

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5676

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2006

Mr. SHAYS (for himself and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Federal Election Administration Act of 2006”.

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

Sec. 1. Short title; table of contents.

### TITLE I—FEDERAL ELECTION ADMINISTRATION

Sec. 101. Establishment of the Federal Election Administration.

- Sec. 102. Executive schedule positions.  
 Sec. 103. GAO examination of enforcement of campaign finance laws by the Department of Justice.  
 Sec. 104. GAO study and report on appropriate funding levels.  
 Sec. 105. Conforming amendments.  
 Sec. 106. Authorization of appropriations.

TITLE II—TRANSITION PROVISIONS

- Sec. 201. Transfer of functions of Federal Election Commission.  
 Sec. 202. Transfer of property, records, and personnel.  
 Sec. 203. Repeals.  
 Sec. 204. Conforming amendments.  
 Sec. 205. Effective date.

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

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

5               (a) IN GENERAL.—Title III of the Federal Election  
 6 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended  
 7 by adding at the end the following new subtitle:

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

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

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

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

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

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

6               “(1) This Act.

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

10              “(3) The Presidential Primary Matching Pay-  
11 ment Account Act under chapter 96 of the Internal  
12 Revenue Code of 1986.

13       “(d) EXCLUSIVE CIVIL JURISDICTION.—The Admin-  
14 istration shall have exclusive jurisdiction with respect to  
15 the civil enforcement of the statutes identified in sub-  
16 section (c).

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

22       “(f) MEETINGS AND QUORUM.—

23              “(1) MEETINGS.—The Administration shall  
24 meet—

25                      “(A) at least once each month; and

1                   “(B) at the call of the Chair.

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

4                   “(g) SEAL.—The Administration shall procure a  
5                   proper seal, with such suitable inscriptions and devices as  
6                   the President shall approve. This seal, to be known as the  
7                   official seal of the Federal Election Administration, shall  
8                   be kept and used to verify official documents, under such  
9                   rules and regulations as the Administration may prescribe.  
10                  Judicial notice shall be taken of the seal.

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

15                  **“SEC. 352. COMPOSITION OF THE FEDERAL ELECTION AD-**  
16                  **MINISTRATION.**

17                  “(a) IN GENERAL.—The Administration shall be  
18                  composed of 3 members, 1 of whom shall serve as the  
19                  Chair of the Administration. No member of the Adminis-  
20                  tration shall—

21                         “(1) be affiliated with the same political party  
22                         as any other member of the Administration while  
23                         serving as a member of the Administration; or

24                         “(2) have been affiliated with the same political  
25                         party as any other member of the Administration at

1 any time during the 5-year period ending on the  
2 date on which such individual is nominated to be a  
3 member of the Administration.

4 “(b) APPOINTMENT.—

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

8 “(2) CHAIR.—The President shall, at the time  
9 of nomination of the first 3 members of the Admin-  
10 istration, designate 1 of the 3 to serve as the Chair.  
11 Any individual appointed to succeed, or to fill the  
12 unexpired term of, that member (or any member  
13 succeeding that member) shall serve as the Chair.

14 “(3) QUALIFICATIONS.—

15 “(A) An individual who is appointed under  
16 paragraph (1) shall—

17 “(i) possess demonstrated integrity,  
18 independence, and public credibility; and

19 “(ii) shall have not less than 5 years  
20 professional experience in law enforcement,  
21 including such experience gained—

22 “(I) in service as a member of  
23 the judiciary;

24 “(II) as a member or an em-  
25 ployee of a Federal, State, or local

1 campaign finance or ethics enforce-  
2 ment agency; or

3 “(III) as a law enforcement offi-  
4 cial in a Federal or State enforcement  
5 agency or office.

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

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

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

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

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

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

24 “(IV) employed in a position in  
25 the executive branch of the Govern-

1                   ment of a confidential or policy-deter-  
2                   mining character under Schedule C of  
3                   subpart C of part 213 of title 5 of the  
4                   Code of Federal Regulations.

