S. 1285

To reform the financing of Senate elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2007

Mr. DURBIN (for himself, Mr. SPECTER, Mr. FEINGOLD, and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To reform the financing of Senate elections, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Fair Elections Now Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS

Subtitle A—Fair Elections Financing Program

Sec. 101. Findings and declarations.
Sec. 102. Eligibility requirements and benefits of fair elections financing of Senate election campaigns.

"TITLE V—FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS

"Sec. 501. Definitions.
"Sec. 502. Senate Fair Elections Fund.
"Sec. 503. Eligibility for allocations from the Fund.
"Sec. 504. Seed money contribution requirement.
"Sec. 505. Qualifying contribution requirement.
"Sec. 506. Contribution and expenditure requirements.
"Sec. 507. Debate requirement.
"Sec. 508. Certification by Commission.
"Sec. 509. Benefits for participating candidates.
"Sec. 510. Allocations from the Fund.
"Sec. 511. Payment of fair fight funds.
"Sec. 512. Administration of the Senate fair elections system.
"Sec. 513. Violations and penalties.

Sec. 103. Reporting requirements for nonparticipating candidates.
Sec. 104. Modification of electioneering communication reporting requirements.
Sec. 105. Limitation on coordinated expenditures by political party committees with participating candidates.

Sec. 106. Audits.

Subtitle B—Senate Fair Elections Fund Revenues

Sec. 111. Deposit of proceeds from recovered spectrum auctions.

Subtitle C—Fair Elections Review Commission

Sec. 121. Establishment of Commission.
Sec. 122. Structure and membership of the commission.
Sec. 123. Powers of the Commission.
Sec. 124. Administration.
Sec. 125. Authorization of appropriations.
Sec. 126. Expedited consideration of Commission recommendations.

TITLE II—VOTER INFORMATION

Sec. 201. Broadcasts relating to candidates.
Sec. 202. Political advertisement vouchers for participating candidates.
Sec. 203. FCC to prescribe standardized form for reporting candidate campaign ads.
Sec. 204. Limit on Congressional use of the franking privilege.

TITLE III—RESPONSIBILITIES OF THE FEDERAL ELECTION COMMISSION

Sec. 301. Petition for certiorari.
Sec. 302. Filing by Senate candidates with Commission.
Sec. 303. Electronic filing of FEC reports.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Severability.
Sec. 402. Review of constitutional issues.
Sec. 403. Effective date.
TITLE I—FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS
Subtitle A—Fair Elections Financing Program

SEC. 101. FINDINGS AND DECLARATIONS.
(a) UNDERMINING OF DEMOCRACY BY CAMPAIGN CONTRIBUTIONS FROM PRIVATE SOURCES.—The Senate finds and declares that the current system of privately financed campaigns for election to the United States Senate has the capacity, and is often perceived by the public, to undermine democracy in the United States by—

(1) creating a conflict of interest, perceived or real, by encouraging Senators to accept large campaign contributions from private interests that are directly affected by Federal legislation;

(2) diminishing or giving the appearance of diminishing a Senator’s accountability to constituents by compelling legislators to be accountable to the major contributors who finance their election campaigns;

(3) violating the democratic principle of “one person, one vote” and diminishing the meaning of the right to vote by allowing monied interests to
have a disproportionate and unfair influence within
the political process;

(4) imposing large, unwarranted costs on tax-
payers through legislative and regulatory outcomes
shaped by unequal access to lawmakers for cam-
paign contributors;

(5) driving up the cost of election campaigns,
making it difficult for qualified candidates without
personal wealth or access to campaign contributions
from monied individuals and interest groups to
mount competitive Senate election campaigns;

(6) disadvantaging challengers, because large
campaign contributors tend to donate their money to
incumbent Senators, thus causing Senate elections
to be less competitive; and

(7) burdening incumbents with a preoccupation
with fundraising and thus decreasing the time avail-
able to carry out their public responsibilities.

(b) ENHANCEMENT OF DEMOCRACY BY PROVIDING
ALLOCATIONS FROM THE SENATE FAIR ELECTIONS
FUND.—The Senate finds and declares that providing the
option of the replacement of private campaign contribu-
tions with allocations from the Senate Fair Elections
Fund for all primary, runoff, and general elections to the
Senate would enhance American democracy by—
(1) eliminating the potentially inherent conflict of interest created by the private financing of the election campaigns of public officials, thus restoring public confidence in the integrity and fairness of the electoral and legislative processes;

(2) increasing the public’s confidence in the accountability of Senators to the constituents who elect them;

(3) helping to eliminate access to wealth as a determinant of a citizen’s influence within the political process and to restore meaning to the principle of “one person, one vote”;

(4) reversing the escalating cost of elections and saving taxpayers billions of dollars that are (or that are perceived to be) currently allocated based upon legislative and regulatory agendas skewed by the influence of campaign contributions;

(5) creating a more level playing field for incumbents and challengers by creating genuine opportunities for all Americans to run for the Senate and by encouraging more competitive elections; and

(6) freeing Senators from the incessant preoccupation with raising money, and allowing them more time to carry out their public responsibilities.
SEC. 102. ELIGIBILITY REQUIREMENTS AND BENEFITS OF FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

“TITLE V—FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS

“SEC. 501. DEFINITIONS.

“In this title:

“(1) ALLOCATION FROM THE FUND.—The term ‘allocation from the Fund’ means an allocation of money from the Senate Fair Elections Fund to a participating candidate pursuant to sections 510 and 511.

“(2) FAIR ELECTIONS QUALIFYING PERIOD.—The term ‘fair elections qualifying period’ means, with respect to any candidate for Senator, the period—

“(A) beginning on the date on which the candidate files a statement of intent under section 503(a)(1); and

“(B) ending on the date that is 30 days before—
“(i) the date of the primary election;

or

“(ii) in the case of a State that does not hold a primary election, the date prescribed by State law as the last day to qualify for a position on the general election ballot.

“(3) FAIR ELECTIONS START DATE.—The term ‘fair elections start date’ means, with respect to any candidate, the date that is 180 days before—

“(A) the date of the primary election; or

“(B) in the case of a State that does not hold a primary election, the date prescribed by State law as the last day to qualify for a position on the general election ballot.

“(4) FUND.—The term ‘Fund’ means the Senate Fair Elections Fund established by section 502.

“(5) IMMEDIATE FAMILY.—The term ‘immediate family’ means, with respect to any candidate—

“(A) the candidate’s spouse;

“(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate’s spouse; and
“(C) the spouse of any person described in subparagraph (B).

“(6) INDEPENDENT CANDIDATE.—The term ‘independent candidate’ means a candidate for Senator who is—

“(A) not affiliated with any political party; or

“(B) affiliated with a political party that—

“(i) in the case of a candidate in a State that holds a primary election for Senator, does not hold a primary election for Senator; or

“(ii) in the case of a candidate in a State that does not hold primary election for Senator, does not have ballot status in such State.

“(7) MAJOR PARTY CANDIDATE.—

“(A) IN GENERAL.—The term ‘major party candidate’ means a candidate for Senator who is affiliated with a major political party.

“(B) MAJOR POLITICAL PARTY.—The term ‘major political party’ means, with respect to any State, a political party of which a candidate for the office of Senator, President, or Governor in the preceding 5 years, received, as a can-
didate of that party in such State, 25 percent or more of the total number of popular votes cast for such office in such State.

“(8) MINOR PARTY CANDIDATE.—The term ‘minor party candidate’ means a candidate for Senator who is affiliated with a political party that—

“(A) holds a primary for Senate nominations; and

“(B) is not a major political party.

“(9) NONPARTICIPATING CANDIDATE.—The term ‘nonparticipating candidate’ means a candidate for Senator who is not a participating candidate.

“(10) PARTICIPATING CANDIDATE.—The term ‘participating candidate’ means a candidate for Senator who is certified under section 508 as being eligible to receive an allocation from the Fund.

