[COMMITTEE PRINT]

United States Senate

COMMITTEE ON FINANCE

PRESIDENTIAL ELECTION CAMPAIGN FUND ACT OF 1966

(Title III of Public Law 89–809)

Background

In the past, political campaigns for the Presidency (and the Vice Presidency) have been financed generally through voluntary contributions by individuals and corporations. In some instances devices have been perfected to disguise these voluntary contributions as trade or business expenses in order to obtain a tax deduction for the amounts involved. Each time one of these devices has been detected Congress has acted to prevent its continuation, and, conversely, each time Congress has acted it has made political campaign financing more difficult.

Against this background, it has become increasingly clear that new methods of financing political campaigns must be found.

General Description

The Presidential Election Campaign Fund Act of 1966 authorizes individual taxpayers to designate on their annual tax returns that $1 of their income tax may be placed in a presidential election campaign fund for the purpose of defraying expenses incurred by political parties in running candidates for President and Vice President. Under the act, only political parties whose candidates received at least 5 million votes in the preceding presidential election are eligible for payments from the fund.

The reimbursement rules are different under the act for major parties and minor parties, but they have three common features. First, all parties are to be subject to a $5 million floor, for which no reimbursement is to be allowed. Second, payments to any political party are to be limited solely to reimbursement of presidential (and vice-presidential) campaign expenses actually incurred by the party in connection with a current election. Third, payments in every case are calculated on the basis of votes cast in the prior presidential election.

A minor party (one whose candidate for President polled more than 5 million but less than 15 million votes in the prior election) is to be eligible for reimbursements from the fund up to $1 for each vote in excess of 5 million that its candidate received in the preceding presidential election.

A major party (one whose candidate polled 15 million votes or more in the preceding presidential election) is to be eligible for reimbursement from the fund of up to $1 times the number of votes cast for the presidential candidates of all the major parties in the preceding election, divided by the number of major parties. As in the case of minor parties, the amount actually paid over to any major party is to be reduced by $5 million.

On the basis of the 1964 presidential election, only two major parties would be entitled to reimbursements with respect to their 1968 campaigns. Approximately 70 million votes were cast for their candidates in 1964, and after a reduction of $5 million for each major party, the maximum reimbursable amount would be fixed at approximately $60 million. Each party would be eligible for reimbursement of up to $30 million of expenses it actually incurs during the 1968 presidential campaign.

The Comptroller General of the United States is authorized to determine the campaign expenses of the political parties and to determine the amounts which may be paid to them. An advisory board is established to advise and assist the Comptroller General with his duties under this act.

Transfers to the Fund

Space will be provided on the income tax return forms to permit each individual taxpayer (other than a nonresident alien or an estate or trust) to designate, if he so desires, that $1 of his tax is to be paid into the Presidential Election Campaign Fund. The voluntary act of a taxpayer will thus determine the size of the fund; and, unless he chooses to have a portion of his tax used for financing political campaigns, none of his tax will go into the fund.

Any taxpayer who shows an income tax liability of at least $1 on his return for the year may make an assignment. On joint returns, both husband and wife may designate provided the tax liability shown on the return is at least $2. The election is to be made at the time of filing the return or at such later time as may be provided in regulations (such as at the time of making a claim for refund of an overpayment of tax).

Payments From Fund

Under the act the amount to be available for reimbursing a political party for its presidential (and vice-presidential) campaign expenditures will be determined by the number of votes cast in the immediately preceding presidential election. The votes cast in the current election will determine the account to be available for these purposes in the next presidential election. The rules for payments from the fund differ for major parties and minor parties.

Minor Party.—A political party whose candidate for President received more than 5 million votes in the preceding presidential election but less than 15 million votes will be reimbursed from the fund an amount equal to the lesser of (a) its actual campaign expenses, or (b) $1 times the number of votes in excess of 5 million that its candidate received in the preceding election.

