

Yesterday morning, Marjorie Williams had an intriguing op-ed piece in the Washington Post emphasizing that the key watchword of the Bush administration is “transparency,” “transparency.” Apparently, at every turn, the emphasis has been: We’re transparent. We’re transparent. We’re open.

This bemuses this particular Senator because the one thing they are absolutely nontransparent about is the budget. I have been trying, as a former chairman of the Budget Committee—and working here now for 25 years on this particular problem—to get the President’s budget figures. We have had different people make some very interesting, amusing, and entertaining appearances on C-SPAN, but nobody has pointed out the actual outlays and the spending in the President’s budget.

We are on a collision course. What will happen come April 1st, under the budget rule, the majority leader can propose and lay down a budget, and start debating. If that is the game plan, we are headed now on a course of a train wreck. That is not going to fly.

We do not have any idea of the figures. And to just vote willy-nilly as an exercise, to bypass all proceedings of the budget in the Budget Committee, just to get it to a conference, and then to mark up, for the first time, what the President wants, is really the process of arrogance.

It is disturbing how little confidence the market has in us—in the Congress and the President—at this particular time. They see the Congress headed in one direction, and the President running around, continuing in his campaign, talking about the budget. He is out selling his so-called tax cut and budget everywhere but in the Budget Committee. We do not know exactly what he wants for defense, education, housing, and transportation. These are all important items to be discussed.

At the beginning—weeks back—not having a real detailed budget, I thought we should take this year’s budget—that we passed only in December—and just more or less have a budget freeze like you would have as a Governor. You would just take the President’s budget and debate what cuts you had on there, and say, for any increases—the so-called pay-go rule—that you had to have offsets, and then hold up on the tax cuts until it became apparent whether it was going to be a soft or hard landing.

I have to say in the same breath, this is a hard enough landing for this Senator. And rather than hold up, I have amended my initiative to put in an immediate economic stimulus package in the Finance Committee. But my budget is in the Budget Committee. I have written the chairman and asked him to please let me know when we are going to have a markup so we can discuss my budget, the President’s budget, and any and all budgets.

This is, as I say, the process of arrogance in which the debate and the consideration of the individual Senators and their opinions makes no difference in the committee. It is a ritual: Now that we have the bare majority, what we have to do is ram through—right now—what we want, irrespective of any debate or consideration. That is going to erode the confidence we have in the White House and the confidence the White House has in the Congress itself.

The market sees this. I think we really are eroding confidence. You are going to see more downturns in the economy, and everything else, until we quit running around and come back home and start working together on the nation’s problems.

I see the distinguished President out talking about the Patients’ Bill of Rights. That is not before the Congress right now. But we are out politicking on different campaign issues. But if we could show a willingness to work together, I think we would be much better off. I have not seen the likes of this in my years, and particularly with respect to the budget.

The budget process was instituted as a result of some 13 appropriations bills, and we did not have one look-see at the Government spending in its entirety. So we put in these particular rules so that we could facilitate a complete and comprehensive debate and treatment of the Government’s financial needs.

Those rules are restrictions to help move it along—a mammoth Government budget of all departments—but they are being used to obscure any consideration rather than give comprehensive treatment and consideration.

So instead of knowing what the President intends on education, housing, crime or with respect to the Justice Department, we just operate in the dark, in a casual fashion, and use the limited rules of the budget process—not for a comprehensive treatment and consideration—but, on the contrary, to obscure any consideration, any treatment, any markup, any understanding. That is fundamentally bad Government.

I appreciate the distinguished leaders on the opposite side of the aisle giving me time to comment on this particular matter because I do have a budget. It is a good one. It really responds to our country’s needs. But I have not been able to get a markup of my budget. We cannot consider the President’s budget.

We are going to take up the budget, willy-nilly, under a limited time—with the leadership relinquishing back most of its time and saying: All right, you Democrats, we have the votes. This is what we are going to pass. Go ahead and put your amendments on, and your time will run out by Wednesday and we will start the “vote-a-rama” around the clock. And the more amendments there are, the longer we will stay. We will stay here Thursday, we will stay

here Friday, we will stay here Saturday—and we will stay here Palm Sunday—and just continue to vote if that is what you all want to do, making it appear that there is obstructionism on this side of the aisle, wherein the truth is, we have not had a chance to consider anything and to find out the merit or demerit of the bill or the feelings of the other side on anything.

This is just bad congressional process legislating. I hope the chairman of the Budget Committee and the leadership on the other side of the aisle will say: All right, let’s start Monday, meet in formal session and start marking up this budget.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AL-LARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

AMENDMENT NO. 137, AS MODIFIED

Mr. COCHRAN. Mr. President, after consultation with the managers of the bill and their staffs, we have agreed to a modified amendment providing additional disclosure provisions to the bill. I ask unanimous consent to modify my amendment and send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

On page 38, after line 3, add the following:

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

“(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.”