“(11) QUALIFYING CONTRIBUTION.—The term ‘qualifying contribution’ means, with respect to a candidate, a contribution that—

“(A) is in the amount of $5 exactly;

“(B) is made by an individual who—

“(i) is a resident of the State with respect to which the candidate is seeking election; and
“(ii) is not prohibited from making a
contribution under this Act;
“(C) is made during the fair elections
qualifying period; and
“(D) meets the requirements of section
505(c).
“(12) SEED MONEY CONTRIBUTION.—The term
’seed money contribution’ means a contribution or
contributions by any 1 individual—
“(A) aggregating not more than $100; and
“(B) made to a candidate after the date of
the most recent previous election for the office
which the candidate is seeking and before the
date the candidate has been certified as a par-
ticipating candidate under section 508(a).

“SEC. 502. SENATE FAIR ELECTIONS FUND.
“(a) ESTABLISHMENT.—There is established in the
Treasury a fund to be known as the ‘Senate Fair Elections
Fund’.
“(b) AMOUNTS HELD BY FUND.—The Fund shall
consist of the following amounts:
“(1) PROCEEDS FROM RECOVERED SPEC-
TRUM.—Proceeds deposited into the Fund under
section 309(j)(8)(E)(ii)(II) of the Communications
Act of 1934.

“(3) Voluntary contributions.—Voluntary contributions to the fund.

“(4) Qualifying contributions, penalties, and other deposits.—Amounts deposited into the Fund under—

“(A) section 504(2) (relating to limitation on amount of seed money);

“(B) section 505(d) (relating to deposit of qualifying contributions);

“(C) section 506(c) (relating to exceptions to contribution requirements);

“(D) section 509(c) (relating to remittance of allocations from the Fund);

“(E) section 513 (relating to violations); and

“(F) any other section of this Act.

“(5) Investment returns.—Interest on, and the proceeds from, the sale or redemption of, any obligations held by the Fund under subsection (e).

“(c) Investment.—The Commission shall invest portions of the Fund in obligations of the United States
in the same manner as provided under section 9602(b)

“(d) USE OF FUND.—

“(1) IN GENERAL.—The sums in the Senate
Fair Elections Fund shall be used to make alloca-
tions to participating candidates in accordance with
sections 510 and 511.

“(2) INSUFFICIENT AMOUNTS.—Under regula-
tions established by the Commission, rules similar to
the rules of section 9006(c) of the Internal Revenue
Code shall apply.

“SEC. 503. ELIGIBILITY FOR ALLOCATIONS FROM THE
FUND.

“(a) IN GENERAL.—A candidate for Senator is eligi-
ble to receive an allocation from the Fund for any election
if the candidate meets the following requirements:

“(1) The candidate files with the Commission a
statement of intent to seek certification as a partici-
pating candidate under this title during the period
beginning on the fair elections start date and ending
on the last day of the fair elections qualifying pe-
riod.

“(2) The candidate has complied with the seed
money contribution requirements of section 504.
“(3) The candidate meets the qualifying contribution requirements of section 505.

“(4) Not later than the last day of the fair elections qualifying period, the candidate files with the Commission an affidavit signed by the candidate and the treasurer of the candidate’s principal campaign committee declaring that the candidate—

“(A) has complied and, if certified, will comply with the contribution and expenditure requirements of section 506;

“(B) if certified, will comply with the debate requirements of section 507;

“(C) if certified, will not run as a non-participating candidate during such year in any election for the office that such candidate is seeking; and

“(D) has either qualified or will take steps to qualify under State law to be on the ballot.

“(b) GENERAL ELECTION.—Notwithstanding subsection (a), a candidate shall not be eligible to receive an allocation from the Fund for a general election or a general run off election unless the candidate’s party nominated the candidate to be placed on the ballot for the general election or the candidate qualified to be placed on the
ballot as an independent candidate, and the candidate is qualified under State law to be on the ballot.

“SEC. 504. SEED MONEY CONTRIBUTION REQUIREMENT.

“A candidate for Senator meets the seed money contribution requirements of this section if the candidate meets the following requirements:

“(1) SEPARATE ACCOUNTING.—The candidate maintains seed money contributions in a separate account.

“(2) LIMITATION ON AMOUNT.—The candidate deposits into the Senate Fair Elections Fund or returns to donors an amount equal to the amount of any seed money contributions which, in the aggregate, exceed the sum of—

“(A) in the case of an independent candidate, the amount which the candidate would be entitled to under section 510(c)(3); and

“(B) in the case of any other candidate, the amount which the candidate would be entitled to under section 510(c)(1).

“(3) USE OF SEED MONEY.—The candidate makes expenditures from seed money contributions only for campaign-related costs.

“(4) RECORDS.—The candidate maintains a record of the name and street address of any con-
tributor of a seed money contribution and the amount of any such contribution.

“(5) REPORT.—Unless a seed money contribution or an expenditure made with a seed money contribution has been reported previously under section 304, the candidate files with the Commission a report disclosing all seed money contributions and expenditures not later than 48 hours after receiving notification of the determination with respect to the certification of the candidate under section 508.

“SEC. 505. QUALIFYING CONTRIBUTION REQUIREMENT.

“(a) IN GENERAL.—A candidate for Senator meets the requirement of this section if, during the fair elections qualifying period, the candidate obtains a number of qualifying contributions equal to the sum of—

“(1) 2,000; plus

“(2) 500 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

“(b) SPECIAL RULE FOR CERTAIN CANDIDATES.—

“(1) IN GENERAL.—Notwithstanding subsection (a), in the case of a candidate described in paragraph (2), the requirement of this section is met if, during the fair elections qualifying period, the candidate obtains a number of qualifying contributions
equal to 150 percent of the number of qualifying contributions that such candidate would be required to obtain without regard to this subsection.

“(2) CANDIDATE DESCRIBED.—A candidate is described in this paragraph if—

“(A) the candidate is a minor party candidate or an independent candidate; and

“(B) in the most recent general election involving the office of Senator, President, or Governor in the State in which the candidate is seeking office, the candidate and all candidates of the same political party as such candidate received less than 5 percent of the total number of votes cast for each such office.

“(c) REQUIREMENTS RELATING TO RECEIPT OF QUALIFYING CONTRIBUTION.—Each qualifying contribution—

“(1) may be made by means of a personal check, money order, debit card, or credit card;

“(2) shall be payable to the Senate Fair Elections Fund;

“(3) shall be accompanied by a signed statement containing—

“(A) the contributor’s name and home address;
“(B) an oath declaring that the contributor—

“(i) is a resident of the State in which the candidate with respect to whom the contribution is made is running for election;

“(ii) understands that the purpose of the qualifying contribution is to show support for the candidate so that the candidate may qualify for public financing;

“(iii) is making the contribution in his or her own name and from his or her own funds;

“(iv) has made the contribution willingly; and

“(v) has not received any thing of value in return for the contribution; and

“(4) shall be acknowledged by a receipt that is sent to the contributor with a copy kept by the candidate for the Commission and a copy kept by the candidate for the election authorities in the State with respect to which the candidate is seeking election.

“(d) DEPOSIT OF QUALIFYING CONTRIBUTIONS.—
“(1) In general.—Not later than 21 days after obtaining a qualifying contribution, a candidate shall—

“(A) deposit such contribution into the Senate Fair Elections Fund, and

“(B) remit to the Commission a copy of the receipt for such contribution.

“(2) Deposit of contributions after certification.—Notwithstanding paragraph (1), all qualifying contributions obtained by a candidate shall be deposited into the Senate Fair Elections Fund and all copies of receipts for such contributions shall be remitted to the Commission not later than—

“(A) in the case of a candidate who is denied certification under section 508, 3 days after receiving a notice of denial of certification under section 508(a)(2); and

“(B) in any other case, not later than the last day of the fair elections qualifying period.

“(e) Verification of qualifying contributions.—The Commission shall establish procedures for the auditing and verification of qualifying contributions to ensure that such contributions meet the requirements of this section. Such procedures may provide for verification
through the means of a postcard or other method, as determined by the Commission.

“SEC. 506. CONTRIBUTION AND EXPENDITURE REQUIREMENTS.

“(a) GENERAL RULE.—A candidate for Senator meets the requirements of this section if, during the election cycle of the candidate, the candidate—

“(1) except as provided in subsection (b), accepts no contributions other than—

“(A) seed money contributions;

“(B) qualifying contributions made payable to the Senate Fair Elections Fund;

“(C) allocations from the Senate Fair Elections Fund under sections 510 and 511; and

“(D) vouchers provided to the candidate under section 315A of the Communications Act of 1934;

“(2) makes no expenditures from any amounts other than from—

“(A) amounts received from seed money contributions;

“(B) amounts received from the Senate Fair Elections Fund; and
“(C) vouchers provided to the candidate under section 315A of the Communications Act of 1934; and

“(3) makes no expenditures from personal funds or the funds of any immediate family member (other than funds received through seed money contributions).

