

96th CONGRESS
1st Session

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. Tsongas introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend the Federal Election Campaign Act of 1971 to provide for
public financing of congressional primary and general
elections, and for other purposes.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled,
3 That this Act may be cited as the ``Public Financing of
4 Congressional Elections Act of 1979``.

5 Sec. 2. The Federal Election Campaign Act of 1971 is
6 amended by adding at the end thereof the following new title:

7 ``TITLE V--PUBLIC FINANCING OF CONGRESSIONAL ELECTION

8 CAMPAIGNS

9 ``DEFINITIONS

10 ``Sec. 501. For purposes of this title--

11 ``(1) the definitions set forth in section 301 of
12 this Act apply to this title;

1 “(2) ‘congressional election’ means any general,
2 special, primary, or runoff election for the purpose of
3 choosing a candidate for, or for electing a candidate to,
4 the office of Senator or Representative in, or Delegate
5 or Resident Commissioner to, the Congress of the United
6 States;

7 “(3) ‘eligible candidate’ means a candidate who is
8 eligible, under section 502, for payments under this
9 title;

10 “(4) ‘account’ means the Congressional Campaign
11 Account maintained by the Secretary of the Treasury in
12 the Presidential Election Campaign Fund established by
13 section 9006 (a) of the Internal Revenue Code of 1954;
14 and

15 “(5) ‘authorized committee’ means, with respect to
16 any candidate in a congressional election, any political
17 committee which is authorized in writing by such
18 candidate to accept contributions or make expenditures on
19 behalf of such candidate to further the election of such
20 candidate.

21 “ELIGIBILITY FOR PAYMENTS

22 “Sec. 502. (a) To be eligible to receive payments under
23 this title, a candidate shall agree--

24 “(1) to obtain and to furnish to the Commission any
25 evidence it may request about his campaign expenditures

1 and contributions;

2 ``(2) to keep and to furnish to the Commission any
3 records, books, and other information it may request; and

4 ``(3) to an audit and examination by the Commission
5 under section 507 and to pay any amounts required under
6 section 507.

7 ``(b) To be eligible to receive payments under this
8 title, every such candidate shall certify to the Commission
9 that--

10 ``(1) the candidate and his authorized committees
11 will not make campaign expenditures greater than the
12 limitations in section 320 (b) (3) of this Act;

13 ``(2) no contributions will be accepted by the
14 candidate or his authorized committees in violation of
15 section 320 (a) of this Act;

16 ``(3) he and his authorized committees have accepted
17 contributions (subject to the provisions of subsection
18 (c)) for that campaign (excluding contributions from his
19 personal funds or the personal funds of his immediate
20 family, as defined in section 320 (b) (4) of this Act) in
21 a total amount of not less than the smaller of--

22 ``(A) 10 percent of the amount of expenditures
23 the candidate may make in connection with the
24 campaign under section 320 (b) (3) of this Act; or

25 ``(B) \$75,000;

1 “(4) at least two candidates have qualified for the
2 election ballot for the same election under the law of
3 the State involved; and

4 “(5) he and his immediate family will not make
5 campaign expenditures greater than the limitation in
6 section 320 (b) (4) of this Act.

7 “(c) In determining the amount of contributions accepted
8 by a candidate and his authorized committees--

9 “(1) no contribution accepted by the candidate or
10 any of his authorized committees as a subscription, loan,
11 advance, or deposit, or as a contribution of products or
12 services, shall be taken into account;

13 “(2) no contribution accepted from a political
14 committee or any other organization shall be taken into
15 account;

16 “(3) no contribution accepted from any individual
17 shall be taken into account to the extent that such
18 contribution exceeds \$100 when added to the amount of all
19 other contributions made by that individual to or for the
20 benefit of such candidate in connection with the same
21 congressional election;

22 “(4) no contribution accepted before January 1 of
23 the year in which any general election is held shall be
24 taken into account for purposes of such election;

25 “(5) no contribution accepted more than nine months

1 before a special, primary, or runoff election shall be
2 taken into account for purposes of such election; and

3 "(6) no contribution with respect to which payments
4 were made under this title in a previous congressional
5 election campaign, and no payments made under this title,
6 shall be taken into account.

7 "(d) Agreements and certifications under this section
8 shall be filed with the Commission at the time required by
9 the Commission.

10 "(e) (1) Not later than the date on which the candidate
11 qualifies under the law of the appropriate State for election
12 to the Congress of the United States or ninety days before
13 the date of any congressional election, whichever is earlier,
14 each candidate in any congressional election shall file with
15 the Commission a declaration of whether he intends to make
16 expenditures in excess of the limitations on expenditures
17 under section 320 (b) (3) or (4) of this Act.

