

# CRS Report for Congress

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## Campaign Finance Reform Bills in the 105<sup>th</sup> Congress: Comparison of H.R. 3581 (Thomas), H.R. 3526 (Shays-Meehan), and Current Law

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### Summary

On March 30, 1998, the House considered four campaign reform bills under a suspension of rules, focusing on the comprehensive H.R. 3581, offered that day for the Republican leadership by Mr. Thomas; it failed passage on a 74-337 vote. (The bill was similar to H.R. 3485, also by Mr. Thomas, reported by the House Oversight Committee March 18.<sup>1</sup>) The bill generating the most publicity in the 105<sup>th</sup> Congress has been S. 25 (McCain-Feingold),<sup>2</sup> introduced on March 19 as H.R. 3526 by Messrs. Shays and Meehan. This report summarizes and compares H.R. 3581, H.R. 3526, and current law.

**Table 1. Comparison of H.R. 3581, H.R. 3526, and Current Law**

Current law	H.R. 3581 (Thomas)	H.R. 3526 (Shays-Meehan)
<b>SOURCES OF FUNDS</b>		
<b>PACs</b>		
No provision	Protects confidentiality of small donors or decliners to union or corporate PAC solicitations	No provision

<sup>1</sup> H.Rept. 105-457, Pt. 1.

<sup>2</sup> The McCain-Feingold legislation has been revised twice in the 105<sup>th</sup> Congress. The first revision (September 29, 1997) was the subject of three failed cloture votes in the fall of 1997, on October 7, 8, and 9. The second revision (February 1998) was in the form of a floor amendment (to S. 1663), as modified by the Snowe-Jeffords amendment. (A cloture vote on this version failed in the Senate February 26, 1998.) The Shays-Meehan bill is based on the current version of S. 25, considered by the Senate in 1997, *not* February's modified floor amendment.

Current law	H.R. 3581 (Thomas)	H.R. 3526 (Shays-Meehan)
<b>Individuals</b>		
<i>To candidates:</i>		
\$1,000 per election	\$2,000 per election	No provision
<i>To state &amp; local parties:</i>		
\$5,000 per year	\$15,000 per year	\$10,000 per year
<i>To national party:</i>		
\$20,000 per year	\$60,000 per year	No provision
<i>Aggregate annual limit:</i>		
\$25,000	\$75,000	\$30,000
Limits not inflation-indexed	Indexes limits to 1999 base	No provision
<b>Parties</b>		
<i>To candidates:</i>		
\$5,000 per election	\$15,000 per election	No provision
Limits not inflation-indexed	Indexes limits to 1999 base	No provision
<b>Candidates</b>		
No limits on candidate	<i>If candidate exceeds</i>	Bans party coordinated
spending from personal	<i>individual limit, up to</i>	expenditures for House
funds	<i>\$150,000, in House general</i>	general election candidates
	<i>election: Lifts party</i>	who exceed \$50,000 vol.
	<i>contribution limit for</i>	limit in personal/ family
	<i>opponent, up to amount</i>	funds; fines candidates who
	<i>above individual limit</i>	pledge to abide and exceed
	<i>If candidate exceeds</i>	
	<i>\$150,000 in House general</i>	
	<i>election: Lifts party &amp;</i>	
	<i>individual contribution limits</i>	
	<i>(incl. aggregate annual limit)</i>	
	<i>&amp; raises PAC limit by 10</i>	
	<i>times for all candidates, up</i>	
	<i>to amount over \$150,000</i>	
	<i>If candidate exceeds</i>	
	<i>\$150,000 in House primary</i>	
	<i>election: Lifts individual</i>	
	<i>contribution limit (not incl.</i>	
	<i>aggregate annual limit) &amp;</i>	
	<i>raises PAC limit by 10 times</i>	
	<i>for all candidates, up to</i>	
	<i>amount over \$150,000</i>	
Law bans personal use of	No provision	Codifies regulations on
campaign funds, as defined		permissible use of campaign
in FEC regulations		funds
<b>INDEPENDENT EXPENDITURES</b>		
Prohibits cooperation and	No provision	Tightens definition of what
coordination of independent		constitutes coordination and
expenditures with candidates		cooperation
Requires filing within 24	Requires FEC receipt of	Augments disclosure
hours of \$1000+ in last 20	filing within 24 hours of	requirements of large
days of election	being made	amounts close to election