For purposes of this subsection, a payment made by a political party in coordination with a participating candidate shall not be treated as a contribution to or as an expenditure made by the participating candidate.

“(b) Contributions for Leadership PACs, etc.—A political committee of a participating candidate which is not an authorized committee of such candidate may accept contributions other than contributions described in subsection (a)(1) from any person if—

“(1) the aggregate contributions from such person for any for a calendar year do not exceed $100; and

“(2) no portion of such contributions is disbursed in connection with the campaign of the participating candidate.

“(c) Exception.—

“(1) In general.—Notwithstanding subsection (a), a candidate shall not be treated as having failed
to meet the requirements of this section if any con-
tributions accepted before the date the candidate
files a statement of intent under section 503(a)(1)
are not expended and are—

“(A) returned to the contributor; or

“(B) submitted to the Federal Election
Commission for deposit in the Senate Fair
Elections Fund.

“(2) Special rule for seed money con-
tributions and contributions for leadership
Pacs.—For purposes of paragraph (1), a candidate
shall not be required to return, donate, or submit
any portion of the aggregate amount of contribu-
tions from any person which is $100 or less to the
extent that such contribution—

“(A) otherwise qualifies as a seed money
contribution; or

“(B) otherwise meets the requirements of
subsection (b).

“(3) Special rule for contributions be-
fore the date of enactment of this title.—
Notwithstanding subsection (a), a candidate shall
not be treated as having failed to meet the require-
ments of this section if any contributions accepted
before the date of the enactment of this title are not
expended and are—

“(A) returned to the contributor;

“(B) donated to an organization described
in section 170(c) of the Internal Revenue Code
of 1986;

“(C) donated to a political party;

“(D) used to retire campaign debt; or

“(E) submitted to the Federal Election
Commission for deposit in the Senate Fair
Elections Fund.

“SEC. 507. DEBATE REQUIREMENT.

“A candidate for Senator meets the requirements of
this section if the candidate participates in at least—

“(1) 1 public debate before the primary election
with other participating candidates and other willing
candidates from the same party and seeking the
same nomination as such candidate; and

“(2) 2 public debates before the general election
with other participating candidates and other willing
candidates seeking the same office as such can-
didate.
“SEC. 508. CERTIFICATION BY COMMISSION.

“(a) IN GENERAL.—Not later than 5 days after a candidate for Senator files an affidavit under section 503(a)(4), the Commission shall—

“(1) certify whether or not the candidate is a participating candidate; and

“(2) notify the candidate of the Commission’s determination.

“(b) REVOCATION OF CERTIFICATION.—

“(1) IN GENERAL.—The Commission may revoke a certification under subsection (a) if—

“(A) a candidate fails to qualify to appear on the ballot at any time after the date of certification; or

“(B) a candidate otherwise fails to comply with the requirements of this title.

“(2) REPAYMENT OF BENEFITS.—If certification is revoked under paragraph (1), the candidate shall repay—

“(A) to the Senate Fair Elections Fund an amount equal to the value of benefits received under this title plus interest (at a rate determined by the Commission) on any such amount received; and

“(B) to Federal Communications Commission an amount equal to the amount of the dol-
lar value of vouchers which were received from
the Federal Communications Commission under
section 315A of the Communications Act of
1934 and used by the candidate.

“SEC. 509. BENEFITS FOR PARTICIPATING CANDIDATES.

“(a) IN GENERAL.—A participating candidate shall
be entitled to—

“(1) for each election with respect to which a
candidate is certified as a participating candidate—

“(A) an allocation from the Fund to make
or obligate to make expenditures with respect to
such election, as provided in section 510;

“(B) fair fight funds, as provided in sec-
tion 511; and

“(2) for the general election, vouchers for
broadcasts of political advertisements, as provided in
section 315A of the Communications Act of 1934

“(b) RESTRICTION ON USES OF ALLOCATIONS FROM
THE FUND.—Allocations from the Fund received by a par-
ticipating candidate under sections 510 and 511 may only
be used for campaign-related costs.

“(c) REMITTING ALLOCATIONS FROM THE FUND.—
Not later than the date that is 45 days after the date of
the election, a participating candidate shall remit to the

Commission for deposit in the Senate Fair Elections Fund any unspent amounts paid to such candidate under this title for such election.

“SEC. 510. ALLOCATIONS FROM THE FUND.

“(a) IN GENERAL.—The Commission shall make allocations from the Fund under section 509(a)(1)(A) to a participating candidate—

“(1) in the case of amounts provided under subsection (c)(1), not later than 48 hours after the date on which such candidate is certified as a participating candidate under section 508;

“(2) in the case of a general election, not later than 48 hours after—

“(A) the date the certification of the results of the primary election or the primary runoff election; or

“(B) in any case in which there is no primary election, the date the candidate qualifies to be placed on the ballot; and

“(3) in the case of a primary runoff election or a general runoff election, not later than 48 hours after the certification of the results of the primary election or the general election, as the case may be.

“(b) METHOD OF PAYMENT.—The Commission shall distribute funds available to participating candidates
under this section through the use of an electronic funds exchange or a debit card.

“(c) AMOUNTS.—

“(1) PRIMARY ELECTION ALLOCATION; INITIAL ALLOCATION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B), the Commission shall make an allocation from the Fund for a primary election to a participating candidate in an amount equal to 67 percent of the base amount with respect to such participating candidate.

“(B) INDEPENDENT CANDIDATES.—In the case of a participating candidate who is an independent candidate, the Commission shall make an initial allocation from the Fund in an amount equal to 25 percent of the base amount with respect to such candidate.

“(C) REDUCTION FOR EXCESS SEED MONEY.—An allocation from the Fund for any candidate under this paragraph shall be reduced by an amount equal to the aggregate amount of seed money contributions received by the candidate in excess of the sum of—

“(i) $75,000; plus
“(ii) $7,500 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

“(2) PRIMARY RUNOFF ELECTION ALLOCATION.—The Commission shall make an allocation from the Fund for a primary runoff election to a participating candidate in an amount equal to 25 percent of the amount the participating candidate was eligible to receive under this section for the primary election.

“(3) GENERAL ELECTION ALLOCATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall make an allocation from the Fund for a general election to a participating candidate in an amount equal to the base amount with respect to such candidate.

“(B) UNCONTESTED ELECTIONS.—

“(i) IN GENERAL.—The Commission shall make an allocation from the Fund to a participating candidate for a general election that is uncontested in an amount equal to 25 percent of the base amount with respect to such candidate.
“(ii) UNCONTTESTED ELECTIONS.—

For purposes of this subparagraph, an election is uncontested if not more than 1 candidate has received contributions (including payments from the Senate Fair Elections Fund) in an amount equal to or greater than the lesser of—

“(I) the amount in effect for a candidate in such election under paragraph (1)(C), or

“(II) an amount equal to 50 percent of the base amount with respect to such candidate.

“(C) REDUCTION FOR EXCESS SEED MONEY.—The allocation from the Fund for the general election for any participating candidate in a State that does not hold a primary election shall be reduced by an amount equal to the aggregate amount of seed money contributions received by the candidate in excess of the sum of—

“(i) $75,000; plus

“(ii) $7,500 for each congressional district in excess of 1 in the State with re-
spect to which the candidate is seeking election.

“(4) General Runoff Election Allocation.—The Commission shall make an allocation from the Fund for a general runoff election to a participating candidate in an amount equal to 25 percent of the base amount with respect to such candidate.

“(d) Base Amount.—

“(1) In General.—Except as otherwise provided in this subsection, the base amount for any candidate is an amount equal to the sum of—

“(A) $750,000; plus

“(B) $150,000 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

“(2) Minor Party and Independent Candidates.—

“(A) Reduced Amount for Certain Candidates.—

“(i) In General.—In the case of a minor party candidate or independent candidate described clause (ii), the base amount is an amount equal to the product of—
“(I) a fraction the numerator of which is the highest percentage of the vote received by the candidate or a candidate of the same political party as such candidate in the election described in clause (ii) and the denominator of which is 25 percent; and

“(II) the amount that would (but for this paragraph) be the base amount for the candidate under paragraph (1).

