
THE CONGRESS PROJECT

Bipartisan Campaign Reform Act of 2002

Overview

Act Title: Bipartisan Campaign Reform Act of 2002

Congress: 107th Congress (2001-2002)

Session/Sessions: 1-2

Statute No: 116 Stat. 81-116

Public Law No: 107 PL 155

Eid: 1070155

Gid: 202-12

Bill: [HR 2356](#)

Sponsor: Rep. [Christopher Shays \(R-CT\)](#)

House Committees: Administration; Energy and Commerce; and Judiciary

Senate Committees: Rules and Administration

Companion Bill: [S 27](#)

Related Bills: HR 380; HR 2360

House Rules: Hres 188; Hres 203; Hres 344

Past Bills: 103 S 3; 103 HR 3; 104 HR 2566; 104 S 1219; 104 HR 3760; 104 HR 3820; 105 S 25; 105 SJR 18; 105 S 2237; 106 Hres 126; 106 HR 417; 106 HR 4717; 106 S 26; 106 S 1593; HR 4762 (106 PL 230)

Introduced Date- Law Date: January 22, 2001– March 27, 2002

House Floor Days: 4

Senate Floor Days: 18

Roll Call Votes: 45



(Above) Rep. Christopher Shays (R-CT), who sponsored the bill and angered many in his party with his aggressive tactics.

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Legislative History Comments

[The Bipartisan Campaign Reform Act of 2002](#), also known as McCain-Feingold in the Senate and Shays-Meehan in the house, amended the [Federal Election Campaign Act of 1974](#). It was considered and passed in the senate during the first session of the 107th Congress. The Bipartisan Campaign Reform Act was then introduced in the House during the first session of the 107th Congress, but was not considered until the second session. The BCRA doubled the limit on contributions from individuals to federal candidates from \$1,000 to \$2,000, and imposed new or newly tightened regulations. Specifically, the bill's most important provisions were aimed at parties and issue advocacy by restricting soft money contributions.

To deal with the vagueness of the Supreme Court's decision in *Buckley v. Valeo*, the BCRA created a new category of "electioneering communications," which consisted of any broadcast advertisement that identified a federal candidate in the 30 days before a primary election, or the 60 days before a general election (Iyenger 2002, 181). There were 27 roll call votes in the Senate and 18 in the House. A conference committee was not needed, as the Senate passed the House version of the bill without amendment. It was signed into law by President Bush on March 27th, 2002.

From a process standpoint, this bill is going to be kind of rough. The Senate considered S 27 after bringing it to the floor via unanimous consent. They voted on amendments to the bill over several weeks before [passing it 59-41 on April 2, 2001](#). The House, controlled by Republicans, attempted to bring up HR 2356 under a special rule, Hres 188. Democrats and Republican supporters of the bill asserted that the rule was an attempt by Republican leaders to "screw" them and the bill ([see CQ here](#)). Accordingly, they defeated [the rule 203-228](#) (this is really rare).

Also rare, Shays and Meehan (the House bill sponsors) used a discharge petition to try force the Rules Committee to report Hres 203, a rule providing for consideration of HR 2356. After they received the required signatures, House leaders agreed to consider the bill under Hres 344, another structured rule. After considering a number of amendments, the House passed [HR 2356 240-189](#). The Senate then agreed to [cloture on the bill 68-32](#) and [passed it 60-40](#). Voteview links are provided and see the CQ write-ups ([the final one is here](#)).

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Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

(#1)

(#2)

(#3)

(#4)

Background Questions

(#1) What motivated the consideration and passage of this issue? It's rare that you see a push for either campaign finance reform or lobbying reform without a political scandal or two. Did that happen here? Specifically, what motivated Senator John McCain's lengthy efforts to enact campaign finance legislation? What was the "Keating Five scandal?"

(#2) What was the policy context here? Take the reader through campaign finance reform in the U.S. What motivated the FEC Amendments of 1974? What was "soft money"? "Hard money?" 527 groups? How much different is campaign spending in the U.S. than other countries? What, specifically, did this bill seek to do? Was there a scholarly consensus that the issue was a problem that needed solving?

(#3) Discuss the political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress? The Stathis (2014) piece might worth a citation here.