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL.—The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT.—In this section, the term “election-related report” means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES.—Any federal executive agency receiving election-related information which that agency

is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

Mr. COCHRAN. Mr. President, this simply clarifies the amendment with appropriate legal language. I hate to use that reference because these are lawyers writing these provisions and experienced staff members maybe who aren't lawyers who help them. It does improve the clarity of the language, and it does ensure that election-related reports, those provided for in the Federal Election Campaign Act of 1971 and amendments thereto, be provided as quickly and as completely on an Internet site as they can by the FEC.

We think this will improve the disclosure of important information to the public about who is financing election campaigns, how they are being financed, where the money is coming from that the candidates are spending, that are required to be filed under current reports and the additional requirements that will be in effect after this legislation is agreed to.

We believe this is an improvement. It supplements and complements the Snowe-Jeffords amendment which has already been adopted by the Senate. We are hopeful the Senate will be able to accept this amendment as modified.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my friend and colleague from Mississippi. This is a good amendment. I appreciate the efforts of the staff who worked on this over the last half an hour or so.

What I thought we might do, for those who want to understand this better, the Senator from Mississippi and I, along with my colleague from Kentucky, will have a colloquy that we will write up providing more specificity on exactly what changes we made here and the rationale. Basically, this is a coordinating effort. We are saying that under existing law, where there are requirements of public disclosure, there ought to be a way to coordinate that information so that it is more transparent, more readily available for those who seek that information. It does not expand the requirements in law beyond those that already exist for public disclosure.

I thank my colleague from Mississippi and my colleague from Kentucky. I know of no reason that we need a recorded vote.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I, too, commend the Senator from Mississippi for his amendment and thank the various staffs who have been working on the clarifications. I am in support of the amendment and see no particular reason we should have a rollcall vote.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator COCHRAN. He has worked long and hard. It is a chance for us to take advantage of new technology so that literally 100 million Americans will be able to receive this information in a timely and informative fashion. This is in keeping with what all of us are attempting to do with campaign finance reform; that is, increase disclosure. We are working on an additional amendment to help on the disclosure issue. I thank Senator COCHRAN for his involvement. I thank Senator DODD and Senator McCONNELL as well.

I yield the floor.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment, as modified.

Without objection, the amendment is agreed to.

The amendment (No. 137), as modified, was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, I believe the next amendment will come from the other side.

Mr. DODD. Senator WYDEN and Senator COLLINS have an amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, today I rise in support of S. 27, the Bipartisan Campaign Finance Reform Act of 2001. I would like to take this opportunity to congratulate both Senators MCCAIN and FEINGOLD on developing such an excellent bipartisan bill and also to Senators DODD and McCONNELL for bringing this bill to the Senate floor. I hope we can consider it expeditiously and pass it.

I absolutely support this legislation. Even if it is a disadvantage for incumbents, I believe, we, the Senate, should be more worried about protecting democracy than protecting ourselves. I want a Congress that is unbought and unbossed. Our current campaign finance system contributes now to a culture of cynicism. It hurts our institutions, it hurts our government, and it is an attack on the integrity of our political process.

When big business blocks agencies such as the Department of Labor from issuing important regulations on ergonomics, it adds to the culture of cynicism. I am not saying there is a

quid pro quo, but what are the American people to think when some of the biggest campaign contributors were able to stop legislation that they oppose? Is it any wonder Americans don't trust their elected officials to act in the public interest; instead, they believe Congress is preoccupied with pandering to the special interest.

That's why I support the following principles for campaign finance reform, regardless of what bill is before the Senate: I want to stop the flood of unregulated and unreported money in campaigns. I want to eliminate the undue influence of special interests in elections. I want to encourage strong grassroots participation. I would like to return power to where it belongs—with the people. This is why I support the McCain-Feingold bill.

My support for this legislation is nothing new. During my entire political career, both in the House and the Senate, I have always supported campaign finance reform and other measures to open up our democratic process.

The McCain-Feingold bill does several things. It bans soft money raised by national parties and by candidates for Federal office. It ends issue ads, which are really attack ads under the guise of "issues." I want to close the loophole which allows groups to skirt the current election laws - and this bill does just that. Finally, it clarifies what election activities non-profits can do on behalf of our candidates for Federal office.

Why should we ban soft money? We hear "soft" money. Is it like a soft pretzel? What does "soft" mean? Is it soft currency? Really, it is a backdoor way to avoid the contribution limits that are now placed on candidates. Right now soft money is influencing our process almost as much as direct contributions to candidates do. Republicans and Democrats raised over \$460 million in last year's soft money race or, soft money chase. Right now, Federal candidates spend so much time and so much attention raising money that we sometimes wonder if we have the time to do the work of our constituents. Candidates must constantly work to raise money.

Special interest groups that contribute large sums have an influence on the political process. Let's face it, those people with the golden Rolodex who can approach a candidate and say, "I'll be able to get 100 people in the room and raise \$1,000 for you," have influence. Those who then say, "I'll get 10 people in the room and have 10,000 people give soft money," which is the unregulated but legal way of giving money to parties, funding the issue ads that are really attack ads, are also in high demand.