“(ii) CANDIDATE DESCRIBED.—A candidate is described in this clause if, in the most recent general election involving the office of Senator, President, or Governor in the State in which the candidate is seeking office—

“(I) such candidate, or any candidate of the same political party as such candidate, received 5 percent or more of the total number of votes cast for any such office; and

“(II) such candidate and all candidates of the same political party as such candidate received less than 25
percent of the total number of votes
cast for each such office.

“(B) Exception.—Subparagraph (A)
shall not apply to any candidate if such can-
didate receives a number of qualifying contribu-
tions which is greater than 150 percent of the
number of qualifying contributions such can-
didate is required to receive in order to meet
the requirements of section 505(a).

“(3) Indexing.—In each odd-numbered year
after 2010—

“(A) each dollar amount under paragraph
(1) shall be increased by the percent difference
between the price index (as defined in section
315(c)(2)(A)) for the 12 months preceding the
beginning of such calendar year and the price
index for calendar year 2008;

“(B) each dollar amount so increased shall
remain in effect for the 2-year period beginning
on the first day following the date of the last
general election in the year preceding the year
in which the amount is increased and ending on
the date of the next general election; and

“(C) if any amount after adjustment under
subparagraph (A) is not a multiple of $100,
such amount shall be rounded to the nearest multiple of $100.

“(4) ADJUSTMENT BY MEDIA MARKET.—

“(A) IN GENERAL.—The Commission, in consultation with the Federal Communications Commission, shall establish an index reflecting the costs of the media markets in each State.

“(B) ADJUSTMENT.—At the beginning of each year, the Commission shall increase the amount under paragraph (1) (after application of paragraph (3)) based on the index established under subparagraph (A).

“SEC. 511. PAYMENT OF FAIR FIGHT FUNDS.

“(a) DETERMINATION OF RIGHT TO PAYMENT.—

“(1) IN GENERAL.—The Commission shall, on a regular basis, make a determination on—

“(A) the amount of opposing funds with respect to each participating candidate, and

“(B) the applicable amount with respect to each participating candidate.

“(2) BASIS OF DETERMINATIONS.—The Commission shall make determinations under paragraph (1) based on—

“(A) reports filed by the relevant opposing candidate under section 304(a) with respect to
amounts described in subsection (c)(1)(A)(i)(I); and

“(B) reports filed by political committees under section 304(a) and by other persons under section 304(c) with respect to—

“(i) opposing funds described in clauses (ii)(I) and (iii)(I) of subsection (c)(1)(A); and

“(ii) applicable amounts described in subparagraphs (B)(i) and (C)(i) of subsection (b)(2).

“(3) REQUESTS FOR DETERMINATION RELATING TO CERTAIN ELECTIONEERING COMMUNICATIONS.—

“(A) IN GENERAL.—A participating candidate may request to the Commission to make a determination under paragraph (1) with respect to any relevant opposing candidate with respect to—

“(i) opposing funds described in clauses (ii)(II) and (iii)(II) of subsection (c)(1)(A); and

“(ii) applicable amounts described in subparagraphs (B)(ii) and (C)(ii) of subsection (b)(2).
“(B) TIME FOR MAKING DETERMINATION.—In the case of any such request, the Commission shall make such determination and notify the participating candidate of such determination not later than—

“(i) 24 hours after receiving such request during the 3-week period ending on the date of the election, and

“(ii) 48 hours after receiving such request at any other time.

“(b) PAYMENTS.—

“(1) IN GENERAL.—The Commission shall make available to the participating candidate fair fight funds in an amount equal to the amount of opposing funds that is in excess of the applicable amount—

“(A) immediately after making any determination under subsection (a) with respect to any participating candidate during the 3-week period ending on the date of the election, and

“(B) not later than 24 hours after making such determination at any other time.

“(2) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount is an amount equal to the sum of—
“(A) the sum of—

“(i) the amount of seed money contribution received by the participating candidate;

“(ii) in the case of a general election, the value of any vouchers received by the candidate under section 315A of the Communications Act of 1934; plus

“(iii)(I) in the case of a participating candidate who is a minor party candidate running in a general election or an independent candidate, the allocation from the Fund which would have been provided to such candidate for such election if such candidate were a major party candidate; or

“(II) in the case of any other participating candidate, an amount equal to the allocation from the Fund to such candidate for such election under section 510(c); 

“(B) the sum of—

“(i) the amount of independent expenditures made advocating the election of the participating candidate; plus

“(ii) the amount of disbursements for electioneering communications which pro-
mote or support such participating candidate;

“(C) the sum of—

“(i) the amount of independent expenditures made advocating the defeat of the relevant opposing candidate; plus

“(ii) the amount of disbursements for electioneering communications which attack or oppose the relevant opposing candidate; plus

“(D) the amount of fair fight funds previously provided to the participating candidate under this subsection for the election.

“(3) LIMITS ON AMOUNT OF PAYMENT.—The aggregate of fair fight funds that a participating candidate receives under this subsection for any election shall not exceed 200 percent of the allocation from the Fund that the participating candidate receives for such election under section 510(c).

“(c) DEFINITIONS.—For purposes of this section—

“(1) OPPOSING FUNDS.—

“(A) IN GENERAL.—The term ‘opposing funds’ means, with respect to any participating candidate for any election, the sum of—
“(i)(I) the greater of the total contributions received by the relevant opposing candidate or the total expenditures made by such relevant opposing candidate; or

“(II) in the case of a relevant opposing candidate who is a participating candidate, an amount equal to the sum of the amount of seed money contributions received by the relevant opposing candidate, the value of any vouchers received by the relevant opposing candidate for the general election under section 315A of the Communications Act of 1934, and the allocation from the Fund under section 510(c) for the relevant opposing candidate for such election;

“(ii) the sum of—

“(I) the amount of independent expenditures made advocating the election of such relevant opposing candidate; plus

“(II) the amount of disbursements for electioneering communic-
tions which promote or support such
relevant opposing candidate; plus
“(iii) the sum of—
“(I) the amount of independent
expenditures made advocating the de-
feat of such participating candidate;
plus
“(II) the amount of disburse-
ments for electioneering communica-
tions which attack or oppose such par-
ticipating candidate.
“(2) RELEVANT OPPOSING CANDIDATE.—The
term ‘relevant opposing candidate’ means, with re-
spect to any participating candidate, the opposing
candidate of such participating candidate with re-
spect to whom the amount under paragraph (1) is
the greatest.
“(3) ELECTIONEERING COMMUNICATION.—The
term ‘electioneering communication’ has the mean-
ing given such term under section 304(f)(3), except
that subparagraph (A)(i)(II)(aa) thereof shall be ap-
plied by substituting ‘30’ for ‘60’.
SEC. 512. ADMINISTRATION OF THE SENATE FAIR ELECTIONS SYSTEM.

(a) Regulations.—The Commission shall prescribe regulations to carry out the purposes of this title, including regulations—

“(1) to establish procedures for—

“(A) verifying the amount of valid qualifying contributions with respect to a candidate;

“(B) effectively and efficiently monitoring and enforcing the limits on the use of personal funds by participating candidates;

“(C) the expedited payment of fair fight funds during the 3-week period ending on the date of the election;

“(D) monitoring the use of allocations from the Fund under this title through audits or other mechanisms; and

“(E) returning unspent disbursements and disposing of assets purchased with allocations from the Fund;

“(2) providing for the administration of the provisions of this title with respect to special elections;

“(3) pertaining to the replacement of candidates;
“(4) regarding the conduct of debates in a manner consistent with the best practices of States that provide public financing for elections; and

“(5) for attributing expenditures to specific elections for the purposes of calculating opposing funds.

“(b) OPERATION OF COMMISSION.—The Commission shall maintain normal business hours during the weekend immediately before any general election for the purposes of administering the provisions of this title, including the distribution of fair fight funds under section 511.

“(c) REPORTS.—Not later than April 1, 2009, and every 2 years thereafter, the Commission shall submit to the Senate Committee on Rules and Administration a report documenting, evaluating, and making recommendations relating to the administrative implementation and enforcement of the provisions of this title.