18 "(2) Not later than sixty days before the date of such
19 congressional election, each candidate who has reason to
20 believe that he may make expenditures in excess of such
21 limitations shall notify the Commission to that effect,
22 unless such candidate filed with the Commission a timely
23 declaration that he intended to exceed such limitations, as
24 provided in paragraph (1).

25 "ENTITLEMENT TO PAYMENTS

1 ``Sec. 503. (a) Every eligible candidate is entitled to
2 payments for use in his congressional election campaign in an
3 amount which is equal to the amount of contributions he and
4 his authorized committees accept for that campaign, but not
5 to exceed 50 percent of the amount of expenditures the
6 candidate may make in connection with that campaign under
7 section 320 (b) (3) of this Act.

8 `` (b) In determining the amount of contributions accepted
9 by a candidate and his authorized committees for purposes of
10 this section, the provisions of section 502 (c) shall apply.

11 `` (c) (1) Notwithstanding the provisions of subsection
12 (a), no candidate is entitled to the payment of any amount
13 under this section which, when added to the total amount of
14 contributions received by him and his authorized committees
15 and any other payments made to him under this title for his
16 congressional election campaign, exceeds the amount of the
17 expenditure limitation applicable to him for that campaign
18 under section 320 (b) (3) of this Act.

19 `` (2) Paragraph (1) shall not apply in the case of a
20 candidate who elects to receive payments under this title
21 with respect to whom the expenditure limitations (other than
22 those contained in section 320 (b) (4)) are made inapplicable
23 under section 504, except that the amount to which such
24 candidate is entitled under this section, based upon the
25 amount of contributions he accepts after the date on which

1 such expenditure limitations are made inapplicable, shall not
2 exceed 62.5 percent of the amount of the expenditure
3 limitation under section 320 (b) (3) of this Act which would
4 otherwise apply to such candidate.

5 ``WAIVER OF EXPENDITURE LIMITATION

6 ``Sec. 504. (a) The limitations on expenditures contained
7 in section 320 (b) (3) of this Act shall not apply to any
8 candidate in a congressional election if any candidate for
9 the same election--

10 ``(1) fails to file with the Commission a timely
11 declaration as required by section 502 (e) (1) or files a
12 declaration under such section that he intends to make
13 expenditures in excess of the limitations referred to in
14 such section 502 (e) (1);

15 ``(2) files with the Commission a notice as provided
16 in section 502 (e) (2); or

17 ``(3) makes any expenditures or incurs any obligation
18 to make an expenditure that will cause such candidate to
19 exceed the limitations on expenditures referred to in
20 such section 502 (e) (1).

21 ``(b) Each candidate in a congressional election shall
22 notify the Commission and each other candidate for the same
23 election within forty-eight hours after he, or any of his
24 authorized committees, first makes expenditures, or incurs
25 obligations to make expenditures, in excess of the

1 limitations on expenditures contained in section 320 (b) (3)
2 or (4) of this Act.

3 `` (c) The Commission is authorized to determine, upon its
4 own initiative or upon the request of any candidate in a
5 congressional election, whether any candidate has made
6 expenditures or incurred obligations to make expenditures in
7 excess of the limitations contained in section 320 (b) (3) or
8 (4) of the Act.

9 `` CERTIFICATIONS BY COMMISSION

10 `` Sec. 505. (a) (1) On the basis of the evidence, books,
11 records, and information furnished by each candidate eligible
12 to receive payments under section 506, and prior to
13 examination and audit under section 507, the Commission shall
14 certify from time to time to the Secretary of the Treasury
15 for payment to each candidate the amount to which that
16 candidate is entitled, in increments of not less than \$10,000
17 as such candidate becomes entitled thereto, and a final
18 increment of any remaining amount to which he is entitled.

19 `` (2) Notwithstanding the provisions of paragraph (1),
20 the Commission may make any certification described in such
21 paragraph on the basis of a verification by the candidate and
22 a certified public accountant, in such form as the Commission
23 shall require, stating that the evidence, books, records, and
24 information furnished, to the best of their knowledge, is
25 accurate and fully satisfies all requirements in section 503

1 with respect to entitlement to payments based upon the amount
2 of contributions accepted by such candidate.

3 `` (b) Initial certifications by the Commission under
4 subsection (a), and all determinations made by it under this
5 title, shall be final and conclusive, except to the extent
6 that they are subject to examination and audit by the
7 Commission under section 507 and judicial review under
8 section 510.