This is why we need to pass McCain-Feingold because I think it deals with these issues and deals with them in a constructive way.

Thirty years ago I decided to run for political office. I was a social worker who was strongly considering a doctorate in public health. I joined a wonderful group of people in Baltimore to fight a highway. The more we knocked on doors, the more we saw that the doors were closed to us. At that time, Baltimore was dominated by political machines. It was dominated by political bosses. Grassroots, nonprofit organizations couldn't break into that process. I was so tired of banging on doors I decided to open doors, and that's when I announced I was going to run for the Baltimore city council. The smart money was against me. How could a woman run in an ethnic blue-collar neighborhood, someone who had a strong record in civil rights and also had no personal money? While they were so busy laughing at me, I got to work. Because I had no money, I had no choice, I organized a group of volunteers and we went door-to-door, one hot summer in Baltimore, and I knocked on over 10,000 doors. By knocking on those doors with my volunteers, I rolled over the political machine and I beat those two political bosses.

That is how I got into politics. And because of how I started, I want the voices and votes of strong grassroots volunteers still to count. I want the small contributor to still count. I found ways to bring people into the process. Using not only door-to-door but techno door-to-door, using the Internet, chatrooms for discussions on issues, new forms of town halls. But we can't do that if every single day our focus is on raising big money, soft money, or any kind of money that we can get our hands on.

Does McCain-Feingold solve all the problems of this situation? No. Is it more than a downpayment on reform? You bet. What McCain-Feingold does is dry up the soft money and focus on getting real contributors. I hope we can even do more reform and innovative thinking, such as broadcast vouchers, for the small contributors. The more people we can bring in, the more people are participating in the process. The best cure for democracy is more democracy and more participation. That is why I am so strong about McCain-Feingold. We need to stop worrying about protecting incumbents and start worrying about protecting democracy.

Last year we spent \$3 billion on election activities. The average Senate race now costs \$6 million. That is compared to \$1 million over 20 years ago. It seems like the cost of campaigns is going up more than health care costs. Just look at my own State of Maryland where advertising is big business. For me to go on TV in the Baltimore-Washington corridor, it is about \$300,000 or \$350,000 a week.

Let's look at what it takes to raise \$6 million—the average cost of a Senate

campaign. When you think about a 6-year term, that means you have to raise \$1 million a year. You take 2 weeks off for religious holidays or vacation; that is \$20,000 a week. That means a Senator has to think about raising \$20,000 a week.

Can you really believe we can focus all the time we need to on our national security interests, raising 20 grand a week? Can you really devote all of your time to thinking about how we can solve the health care crisis? Can we really think about how we could end the trafficking in drugs when we are in the trafficking of fundraisers? It weakens our institution.

Let's look at it among ourselves. Why romanticize the old days of the Senate or talk about the club?

The club has a new look. There are 13 women in the Senate, people coming from a variety of backgrounds, some very wealthy and some who got here because of strong grassroots support, all bringing their passion to engage in public debate and fashion public policy. That is what we want to do. But where are we now? When we used to engage in conversation, the things that promote civility and creative thinking, now we are all dashing to either our own fundraisers or someone else's.

This is why I hope we pass McCain-Feingold. For all of you who do not like campaign finance reform, be worried, as I am, that the largest voting block in America now is the no-shows. The way we can deal with the cynicism is to be able to clean up our own act, do some of the election reforms on which Senators DODD and MCCONNELL are working. They are very able Senators. Let's continue to open up the process but don't think about opening up the process where we have to pursue open wallets. I would rather pursue open minds and keep knocking on those doors.

I urge my colleagues in the strongest way I can to pass McCain-Feingold. It will be one of the best things we can do for democracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am very pleased I was on the floor to hear the remarks of the Senator from Maryland. She has been incredibly helpful on this issue of campaign finance reform.

I had the honor last Friday, with Senator MCCAIN, to go to her State and visit Annapolis. The mere mention of her name in general produced a tremendous response, but in particular, when I shared with the audience how she has been with us every minute of the way for all these years on this issue, with such enthusiasm, there was a great response. I thank my colleague and appreciate so much the fact that she is helping us get the bill through.

Ms. MIKULSKI. I thank the Senator and I salute him and Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 138

Mr. WYDEN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. WYDEN] for himself, Ms. COLLINS, and Mr. BINGAMAN, proposes an amendment numbered 138.

Mr. WYDEN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that the lowest unit rate for campaign advertising shall not be available for communications in which a candidate directly references an opponent of the candidate unless the candidate does so in person)

On page 37, between lines 14 and 15, insert the following:

SEC. ____ . LIMITATION ON AVAILABILITY OF LOW-EST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by this Act, is amended by adding at the end the following:

“(3) CONTENT OF BROADCASTS.—

“(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

“(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

“(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

“(i) a clearly identifiable photographic or similar image of the candidate; and

“(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast.