Major Party.—A political party whose candidate for President received 15 million votes or more in the preceding election is to be reimbursed on a different basis. An amount equal to $1 for each vote received by all major parties in the last election reduced by $5 million for each such major party, is to be divided equally between (or among) them. However, payments to any one party cannot exceed the expenses it incurs in the current campaign.

Example.—The preceding rules can be illustrated by assuming that 80 million popular votes are cast for candidates for President in the 1972 elections. These votes fix the amount in the fund to be available during the 1976 presidential campaign.

The votes are divided in this manner: 40 million for the candidate of party A; 30 million for the candidate of party B; and 10 million for the candidate of party C. Under the law parties A and B are "major parties," while party C is a "minor party." In 1976, party C would be eligible to receive from the Presidential Election Campaign Fund $5 million—$1 per vote in excess of 5 million votes cast for its candidate in 1972. In 1976, parties A and B would each be eligible to receive $30 million from the fund. This is calculated by dividing (a) the total votes cast for major party candidates in the 1972 presidential election (70 million) by (b) the number of major parties (2) and then subtracting $5 million from the amount for each of the major parties.

Administrative.—The payments will be made at times to be determined by Treasury regulations, but no payment for a given presidential election campaign can be made before September 1 of the year the election is held. Nor will there be any reimbursement for expenses related to a presidential primary campaign or to seeking nomination as a presidential candidate.

The Comptroller General is charged with the responsibility for certifying to the Secretary of the Treasury the amounts payable to eligible political parties, and the Secretary will disburse these amounts. In this certification the Comptroller General will take into account information supplied him by the treasurers of each political party regarding presidential campaign expenses incurred. Reimbursement may not be made for any item related to a candidate for any office other than President or Vice President. Nor will the expenses of a joint appearance with a candidate for another office be allowed if a principal purpose of the joint appearance is to further the campaign of the other candidate. The Comptroller General is also to certify the total vote received by each party in the preceding presidential election and his decision in this respect is to be final.

If, at the time payments are made, there is an insufficient amount in the fund to reimburse the parties for their allowable expenses, payments to all entitled parties will be reduced pro rata, and the additional amounts will be paid out in later years as the fund is replenished by new assignments.

Conversely, if an amount remains in the fund after all authorized payments have been made with respect to a presidential election, or if the fund exceeds the maximum amount which may be authorized for payment, the excess amount is to be returned to the general fund of the Treasury.

Advisory Board

A Presidential Election Campaign Fund Advisory Board is established to advise and assist the Comptroller General in connection with his duties under this act. The Board is to consist of two members from each major political party, to be appointed by the Comptroller General upon recommendations submitted by the parties, and three additional members selected by a majority of the Board's political party members.

The first Board is to serve until 60 days after the 1968 presidential election. Subsequent Boards will be appointed to serve for 4-year terms ending 60 days after each succeeding presidential election. Board members will be compensated at the rate of $75 a day for the period they are actually engaged in performing the duties and functions of the Board. They will also receive travel expenses and a per diem in lieu of subsistence (at rates authorized for persons in intermittent Government service) when engaged in work away from their homes or regular places of business.

Effective Date

The designation is to be permitted with respect to income tax liability for each taxable year beginning after December 31, 1966. For most taxpayers this means calendar year 1967. Accordingly, income tax returns which must be filed on or before April 15, 1968, will be the first to contain a space in which the taxpayer may indicate whether he chooses to have $1 of his tax used for presidential campaign purposes.

STATEMENT ON THE CONFERENCE REPORT

November 10, 1966

RUSSELL B. LONG, Chairman

Let me turn now to the area of political campaign contributions.

First, let me make it clear that this is an area on which the Senate Finance Committee has held hearings. An earlier version of the amendment adopted by the committee was presented in these hearings for consideration by the committee. This is also true of various other plans, including the tax deduction plan favored by the Senator from Delaware (Mr. Williams). I might also add that the problem of political campaign contributions has been discussed on the Senate floor not merely in connection with this bill, but also in connection with earlier legislation. At the time we last raised the debt limitation, the Senator from Delaware (Mr. Williams) sought to amend that bill with his provision providing for political contribution deductions. The matter was extensively considered by the Senate at that time and rejected. However, this proposal was analyzed in hearings on political contributions held by the committee as I promised at the time.