9 `` (c) Any candidate who knowingly and willfully submits
10 false information to the Commission under this subsection
11 shall be punished as provided in section 511.

12 `` PAYMENTS TO ELIGIBLE CANDIDATES

13 `` Sec. 506. (a) The Secretary of the Treasury shall
14 maintain in the Presidential Election Campaign Fund
15 established by section 9006 (a) of the Internal Revenue Code
16 of 1954, in addition to any other accounts he maintains under
17 such section, a separate account to be known as the
18 Congressional Campaign Account. The Secretary shall deposit
19 into the account, for use by candidates eligible for payments
20 under this title, the amount available after the Secretary
21 determines that amounts in the fund necessary for payments
22 under subtitle H of the Internal Revenue Code of 1954 are
23 adequate. The moneys in the account shall remain available
24 without fiscal year limitation.

25 `` (b) Upon receipt of a certification from the Commission

1 under section 505, the Secretary of the Treasury shall pay
2 the amount certified by the Commission to the candidate to
3 whom the certification relates.

4 “(c) (1) If the Secretary of the Treasury determines
5 that the moneys in the account are not, or may not be,
6 sufficient to pay the full amount of entitlement to all
7 candidates eligible to receive payments, he shall reduce the
8 amount to which each candidate is entitled under section 503
9 by a percentage equal to the percentage obtained by dividing
10 (A) the amount of money remaining in the account at the time
11 of such determination by (B) the total amount which all
12 candidates eligible to receive payments are entitled to
13 receive under section 503. If additional candidates become
14 eligible under section 502 after the Secretary determines
15 there are insufficient moneys in the account, he shall make
16 any further reductions in the amounts payable to all eligible
17 candidates necessary to carry out the purposes of this
18 subsection. The Secretary shall notify the Commission and
19 each eligible candidate by registered mail of the reduction
20 in the amount to which that candidate is entitled under
21 section 503.

22 “(2) If, as a result of a reduction under this
23 subsection in the amount to which an eligible candidate is
24 entitled under section 503, payments have been made under
25 this section in excess of the amount to which such candidate

1 is entitled, that candidate is liable for repayment to the
2 account of the excess under procedures the Commission shall
3 prescribe by regulation.

4 ``EXAMINATION AND AUDITS; REPAYMENTS

5 ``Sec. 507. (a) After each Federal election, the
6 Commission shall conduct a thorough examination and audit of
7 the campaign expenditures of--

8 ``(1) 15 percent of the candidates (selected on a
9 random basis) in any congressional election for the
10 Senate who received payments under this title for use in
11 campaigns relating to that election;

12 ``(2) 15 percent of the candidates (selected on a
13 random basis) in any congressional election for the House
14 of Representatives who received payments under this title
15 for use in campaigns relating to that election;

16 ``(3) any candidate in any congressional election
17 with respect to whom a complaint is made to the
18 Commission, by an opponent of that candidate, with
19 respect to campaign irregularities by that candidate, if
20 the Commission determines that the complaint is not
21 frivolous; and

22 ``(4) any other candidate in any congressional
23 election with respect to whom the Commission determines
24 that an examination and audit should be conducted.

25 ``(b) (1) If the Commission determines that any portion

1 of the payments made to an eligible candidate under section
2 506 was in excess of the aggregate amount of the payments to
3 which the candidate was entitled, it shall so notify that
4 candidate, and he shall pay to the Secretary of the Treasury
5 an amount equal to the excess amount. If the Commission
6 determines that any portion of the payments made to a
7 candidate under section 506 for use in his congressional
8 election campaign was not used to make expenditures in
9 connection with that campaign, the Commission shall so notify
10 the candidate and he shall pay an amount equal to the amount
11 of the unexpended portion to the Secretary. In making its
12 determination under the preceding sentence, the Commission
13 shall consider all amounts received as contributions to have
14 been expended before any amounts received under this title
15 are expended.

16 “(2) If the Commission determines that any amount of any
17 payment made to a candidate under section 506 was used for
18 any purpose other than--

19 “(A) to defray campaign expenditures; or

20 “(B) to repay loans the proceeds of which were used,
21 or otherwise to restore funds (other than contributions
22 to defray campaign expenditures which were received and
23 expended) which were used, to defray campaign
24 expenditures;

25 it shall notify the candidate of the amount so used, and the

1 candidate shall pay to the Secretary of the Treasury an
2 amount equal to such amount.