“(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

“(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized

committee of the candidate) at the time of purchase.

“(F) DEFINITIONS.—For purposes of this paragraph, the terms ‘authorized committee’ and ‘Federal office’ have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).”

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting “subject to paragraph (3),” before “during the forty-five days”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the date of enactment of this Act.

Mr. WYDEN. Mr. President, I come to the floor this morning with Senator COLLINS of Maine to offer a bipartisan amendment that we believe will help slow the explosive growth of negative political commercials that are corroding the faith of individuals in the political process. I also thank my colleague from New Mexico, Senator BINGAMAN, and Congressman GREG WALDEN of Oregon on the House side, who has also been extremely interested in this issue over the years.

Negative commercials are clearly fueling citizens’ cynicism about politics. Those negative commercials are depressing voter participation and, in my view, they are demeaning all who are involved in the political process.

The amendment I have prepared with Senator COLLINS is a straightforward one. In order to qualify for the advertising discounts that Federal law requires candidates for Federal office receive, those candidates would have to personally stand by any mention of an opponent in a radio or television advertisement.

We have asked the Congressional Research Service to do an analysis of our proposal. In their view, they believe it would be upheld as constitutional. I am of the view that they came to that conclusion because the fact is there is no constitutional right to a subsidized dirty political campaign. Everybody in this body knows and knows full well that when candidates mention their opponent in an advertisement, they are not spending those campaign funds to state that their opponent is the greatest thing since night baseball. They are going to be spending, in so many instances, advertising money where, in effect, the candidate would hide behind grainy photographs of the opponent, pictures that make that opponent look pretty much like a criminal, and often there is this bloodcurdling music that portrays the whole thing in such an ominous way that the children sort of run for another room.

What Senator COLLINS and I are seeking to do in this amendment is to make it tough for candidates to disown their negative political commercials. We say that candidates can say anything they want. We are not trampling on the first amendment. A candidate is free, to-

tally free, completely unfettered, under our bipartisan proposal, to say anything about their opponent.

But what we say, however, is if you are going to mention your opponent, you have to own up to it. You cannot hide any longer.

The fact is, negative campaigning is done to obscure ownership. It is done to obscure who is actually going to be held personally accountable.

A number of analysts have looked at negative commercials over the years and the fact is, as they have noted, it is almost always done by advertising. It is almost impossible to do a negative exchange if you are in a debate because the candidate on the other side has an opportunity to answer. The sneak punches, the low blows, are easily delivered through TV and radio, especially radio.

As our colleagues know, a lot of the newspapers at home will do these ad watches. So very often it is possible to blow the whistle on a television commercial. But with respect to radio, that so often is completely under the radar so there is absolutely no accountability.

What Senator COLLINS and I seek to do is to make it clear that it is not going to be so easy to skulk around, to sneak around and engage in these negative ads and pretend they are not yours.

You can say anything you want about your opponent under our proposal, but there is not going to be a subsidized rate if you don’t own up to it. It just doesn’t seem right to me to say the car dealer or the local restaurant or the hardware store should have to pay a higher rate while you get a discounted rate for running a negative advertisement.

A lot of our colleagues want to speak on this. I believe we have an hour and a half for this debate. I am very appreciative that Senator COLLINS is on the floor. She has a long history of being involved in reform efforts.

I also thank Senator BINGAMAN who has had a great interest in this issue over the years. Senator DODD, Senator FEINGOLD, Senator MCCAIN, Senator LEVIN—all of them have worked with us on this proposal in recent days.

I see Senator DODD on the floor, and I commend him for the superb way in which he handled this debate. Nobody ever said this topic was going to be a walk in the park. He has handled it superbly, in my view.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am delighted to join the Senator from Oregon in sponsoring this important legislation.

The premise of our amendment is clear. Candidates who run negative television and radio ads against their opponents should have to stand by their

ads. That is the premise of our amendment.

The Wyden-Collins amendment would require the candidate to clearly identify himself or herself as the sponsor of the ad. No more stealth campaign negative ads.

There are many legitimate policy disputes between candidates and certainly an ad airing these differences is perfectly legitimate and, indeed, contributes to the political debate.

But when a candidate launches an ad that talks about his opponent—whether it is a high-minded discussion of policy differences or a vicious attack on an opponent’s character—a candidate should be required to own up to its sponsorship.

The public should not have to guess or decipher as to who is the sponsor of the ad. The candidate’s sponsorship should be absolutely clear. Our amendment would accomplish that goal by requiring a clearly identifiable picture of the candidate and statement of sponsorship for the TV ad. The statement would require the candidate to say that he or she has approved the broadcast.

Similarly, for radio, the candidate would have to identify himself, the office he is seeking, and state that he has approved the radio broadcast.

We recognize that our amendment tackles only part of the problem of the deluge of negative attack ads since so many of them are sponsored not just by candidates but by outside special interest groups. Nevertheless, the Wyden-Collins amendment is an important first step. It would help curb the abuse of self-negative ads sponsored by candidates, and it would strengthen the underlying McCain-Feingold bill.