5           “(c) TERM OF OFFICE.—

6                   “(1) IN GENERAL.—

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

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

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

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

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

1           6-year term in addition to the term described in  
2           such subparagraph; and

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

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

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

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

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

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

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

4       **“SEC. 353. STAFF DIRECTOR.**

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

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

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

10              “(2) shall perform such responsibilities as the  
11 Administration shall prescribe; and

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

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

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

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

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

7       **“SEC. 354. GENERAL COUNSEL.**

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

10       “(b) RESPONSIBILITIES.—The general counsel  
11 shall—

12               “(1) serve as the chief legal officer of the Ad-  
13 ministration;

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

16               “(3) advise and assist the Administration in  
17 carrying out its responsibilities under section 361;  
18 and

19               “(4) represent the Administration in any pro-  
20 ceeding in court or before an administrative law  
21 judge.

22       “(c) APPOINTMENT.—The general counsel shall be  
23 appointed by the Chair, subject to approval by majority  
24 vote of the members of the Administration.

1 **“SEC. 355. INSPECTOR GENERAL.**

2 “There shall be in the Administration an inspector  
3 general. The inspector general and the office of inspector  
4 general shall be subject to the Inspector General Act of  
5 1978 (5 U.S.C. App.).

6 **“CHAPTER 2—OPERATION OF THE**  
7 **FEDERAL ELECTION ADMINISTRATION**

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

9 “(a) CHAIR.—

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

17 “(2) OTHER POWERS.—The Chair has the  
18 power—

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

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

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

8           “(D) to administer oaths or affirmations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           “(9) to transmit to the President and to Con-  
2           gress not later than June 1 of each year, a report  
3           which states in detail the activities of the Adminis-  
4           tration in carrying out its duties under this Act, and  
5           which includes any recommendations for any legisla-  
6           tive or other action the Administration considers ap-  
7           propriate.

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

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

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

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

4 **“SEC. 363. ADVISORY OPINIONS.**

5 “(a) REQUESTS FOR ADVISORY OPINIONS.—

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

15 “(2) REQUESTS BY CANDIDATES.—If an advi-  
16 sory opinion is requested by a candidate, or any au-  
17 thorized committee of such candidate, during the 60-  
18 day period before any election for Federal office in-  
19 volving the requesting party, the Administration  
20 shall render a written advisory opinion relating to  
21 such request not later than 20 days after the Ad-  
22 ministration receives a complete written request.

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

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

7 “(c) RELIANCE ON ADVISORY OPINIONS.—

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

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

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

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

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

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

11 “(e) JUDICIAL REVIEW.—

12 “(1) IN GENERAL.—Any person adversely af-  
13 fected by an advisory opinion rendered by the Ad-  
14 ministration may obtain judicial review of such advi-  
15 sory opinion by filing a petition in the United States  
16 Court of Appeals for the District of Columbia Cir-  
17 cuit.

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

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

23 “(a) ISSUANCE BY THE CHAIR.—If the Administra-  
24 tion is conducting an investigation pursuant to section 371  
25 or 372, the Chair shall, on behalf of the Administration,

1 have the power to require by subpoena the attendance and  
2 testimony of witnesses and the production of all documen-  
3 tary evidence relating to the execution of the Administra-  
4 tion's duties.

5       “(b) ISSUANCE BY AN ADMINISTRATIVE LAW  
6 JUDGE.—Any administrative law judge presiding over an  
7 enforcement action pursuant to section 373 shall have the  
8 power to require by subpoena the attendance and testi-  
9 mony of witnesses and the production of all documentary  
10 evidence relating to the administrative law judge's duties.

11       “(c) ISSUANCE AND ENFORCEMENT OF SUB-  
12 POENAS.—

13               “(1) ISSUANCE.—Subpoenas issued under sub-  
14 section (a) or (b) shall bear the signature of the  
15 Chair or an administrative law judge, respectively,  
16 and shall be served by any person or class of persons  
17 designated by the Chair or administrative law judge  
18 for that purpose.

19               “(2) ENFORCEMENT.—In the case of contu-  
20 macy or failure to obey a subpoena issued under  
21 subsection (a) or (b), the Federal district court for  
22 the judicial district in which the subpoenaed person  
23 resides, is served, or may be found may issue an  
24 order requiring such person to appear at any des-  
25 ignated place to testify or to produce documentary

1 or other evidence. Any failure to obey the order of  
2 the court may be punished by the court as a con-  
3 tempt of that court.