“SEC. 513. VIOLATIONS AND PENALTIES.

“(a) CIVIL PENALTY FOR VIOLATION OF CONTRIBUTION AND EXPENDITURE REQUIREMENTS.—If a candidate who has been certified as a participating candidate under section 508(a) accepts a contribution or makes an expenditure that is prohibited under section 506, the Commission shall assess a civil penalty against the candidate in an amount that is not more than 3 times the amount
of the contribution or expenditure. Any amounts collected
under this subsection shall be deposited into the Senate
Fair Elections Fund.

“(b) Repayment for Improper Use of Fair
Elections Fund.—

“(1) In general.—If the Commission deter-
dines that any benefit made available to a partici-
pating candidate under this title was not used as
provided for in this title or that a participating can-
didate has violated any of the dates for remission of
funds contained in this title, the Commission shall
so notify the candidate and the candidate shall pay
to the Senate Fair Elections Fund an amount equal
to—

“(A) the amount of benefits so used or not
remitted, as appropriate, and

“(B) interest on any such amounts (at a
rate determined by the Commission).

“(2) Other action not precluded.—Any
action by the Commission in accordance with this
subsection shall not preclude enforcement pro-
ceedings by the Commission in accordance with sec-
tion 309(a), including a referral by the Commission
to the Attorney General in the case of an apparent
knowing and willful violation of this title.”.

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SEC. 103. REPORTING REQUIREMENTS FOR NONPARTICI-
PATING CANDIDATES.

(a) In General.—Section 304 of the Federal Elec-
tion Campaign Act of 1971 (2 U.S.C. 434) is amended
by adding at the end the following:

“(i) Nonparticipating Candidates.—

“(1) Initial report.—

“(A) In General.—Each nonparticipating
candidate who is opposed to a participating
candidate and who receives contributions or
makes expenditures aggregating more than the
threshold amount shall, within 48 hours of the
date such aggregate contributions or expendi-
tures exceed the threshold amount, file with the
Commission a report stating the total amount
of contributions received and expenditures made
or obligated by such candidate.

“(B) Threshold Amount.—For purposes
of this paragraph, the term ‘threshold amount’
means 75 percent of the allocation from the
Fund that a participating candidate would be
entitled to receive in such election under section
510 if the participating candidate were a major
party candidate.

“(2) Periodic reports.—
“(A) IN GENERAL.—In addition to any reports required under subsection (a), each non-participating candidate who is required to make a report under paragraph (1) shall make the following reports:

“(i) A report which shall be filed not later than 5 p.m. on the forty-second day before the date on which the election involving such candidate is held and which shall be complete through the forty-fourth day before such date.

“(ii) A report which shall be filed not later than 5 p.m. on the twenty-first day before the date on which the election involving such candidate is held and which shall be complete through the twenty-third day before such date.

“(iii) A report which shall be filed not later than 5 p.m. on the twelfth day before the date on which the election involving such candidate is held and which shall be complete through the fourteenth day before such date.

“(B) ADDITIONAL REPORTING WITHIN 2 WEEKS OF ELECTION.—Each nonparticipating
candidate who is required to make a report under paragraph (1) and who receives contributions or makes expenditures aggregating more than $1,000 at any time after the fourteenth day before the date of the election involving such candidate shall make a report to the Commission not later than 24 hours after such contributions are received or such expenditures are made.

“(C) CONTENTS OF REPORT.—Each report required under this paragraph shall state the total amount of contributions received and expenditures made or obligated to be made during the period covered by the report.

“(3) DEFINITIONS.—For purposes of this subsection and section 309(a)(13), the terms ‘non-participating candidate’, ‘participating candidate’, and ‘allocation from the Fund’ have the respective meanings given to such terms under section 501.”.

(b) INCREASED PENALTY FOR FAILURE TO FILE.—

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437(g)) is amended by adding at the end the following new paragraph:

“(13) INCREASED CIVIL PENALTIES WITH RESPECT TO REPORTING BY NONPARTICIPATING CAN-
DIDATES.—For purposes of paragraphs (5) and (6), any civil penalty with respect to a violation of section 304(i) shall not exceed the greater of—

“(A) the amount otherwise applicable without regard to this paragraph; or

“(B) for each day of the violation, 3 times the amount of the fair fight funds under section 511 that otherwise would have been allocated to the participating candidate but for such violation.”.

SEC. 104. MODIFICATION OF ELECTIONEERING COMMUNICATION REPORTING REQUIREMENTS.

Paragraph (2) of section 304(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(f)(2)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

“(E) in the case of a communication referring to any candidate in an election involving a participating candidate (as defined under section 501(9)), a transcript of the electioneering communication.”.
SEC. 105. LIMITATION ON COORDINATED EXPENDITURES

BY POLITICAL PARTY COMMITTEES WITH

PARTICIPATING CANDIDATES.

(a) IN GENERAL.—Section 315(d)(3) of the Federal
Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is
amended—

(1) by redesignating subparagraphs (A) and

(B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as re-
designated by paragraph (1), the following new sub-
paragraph:

“(A) in the case of a candidate for election
to the office of Senator who is a participating
candidate (as defined in section 501), the lesser
of—

“(i) 10 percent of the allocation from
the Senate Elections Fund that the partici-
pating candidate is eligible to receive for
the general election under section
510(c)(3); or

“(ii) the amount which would (but for
this subparagraph) apply with respect to
such candidate under subparagraph (B);”.

(b) CONFORMING AMENDMENT.—Subparagraph (B)
of section 315(d)(3) of such Act, as redesignated by sub-
section (a), is amended by inserting “who is not a partici-
pating candidate (as so defined)” after “office of Sen-
ator”.

SEC. 106. AUDITS.

Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting “(1)” before “The Commis-

sion”; and

(2) by adding at the end the following:

“(2) AUDITS OF PARTICIPATING CAN-

IDATES.—

“(A) IN GENERAL.—Notwithstanding para-

graph (1), after every primary, general, and

runoff election, the Commission shall conduct

random audits and investigations of not less

than 30 percent of the authorized committees of

candidates who are participating candidates (as
defined in section 501).

“(B) SELECTION OF SUBJECTS.—The sub-

jects of audits and investigations under this

paragraph shall be selected on the basis of im-

partial criteria established by a vote of at least

4 members of the Commission.”.
Subtitle B—Senate Fair Elections
Fund Revenues

SEC. 111. DEPOSIT OF PROCEEDS FROM RECOVERED SPEC-
TRUM AUCTIONS.

Section 309(j)(8)(E)(ii) of the Communications Act
of 1934 (47 U.S.C. 309(j)(8)(E)(ii)) is amended—

(1) by striking “deposited in” and inserting the
following: “deposited as follows:

“(I) 90 percent of such proceeds
deposited in”; and

(2) by adding at the end the following:

“(II) 10 percent of such proceeds
deposited in the Senate Fair Elections
Fund established under section 502 of
the Federal Election Campaign Act of
1972.”.

Subtitle C—Fair Elections Review
Commission

SEC. 121. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a com-
mission to be known as the “Fair Elections Review Com-
mission” (hereafter in this subtitle referred to as the
“Commission”).

(b) DUTIES.—

(1) REVIEW OF FAIR ELECTIONS FINANCING.—
(A) IN GENERAL.—After each general election for Federal office, the Commission shall conduct a comprehensive review of the Senate fair elections financing program under title V of the Federal Election Campaign Act of 1974, including—

(i) the number and value of qualifying contributions a candidate is required to obtain under section 505 of such Act to qualify for allocations from the Fund;

(ii) the amount of allocations from the Senate Fair Elections Fund that candidates may receive under sections 510 and 511 of such Act;

(iii) the overall satisfaction of participating candidates with the program; and

(iv) such other matters relating to financing of Senate campaigns as the Commission determines are appropriate.

(B) CRITERIA FOR REVIEW.—In conducting the review under subparagraph (A), the Commission shall consider the following:

(i) REVIEW OF QUALIFYING CONTRIBUTION REQUIREMENTS.—The Commission shall consider whether the number
and value of qualifying contributions required strikes a balance between the importance of voter choice and fiscal responsibility, taking into consideration the number of primary and general election participating candidates, the electoral performance of those candidates, program cost, and any other information the Commission determines is appropriate.