This is a matter which has been considered extensively, not only in the current year, but in past years as well. As the Senator from Tennessee (Mr. Gore) indicated, this is a problem which he had under study some 10 years ago. The problem with these past studies, however, is that they were just studies—no action was taken. I can well understand this, because the area of political campaign contributions is a multiple problem. It is a problem which, in part, is appropriately considered by one committee and, in part, by other committees. In the past it has been difficult to obtain action on this problem because of the feeling that it was impossible to act on any one of these problems until action had been completed on the others. This, in turn, prevented action by all of the committees. Senator Clark made this aspect of the situation quite clear in his discussion of the Presidential Election Campaign Fund Act.

I should make it clear that I do not consider the Long Act as a full answer to all of the problems in connection with political campaign contributions. First of all, this deals only with presidential campaigns. It may well be that after we see how this provision works in the case of presidential campaigns we may want to extend either this provision or some modified version of it, to cover congressional elections. I do not know the answer to this, and I think it would be unfortunate for us to reach an inflexible position in this regard until after we have tried this provision for a period of time in the case of presidential campaigns.

Second, I want to make it clear that in my view this bill does not replace the need for additional legislation regulating political contributions or requiring disclosure of the source of political campaign contributions. Moreover, this does not deal with other issues which we may have to face with respect to the division of television time or what organizations can properly make campaign expenditures. These are all issues, however, as to which it will be easier to come up with specific answers after my amendment is a part of the law, because it will give assurance of adequate financing for the most important of all political campaigns.

Nor do I contend that my provision itself even in the limited area in which it is intended to operate is, in all respects, necessarily a perfect answer to the problem. I am sure that modifications will be necessary as we gain experience under this provision. Nevertheless, I view the Long Act as major legislation which will give assurance that presidential candidates are not necessarily obligated to any financial interests as a result of the necessity to raise funds to finance their campaigns. There are sizable groups of citizens in our country who suspect that these financial contributions have influenced governmental decisions. We should remove this shadow and prevent the possibility of anything like this in the future. To me this is the most important aspect of my amendment.

I realize that some say, "But you haven't prevented the other campaign contributions from being made in addition to the funds provided by your bill." I have two answers to this: first, as I have already indicated, this is not the last time that I expect legislation to be passed with respect to political campaign contributions. I will be prepared to support limitations to outlaw private contributions to presidential campaigns when such legislation is before the Senate, and now that we have assurance of adequate financing for presidential campaigns, it will, for the first time from a practical point of view, really be possible to consider limitations such as I have referred to.

Obtaining funds on a very small basis from a very wide group of our citizens is the best possible way of being sure that no financial group can be said to have gained undue influence. Others have tried to find a way of obtaining this broad participation through tax deductions or credits. However, the effort which would be required to obtain these contributions in amounts as small as $1 from so many people raises the collection costs under these other devices to such an extent as to make them impractical. Moreover, a tax deduction or even a tax credit tends to provide more of an incentive for those in the higher income groups to make contributions than for taxpayers of more modest means. This is a kind of selection that I think is undesirable in attempting to influence political contributions.

Some have objected to my plan because it requires individuals to check a box on their tax return. What are the alternatives that we most frequently hear? The suggestions most usually made are for a tax deduction or tax credit. These involve not merely a checkmark on the tax return but also the recording of specific contributions made, and still leaves us with the auditing problem of determining whether, in fact, the contributions were made. The tax problems in these alternative solutions are much more complex and difficult than the simple checkmark on the tax return which the amendment provides. Moreover, a tax deduction or credit to be verified must be checked with the party to whom the contribution was given. Who wants the internal revenue agents in examining his return to obtain information on his political affiliation?