4 “(d) WITNESS ALLOWANCES AND FEES.—Section  
5 1821 of title 28, United States Code, shall apply to wit-  
6 nesses requested or subpoenaed to appear at any hearing  
7 of the Administration. The per diem and mileage allow-  
8 ances for witnesses shall be paid from funds available to  
9 pay the expenses of the Administration.

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

13 **“SEC. 365. RULEMAKING AUTHORITY.**

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

21 “(b) AUTHORITY TO PROMULGATE INDEPENDENT  
22 REGULATIONS.—Whenever the Administration promul-  
23 gates any regulation, it shall not be required to submit  
24 such regulation for review or approval to the President  
25 or the Office of Management and Budget.

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

5       “(d) FORMS.—

6           “(1) IN GENERAL.—The Administration shall  
7 prescribe forms necessary to implement this Act and  
8 chapters 95 and 96 of the Internal Revenue Code of  
9 1986.

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

16       “(e) RELIANCE UPON RULES AND REGULATIONS.—  
17 Notwithstanding any other provision of law, any person  
18 who relies upon any rule or regulation prescribed by the  
19 Administration in accordance with the provisions of this  
20 section and who acts in good faith in accordance with such  
21 rule or regulation shall not, as a result of such act, be  
22 subject to any sanction provided by this Act or by chapter  
23 95 or 96 of the Internal Revenue Code of 1986.

24       “(f) CONSULTATION WITH IRS.—In prescribing  
25 rules, regulations, and forms under this section, the Ad-

1 ministration and the Secretary of the Treasury shall con-  
2 sult and work together to promulgate rules, regulations,  
3 and forms which are mutually consistent. The Administra-  
4 tion shall report to Congress annually on the steps it has  
5 taken to comply with this subsection.

6 “(g) JUDICIAL REVIEW.—

7 “(1) IN GENERAL.—Any person adversely af-  
8 fected by a rule, regulation, or form promulgated by  
9 the Administration may obtain judicial review of  
10 such rule, regulation, or form by filing a petition in  
11 the United States Court of Appeals for the District  
12 of Columbia Circuit.

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

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

21 **“SEC. 366. LITIGATION AUTHORITY.**

22 “(a) IN GENERAL.—Notwithstanding sections 516  
23 and 518 of title 28, United States Code, and section 3106  
24 of title 5, United States Code, the Administration is au-  
25 thorized to bring, appear in, defend against, and appeal

1 any action instituted under this Act or chapter 95 or 96  
2 of the Internal Revenue Code of 1986, in any court ei-  
3 ther—

4 “(1) by attorneys employed by the Administra-  
5 tion; or

6 “(2) by counsel whom it may appoint, on a tem-  
7 porary basis as may be necessary for such purpose,  
8 without regard to the provisions of title 5, United  
9 States Code, governing appointments in the competi-  
10 tive service, and whose compensation it may fix  
11 without regard to the provisions of chapter 51 and  
12 subchapter III of chapter 53 of such title.

13 “(b) COMPENSATION OF APPOINTED COUNSEL.—  
14 The compensation of counsel appointed on a temporary  
15 basis under subsection (a)(2) shall be paid out of any  
16 funds otherwise available to pay the compensation of em-  
17 ployees of the Administration.

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

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

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

23 “(1) prepare, publish, and furnish to all persons  
24 required to file reports and statements under this

1 Act a manual recommending uniform methods of  
2 bookkeeping and reporting;

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

5 “(3) within 48 hours after the time of the re-  
6 ceipt by the Administration of reports and state-  
7 ments filed with the Administration, make them  
8 available for public inspection, and copying, at the  
9 expense of the person requesting such copying, ex-  
10 cept that any information copied from such reports  
11 or statements may not be sold or used by any person  
12 for the purpose of soliciting contributions or for  
13 commercial purposes, other than using the name and  
14 address of any political committee to solicit contribu-  
15 tions from such committee;

16 “(4) keep such designations, reports, and state-  
17 ments for a period of 10 years from the date of re-  
18 ceipt and maintain computerized records of such  
19 designations, reports, and statements thereafter;