I hope it will be approved. I urge my colleagues to support the amendment.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend both of my colleagues. Senator BYRD of West Virginia is also a cosponsor of this amendment.

Mr. WYDEN. Mr. President, if my colleague will yield, because we have gone through various versions, he has indicated that he is strongly in support of this effort and is still looking at some of the specifics.

The Senator is absolutely right. I think the Senator from West Virginia has made a real contribution because he has seen from a historical standpoint how there has been such an explosion of these negative commercials.

I want our colleagues to know that we are very appreciative of the input of the Senator from West Virginia in fighting these negative ads.

Mr. DODD. I thank my colleague for that clarification.

Let me emphasize again how much I appreciate his efforts and the efforts of the Senator from Maine and others

who have been so involved in putting this amendment together.

At first blush you might say this ad is designed to probably help an incumbent because it is the incumbent's record that can be attacked. It is not a question of people disagreeing with our existing voting records. It is the personal attacks that so often are the most disturbing, not to the candidates themselves but the voters.

We have seen too often that the effect of negative ads isn't so much to do damage, although it does to the reputations of good people by distorting some minor difference and magnifying it beyond all sense of proportion, but the larger harm done is that it has a tendency to discourage people from voting.

There is ample data in various races around the country where there has been a deluge of negative campaigning that voter participation declines. People get disgusted by it. They do not necessarily blame one candidate or another when they see negative ads. It has the effect of saying: Politics is such a dirty business that I don't want anything to do with it. I am not going to encourage it, but I am not even going to vote.

That is my great concern and why I believe this amendment has such value. It is not to protect people who hold themselves out for public office from being criticized. We understand that occurs if you hold yourself up for public office. We have hundreds of votes, and there are many which divide us as to what is the proper course of action to take. Someone may stand up and say: I disagree with Senator DODD on how he stands on child care, or education issues. It is a perfectly legitimate activity in a campaign.

We need the debate so people can have a better clarification. The authors of this amendment, as I understand it, are in no way suggesting that healthy debate and criticism of candidates ought to be removed from politics. They are saying, if you are going to do that, those who are making the criticism need to let people know from where it is coming. They believe—and I think they are correct—that this will have the dual effect of people being less inclined to attack people on a personal level where their picture is going to be displayed; secondly, it will encourage more constructive criticism, which is perfectly legitimate and which we ought to invite in a good campaign.

The effect of that goes to the very heart of what this amendment is likely to do; that is, to encourage people to vote and participate.

I applaud both of my colleagues for this amendment because I think it will encourage more people in the final analysis to engage in the political life of our country.

I mentioned yesterday how we were applauding, in a sense, that we had done better than anticipated when 50

percent of the eligible voters in this country voted in the last Presidential election. We thought that was good news because it was better than what we had anticipated. What a sad commentary it is that 50 percent of the eligible Americans who have a right to choose who will be the President of the United States do not participate despite all of the ads and activities. I suspect that a significant percentage of that 50 percent stayed away not because they forgot, not because they were not interested in the decisions that the next President might make, but I think they didn't participate because they were so disgusted by what they saw on television, what they heard on radio, and what they saw being spent, which goes to the heart of what Senator FEINGOLD and Senator MCCAIN are talking about and why we are debating campaign finance reform. To have that discussion and not include this element would be a mistake.

I, again, applaud my colleagues for adding this. Again, I can't say for certainty this will increase participation. But I think the American public will applaud this effort and politics will be the better for it, in my view. Maybe we will see more people voting in the next election because candidates will be more reluctant about saying some of these things they wouldn't dare say otherwise about themselves, and articulate it in a sense by requiring that a photograph be included in that ad. I think they will be a little more cautious about the things that have been said in campaigns in the past.

I applaud my colleagues' efforts. I am happy to yield to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend and thank our friends from Oregon and Maine for their amendment.

The bill before us is aimed at trying to close a soft money loophole, which has fueled the kind of negative TV ads which do not do justice to our democracy.

The unlimited contributions which have come into campaigns, directly and indirectly, have been one of the major sources for the horrendous amount of negative attack ads which are inflicted upon our constituents in most of these elections.

The McCain-Feingold bill is trying to do something about closing that soft money loophole. If we are going to restore credibility to the electoral process, it is vitally important we close that soft money loophole. Hopefully, we will. Part of the answer, ultimately, is that we require candidates for office who take out ads, if they want the lowest unit rate which is provided for in this McCain-Feingold legislation, if they want to take advantage of that benefit which is conferred, that guarantee that is in the McCain-Feingold

bill—they at least put their name and their face at the end of the ad they are funding.

To ask a candidate to do so is pretty fundamental for a benefit which is being conferred.