In the absence of finding any other basis for objection to the Long Act, it is sometimes claimed that this is undesirable because individuals under this system are, in effect, designating how governmental funds are to be spent. To me the interesting thing about this argument is that those who make this charge fail to recognize that deduction or tax credit for political contributions just as effectively takes money which would otherwise go into the Public Treasury and diverts it to another purpose. The only difference I can see in this regard is that the tax deduction or tax credit schemes divert the money just before it reaches the Treasury. Moreover, instead of diverting the money to the political campaigns, these deductions or credits merely recompense the taxpayer for part of the contribution he has already made. Moreover, frequently they repay the taxpayer needlessly for contributions he would have made in any case. There is no such waste under the amendment in this bill.

I have explained the mechanics of the Long Act previously, so I see no need to repeat it here. However, there are a few points that I would like to emphasize:

First. This amendment treats equally all parties receiving 15 million votes or more. As a result, this will not favor the party in power.

Second. Provision is made for minority parties under this bill. Any party receiving 5 million votes or more—a 5 million deduction is provided not only for minority parties but for major parties as well—receives political campaign funds based upon its vote over 5 million, and if it reaches the 15 million vote level, it is treated equally with the major parties. This is an honest attempt to give proper recognition to minority parties in this area of political contributions but not at the same time be unrealistic and treat fragment parties on the same basis as major parties. I believe that this represents a fair solution to this problem, but I am certainly willing to consider modifications in the future should the need to do so be established.

Third. This amendment is limited in several respects. Major parties cannot receive more than an equal share of the funds based upon the vote in the last presidential election. Therefore, even if taxpayers should check their tax returns freely in this regard, only limited funds would be available for expenditure. The funds are available only for presidential campaigns, and the Comptroller General is specifically authorized to examine the statements presented to him and to audit the books of the poltical parties to be sure that the contributions are spent for presidential campaigns and not for congressional or gubernatorial campaigns, and not for personal use, distinct from political purposes.

Fourth. It has been said that this provision runs contrary to the limitation in present law limiting contributions to political committees to $3 million in any year. Those who say this cannot have examined the bill or present law very closely. Present law refers to contributions to political committees. The bill actually has nothing to do with contributions. The term "contribute" means to give or supply in common with others; to share in a joint effort. The financing by the Government after the passage of this bill is not a voluntary, joint effort to give funds. Rather, it is an appropriation of funds. Rather, it is an appropriation of funds to which the parties have a right. Moreover, it is not part of a joint effort. As a result, it is not a contribution and, therefore, does not come under the limitation of present law. Moreover, it involves a payment to political "parties" not payments to political "committees." As a result, it should be clear the present $3 million limitation does not apply.

Fifth. Some have objected to the fact that the contribution in this case is divided between, or among, the major parties. Some have indicated that they would prefer making all of their contribution to one party or the other. This, of course, is not the way to assure good government. It may be a way of electing one party over another—by supplying it with a better financial base—but it does not assure good government. The way to assure good government is to be sure that sufficient campaign funds are available to both, or all, major parties, so that their positions can be fully understood by the electorate. It is only a well-informed electorate that can assure the continuation of our representative form of government.

Sixth. It has been suggested that there are no safeguards to prevent misuse of the funds made available to the political parties by this provision. Actually, present law provides about as strict a fraud statute as can be imagined. Section 1001 of title 18 of the code specifies:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or documents knowing the same to contain any false, fictitious or fraudulent statement or entry shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Certainly I would not object to other safeguards being written into the law to prescribe even more definitely how these funds may be used and how they may not be used, but I do feel that those who say there presently are no safeguards have overstated their case.

Contrary to the general impression that some have tried to create, this is not a hastily concocted scheme.