20 “(5)(A) compile and maintain a cumulative  
21 index of designations, reports, and statements filed  
22 under this Act, publish the index at regular inter-  
23 vals, and make the index available for purchase di-  
24 rectly or by mail;

1           “(B) compile, maintain, and revise a separate  
2           cumulative index of reports and statements filed by  
3           multicandidate committees, including in such index a  
4           list of multicandidate committees; and

5           “(C) compile and maintain a list of multi-  
6           candidate committees, which shall be revised and  
7           made available monthly;

8           “(6) prepare and publish periodically lists of  
9           authorized committees which fail to file reports as  
10          required by this Act; and

11          “(7) serve as a national clearinghouse for the  
12          compilation of information and review of procedures  
13          with respect to the administration of Federal elec-  
14          tions.

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

22          “(c) CONTRACTS.—The Administration may enter  
23 into contracts for the purpose of performing the duties  
24 described in subsection (a).

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

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

7               “(2) information made available as a result of  
8 the application of paragraph (7) of such subsection  
9 shall be made available to the public only upon the  
10 payment of the cost thereof.

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

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

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

21       “(c) AUDITS AND FIELD EXAMINATIONS WHERE  
22 THRESHOLDS NOT MET.—

23               “(1) INTERNAL REVIEW.—The Administration  
24 shall conduct an internal review of reports filed by  
25 selected committees to determine if the reports filed

1 by a particular committee meet the threshold re-  
2 quirements for substantial compliance with the Act.  
3 Such thresholds for compliance shall be established  
4 by the Administration.

5 “(2) AUDITS AND FIELD EXAMINATIONS.—The  
6 Administration may vote to conduct an audit and  
7 field investigation of any committee which it deter-  
8 mines under paragraph (1) does not meet the  
9 threshold requirements established by the Adminis-  
10 tration. Such audits shall be commenced within 30  
11 days of such vote, except that any audit under the  
12 provisions of this subsection of an authorized com-  
13 mittee of a candidate shall be commenced within 6  
14 months of the election for which such committee is  
15 authorized.

16 “(d) RANDOM AUDITS.—

17 “(1) IN GENERAL.—In addition to any audits  
18 conducted under subsection (c), the Administration  
19 may, subject to paragraph (2), conduct audits of any  
20 committee selected at random to ensure compliance  
21 with this Act. The selection of any committee under  
22 this paragraph shall be based on standards and pro-  
23 cedures adopted by the Administration, except that  
24 in any calendar year such audits may be initiated

1 against no more than 3 percent of all authorized  
2 candidate campaign committees.

3 “(2) APPLICABLE RULES.—

4 “(A) IN GENERAL.—If the Administration  
5 selects a committee for audit under paragraph  
6 (1), the Administration shall promptly notify  
7 the committee of the selection and commence  
8 the audit within 30 days of the selection.

9 “(B) SPECIAL RULES FOR AUTHORIZED  
10 COMMITTEES.—If the committee selected under  
11 paragraph (1) is an authorized committee of a  
12 candidate, the audit—

13 “(i) shall be commenced and actively  
14 undertaken within 6 months of the election  
15 for which the committee is authorized; and

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

18 “(3) EXCEPTION.—This subsection shall not  
19 apply to an authorized committee of a candidate for  
20 President or Vice President subject to audit under  
21 section 9007 or 9038 of the Internal Revenue Code  
22 of 1986.

23 **“SEC. 369. CONGRESSIONAL OVERSIGHT.**

24 “Nothing in this Act shall be construed to limit, re-  
25 strict, or diminish any investigatory, informational, over-

1 sight, supervisory, or disciplinary authority or function of  
2 Congress or any committee of Congress with respect to  
3 elections for Federal office.

4 **“CHAPTER 3—ENFORCEMENT**

5 **“SEC. 371. INITIATION OF ENFORCEMENT ACTIONS BY AD-**  
6 **MINISTRATION.**

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

13 “(b) BASIS FOR FINDINGS.—The Administration  
14 may make a finding under subsection (a) based on any  
15 information available to the Administration, including the  
16 filing of a complaint under section 372.