(#4) There's a pretty lengthy history of failed attempts to enact campaign finance reform. The House had successfully passed a bill (HR 417) in the 106th Congress after a successful discharge petition, but the Senate killed it via a filibuster ([here's a CQ write-up on it](#) and a [nice CRS piece](#)). This, CQ noted, was "the fifth time in the past six years that campaign finance legislation has been stopped that way." Why? What happened in the 106th Congress? Why did the bill's supporters expect a different result in the 107th Congress? Cloture passed 68-32 on this bill...It was [rejected 53-47](#) in the 106th Congress. What changed?

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Process Sections

Please write-up the sections that correspond to your number.

(#1) *Senate Consideration of S 27 (March 19-April 2, 2001)*

(#2) *Initial House Consideration of HR 2356 (July 12, 2001)*

(#3) *Secondary House Consideration of HR 2356 (February 12-14, 2002)*

(#4) *Senate Consideration of HR 2356 (February 20, 2002)*

Member Spotlight

Choose one of the following for your member spotlight:

(#1) Senator John McCain (R-AZ); Senator Mitch McConnell (R-KY); House Minority Leader Richard A. Gephardt (D-MO); Rep. Chip Pickering (R-MS)

(#2) Rep. Martin Meehan (D-MA); Rep. Martin Frost (D-TX); Senator Chuck Hagel (R-NE); Majority Leader Dick Armey (D-TX)

(#3) Rep. Christopher Shays (D-CT); House Administration Chairman Bob Ney (R-OH); Speaker Dennis Hastert (R-IL); Senator Arlen Specter (R-PA)

(#4) Senator Russ Feingold (D-WI); Senator Pete Domenici (R-NM); Rep. Albert Wynn (D-MD); Senator Paul Wellstone (D-MN)

Commented [AJM1]: You're going to need to pull some of the debate over S 27 here. Its long, but cover its consideration, the Thompson-Feingold hard money amendment, Domenici's Millionaire's amendment, Wellstone's failed issue ad amendment, and Hagel's substitute (see CQ on this).

Commented [AJM2]: Shays and Meehan are pushing a stronger campaign finance bill that Republican leadership does not want. They're backing an alternative bill they want to offer as a substitute amendment. This measure is drafted by House Administration Chairman Bob Ney (R-OH). Accordingly, it's not surprising that Ney's committee reported the bill. See the attached article for differences between the two measures ("How the Competing Campaign Finance Bills Differ..."). You don't need to know this, but Ney is a fascinating political figure who once proposed renaming "French fries" "freedom fries" after 9/11. He would, ironically, spend 17 months in prison for campaign finance law violations a few years after this bill was passed.

Despite reporting the bill adversely, it was still sent to the floor. Again, House Republican leaders hate the Shays-Meehan proposal. The rule they proposed, Hres 188, was a structured rule that would have forced Shays and Meehan to have each of their proposals agreed to as 14 separate amendments. The Ney substitute, cosponsored by CBC Chairman Albert Wynn (D-MD), was permitted under the rule to be offered as a full text substitute last. Supporters of Shays-Meehan hate this rule and suggest it was crafted by leadership for the purpose of being defeated. They're suggesting it was an attempt to provide political cover for Republicans who didn't want campaign finance reform.

Here's Rep. Martin Frost (D-TX) on that point: "The Republican leadership has written a rule that everyone knows may well lose. If we assume that this rule is about cynicism, then what the Republican leadership has done is to present a rule to the House that they know will fail, and then they will refuse to reconvene the Committee on Rules to draft another rule (Congressional Record, 107th Congress, July 12, 2001, [H3981](#))." McCain was also apparently whipping votes against the rule, dubbing it "the last refuge of scoundrels (Dewar 2001)."

Weirdly, they don't actually fight the previous question motion and I honestly don't know why. That motion is adopted by an unrecorded voice vote and then the rule is defeated. Afterwards, Shays and Meehan began a push on their discharge petition, which was temporarily derailed by 9/11. They return to it in 2002 and eventually have enough support to force Republican leaders to yield to them and allow a vote on a second rule.

I'd provide the Voteview for the rule's defeat: Accordingly, they defeated [the rule 203-228](#) (this is really rare). It's linked there.

Commented [AJM3]: Check historical newspapers here to see if there was discussion of going to conference. I'm curious how different S 27 was from HR 2356.

Commented [AJM4]: Here's [a recent obituary](#)

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Aftermath

(#1) How did newspapers react to the passage of this bill? Why was it so hard for the House to pass a bill that had 56% support on the final vote? Were some members voting to bottle it up out of party loyalty? What does this say about agenda-control in the House? Was the discharge petition successful? How did the bill change throughout the process? Were supporters happy with the bill?