(ii) Review of Program Allocations.—The Commission shall consider whether allocations from the Senate Elections Fund under sections 510 and 511 of the Federal Election Campaign Act of 1974 are sufficient for voters in each State to learn about the candidates to cast an informed vote, taking into account the historic amount of spending by winning candidates, media costs, primary election dates, and any other information the Commission determines is appropriate.

(2) Report, Recommendations, and Proposed Legislative Language.—

(A) Report.—Not later than March 30 following any general election for Federal office,
the Commission shall submit a report to Congress on the review conducted under paragraph (1). Such report shall contain a detailed statement of the findings, conclusions, and recommendations of the Commission based on such review, and shall contain any proposed legislative language (as required under subparagraph (C)) of the Commission.

(B) FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.—A finding, conclusion, or recommendation of the Commission shall be included in the report under subparagraph (A) only if not less than 3 members of the Commission voted for such finding, conclusion, or recommendation.

(C) LEGISLATIVE LANGUAGE.—

(i) IN GENERAL.—The report under subparagraph (A) shall include legislative language with respect to any recommendation involving—

(I) an increase in the number or value of qualifying contributions; or

(II) an increase in the amount of allocations from the Senate Elections Fund.
(ii) Form.—The legislative language shall be in the form of a proposed bill for introduction in Congress and shall not include any recommendation not related to matter described subclause (I) or (II) of clause (i).

SEC. 122. STRUCTURE AND MEMBERSHIP OF THE COMMISSION.

(a) Appointment.—

(1) In general.—The Commission shall be composed of 5 members, of whom—

(A) 1 shall be appointed by the Majority Leader of the Senate;

(B) 1 shall be appointed by the Minority Leader of the Senate; and

(C) 3 shall be appointed jointly by the members appointed under subparagraphs (A) and (B).

(2) Qualifications.—

(A) In general.—The members shall be individuals who are nonpartisan and, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Commission.
(B) PROHIBITION.—No member of the Commission may be—

(i) a member of Congress;

(ii) an employee of the Federal government;

(iii) a registered lobbyist; or

(iv) an officer or employee of a political party or political campaign.

(3) DATE.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this Act.

(4) TERMS.—A member of the Commission shall be appointed for a term of 5 years.

(b) VACANCIES.—A vacancy on the Commission shall be filled not later than 30 calendar days after the date on which the Commission is given notice of the vacancy, in the same manner as the original appointment. The individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual’s predecessor was appointed.

(c) CHAIRPERSON.—The Commission shall designate a Chairperson from among the members of the Commission.

SEC. 123. POWERS OF THE COMMISSION.

(a) MEETINGS AND HEARINGS.—
(1) MEETINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(2) QUORUM.—Four members of the Commission shall constitute a quorum for purposes of voting, but a quorum is not required for members to meet and hold hearings.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 124. ADMINISTRATION.

(a) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—
(A) IN GENERAL.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(B) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code, while away from their homes or regular places of business in performance of services for the Commission.

(b) PERSONNEL.—
(1) **DIRECTOR.**—The Commission shall have a staff headed by an Executive Director. The Executive Director shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) **STAFF APPOINTMENT.**—With the approval of the Chairperson, the Executive Director may appoint such personnel as the Executive Director and the Commission determines to be appropriate.

(3) **ACTUARIAL EXPERTS AND CONSULTANTS.**—With the approval of the Chairperson, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) **DETAILED OF GOVERNMENT EMPLOYEES.**—Upon the request of the Chairperson, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) **OTHER RESOURCES.**—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Li-
brary of Congress and other agencies and elected
representatives of the executive and legislative
branches of the Federal Government. The Chair-
person of the Commission shall make requests for
such access in writing when necessary.

SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums
as are necessary to carry out the purposes of this subtitle.

SEC. 126. EXPEDITED CONSIDERATION OF COMMISSION
RECOMMENDATIONS.

(a) INTRODUCTION AND COMMITTEE CONSIDER-
ATION.—

(1) INTRODUCTION.—Not later than 60 days
after the Commission files a report under section
121(b), the Majority Leader of the Senate, or the
Majority Leader’s designee, shall introduce any pro-
posed legislative language submitted by the Commis-
sion under section 121(b)(2)(C) in the Senate (here-
after in this section referred to as a “Commission
bill”).

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A Commission bill intro-
duced in the Senate shall be referred to the
Committee on Rules and Administration of the
Senate.
(B) Reporting.—Not later than 60 calendar days after the introduction of the Commission bill, the Committee on Rules and Administration shall hold a hearing on the bill and report the bill to the Senate. No amendment shall be in order to the bill in the Committee.

(C) Discharge of Committee.—If the Committee on Rules and Administration has not reported a Commission bill at the end of 60 calendar days after its introduction, such committee shall be automatically discharged from further consideration of the Commission bill and it shall be placed on the appropriate calendar.

(b) Expedited Procedure.—

(1) Floor Consideration in the Senate.—

(A) In general.—Not later than 60 calendar days after the date on which a committee has reported or has been discharged from consideration of a Commission bill, the Majority Leader of the Senate, or the Majority Leader’s designee shall move to proceed to the consideration of the Commission bill. It shall also be in order for any member of the Senate to move to
proceed to the consideration of the bill at any
time after the conclusion of such 60-day period.

(B) MOTION TO PROCEED.—A motion to
proceed to the consideration of a Commission
bill is privileged in the Senate. The motion is
not debatable and is not subject to a motion to
postpone consideration of the Commission bill
or to proceed to the consideration of other busi-
ness. A motion to reconsider the vote by which
the motion to proceed is agreed to or not
agreed to shall not be in order. If the motion
to proceed is agreed to, the Senate shall imme-
diately proceed to consideration of the Commiss-
ion bill without intervening motion, order, ac-
tion, or other business, and the Commission bill
shall remain the unfinished business of the Sen-
ate until disposed of.

(C) AMENDMENTS, MOTIONS, AND AP-
PEALS.—No amendment shall be in order in the
Senate, and any debatable motion or appeal is
debatable for not to exceed 5 hours to be di-
vided equally between those favoring and those
opposing the motion or appeal.

(D) LIMITED DEBATE.—Consideration in
the Senate of the Commission bill and on all de-
bateable motions and appeals in connection therewith, shall be limited to not more than 40 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the Senate or their designees. A motion further to limit debate on the Commission bill is in order and is not batable. All time used for consideration of the Commission bill, including time used for quorum calls (except quorum calls immediately preceding a vote), shall come from the 40 hours of consideration.

(E) VOTE ON PASSAGE.—

(i) IN GENERAL.—The vote on passage in the Senate of the Commission bill shall occur immediately following the conclusion of the 40-hour period for consideration of the Commission bill under subparagraph (D) and a request to establish the presence of a quorum.

(ii) OTHER MOTIONS NOT IN ORDER.—A motion in the Senate to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit
the Commission bill is not in order. A mo-
tion in the Senate to reconsider the vote by
which the Commission bill is agreed to or
not agreed to is not in order.

(2) Floor consideration in the House.—

(A) In general.—If a Commission bill is
agreed to in the Senate, the Majority Leader of
the House of Representatives, or the Majority
Leader’s designee shall move to proceed to the
consideration of the Commission bill not later
than 30 days after the date the House or Rep-
resentatives receives notice of such agreement.
It shall also be in order for any member of the
House of Representatives to move to proceed to
the consideration of the bill at any time after
the conclusion of such 30-day period.

(B) Motion to proceed.—A motion to
proceed to the consideration of a Commission
bill is privileged in the House of Representa-
tives. The motion is not debatable and is not
subject to a motion to postpone consideration of
the Commission bill or to proceed to the consid-
eration of other business. A motion to recon-
sider the vote by which the motion to proceed
is agreed to or not agreed to shall not be in
order. If the motion to proceed is agreed to, the
House of Representatives shall immediately pro-
ceed to consideration of the Commission bill
without intervening motion, order, action, or
other business, and the Commission bill shall
remain the unfinished business of the House of
Representatives until disposed of.

(C) Amendments, motions, and ap-
peals.—No amendment shall be in order in the
House of Representatives, and any debatable
motion or appeal is debatable for not to exceed
5 hours to be divided equally between those fa-
voring and those opposing the motion or appeal.