17 “(c) NOTICE AND OPPORTUNITY TO DEMONSTRATE  
18 NO VIOLATION.—Prior to initiating an enforcement action  
19 under subsection (a), the Administration shall give any  
20 person under investigation notice and the opportunity to  
21 demonstrate that there are no reasonable grounds to be-  
22 lieve a violation has occurred or is about to occur, but the  
23 Administration’s decision on such matter shall not be sub-  
24 ject to judicial review.

1 **“SEC. 372. COMPLAINT TO INITIATE ENFORCEMENT AC-**  
2 **TION.**

3 “(a) **FILING OF COMPLAINT.**—

4 “(1) **IN GENERAL.**—Any person may file a com-  
5 plaint with the Administration alleging a violation of  
6 this Act or of chapter 95 or 96 of the Internal Rev-  
7 enue Code of 1986.

8 “(2) **TECHNICAL REQUIREMENTS.**—A complaint  
9 filed under paragraph (1) shall be—

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

12 “(B) notarized; and

13 “(C) made under penalty of perjury and  
14 subject to the provisions of section 1001 of title  
15 18, United States Code.

16 “(3) **ACTION BY THE ADMINISTRATION.**—Sub-  
17 ject to paragraph (4), based on the allegations in a  
18 complaint filed under paragraph (1), and such inves-  
19 tigations the Administration deems necessary and  
20 appropriate, the Administration may—

21 “(A) initiate a civil enforcement action  
22 under section 373 if the Administration finds  
23 reasonable grounds to believe a violation has oc-  
24 curred or is about to occur; or

25 “(B) dismiss the complaint.

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

6           “(5) RECOVERY OF COSTS.—Any person who  
7           has filed a complaint under paragraph (1) shall be  
8           entitled to recover from the Administration up to  
9           \$1,000 of the costs incurred in preparing and filing  
10          the complaint if, based on the complaint, the Admin-  
11          istration—

12                   “(A) makes a finding under section 373(a)  
13                   that a person has violated (or is about to vio-  
14                   late) the Act; or

15                   “(B) enters into a conciliation agreement  
16                   with a person under section 373(c).

17          “(b) NOTICE AND OPPORTUNITY TO DEMONSTRATE  
18          NO VIOLATION.—Prior to initiating an enforcement action  
19          under subsection (a)(3)(A), the Administration shall give  
20          any person named in a complaint notice and an oppor-  
21          tunity to demonstrate that there are no reasonable  
22          grounds to believe a violation described in such subsection  
23          has occurred or is about to occur, but the Administration’s  
24          determination under subsection (a)(3) shall not be subject  
25          to judicial review in an action brought by such person.

1           “(c) FAILURE BY THE ADMINISTRATION TO TAKE  
2 TIMELY ACTION.—

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

4                   “(A) dismisses a complaint filed under  
5 subsection (a); or

6                   “(B) fails to initiate a civil enforcement ac-  
7 tion under section 373 within 180 days of the  
8 filing of such a complaint, the person filing the  
9 complaint under subsection (a) may seek judi-  
10 cial review of the Administration’s dismissal, or  
11 failure to act, in Federal district court in the  
12 District of Columbia or in the district in which  
13 such person resides.

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

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

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

23           “(a) IN GENERAL.—The Administration shall have  
24 the authority to impose a civil monetary penalty under sec-  
25 tion 375, issue a cease-and-desist order under section 376,

1 or do both, if the Administration finds, by an order made  
2 on the record after notice and an opportunity for hearing  
3 before an administrative law judge pursuant to subchapter  
4 II of chapter 5 of title 5, United States Code, that a per-  
5 son has violated (or, in the case of a cease-and-desist  
6 order, has violated or is about to violate) this Act or chap-  
7 ter 95 or 96 of the Internal Revenue Code of 1986. The  
8 general counsel shall represent the Administration in any  
9 proceeding before an administrative law judge.

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

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

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

23 “(3) EFFECT OF FAILURE TO REQUEST A  
24 HEARING.—If no hearing is requested, the Adminis-  
25 tration shall make a finding on the charges, and

1 shall issue whatever relief the Administration deems  
2 appropriate under sections 375 and 376.