3 `` (3) No payment shall be required from a candidate under
4 this subsection with respect to any election in excess of the
5 total amount of all payments received by the candidate under
6 section 506 with respect to that election.

7 `` (c) No notification shall be made by the Commission
8 under subsection (b) with respect to a campaign more than
9 eighteen months after the day of the election to which the
10 campaign related.

11 `` (d) All payments received by the Secretary under
12 subsection (b) shall be deposited by him in the account.

13 `` REPORTS TO CONGRESS

14 `` Sec. 508. (a) The Commission shall, as soon as
15 practicable after the close of each calendar year, submit a
16 full report to the Senate and House of Representatives
17 setting forth--

18 `` (1) the expenditures incurred by each candidate,
19 and his authorized committees, who received any payment
20 under section 506 in connection with an election;

21 `` (2) the amounts certified by it under section 505
22 for payment to that candidate; and

23 `` (3) the amount of payments, if any, required from
24 that candidate under section 507, and the reasons for
25 each payment required.

1 Each report submitted pursuant to this section shall be
2 printed as a Senate or House document.

3 “(b) The Commission is authorized to conduct
4 examinations and audits (in addition to the examinations and
5 audits under sections 505 and 507), to conduct
6 investigations, and to require the keeping and submission of
7 any books, records, or other information necessary to carry
8 out the functions and duties imposed on it by this title.

9 “(c) The Commission shall submit, not later than March 1
10 of each year immediately following a year in which any
11 Federal election is held, a special report to the Senate and
12 the House of Representatives setting forth--

13 “(1) the amounts certified by it under section 505
14 of this title and sections 9005, 9008, and 9036 of the
15 Internal Revenue Code of 1954 for payments from the
16 Presidential Election Campaign Fund;

17 “(2) the amount of money remaining in the fund at
18 the end of the calendar year in which any Federal
19 election is held;

20 “(3) an estimate of the amount of money which will
21 be transferred to such fund during each of the four
22 calendar years immediately following the year in which
23 any Federal election is held; and

24 “(4) an estimate, to the extent practicable, of the
25 amount of money necessary to make all payments to which

1 eligible candidates and the national committees of each
2 political party will be entitled with respect to the next
3 two Federal elections to be held.

4 ``PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

5 ``Sec. 509. (a) The Commission is authorized to appear
6 in, and defend against, any action filed under section 510,
7 either by attorneys employed in its office or by counsel whom
8 it may appoint without regard to the provisions of title 5,
9 United States Code, governing appointments in the competitive
10 service, and whose compensation it may fix without regard to
11 the provisions of chapter 51 and subchapter III of chapter 53
12 of such title.

13 ``(b) The Commission is authorized to appear, through
14 attorneys and counsel described in subsection (a), in the
15 district courts of the United States to seek recovery of any
16 amounts determined to be payable to the Secretary of the
17 Treasury as a result of examination and audit made pursuant
18 to section 507.

19 ``(c) The Commission is authorized to petition, through
20 attorneys and counsel described in subsection (a), the courts
21 of the United States for declaratory or injunctive relief
22 concerning any civil matter arising under this title. Upon
23 application of the Commission, an action brought pursuant to
24 this subsection shall be heard and determined by a court of
25 three judges in accordance with the provisions of section

1 2284 of title 28, United States Code, and any appeal from the
2 determination of such court shall lie to the Supreme Court of
3 the United States. Judges designated to hear the case shall
4 assign the case for hearing at the earliest practicable date,
5 participate in the hearing and determination thereof, and
6 cause the case to be in every way expedited.

7 “(d) The Commission is authorized on behalf of the
8 United States to appeal from, and to petition the Supreme
9 Court of the United States for certiorari to review,
10 judgments or decrees entered with respect to actions in which
11 it appears pursuant to the authority provided in this
12 section.

13 “JUDICIAL REVIEW

14 “Sec. 510. (a) Any certification, determination, or
15 other action by the Commission made or taken pursuant to the
16 provisions of this title shall be subject to review by the
17 United States Court of Appeals for the District of Columbia
18 Circuit upon petition filed in such court by any interested
19 person. Any petition filed pursuant to this section shall be
20 filed within thirty days after such certification,
21 determination, or other action by the Commission.

22 “(b) (1) The Commission, the national committee of any
23 political party, and any individual eligible to vote for the
24 Congress of the United States are authorized to institute an
25 action under this section, including an action for

1 declaratory judgment or injunctive relief, as may be
2 appropriate to implement or construe any provision of this
3 title.