Current law	H.R. 3581 (Thomas)	H.R. 3526 (Shays-Meehan)
Based on 1996 <i>Colorado</i> ruling, parties may make independent expenditures for candidates (no limit)	No provision	Bans parties from making both coordinated & independent expenditures for general election candidate
<b>SOFT MONEY</b>		
<b>Party soft money</b>		
No limits on national party receipt of soft money	Bans national parties from soliciting, receiving, directing, transferring, or spending soft money	Bans national parties from soliciting, receiving, directing, transferring, or spending soft money
State parties must follow allocation formulae in FEC regulations for determining appropriate share of hard & soft money for mixed (federal-state-local) activities	<ul style="list-style-type: none"> <li>- Bans use of soft money by state parties on mixed activities, aimed at influencing federal and non-federal elections (<i>e.g.</i>, voter registration, get-out-the-vote drives, and general political advertising)</li> <li>- Bans transfers of non-federally-permissible funds between state parties</li> </ul>	<ul style="list-style-type: none"> <li>- Bans state/local party soft money spending for <i>federal election activity</i>: registration drives in last 120 days of federal election; voter ID, get-out-the-vote drives, &amp; generic activity if federal candidate is on ballot; &amp; messages that refer to federal candidate with intent of election influence</li> <li>- Allows soft money on solely non-federal activities</li> </ul>
No provision	No provision	No soft money to raise funds
Disclosure by national parties (1991 FEC regs.)	No provision	Codifies & increases disclosure requirements
Contributions to party building funds are exempt from contribution definition	No provision	Removes building fund exemption for national parties
<b>Candidate soft money raising</b>		
No provision	Bans federal candidates & officials raising: soft money for federal election; money from sources beyond federal restrictions in non-federal races; & soft money for messages that identify federal candidates; exempts attendance at state party fundraisers in home state	Prohibits federal candidates & officials from raising soft money for <i>federal election activity</i> (see above); exempts attendance at state party fundraisers
No provision	Denies public funding to presidential candidates who raise soft money	No provision

Current law	H.R. 3581 (Thomas)	H.R. 3526 (Shays-Meehan)
<b>Non-party soft money</b>		
Under <i>Beck</i> and other court rulings, dues-paying non-union members have right to disallow political use of their funds	Requires pre-authorization for unions' political use of dues, fees, or payments from members or non-members	Requires unions to give adequate notice to dues-paying non-members of rights to disallow political use of funds
No provision	Requires pre-authorization from corp. & national bank employees & stockholders for political use of dues, fees, or payments as condition of employment	No provision
No provision	Corporate stockholders may withhold share of expected political spending (per annual notice), in proportion to stocks owned	No provision
No union or corporate disclosure for exempt activities, except internal communications above \$2,000 per election	No provision	Requires disclosure of exempt activities (incl. internal communications referring to fed. candidate only), over \$50,000 per year
<b>Tax-exempt activity</b>		
No provision	No provision	Bans party raising money or giving to tax-exempt groups
<b>ISSUE ADVOCACY</b>		
Based on court rulings, only spending for communications that use express advocacy language ( <i>e.g.</i> , vote for, defeat) are subject to disclosure rules, source limits & prohibitions of FECA	Requires FEC disclosure of spending and sources of funds for communications that identify federal candidates or parties within 90 days of election, over \$250 threshold	- Defines as communication for or against candidate by: explicit language that in context can have no other reasonable meaning; paid broadcast citing a candidate within 60 days of election; or unambiguous advocacy, taken as whole with limited reference to external events - Voter guide exemption
Expenditure defined in FECA as money spent to influence a federal election	No provision	Amends definition to incl. payment for message with express advocacy, or that refers to clearly identified candidate, is coordinated, & seeks fed. election influence
<b>FOREIGN NATIONAL MONEY</b>		
Bans contributions and fundraising from foreign nationals in connection with U.S. elections; exempts permanent resident aliens (with green cards)	- Ends green card exemption - Bans foreign national independent expenditures or soft money donations - Doubles penalties for violations	Bans direct or indirect foreign national contributions, including soft money, in connection with any election (leaves green card exemption in law)