This is a very modest amendment. It is a very carefully crafted amendment. It is not aimed at intruding on the message that is in that commercial. It doesn't create a problem in terms of the message. It doesn't seek to control that message. It says, if you want that lowest rate provided for in this law that we are guaranteeing to you, then you must put your name and your face at the end of this ad for a few seconds so the people know who is paying for this ad; so that you can't have some name of some citizens group put at the end of the ad which masks or disguises who is paying for this ad. It is a very reasonable kind of requirement in exchange for that lowest unit rate.

I commend the sponsors of this amendment for the amendment. I want to say one other thing.

I only wish it were possible to extend this to the ads that are put on by outside groups—it is not possible constitutionally. I don't think we are able to do that. I wish we could because so many of the ads that are on television these days are not paid for by candidates but are paid for with soft money, and are paid for by outside groups in the form of so-called issue ads, which more often than not, about 98 percent of the time, indeed, are not issue ads at all but are ads that are clearly aimed at electing candidates and giving advantages to candidates or attacking candidates.

This will do some significant good, in my judgment, because it at least gets to the ads that are paid for by a candidate, or a candidate's committee.

My only regret is—and I can't figure out a constitutional way yet—we do not apply this same logic to the ads which are funded by outside groups that are intended to help candidates get elected or to defeat other candidates. But, again, we should be grateful for the good that can be accomplished while we seek to find ways to accomplish the same result relative to the so-called issue ads of the outside groups.

So I commend my good friends from Oregon and Maine and the other cosponsors.

Mr. President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

Mr. DODD. Mr. President, I yield whatever time he may need to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Connecticut. And I especially thank the Senators from Oregon and Maine for offering this amendment. It

is a pleasure to see this back because this is one of the original provisions and ideas we tried to put forth in the original McCain-Feingold bill many years ago. In the process of negotiating and trying to get votes, it was one of the casualties that came off the bill as we tried to simplify it. But that was not because it was not a good idea. It was always a good idea.

The Senator from Oregon has been diligent in mentioning this and arguing for this over the years. I am extremely pleased that we finally got the process where Senators, such as the Senator from Oregon, can offer his amendment. Finally—and it took us 5 years—here we are talking about one of the three things that I find constituents complain about in relation to campaigns.

First of all, they obviously say they are too expensive. We all know that is one of the reasons we are doing this bill. Secondly, they say the campaigns go on too long; you have to have ads all year, all the time. But the third thing they say to me—and I assume the Senator from Maine and the Senator from Oregon have had the same experience—is they are so negative.

Of course, I believe fundamentally in the free speech right of people to say something negative anytime they want. But what this amendment does is make sure there is some accountability for that. So I welcome it. It is bipartisan. It is offered by two of the strongest reformers in the entire Senate. The voters deserve the chance to see the candidates and know that the candidates sponsoring the ads support the content and the tone of the ad. So it is an excellent bipartisan amendment.

Just as we predicted, Senator MCCAIN and I offered a bill that not only is not a perfect bill, but it is a bill we hope will be improved and made better, more important, and more valuable by the amending process. This amendment does exactly that.

Mr. WYDEN. Will the Senator yield?
Mr. FEINGOLD. For a question.

Mr. WYDEN. I appreciate the Senator yielding. I will be very brief.

I say to the Senator, I thank him for all the years he has toiled in the vineyards on this issue. He and Senator MCCAIN have been out week after week for years. I was sworn in as Oregon's first new Senator in more than 30 years on February 6, 1996, around noon. The first official action I took, as Oregon's first new Senator in more than 30 years, was to be a cosponsor of the McCain-Feingold legislation.

I just want the record to note that this Senator knows we do not get to this kind of opportunity by osmosis. It does not happen by accident. It happens because we get two Senators such as the Senator from Wisconsin and the Senator from Arizona who, week after week, year after year, do so much to make this action possible.

I want the Senator to know how much I appreciate all his leadership.

Mr. FEINGOLD. I appreciate that, Mr. President. I thank the Senator from Oregon.

As I look at these two Senators—Senator COLLINS from Maine and Senator WYDEN from Oregon—there was a time when people were saying: You only have two Republicans on the bill. It was a critical moment in the history of this legislation when the Senator from Maine came on the bill. I remember when the Senator from Oregon came, and he made this his first piece of legislation he would cosponsor. It actually gave me a chance, for the first time in my life campaigning for this bill, to go to Portland, OR, a beautiful city.

If I could somehow get myself to Maine for the first time, I could go to the other Portland and we could have this be the Portland-to-Portland amendment which, of course, reflects the tremendous reform tradition of both States, Maine and Oregon, in which Wisconsin joins as well.

So, again, my thanks to both Senators.

I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Wisconsin for his very gracious comments. We would not be where we are today without his tenacity in pushing for true campaign finance reform.

I want to respond, also, to the comments made by the Senator from Connecticut and the Senator from Michigan and thank them for their support of the Wyden-Collins proposal. Senator DODD and Senator FEINGOLD also raised a very important point, and that is, the deluge of negative attack ads discourages people from voting and really turns off the American public. This is exacerbated by the fact that a lot of times it is not evident who is sponsoring these ads, who is behind these charges and allegations that are hurled particularly in the final days of the campaign.