4 `` (2) The district courts of the United States shall have
5 jurisdiction of proceedings instituted pursuant to this
6 subsection and shall exercise such jurisdiction without
7 regard to whether a person asserting rights under the
8 provisions of this subsection shall have exhausted
9 administrative or other remedies provided at law. Such
10 proceedings shall be heard and determined by a court of three
11 judges in accordance with the provisions of section 2284 of
12 title 28, United States Code, and any appeal shall lie to the
13 Supreme Court of the United States. Judges designated to hear
14 the case shall assign the case for hearing at the earliest
15 practicable date, participate in the hearing and
16 determination thereof, and cause the case to be in every way
17 expedited.

18 ``PENALTY FOR VIOLATIONS

19 ``Sec. 511. Violation of any provision of this title is
20 punishable by a fine of not more than \$10,000 or imprisonment
21 for not more than five years, or both.

22 ``RELATIONSHIP TO OTHER FEDERAL ELECTION LAWS

23 ``Sec. 512. The Commission shall consult from time to
24 time with the Secretary of the Senate, the Clerk of the House
25 of Representatives, the Federal Communications Commission,

1 and other Federal officers charged with the administration of
2 laws relating to Federal elections, in order to develop as
3 much consistency and coordination with the administration of
4 those other laws as the provisions of this title permit. The
5 Commission shall use the same or comparable data as that used
6 in the administration of such other election laws whenever
7 possible.''

8 Sec. 3. (a) Section 320 (b) of the Federal Election
9 Campaign Act of 1971 (2 U.S.C. 441a (b)) is amended--

10 (1) by striking out ``and'' at the end of paragraph

11 (2) (A);

12 (2) by striking out the period at the end of
13 paragraph (2) (B) and inserting in lieu thereof a
14 semicolon and ``and''; and

15 (3) by adding at the end of paragraph (2) the
16 following:

17 ``(C) expenditures made on behalf of any candidate in
18 a congressional election (as defined in section 501 (2))
19 shall be considered to be expenditures made by such
20 candidate.

21 ``(3) (A) Except as otherwise provided in section 504 of
22 this Act, no candidate in a congressional election (as
23 defined in section 501 (2)) who is eligible under section 502
24 of this Act to receive payments from the Secretary of the
25 Treasury may make expenditures in excess of the limits

1 defined in subparagraph (B).

2 “(B) The limits for expenditures for congressional
3 elections are--

4 “(i) in the case of a primary or runoff election for
5 the Senate, an amount equal to \$125,000, plus 5 cents
6 multiplied by the voting age population (as certified
7 under subsection (e)) of the State in which the election
8 is held;

9 “(ii) in the case of a special or general election
10 for the Senate, an amount equal to \$250,000, plus 10
11 cents multiplied by the voting age population (as
12 certified under subsection (e)) of the State in which the
13 election is held;

14 “(iii) in the case of a primary or runoff election
15 for the House of Representatives, \$75,000; and

16 “(iv) in the case of a special or general election
17 for the House of Representatives, \$75,000.

18 “(4) No candidate in a congressional election (as
19 defined in section 501 (2)) who is eligible under section 502
20 of this Act to receive payments from the Secretary of the
21 Treasury may make expenditures from his personal funds, or
22 from the personal funds of his immediate family, in
23 connection with the campaign for which such payments are
24 received in excess of \$25,000. For the purposes of this
25 paragraph, the term ‘immediate family’ means a candidate’s

1 spouse, and any child, parent, grandparent, brother, half-
2 brother, sister, or half-sister of the candidate, and the
3 spouses of such persons.''.
4

(b) Section 320 (c) (2) (B) of such Act (2 U.S.C. 441a
5 (c) (2) (B)) is amended by inserting immediately before the
6 period a comma and ``except that with respect to the
7 limitation established by subsection (b) (3) the term `base
8 period' means the calendar year ¹⁹⁷⁹ ~~1978~~''.
9

10 Sec. 4. Section 320 (a) (2) (A) of the Federal Election
11 Campaign Act of 1971 (2 U.S.C. 441a (a) (2) (A)) is amended
12 by striking out ``\$5,000'' and inserting in lieu thereof
13 ``\$3,000''.

14 Sec. 5. The amendments made by this Act apply to any
15 congressional election campaign for which the election is
16 held after December 31, 1979.

17 Sec. 6. There is authorized to be appropriated to the
18 Federal Election Commission the sum of \$900,000 for purposes
19 of carrying out the provisions of this Act during the fiscal
year ending September 30, 1980.