It has long been suggested that Government should find some way to help finance the cost of these campaigns. Theodore Roosevelt suggested nearly 60 years ago that this should be done with public funds. Later the Special Committee To Investigate Campaign Expenditures of presidential, vice-presidential, and senatorial candidates in 1936 suggested that private contributions to political campaigns be prohibited entirely and that instead all election expenses should be defrayed from public funds. In 1959, Jasper B. Shannon, professor of political science at the University of Nebraska, recommended a similar plan in his book "Money and Politics." Earlier this year Prof. John Kenneth Galbraith suggested, in connection with State offices, that the Government "provide every regularly nominated candidate with a public grant of sufficient size to enable him to get his name, merit if any, and platform before the people. These grants would be available to candidates for statewide office, the general court and for the senate and house of representatives."

I introduced a bill on June 15 of this year to provide funds from the Treasury to help defray the cost of presidential campaigns. In doing this I was largely implementing a thought which had been before the people for discussion for nearly 6 decades. This is a matter which I have been studying for over a year, and it is a matter which has been thoroughly analyzed by the Senate Finance Committee. The best minds of the staff of the Finance Committee and the staff of the Joint Committee on Internal Revenue Taxation, the Senate Legislative Counsel, the experts of Treasury, as well as other advisors to the President and the senior members of the House Committee on Ways and Means have all contributed meaningfully to the effort to find a proper answer. This is an important building block on which we can build a proper system for controlling political campaign contributions. Moreover, it is the first answer to this problem of financing political campaigns for which it has been possible to obtain majority support from Congress. This in itself is an important achievement in such a controversial field as this.

Let me conclude my comments on the presidential political campaign financing by saying that I consider this one of the most important and constructive pieces of legislation passed by Congress this year. I believe time will show that what I have said is true.

APPENDIX

TEXT—PRESIDENTIAL ELECTION CAMPAIGN FUND ACT
(Title III of Public Law 89-809)

Sec. 301. SHORT TITLE.

This title may be cited as the "Presidential Election Campaign Fund Act of 1966."

Sec. 302. AUTHORITY FOR DESIGNATION OF $1 OF INCOME TAX PAYMENTS TO PRESIDENTIAL ELECTION CAMPAIGN FUND.

(a) Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part:

"Part VIII—Designation of Income Tax Payments to Presidential Election Campaign Fund

"SEC. 6096. Designation by individuals.

"*Sec. 6096. DESIGNATION BY INDIVIDUALS.*

"(a) IN GENERAL.—Every individual (other than a nonresident alien) whose income tax liability for any taxable year is $1 or more may designate that $1 shall be paid into the Presidential Election Campaign Fund established by section 303 of the Presidential Election Campaign Fund Act of 1966.

"(b) INCOME TAX LIABILITY.—For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under sections 32(2), 33, 35, 37, and 38.

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year, in such manner as the Secretary or his delegate may prescribe by regulations—

"(1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or

"(2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary or his delegate."

(b) The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Designation of income tax payments to Presidential Election Campaign Fund."

(c) The amendments made by this section shall apply with respect to income tax liability for taxable years beginning after December 31, 1966.

Sec. 303. PRESIDENTIAL ELECTION CAMPAIGN FUND.

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund" (hereafter in this section referred to as the "Fund"). The Fund shall consist of amounts transferred to it as provided in this section.

(b) TRANSFERS TO THE FUND.—The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount equal to the sum of the amounts designated by individuals under section 6096 of the Internal Revenue Code of 1954 for payment into the Fund.

(c) PAYMENTS FROM FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall, with respect to each presidential campaign, pay out of the Fund, as authorized by appropriation Acts, into the treasury of each political party which has complied with the provisions of paragraph (3) an amount (subject to the limitation in paragraph (3)(B)) determined under paragraph (2).

(2) DETERMINATION OF AMOUNTS.—

(A) Each political party whose candidate for President at the preceding presidential election received 15,000,000 or more popular votes as the candidate of such political party shall be entitled to payments under paragraph (1) with respect to a presidential campaign equal to the excess over $5,000,000 of—

(i) $1 multiplied by the total number of popular votes cast in the preceding presidential election for candidates of political parties whose candidates received 15,000,000 or more popular votes as the candidates of such political parties, divided by

(ii) the number of political parties whose candidates in the preceding presidential election received 15,000,000 or more popular votes as the candidates of such political parties.