(D) Limited debate.—Consideration in
the House of Representatives of the Commis-
sion bill and on all debatable motions and ap-
peals in connection therewith, shall be limited
to not more than 40 hours, which shall be
equally divided between, and controlled by, the
Majority Leader and the Minority Leader of the
House of Representatives or their designees. A
motion further to limit debate on the Commiss-
ion bill is in order and is not debatable. All
time used for consideration of the Commission
bill, including time used for quorum calls (ex-
cept quorum calls immediately preceding a vote), shall come from the 40 hours of consideration.

(E) Vote on Passage.—

(i) In General.—The vote on passage in the House of Representatives of the Commission bill shall occur immediately following the conclusion of the 40-hour period for consideration of the Commission bill under subparagraph (D) and a request to establish the presence of a quorum.

(ii) Other Motions Not in Order.—A motion in the House of Representatives to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission bill is not in order. A motion in the House of Representatives to reconsider the vote by which the Commission bill is agreed to or not agreed to is not in order.

(e) Rules of Senate and House of Representatives.—This section is enacted by Congress—
(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a Commission bill, and it supersedes other rules only to the extent that it is inconsistent with such rules, and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

**TITLE II—VOTER INFORMATION**

**SEC. 201. BROADCASTS RELATING TO CANDIDATES.**

(a) **LOWEST UNIT CHARGE; NATIONAL COMMITTEES.**—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking “to such office” in paragraph (1) and inserting “to such office, or by a national committee of a political party on behalf of such candidate in connection with such campaign,”; and

(2) by inserting “for pre-emptible use thereof” after “station” in subparagraph (A) of paragraph (1).
(b) Broadcast Rates.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by subsection (a), is amended—

(1) in paragraph (1)(A), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”; and

(2) by adding at the end the following:

“(3) Participating Candidates.—In the case of a participating candidate (as defined under section 501(10) of the Federal Election Campaign Act of 1971), the charges made for the use any broadcasting station for a television broadcast shall not exceed 80 percent of the lowest charge described in paragraph (1)(A) during—

“(A) the 45 days preceding the date of a primary or primary runoff election in which the candidate is opposed; and

“(B) the 60 days preceding the date of a general or special election in which the candidate is opposed.

“(4) Rate Cards.—A licensee shall provide to a candidate for Senate a rate card that discloses—

“(A) the rate charged under this subsection; and
“(B) the method that the licensee uses to
determine the rate charged under this sub-
section.”.

(c) **PREEMPTION; AUDITS.**—Section 315 of such Act
(47 U.S.C. 315) is amended—

(1) by redesignating subsections (f) and (g) as
subsections (e) and (f), respectively and moving
them to follow the existing subsection (e);

(2) by redesignating the existing subsection (e)
as subsection (c); and

(3) by inserting after subsection (c) (as redesig-
nated by paragraph (2)) the following:

“(d) **PREEMPTION.**—

“(1) **IN GENERAL.**—Except as provided in para-
graph (2), and notwithstanding the requirements of
subsection (b)(1)(A), a licensee shall not preempt
the use of a broadcasting station by a legally quali-
ﬁed candidate for Senate who has purchased and
paid for such use.

“(2) **CIRCUMSTANCES BEYOND CONTROL OF LI-
CENSEE.**—If a program to be broadcast by a broad-
casting station is preempted because of cir-
cumstances beyond the control of the station, any
candidate or party advertising spot scheduled to be
broadcast during that program shall be treated in
the same fashion as a comparable commercial advertising spot.

“(e) Audits.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this section applies is allocating television broadcast advertising time in accordance with this section and section 312.”.

(d) Revocation of License for Failure to Permit Access.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking “or repeated”;

(2) by inserting “or cable system” after “broadcasting station”; and

(3) by striking “his candidacy” and inserting “the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee”.

(e) Stylistic Amendments.—Section 315 of such Act (47 U.S.C. 315) is amended—

(1) by striking “the” in subsection (f)(1), as redesignated by subsection (b)(1), and inserting “broadcasting station.—”;

S 1285 IS
(2) by striking “the” in subsection (f)(2), as redesignated by subsection (b)(1), and inserting “LICENSEE; STATION LICENSEE.—”; and

(3) by inserting “REGULATIONS.—” in subsection (g), as redesignated by subsection (b)(1), before “The Commission”.

SEC. 202. POLITICAL ADVERTISEMENT VOUCHERS FOR PARTICIPATING CANDIDATES.

(a) IN GENERAL.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following:

“SEC. 315A. POLITICAL ADVERTISEMENT VOUCHER PROGRAM.

“(a) IN GENERAL.—The Commission shall establish and administer a voucher program for the purchase of airtime on broadcasting stations for political advertisements in accordance with the provisions of this section.

“(b) CANDIDATES.—The Commission shall only disburse vouchers under the program established under subsection (a) to individuals who meet the following requirements:

“(1) QUALIFICATION.—The individual is certified by the Federal Election Commission as a participating candidate (as defined under section 501(10) of the Federal Election Campaign Act of
1971) with respect to a general election for Federal
office under section 508 of the Federal Election
Campaign Act of 1971.

“(2) AGREEMENT.—The individual has agreed in writing—

“(A) to keep and furnish to the Federal
Election Commission such records, books, and
other information as it may require; and

“(B) to repay to the Federal Communications Commission, if the Federal Election Com-
mission revokes the certification of the indi-
vidual as a participating candidate (as so de-
finite), an amount equal to the dollar value of
vouchers which were received from the Commis-
sion and used by the candidate.

“(c) AMOUNTS.—The Commission shall disburse
vouchers to each candidate certified under subsection (b)
in an aggregate amount equal to $100,000 multiplied by
the number of congressional districts in the State with re-
spect to which such candidate is running for office.

“(d) USE.—

“(1) EXCLUSIVE USE.—Vouchers disbursed by
the Commission under this section may be used only
for the purchase of broadcast airtime for political
advertisements relating to a general election for the
office of Senate by the participating candidate to
which the vouchers were disbursed, except that—

“(A) a candidate may exchange vouchers
with a political party under paragraph (2); and

“(B) a political party may use vouchers
only to purchase broadcast airtime for political
advertisements for generic party advertising, to
support candidates for State or local office in a
general election, or to support participating
candidates of the party in a general election for
Federal office, but only if it discloses the value
of the voucher used as an expenditure under
section 315(d) of the Federal Election Cam-
paign Act of 1971 (2 U.S.C. 441(d)).

“(2) EXCHANGE WITH POLITICAL PARTY COM-
mittee.—

“(A) IN GENERAL.—An individual who re-
ceives a voucher under this section may transfer
the right to use all or a portion of the value of
the voucher to a committee of the political
party of which the individual is a candidate in
exchange for money in an amount equal to the
cash value of the voucher or portion exchanged.

“(B) CONTINUATION OF CANDIDATE OBLI-
gations.—The transfer of a voucher, in whole
or in part, to a political party committee under this paragraph does not release the candidate from any obligation under the agreement made under subsection (b)(2) or otherwise modify that agreement or its application to that candidate.

“(C) PARTY COMMITTEE OBLIGATIONS.—
Any political party committee to which a voucher or portion thereof is transferred under subparagraph (A)—

“(i) shall account fully, in accordance with such requirements as the Commission may establish, for the receipt of the voucher; and

“(ii) may not use the transferred voucher or portion thereof for any purpose other than a purpose described in paragraph (1)(B).

“(D) VOUCHER AS A CONTRIBUTION UNDER FECA.—If a candidate transfers a voucher or any portion thereof to a political party committee under subparagraph (A)—

“(i) the value of the voucher or portion thereof transferred shall be treated as a contribution from the candidate to the
committee, and from the committee to the
candidate, for purposes of sections 302
and 304 of the Federal Election Campaign
Act of 1971 (2 U.S.C. 432 and 434);

“(ii) the committee may, in exchange,
provide to the candidate only funds subject
to the prohibitions, limitations, and report-
ing requirements of the Federal Election
Campaign Act of 1971 (2 U.S.C. 431 et
seq.); and

“(iii) the amount, if identified as a
‘voucher exchange’ shall not be considered
a contribution for the purposes of sections
315 or 506 of that Act.