Current law	H.R. 3581 (Thomas)	H.R. 3526 (Shays-Meehan)
<b>FEDERAL ELECTION COMMISSION</b>		
<b>Disclosure</b>		
Optional electronic filing	Requires electronic filing by all committees above \$50,000 per year	Requires electronic filing by all committees over FEC-set level, with 24 hour Internet posting
No provision	Candidates may disclose all activity in 24 hours in last 90 days; FEC must promptly post such reports on Internet	No provision
Candidates must disclose in 48 hours \$1000+ contributions in last 20 days of election	Candidates must make such notice within 24 hours	No provision
Candidate disclosure on calendar year basis	Candidate disclosure on election cycle basis	No provision
No provision	Requires reports on payments of \$500+ by secondary payees	No provision
Law requires post-election reports	Requires aggregate totals through election on reports	No provision
No provision	Requires disclosure of push polls within 90 days of election if results not public	No provision
Contributions of \$200+ must incl. name, address, occupation, & employer; best efforts required to obtain information	Requires candidate reports to show cumulative amounts received from itemized contributors	<ul style="list-style-type: none"> <li>- Bans candidate deposit of \$200+ contributions without required ID</li> <li>- Lowers itemization threshold to \$50 for contributions</li> </ul>
<b>Enforcement</b>		
FEC may audit only if it has reason to believe a violation occurred	No provision	Allows random audits of campaigns within 12 months after election
Ambiguities in law may be clarified through FEC advisory opinions, issued with majority support of commissioners	<ul style="list-style-type: none"> <li>- Allows written responses to written requests where law is unambiguous</li> <li>- Requires FEC to publish and index responses</li> <li>- Gives safe harbor protection if acting in good faith on response</li> </ul>	No provision
FEC required to notify object of a complaint	Enhances notice to assert that object of complaint has not been found guilty	No provision
FEC may initiate enforcement action with “reason to believe” a violation may have occurred	Changes FEC criterion to “reason to investigate” standard	Changes FEC criterion to “reason to investigate” standard

Current law	H.R. 3581 (Thomas)	H.R. 3526 (Shays-Meehan)
<i>Penalties:</i> maximums are prescribed in election law	Indexes penalties for inflation	- Increases knowing & willful violation penalties - Automatic late filing penalties - Allows equitable remedies in conciliation agreements
Law specifies timetable for enforcement actions	No provision	Expedites FEC enforcement procedures late in election
FEC may refer suspected violations to Justice only if probable cause to believe a violation has occurred	No provision	Allows FEC referrals at any time
	<b>MISCELLANEOUS</b>	
No provision	<i>Barriers to vote fraud:</i> - Pilot programs on voter eligibility confirmation - Requires citizenship & naturalization information on registration forms (unless waived by states) - Allows address checks on recent non-voters	No provision
Bans solicitation of campaign funds, as defined, from federal govt. buildings	No provision	Includes raising soft money in ban on solicitation from government buildings
No provision	<i>Push poll</i> sponsor must identify self to respondents	No provision
Imposes penalties on publicly-funded presidential candidates who evade voluntary spending limits and, in general election, raise private funds	Increases fines on presidential candidates seeking to evade spending limits by raising non-public funds	No provision
Bans cash contributions over \$100	Bans receipt of such contributions	No provision
Bans House franked mass mailings 90 days from election	No provision	Bans franked mass mailings in Member's election year
Requires disclaimers on broadcast and print ads	No provision	Enhances disclaimer requirements
No provision	No provision	Bans false representation to raise funds
No provision	No provision	Bans non-candidate comm. use of candidate names
No provision	No provision	Bans donations by those 17 years & younger