I believe the Snowe-Jeffords amendment will help in that regard and that the amendment Senator WYDEN and I are sponsoring today will make very clear that when a candidate launches a negative ad attacking his opponent, that candidate will have to take responsibility for that ad.

It is important to note, however, that there is nothing wrong with a candidate running an ad that discusses policy differences. Indeed, that is valuable to the political discourse and debate. And, indeed, as Senator LEVIN pointed out, there is nothing in our amendment that prevents a candidate from running an irresponsible attack ad that perhaps is a vicious attack on an opponent's character. But if that is done—in either case—the candidate has to take responsibility for the ad.

Under our proposal, the candidate's picture would appear at the end of the ad and the candidate would have to have a statement saying he or she approved the ad in order to get the lowest broadcast rate. So we are not, in any way, attempting to regulate speech or attempting to impose our ideas of what constitutes an appropriate ad. Rather, all we are doing is saying that if a candidate runs an ad that talks about his opponent, he has to own up to that ad. He has to clearly state that he paid for the ad, that he is responsible for its content.

I think that would have the very beneficial effect of making candidates think twice before hurling accusations that perhaps are exaggerated or unfounded against an opponent. I believe it would help elevate the political debate and it would help curb some of the egregious negative ads that offend all of us.

So I thank the Senator from Michigan, the Senator from Connecticut, and the Senator from Wisconsin for their support of this proposal. In particular, I thank my colleague from Oregon for the opportunity to work with him to craft what I think is a reasonable proposal, a modest but important first step that will help improve the quality of our campaigns.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, are we under controlled time at this point?

The PRESIDING OFFICER. The Senator from Kentucky and the Senator from Oregon control the time.

Mr. FEINGOLD. I yield myself 10 minutes on our side of the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, we have had a good debate on a number of amendments this week. It has been very pleasant to cover a lot of ground. We have made good progress on the bill. I hope we can finish work on this bill next week, as our agreement in February contemplated, and as the majority leader has said he wanted. Getting a final up-or-down vote on this legislation is what we set out to do, and it is what we will do once Senators have had a chance to offer amendments and improve the bill.

Sometimes when we spend a few hours on an amendment, we can get

bogged down in the minutia. When I say "minutia," I don't mean any disrespect. This is very important. This is how the laws actually work. This is how campaigns will be conducted. So we have to go through this action. But I think sometimes when people observe us from afar, or on television, they wonder, what are we talking about? What is the big picture?

I want to take us back to why we are here in the first place. Why are we spending 2 weeks on this issue? What is this bill all about? We are here because we have a crisis of confidence in this country and in this Congress. We labor long and hard on legislation, and I am afraid the public doesn't trust us to do the right thing. For example, here is a headline in Business Week's February 26 issue: "Tougher Bankruptcy Laws—Compliments of MBNA?"

The article says:

MBNA is about to hit pay dirt. New bankruptcy legislation is on a fast track. Judiciary panels in the House and Senate held perfunctory hearings, and a bill could be on the House and Senate floors as early as late February.

The implication is clear that it is widely assumed the credit card issuers called the shots on the substance of the bankruptcy bill we passed right before we started this debate on campaign finance reform.

Isn't it troubling that people are so quick to assume the worst about the work we do on this floor? That is why we are taking up this bill; we have to repair some of that public trust. Our reputation is on the line. We aren't going to get a pass from the American people on this one and, frankly, we don't deserve one. The appearance of corruption is rampant in our system and it touches virtually every issue that comes before us.

I know my friend from Oregon is familiar with this because we have talked about it. That is why I have called the bankroll on the floor 30 times in less than 2 years. I do it because I think it is important when we debate a bill to acknowledge that millions and millions of dollars are given in an attempt to influence what we do. That is why people give soft money. I don't think anyone would seriously try to dispute that.

I won't detail every bankroll here. It would actually take me all day. But let me review some of the issues they address to show how far reaching the problem really is. I have called the bankroll on mining on public lands, the gun show loophole, the defense industry's support of the Super Hornet and the F-22, the Y2K Liability Act, Passengers' Bill of Rights, MFN for China, PNTR for China, and, of course, the tobacco industry. I have talked about agricultural interests, lobbying on an Agriculture appropriations bill, railroad interests, and lobbying on a Transportation appropriations bill. I have

talked about contributions surrounding the Financial Services Modernization Act, nuclear waste policy, the Arctic National Wildlife Refuge, and the ergonomics issue. I have also had the chance to call the bankroll on the Patients' Bill of Rights twice, the Africa trade bill twice, and the oil royalties amendment to the fiscal year 2000 Interior appropriations bill twice. I have called the bankroll on three tax bills, four separate times, and on our most recent legislation, the bankruptcy reform legislation.

People give soft money to influence the outcome of these issues. That is plain and simple. As long as we allow soft money to exist, we risk damaging our credibility when we make decisions about the issues the people elected us to make. They sent us here to wrestle with some very tough issues. They have vested us with the power to make decisions and to have a truly profound impact on their lives. That is a responsibility that every one of us takes seriously.

