & other rulings, dues-paying non-union members have right to deny political use of their funds	No provision	Requires union adequate notice to dues-paying non-members of rights to deny political use of funds
No union or corporate disclosure for exempt activities, except for express advocacy internal communications above \$2,000 per election	No provision	Requires disclosure of all exempt activities (but incl. only those internal communications that refer to fed. candidates), once over \$50,000 aggregate per year
Tax-exempt activity		
No provision	No provision	Bans party fundraising or giving to tax-exempt groups
ISSUE ADVOCACY		
FECA NOT APPLICABLE * <i>Full coverage (disclosure, source limits, prohibitions)</i> Based on court rulings, only spending on communications that use express advocacy language (<i>e.g.</i> , "vote for" or "defeat") are subject fully to FECA	No provision	Expands express advocacy definition (hence triggers full FECA coverage) as communication for or against candidate by: explicit language that in context can have no other reasonable meaning; paid broadcast citing a candidate within 60 days of election; or unambiguous advocacy, taken as whole with limited reference to external events

Current law	H.R. 2183 (Hutchinson-Allen)	H.R. 3526 (Shays-Meehan)
* <i>Disclosure rules</i> None	Requires disclosure of expenditures on radio or TV communications referring to House/Senate candidates (by name, representation, or likeness), once over \$25,000 for 1, or \$100,000 for all, candidates per year	Requires full disclosure of spending & receipts, as FECA-covered activity
	Exempts corporate/union member communications & nonpartisan voter drives	Exempts nonpartisan voter guides
Expenditure defined in FECA as money spent to influence a federal election	No provision	Amends definition to incl. payment for message with express advocacy, or that refers to clearly identified candidate, is coordinated, & seeks fed. election influence
FOREIGN NATIONAL MONEY		
Bans contributions & fundraising from foreign nationals in connection with U.S. elections; exempts permanent resident aliens (with green cards)	No provision	Bans direct or indirect foreign national contributions, including soft money, in connection with any election (leaves green card exemption in law)
FEDERAL ELECTION COMMISSION		
Disclosure		
Optional electronic filing	Requires electronic filing by all committees above \$50,000 in receipts & expenditures per year, using FEC-provided free software	Requires electronic filing by all committees over FEC-set level, with 24-hour Internet posting
<i>Timing of candidate reports</i> In election year: quarterly, pre-primary, pre- & post-general election	Require monthly reports in election year, but in lieu of Nov. & Dec. reports, require pre- & post-general & year-end reports	No provision
<i>Timing of non-candidate reports</i> In election year, either: (1) quarterly, pre-primary, & pre- & post-general election; or (2) monthly, with pre- & post-general & year-end reports in lieu of Nov. & Dec.	Require monthly, pre-primary, & pre- & post-general election reports in election year, but in lieu of Nov. & Dec. reports, require pre- & post-general & year-end reports	No provision
<i>Itemization requirements</i> Contributions of over \$200 must incl. name, address, occupation, & employer, unless best efforts are made to obtain information	Excludes best efforts exemption regarding identification of occupation & employer, for contributions aggregating over \$200 per year	- Bans candidate deposit of over \$200 contributions without required ID - Lowers itemization threshold to \$50 for contributions

Current law	H.R. 2183 (Hutchinson-Allen)	H.R. 3526 (Shays-Meehan)
Enforcement		
FEC may audit only if it has reason to believe a violation occurred	No provision	Allows random audits of campaigns within 12 months after election
FEC may initiate enforcement action with “reason to believe” a violation may have occurred	No provision	Changes FEC criterion to “reason to investigate” standard
<i>Penalties:</i> maximums are prescribed in election law	No provision	<ul style="list-style-type: none"> - Increases penalties for violations - Allows automatic late filing penalties - Allows equitable remedies in conciliation agreements
Law specifies timetable for enforcement actions	No provision	Expedites FEC enforcement procedures late in election
FEC may refer suspected violations to Justice Dept. only if probable cause to believe a violation has occurred	No provision	Allows FEC referrals at any time
MISCELLANEOUS		
Bans solicitation of campaign funds, as defined, from federal govt. buildings	No provision	Includes raising soft money in ban on solicitation from government buildings
Bans House franked mass mailings 90 days from election	No provision	Bans franked mass mailings in Member’s election year
Requires disclaimers on broadcast & print ads	No provision	Enhances disclaimer requirements
No provision	No provision	Bans false representation to raise funds
No provision	No provision	Bans non-candidate comm. use of candidate names
No provision	No provision	Bans donations by those 17 years & younger

^a Abbreviations used in these tables:

- CPI = Consumer Price Index
- FEC = Federal Election Commission
- FECA = Federal Election Campaign Act
- ID = identification
- PAC = Political Action Committee