119TH CONGRESS
2D SESSION

S. _____

To amend the Federal Election Campaign Act of 1971 to modify the prohibition on contributions by government contractors.

IN THE SENATE OF THE UNITED STATES

Mr. VAN HOLLEN 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 modify the prohibition on contributions by government contractors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Close the Campaign Cash-for-Contracts Loophole Act''.

SEC. 2. MODIFICATION OF PROHIBITION ON CONTRIBUTION BY GOVERNMENT CONTRACTORS.

(a) EXPANSION OF PERSONS AND PURPOSES TO WHICH PROHIBITION APPLIES.—

(1) IN GENERAL.—Section 317(a) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30119(a)) is amended —

(A) by striking paragraph (1) and inserting the following:

''(1) who is a disqualified contractor, at any time during the disqualification period, directly or indirectly to make any covered contribution or to promise expressly or impliedly to make any such covered contribution; or''; and

(B) in paragraph (2), by striking ''such contribution'' and all that follows and inserting ''such covered contribution from any such disqualified contractor during any such disqualification period.''.

(2) DEFINITIONS.—Section 317 of such Act (52 U.S.C. 30119) is amended by striking subsections (b) and (c) and inserting the following:

''(b) DEFINITIONS.—For purposes of this section:

''(1) DISQUALIFIED CONTRACTOR.—The term 'disqualified contractor' means—

''(A) any person who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material,

supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof if payment for the performance of such contract or payment for such material, supplies, equipment, land, or buildings is to be made in whole or in part from funds appropriated by Congress;

''(B) any affiliate (determined in accordance with section 9.403 of the Federal Acquisition Regulation) of a person described in subparagraph (A);

''(C) any separate segregated fund established by a person described in subparagraph (A) or (B);

''(D) any officer of a person described in subparagraph (A) or (B); and

''(E) any person who holds 5 percent or greater interest or share (by vote or value) in a person described in subparagraph (A).

''(2) DISQUALIFICATION PERIOD.—The term 'disqualification period' means, with respect to any disqualified contractor, the period between the commencement of negotiations for any contract described in paragraph (1)(A) and the later of—

"(A) 12 months after the completion of performance under such contract or furnishing of material, supplies, equipment, land, or buildings; or

"(B) the termination of negotiations for such contract or furnishing of material, supplies, equipment, land, or buildings.

"(3) COVERED CONTRIBUTION.—

"(A) IN GENERAL.—The term 'covered contribution' means—

"(i) any contribution or donation of money or anything of value to any political party, political committee, or candidate for public office or to any person for any political purpose or use; and

"(ii) any contribution or donation of money or anything of value to any organization described in paragraph (3), (4), (5), or (6) section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code unless—

"(I) the disqualified contractor prohibits, in writing, the transfer of such amount to any person described

in clause (i) or to any person for any political purpose or use; and

''(II) the organization followed the prohibition and deposited the payment in an account which is segregated from any account used to make such transfers.''.

(b) PROHIBITION ON ACCEPTING CONTRIBUTIONS.—Section 317(a)(2) of the Federal Election Campaign Act of 1971 (52U.S.C. 30119(a)(2)) is amended by inserting ''or accept'' after ''solicit''.

(c) REQUIRING DISGORGEMENT OF UNLAWFUL CONTRIBUTIONS BY GOVERNMENT CONTRACTORS.—Section 317 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30119), as amended by subsection (a), is amended by adding at the end the following new subsection:

''(c) DISGORGEMENT.—

''(1) IN GENERAL.—A political party, political committee, candidate for public office, or other person shall disgorge to the Treasury of the United States any covered contribution received in violation of subsection (a) within 30 days of the date on which the illegality is discovered.

''(2) INSUFFICIENT FUNDS.—If the person described in paragraph (1) does not have sufficient

funds to disgorge the amounts contributed at the time the illegality is discovered, the person shall disgorge such amounts from the next funds the person receives.''.

(d) ENFORCEMENT.—Section 317 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30119), as amended by subsections (a) and (c), is amended by adding at the end the following new subsection:

''(d) ENFORCEMENT.—For provisions providing for the enforcement of this section, see section 309.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions made on or after the date of enactment of this Act, and shall take effect without regard to whether or not the Federal Election Commission has promulgated regulations to carry out such amendments.

(f) SEVERABILITY.—If any provision of this section or amendment made by this section, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this section and amendments made by this section, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.