(B) Each political party whose candidate for President at the preceding presidential election received more than 5,000,000, but less than 15,000,000, popular votes as the candidate of such political party shall be entitled to payments under paragraph (1) with respect to a

presidential campaign equal to $1 multiplied by the number of popular votes in excess of 5,000,000 received by such candidate as the candidate of such political party in the preceding presidential election.

(C) Payments under paragraph (1) shall be made with respect to each presidential campaign at such times as the Secretary of the Treasury may prescribe by regulations, except that no payment with respect to any presidential campaign shall be made before September 1 of the year of the presidential election with respect to which such campaign is conducted. If at the time so prescribed for any such payments, the moneys in the Fund are insufficient for the Secretary to pay into the treasury of each political party which is entitled to a payment under paragraph (1) the amount to which such party is entitled, the payment to all such parties at such time shall be reduced pro rata, and the amounts not paid at such time shall be paid when there are sufficient moneys in the Fund.

(3) LIMITATIONS.—

(A) No payment shall be made under paragraph (1) into the treasury of a political party with respect to any presidential campaign unless the treasurer of such party has certified to the Comptroller General the total amount spent or incurred (prior to the date of the certification) by such party in carrying on such presidential campaign, and has furnished such records and other information as may be requested by the Comptroller General.

(B) No payment shall be made under paragraph (1) into the treasury of a political party with respect to any presidential campaign in an amount which, when added to previous payments made to such party, exceeds the amount spent or incurred by such party in carrying on such presidential campaign.

(4) The Comptroller General shall certify to the Secretary of the Treasury the amounts payable to any political party under paragraph (1). The Comptroller General's determination as to the popular vote received by any candidate of any political party shall be final and not subject to review. The Comptroller General is authorized to prescribe such rules and regulations, and to conduct such examinations and investigations, as he determines necessary to carry out his duties and functions under this subsection.

(5) DEFINITIONS.—For purposes of this subsection—

(A) The term "political party" means any political party which presents a candidate for election to the office of President of the United States.

(B) The term "presidential campaign" means the political campaign held every fourth year for the election of presidential and vice presidential electors.

(C) The term "presidential election" means the election of presidential electors.

(d) TRANSFERS TO GENERAL FUND.—If, after any presidential campaign and after all political parties which are entitled to payments under subsection (c) with respect to such presidential campaign have been paid the amounts to which they are entitled under subsection (c), there are moneys remaining in the Fund, the Secretary of the Treasury shall transfer the moneys so remaining to the general fund of the Treasury.

Sec. 304. ESTABLISHMENT OF ADVISORY BOARD.

(a) There is hereby established an advisory board to be known as the Presidential Election Campaign Fund Advisory Board (hereafter in this section referred to as the "Board"). It shall be the duty and function of the Board to counsel and assist the Comptroller General in the performance of the duties imposed on him under section 303 of this Act.

(b) The Board shall be composed of two members representing each political party whose candidate for President at the last presidential election received 15,000,000 or more popular votes as the candidate of such political party, which members shall be appointed by the Comptroller General from recommendations submitted by each such political party, and of three additional members selected by the members so appointed by the Comptroller General. The term of the first members of the Board shall expire on the 60th day after the date of the first presidential election following the date of the enactment of this Act and the term of subsequent members of the Board shall begin on the 61st day after the date of a presidential election and expire on the 60th day following the date of the subsequent presidential election. The Board shall select a Chairman from among its members.

(c) Members of the Board shall receive compensation at the rate of $75 a day for each day they are engaged in performing duties and functions as such members, including travel time, and, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(d) Service by an individual as a member of the Board shall not, for purposes of any other law of the United States, be considered as service as an officer or employee of the United States.

Sec. 305. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated, out of the Presidential Election Campaign Fund, such sums as may be necessary to enable the Secretary of the Treasury to make payments under section 303 of this Act.

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