“(e) VALUE; ACCEPTANCE; REDEMPTION.—

“(1) VOUCHER.—Each voucher disbursed by
the Commission under this section shall have a value
in dollars, redeemable upon presentation to the
Commission, together with such documentation and
other information as the Commission may require,
for the purchase of broadcast airtime for political
advertisements in accordance with this section.

“(2) ACCEPTANCE.—A broadcasting station
shall accept vouchers in payment for the purchase of
broadcast airtime for political advertisements in accordance with this section.

“(3) REDEMPTION.—The Commission shall redeem vouchers accepted by broadcasting stations under paragraph (2) upon presentation, subject to such documentation, verification, accounting, and application requirements as the Commission may impose to ensure the accuracy and integrity of the voucher redemption system. The Commission shall use amounts in the Political Advertising Voucher Account established under subsection (f) to redeem vouchers presented under this subsection.

“(4) EXPIRATION.—

“(A) CANDIDATES.—A voucher may only be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on the day before the date of the Federal election in connection with which it was issued and shall be null and void for any other use or purpose.

“(B) EXCEPTION FOR POLITICAL PARTY COMMITTEES.—A voucher held by a political party committee may be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on December 31st of
the odd-numbered year following the year in
which the voucher was issued by the Commis-
sion.

“(5) VOUCHER AS EXPENDITURE UNDER
FECA.—

“(A) IN GENERAL.—Except as provided in
subparagraph (B), for purposes of the Federal
Election Campaign Act of 1971 (2 U.S.C. 431
et seq.), the use of a voucher to purchase
broadcast airtime constitutes an expenditure as
defined in section 301(9)(A) of that Act (2
U.S.C. 431(9)(A)).

“(B) PARTICIPATING CANDIDATES.—The
use of a voucher to purchase broadcast airtime
by a participating candidate shall not constitute
an expenditure for purposes of section 506 of
such Act.

“(f) POLITICAL ADVERTISING VOUCHER AC-
COUNT.—

“(1) IN GENERAL.—The Commission shall es-

establish an account to be known as the Political Ad-
vertising Voucher Account, which shall be credited
with commercial television and radio spectrum use
fees assessed under this subsection, together with
any amounts repaid or otherwise reimbursed under
this section or section 508(b)(2)(B) of the Federal
Election Campaign Act of 1971.

“(2) Spectrum use fee.—

“(A) In general.—The Commission shall
assess, and collect annually, from each broad-
cast station, a spectrum use fee in an amount
equal to 2 percent of each broadcasting sta-
tion’s gross advertising revenues for such year.

“(B) Availability.—

“(i) In general.—Any amount as-
sessed and collected under this paragraph
shall be used by the Commission as an off-
setting collection for the purposes of mak-
ing disbursements under this section, ex-
cept that—

“(I) the salaries and expenses ac-
count of the Commission shall be
credited with such sums as are nec-
essary from those amounts for the
costs of developing and implementing
the program established by this sec-
tion; and

“(II) the Commission may reim-
burse the Federal Election Commis-
sion for any expenses incurred by the Commission under this section.

“(ii) Deposit of excess fees into Senate Fair Elections Fund.—If the amount assessed and collected under this paragraph for years in any election period exceeds the amount necessary for making disbursements under this section for such election period, the Commission shall deposit such excess in the Senate Fair Elections Fund.

“(C) Fee does not apply to public broadcasting stations.—Subparagraph (A) does not apply to a public telecommunications entity (as defined in section 397(12) of this Act).

“(3) Administrative provisions.—Except as otherwise provided in this subsection, section 9 of this Act applies to the assessment and collection of fees under this subsection to the same extent as if those fees were regulatory fees imposed under section 9.

“(g) Definitions.—In this section:
“(1) Broadcasting station.—The term ‘broadcasting station’ has the meaning given that term by section 315(f)(1) of this Act.

“(2) Federal election.—The term ‘Federal election’ means any regularly-scheduled, primary, runoff, or special election held to nominate or elect a candidate to Federal office.

“(3) Federal office.—The term ‘Federal office’ has the meaning given that term by section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

“(4) Political party.—The term ‘political party’ means a major party or a minor party as defined in section 9002(3) or (4) of the Internal Revenue Code of 1986 (26 U.S.C. 9002(3) or (4)).

“(5) Other terms.—Except as otherwise provided in this section, any term used in this section that is defined in section 301 or 501 of the Federal Election Campaign of 1971 (2 U.S.C. 431) has the meaning given that term by either such section of that Act.

“(h) Regulations.—The Commission shall prescribe such regulations as may be necessary to carry out the provisions of this section. In developing the regula-
tions, the Commission shall consult with the Federal Elec-
tion Commission.”.

SEC. 203. FCC TO PRESCRIBE STANDARDIZED FORM FOR
REPORTING CANDIDATE CAMPAIGN ADS.

(a) IN GENERAL.—Within 90 days after the date of
enactment of this Act, the Federal Communications Com-
mission shall initiate a rulemaking proceeding to establish
a standardized form to be used by broadcasting stations,
as defined in section 315(f)(1) of the Communications Act
of 1934 (47 U.S.C. 315(f)(1)), to record and report the
purchase of advertising time by or on behalf of a candidate
for nomination for election, or for election, to Federal elec-
tive office.

(b) CONTENTS.—The form prescribed by the Com-
mission under subsection (a) shall require, broadcasting
stations to report, at a minimum—

(1) the station call letters and mailing address;

(2) the name and telephone number of the sta-
tion’s sales manager (or individual with responsi-
bility for advertising sales);

(3) the name of the candidate who purchased
the advertising time, or on whose behalf the adver-
tising time was purchased, and the Federal elective
office for which he or she is a candidate;
(4) the name, mailing address, and telephone number of the person responsible for purchasing broadcast political advertising for the candidate;

(5) notation as to whether the purchase agreement for which the information is being reported is a draft or final version; and

(6) the following information about the advertisement:

(A) The date and time of the broadcast.

(B) The program in which the advertisement was broadcast.

(C) The length of the broadcast airtime.

(e) INTERNET ACCESS.—In its rulemaking under subsection (a), the Commission shall require any broadcasting station required to file a report under this section that maintains an Internet website to make available a link to such reports on that website.

SEC. 204. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

(a) IN GENERAL.—Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

“(A)(i) Except as provided in clause (ii), Member of Congress or a Congressional Committee or Subcommittee of which such Member is Chairman or Ranking Member
shall not mail any mass mailing as franked mail during the period which begins 90 days before date of the primary election and ends on the date of the general election with respect to any Federal office which such Member holds, unless the Member has made a public announcement that the Member will not be a candidate for reelection to such office in that year.

“(ii) A Member of Congress or a Congressional Committee or Subcommittee of which such Member is Chairman or Ranking Member may mail a mass mailing as franked mail if—

“(I) the purpose of the mailing is to communicate information about a public meeting; and

“(II) the content of the mailed matter includes only the name of the Member, Committee, or Subcommittee, as appropriate, and the date, time, and place of the public meeting.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (B) and by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively.

(2) Section 3210(a)(6)(E) of title 39, United States Code, as redesignated by paragraph (1), is
amended by striking “subparagraphs (A) and (C)” and inserting “subparagraphs (A) and (B)”.

TITLE III—RESPONSIBILITIES OF THE FEDERAL ELECTION COMMISSION

SEC. 301. PETITION FOR CERTIORARI.

Section 307(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by inserting “(including a proceeding before the Supreme Court on certiorari)” after “appeal”.

SEC. 302. FILING BY SENATE CANDIDATES WITH COMMISSION.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended to read as follows:

“(g) FILING WITH THE COMMISSION.—All designations, statements, and reports required to be filed under this Act shall be filed with the Commission.”.

SEC. 303. ELECTRONIC FILING OF FEC REPORTS.

Section 304(a)(11) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)) is amended—

(1) in subparagraph (A), by striking “under this Act—” and all that follows and inserting “under this Act shall be required to maintain and
file such designation, statement, or report in electronic form accessible by computers.”;

(2) in subparagraph (B), by striking “48 hours” and all that follows through “filed electronically)” and inserting “24 hours”; and

(3) by striking subparagraph (D).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.
SEC. 403. EFFECTIVE DATE.

Except as otherwise provided for in this Act, this Act and the amendments made by this Act shall take effect on January 1, 2008.