3 “(c) CONCILIATION.—

4 “(1) PROCEDURES FOR ENTERING INTO CON-  
5 CILIATION AGREEMENTS.—

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

19 “(B) INCLUSION OF CIVIL MONETARY PEN-  
20 ALTIES.—A conciliation agreement may include  
21 a requirement that the person involved in such  
22 conciliation shall pay a civil monetary penalty  
23 that does not exceed the amounts set forth in  
24 subsection (a) of section 375 or, in the case of  
25 a knowing and willful violation, the amounts set

1           forth in subsection (b) of such section. The con-  
2           ciliation agreement may also include the re-  
3           quirement that the person involved consent to  
4           the terms of a cease-and-desist order, as pro-  
5           vided in section 376.

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

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

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

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

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

1 administrative law judge shall constitute final agency action  
2 unless an appeal is taken under subsection (e).

3 “(e) APPEAL TO ADMINISTRATION.—

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

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

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

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

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

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

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

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

4           “(f) JUDICIAL REVIEW.—

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

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

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

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

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

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

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

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

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

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

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

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

25 “(d) REFERRAL TO ATTORNEY GENERAL.—

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

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

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

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

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

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

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

5 **“SEC. 377. COLLECTION.**

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

8 “(1) after the order making the assessment has  
9 become a final order and such person has not timely  
10 filed a petition for judicial review of the order in ac-  
11 cordance with section 373(f)(3) or if the order of the  
12 Administration is upheld after judicial review; or

13 “(2) after a court in an action brought under  
14 section 373(c)(3) has entered a final judgment no  
15 longer subject to appeal in favor of the Administra-  
16 tion, the Attorney General shall recover the amount  
17 assessed (plus interest at currently prevailing rates  
18 from the date of the expiration of the 30-day period  
19 referred to in section 373(f)(3) or the date of such  
20 final judgment, as the case may be) in an action  
21 brought in any appropriate district court of the  
22 United States. In such an action, the validity,  
23 amount, and appropriateness of such penalty shall  
24 not be subject to review.

1 **“SEC. 378. CONFIDENTIALITY.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **“SEC. 379. CRIMINAL PENALTIES.**

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

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

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

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

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

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

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

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

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

21 “(A) \$50,000; or

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

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

4           “(e) EFFECT OF CONCILIATION AGREEMENTS.—

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

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

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

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

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

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

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

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

14 **“SEC. 381. AUTHORIZATION OF APPROPRIATIONS.**

15 “For each fiscal year, there are authorized to be ap-  
16 propriated to the Administration such sums as may be  
17 necessary for the purpose of carrying out its functions  
18 under this Act and under chapters 95 and 96 of the Inter-  
19 nal Revenue Code of 1986.”.

20 **SEC. 102. EXECUTIVE SCHEDULE POSITIONS.**

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

24 “Chair, Federal Election Administration.”.

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

4 “Members (other than the Chair), Federal Elec-  
5 tion Administration.

6 “Staff Director, Federal Election Administra-  
7 tion.

8 “Inspector General, Federal Election Adminis-  
9 tration.”.

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

13 “General Counsel, Federal Election Administra-  
14 tion.”.

15 **SEC. 103. GAO EXAMINATION OF ENFORCEMENT OF CAM-**  
16 **PAIGN FINANCE LAWS BY THE DEPARTMENT**  
17 **OF JUSTICE.**

18 (a) EXAMINATION.—The Comptroller General of the  
19 United States shall conduct a thorough examination of the  
20 enforcement of the criminal provisions of the Federal  
21 Election Campaign Act of 1971 (2 U.S.C. 431 et seq.)  
22 and chapters 95 and 96 of the Internal Revenue Code of  
23 1986 by the Attorney General.

24 (b) REPORT.—Not later than 1 year after the date  
25 of enactment of this Act, the Comptroller General shall

1 submit to the Attorney General and Congress a report on  
2 the examination conducted under subsection (a) together  
3 with recommendations on how the Attorney General may  
4 improve the enforcement of the criminal provisions of the  
5 Federal Election Campaign Act of 1971 (2 U.S.C. 431  
6 et seq.) and chapters 95 and 96 of the Internal Revenue  
7 Code of 1986, including recommendations on the re-  
8 sources that the Attorney General would require to effec-  
9 tively enforce such criminal provisions.