(#2) Broadly speaking, how is this law viewed today? Did it help the campaign finance problem? Were too many additional loopholes created? How do scholars view the measure? Are they portions of it they view as more successful than others? Are there policy recommendations?

(#3) There was a ton of political fallout from this measure. Take us through some of them. What happened after this bill was enacted? What was “Swift Boat Veterans for Truth?” What about scandals impacting specific individuals under this? Did Congress attempt to reform it later? Broadly, what impact do scholars feel campaign finance has on elections?

(#4) This measure immediately went to the Court system. How was it altered by subsequent Supreme Court rulings? What did the Court say in [*McConnell v. FEC*](#)? [*FEC v. Wisconsin Right to Life*](#)? [*Citizens United v. FEC*](#)? What did legal scholars say about these rulings?

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Suggested Sources

Scholarly Articles:

Boatright, Robert G., Anthony Corrado, and Diana Dwyre. *The election after reform: Money, politics, and the Bipartisan Campaign Reform Act*. Rowman & Littlefield, 2006.

Malbin, Michael J. "Assessing the Bipartisan Campaign Reform Act." *The Election after Reform: Money, Politics and the Bipartisan Campaign Reform Act* (2006): 1-16.

La Raja, Raymond J., and Brian F. Schaffner. "The effects of campaign finance spending bans on electoral outcomes: Evidence from the states about the potential impact of Citizens United v. FEC." *Electoral Studies* 33 (2014): 102-114.

Grier, Kevin B., Michael C. Munger, and Brian E. Roberts. "The Determinants of Industry Political Activity, 1978–1986." *American Political Science Review* 88.04 (1994): 911-926.

Bonica, Adam. "Ideology and interests in the political marketplace." *American Journal of Political Science* 57.2 (2013): 294-311.

Mann, Thomas E. "Linking knowledge and action: Political science and campaign finance reform." *Perspectives on Politics* 1.1 (2003): 69-83.

Skinner, Richard M., Seth E. Masket, and David A. Dulio. "527 Committees and the political party network." *American Politics Research* 40.1 (2012): 60-84.

Levitt, Justin. "Confronting the impact of Citizens United." *Yale L. & Pol'y Rev.* 29 (2010): 217.

Muntean, Susan Clark. "Corporate Contributions after the Bipartisan Campaign Reform Act." *Election Law Journal* 7.3 (2008): 233-244.

Dwyre, Diana, and Evelyn Braz. "Super PAC Spending Strategies and Goals." *The Forum*. Vol. 13. No. 2. 2015.

Malbin, Michael J. "Political Parties Under the Post-McConnell Bipartisan Campaign Reform Act." *Election Law Journal* 3.2 (2004): 177-191.

Cann, Damon M. *Sharing the wealth: Member contributions and the exchange theory of party influence in the US House of Representatives*. SUNY Press, 2008.

Werner, Timothy. "The sound, the fury, and the nonevent: Business power and market reactions to the Citizens United decision." *American Politics Research* 39.1 (2011): 118-141.

Hansen, Wendy L., Michael S. Rocca, and Brittany Leigh Ortiz. "The effects of Citizens United on corporate spending in the 2012 presidential election." *The Journal of Politics* 77.2 (2015): 535-545.

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Newspaper Pieces:

- <https://www.opensecrets.org/news/2019/06/2020-democrats-stands-on-campaign-finance/>
- <https://www.nytimes.com/2019/07/29/us/politics/end-citizens-united-pledge.html>
- <https://www.vox.com/the-big-idea/2018/5/7/17325486/citizens-united-money-politics-dark-money-vouchers-primaries>
- https://www.washingtonpost.com/powerpost/house-democrats-poised-to-endorse-public-financing-of-congressional-campaigns/2019/03/07/88c32152-410f-11e9-922c-64d6b7840b82_story.html
- <http://www.washingtonpost.com/blogs/monkey-cage/wp/2015/09/21/if-you-think-super-pacs-have-changed-everything-about-the-presidential-primary-think-again/>
- <http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/12/15/why-we-still-need-to-worry-about-money-in-politics/>
- <http://nymag.com/intelligencer/2019/01/mcconnell-scorns-campaign-reform-and-voting-rights.html>