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# Testimony of Stephen R. Weissman
# Associate Director for Policy, The Campaign Finance Institute

## Senate Committee on Rules and Administration
## Hearing on S. 223: Senate Campaign Disclosure Parity Act

**March 14, 2007**

Chairman Feinstein, Ranking Member Bennett and Members of the Committee:

On behalf of the Campaign Finance Institute, a nonpartisan research organization affiliated with George Washington University, thank you for holding this urgently needed hearing, and thank you for asking us to appear. We are especially grateful to Senator Feinstein and her staff for their leadership on this issue.

## The Senate's Self-Exemption from Campaign Disclosure Law

The legislation at hand, S.223, "The Senate Campaign Disclosure Parity Act," would bring Senate candidates and party committees up to the same standard of rapid, user-friendly campaign finance disclosure that applies today to House and Presidential candidates, non-Senate party committees, and Political Action Committees. Senators know that electronic disclosure, which makes searchable information immediately available on the Internet, is the gold standard of campaign transparency. In fact, the Senate has repeatedly voted to impose this regime on others. In 1999, it voted to require electronic filing and Internet disclosure by all federal campaigns -- except its own. In 2002, it extended these requirements to Section 527 political organizations. Just a few weeks ago, it mandated them for lobbyists -- but still not for the Senators they lobby. Ironically, a CFI 2003 study found that virtually all Senators take advantage of the convenience of electronic software to compile their reports, but the law compels them to officially mail in paper reports, thereby disregarding the public's convenience.[1]

Legislation to eliminate this glaring and -- I hate to say it, but the evidence is so overwhelming -- hypocritical Senate exemption was referred to this Committee in October 2003. There it has remained for three years without any action whatsoever. This is not because the bill is at all controversial. In addition, it has been designed not to interfere in any way with the Secretary of the Senate's historical role of receiving Senate campaign finance reports and transmitting them to the Federal Election Commission.

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[1] Full report available at http://www.cfinst.org/pr/prRelease.aspx?ReleaseID=48

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## Broad Political Support for Change

Over the last three years not a single Senator has publicly voiced any opposition to the legislation. Twenty-nine Senators, including six members of this Committee (Senators Feinstein, Cochran, Dodd, Dorgan, Durbin and Hutchison) currently co-sponsor S. 223. Other Senators have publicly stated that they supported it. A glance at the list of co-sponsors reveals it is a truly bipartisan initiative: proponents encompass the full range of the political spectrum. This legislation has been endorsed by organizations with vastly different positions on campaign finance issues: the bipartisan Federal Election Commission **and** campaign reform groups, the *Washington Post, New York Times,* and *Daily Kos* blog **and** the *Dallas Morning News* and *Red State* blog. And twenty-six states already have mandatory electronic disclosure for state candidates.

## Making Campaign Finance Disclosure Meaningful

Why is Senate electronic disclosure so important to American democracy? In its unanimous 1976 decision in *Buckley v. Valeo*, the Supreme Court emphasized that disclosure "allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office." Clearly the fundamental purpose of disclosure is undermined if disclosure does not occur before the election. Now, imagine there is a hot U.S. Senate race in your state and you are a citizen seeking up-to-date information on what interests are financially supporting the candidates. Someone suggests you rummage through a box containing thousands of pieces of paper in no apparent order. That unfortunately is the position that tens of millions of Americans are in when they vote for the U.S. Senate.

Here is what happens. Senate Third Quarter and Pre-Election computer-prepared paper reports arrive by mail a few days after they are due at the Senate Secretary's office which electronically scans them and transmits the images to the FEC. The Commission then prints out and copies paper reports and ships them out to a contractor to hand-enter itemized contributions into an electronic database. This process means that weeks go by before contributions can searched on the Internet by name, amount, and employer. A *Baltimore Sun* headline writer recently described this Rube Goldberg system as, "Bytes to paper to bytes to paper to bytes."

The only way the voter can access this Senate campaign information before the election is by leafing page by page through reports that, in our era of breathless fundraising, were as long about 3400 pages for each candidate in the South Dakota Senate race in 2004.(Third Quarter reports) In practice, this is no alternative at all. *Disclosure delayed is disclosure denied.*

CFI studies have thoroughly documented this lapse in democratic accountability. A week before the November 2006 election, voters in the ten hottest Senate races were unable to do searches on the Web for *any* information about individual contributions reported by the candidates for October 1-18. They could not even search for information about July 1-September

30 donations to six of the 20 major party candidates.[2] Three days before the November 2004 election, they could not search for 85% of contributions to all Senate candidates between July 1 and September 30.[3] In neither election were voters able to search for contributions received by the parties' Senatorial campaign committees in the months of September or October. In contrast, campaign contributions to all other federal candidates and party committees, as well as PACs, are available in electronically searchable form within 24 hours of the due date.

The Supreme Court also observed in *Buckley* that disclosure "may discourage those who would use money for improper purposes either before or after the election." Timely electronic disclosure of contributions before critical Senate votes can help reassure a public still reeling from the Abramoff scandal. Electronic disclosure of expenditures can ease concerns that candidates are inappropriately using campaign money. Yet the FEC does not even enter Senate campaign expenditures into its electronic database because it doesn't want to incur additional costs for processing the paper reports.

## A Time for Effective Action: Moving a Stand-Alone Bill

For all these reasons, CFI believes it is incumbent on this Committee to act quickly, on a bipartisan basis, to achieve passage of S. 223. Of necessity, that means approving a clean bill, one that is not encumbered with other, controversial "campaign finance" amendments likely to stall legislation and kill Senate electronic disclosure. Of course, the bill at hand is completely different from other potential campaign finance measures dealing with contribution limits, 527s, PACs, Internet communications, etc.:

- It is non-controversial
- It is consistent with repeated past Senate votes
- It has been sitting in this Committee for 3 years
- It applies only to Senate candidates and party committees
- It does not change the *substance* of disclosure, only the format

In other words, this is the kind of bill for which the Senate invented "hotlining," i.e. quick clearance and passage of non-controversial or "technical" legislation.

Chairman Feinstein, Senator Bennett and Members of the Committee, CFI is very pleased that this Committee has decided to hold a hearing on this legislation. It will need, however, to complete its action by moving an electronic disclosure bill rapidly to the floor as a stand-alone bill. The onus then would be on any Senator who either directly opposed disclosure or risked killing it by insisting on controversial, extraneous amendments. This is a time for action, which would almost certainly be unanimous, not one for the kind of partisan political maneuvering that has dismayed so many Americans of all political persuasions.

This simple legislation, so basic to honest, transparent, and accountable government in the 21st century, has languished far too long. No one has spoken more eloquently of the need for

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[2] Full report available at http://www.cfinst.org/pr/prRelease.aspx?ReleaseID=98

[3] Full report available at http://www.cfinst.org/pr/prRelease.aspx?ReleaseID=46

Senate electronic disclosure than the former Chairman of this Committee, Senator Trent Lott. In November 2003, a month after CFI's first report on the issue, he told the Chamber of Commerce of the U.S:

> I'm for the electronic filing of your reports…People say, well wait a minute, we don't want people being able to get that quick an access. Look, what are you –who are you—trying to keep secret? That's part of honesty in elections, I think. Make it accessible.

Let this Committee be the one that makes it happen.

Thank you very much for your consideration.

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*The Campaign Finance Institute is a non-partisan, non-profit institute affiliated with the George Washington University that conducts objective research and education, empanels task forces and makes recommendations for policy change in the field of campaign finance. Statements of the Campaign Finance Institute and its Task Forces do not necessarily reflect the views of CFI's Trustees or financial supporters.*