10 **SEC. 104. GAO STUDY AND REPORT ON APPROPRIATE**  
11 **FUNDING LEVELS.**

12 (a) STUDY.—The Comptroller General of the United  
13 States shall conduct an ongoing study on the level of fund-  
14 ing that constitutes an adequate level of resources for the  
15 Federal Election Administration to competently execute  
16 the responsibilities imposed on the Administration by this  
17 Act.

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

1 **SEC. 105. CONFORMING AMENDMENTS.**

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

4 (1) in paragraph (1), by striking “and” after  
5 the semicolon;

6 (2) in paragraph (2), by striking the period and  
7 inserting “; and”; and

8 (3) by adding at the end the following new  
9 paragraph:

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

11 (b) COVERAGE UNDER INSPECTOR GENERAL ACT.—

12 Section 8G(a)(2) of the Inspector General Act of 1978 (5  
13 U.S.C. App.) is amended by striking “Federal Election  
14 Commission” and inserting “Federal Election Administra-  
15 tion”.

16 (c) COVERAGE OF PERSONNEL UNDER HATCH  
17 ACT.—Section 7323(b) of title 5, United States Code, is  
18 amended—

19 (1) in paragraph (1), by striking “Federal Elec-  
20 tion Commission” and inserting “Federal Election  
21 Administration”; and

22 (2) in paragraph (2)(B)(i)(I), by striking “Fed-  
23 eral Election Commission” and inserting “Federal  
24 Election Administration”.

25 (d) EXCLUSION FROM SENIOR EXECUTIVE SERV-  
26 ICE.—Section 3132(a)(1)(C) of title 5, United States

1 Code, is amended by striking “Federal Election Commis-  
2 sion” and inserting “Federal Election Administration”.

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

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

7 **TITLE II—TRANSITION**

8 **PROVISIONS**

9 **SEC. 201. TRANSFER OF FUNCTIONS OF FEDERAL ELEC-**  
10 **TION COMMISSION.**

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

16 **SEC. 202. TRANSFER OF PROPERTY, RECORDS, AND PER-**  
17 **SONNEL.**

18 (a) PROPERTY AND RECORDS.—The contracts, liabil-  
19 ities, records, property, and other assets and interests of,  
20 or made available in connection with, the offices and func-  
21 tions of the Federal Election Commission which are trans-  
22 ferred by this title are transferred to the Federal Election  
23 Administration.

24 (b) PERSONNEL.—The personnel employed in con-  
25 nection with the offices and functions of the Federal Elec-

1 tion Commission which are transferred by this title are  
2 transferred to the Federal Election Administration.

3 **SEC. 203. REPEALS.**

4 The following provisions of the Federal Election  
5 Campaign Act of 1971 are repealed:

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

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

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

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

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

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

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

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

14 **SEC. 204. CONFORMING AMENDMENTS.**

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

17 (1) in section 301, by striking paragraph (10)

18 and inserting the following:

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

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

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

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

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

11 (d) Section 103 of the Ethics in Government Act of  
12 1978 (5 U.S.C. App.) is amended—

13 (1) in subsection (e), by striking “the Federal  
14 Election Commission” and inserting “the Federal  
15 Election Administration”; and

16 (2) in subsection (k), by striking “the Federal  
17 Election Commission” and inserting “the Federal  
18 Election Administration”.

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

21 “(3) The term ‘Administration’ means the Fed-  
22 eral Election Administration established under sec-  
23 tion 351 of the Federal Election Campaign Act of  
24 1971.”.

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

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

6                   “(3) The term ‘Administration’ means the Fed-  
7 eral Election Administration established under sec-  
8 tion 351 of the Federal Election Campaign Act of  
9 1971.”.

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

13          (g) Section 3(c) of the Voting Accessibility for the  
14 Elderly and Handicapped Act (42 U.S.C. 1973ee-1(c)) is  
15 amended—

16               (1) in paragraph (1)—

17                   (A) by striking “Federal Election Commis-  
18 sion” and inserting “Federal Election Adminis-  
19 tration”; and

20                   (B) by striking “Commission” and insert-  
21 ing “Administration”; and

22               (2) in paragraph (2), by striking “Federal Elec-  
23 tion Commission” and inserting “Federal Election  
24 Administration”.

1 **SEC. 205. EFFECTIVE DATE.**

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

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

○