But, today, when we weigh the pros and cons of legislation, many people think we also weigh the size of the contributions we get from interests on both sides of the issue. When those contributions can be a million dollars, or even more, it seems obvious to most people that we will too often reward our biggest donors.

That is the assumption people make, and we let them make it. Every time we have had the chance to close the soft money loophole, this body has faltered. If we can't pass this bill, history will remember that this Senate faced a great test and we failed; that the people had accused us of corruption and, in our failure to pass a real reform bill, we actually confirmed their worst fear.

Fortunately, the bill before us today offers a different path. If we can support the modest reforms in this bill, we can show the public we understand that the current system does not do our democracy justice. This is just a modest bill. It is not sweeping. It is not comprehensive reform. It only seeks to address the biggest loopholes in our system.

The soft money ban is the centerpiece of this bill. Our legislation shuts down the soft money system, prohibiting all soft money contributions to the national political parties from corporations, labor unions, and wealthy individuals. State parties that are permitted under State law to accept these unregulated contributions would be prohibited from spending them on activities relating to federal elections, and federal candidates and officeholders fortunately and finally, would be prohibited from raising soft money under our bill. That is a very significant provision because the fact that we in the Congress, those who are elected to Congress, are doing the asking is what I believe and many people believe

gives this system an air of extortion, as well as bribery.

McCain-Feingold-Cochran also addresses the issue ad loophole, which corporations and unions use to skirt the federal election law. This provision, originally crafted by Senator SNOWE and Senator JEFFORDS, treats corporations and unions fairly and equally. I want to be clear. Snowe-Jeffords does not prohibit any election ad, nor does it place limits on spending by outside organizations, but it will give the public crucial information about the election activities of independent groups, and it will prevent corporate and union treasury money from being spent to influence elections.

Senators SNOWE and JEFFORDS described this provision of their bill earlier in the week. As this debate proceeds, we may debate whether it should be strengthened or even removed from the bill altogether. I believe the Snowe-Jeffords provision is a fair compromise and the right balance. It fairly balances legitimate first amendment concerns with the goal of enforcing the law that prohibits unions and corporations from spending money in connection with Federal elections.

I am sure most of my colleagues are aware of the serious political crisis underway as we speak in the nation of India. Journalists posing as arms dealers shot videos with hidden cameras on which politicians and defense officials were seen accepting cash and favors in return for defense contracts. Those pictures have caused a huge scandal. The Indian defense minister has resigned, and we do not know yet how great the repercussions will be.

One thing that struck me as I read the news reports of these events was two of the people caught on tape were party leaders, including the leader of the ruling party, the BJP, Mr. Bangaru Laxman. Let me read from an AP story of March 16:

Laxman denied that the journalists identified themselves to him as defense contractors or discussed weapons sales. He said they were presented as businessmen and that accepting money for the party is not illegal in India.

I am not going to say that what is happening in India is the same as the system we have in the United States, and I am certainly not going to comment on the guilt or innocence of any party leader or political official in that sovereign country. But the Government of India is hanging by a thread based on possibly corrupt payments of a few thousand dollars by people posing as defense contractors.

In our country, we have literally hundreds of millions of dollars flowing to our political parties from business and labor interests of all kinds. And our defense, like Mr. Laxman's is, "it's legal." We have a system of legalized bribery, a system of legalized extortion, in this country. But legal or not,

like the videotaped payments in India, this system look awful. It may be legal, but it looks awful.

Our debate this week has shown time and time again that we have a strong majority in this body that wants to pass reform. We are ready to do it. I am eager to continue our work, and get the job done.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, Senator DODD is not here. How much time does the Senator request, 5 minutes?

Ms. COLLINS. I request not more than 5 minutes.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 138, AS MODIFIED

Ms. COLLINS. Mr. President, I thank the Senator from Kentucky for pointing out to the Senator from Oregon and myself that in drafting this amendment we erred.

I ask unanimous consent to modify my amendment to correct the mistake, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, reads as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ____ . LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by this Act, is amended by adding at the end the following:

“(3) CONTENT OF BROADCASTS.—

“(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

“(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

“(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

“(i) a clearly identifiable photographic or similar image of the candidate; and

“(ii) a clearly readable printed statement, identifying the candidate and stating that

the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

“(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

“(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

“(F) DEFINITIONS.—For purposes of this paragraph, the terms ‘authorized committee’ and ‘Federal office’ have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).”

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting “subject to paragraph (3),” before “during the forty-five days”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the date of enactment of this Act.

Ms. COLLINS. Mr. President, I will briefly explain. The Senator from Kentucky pointed out that in drafting the amendment, we inadvertently deleted the requirement that there be a disclaimer that the ad is paid for by the candidate's authorized committee. We did not in any way intend to remove that disclaimer requirement.

The legislation I sent to the desk makes it clear that the candidate's ad has to include the statement that the ad was paid for by the candidate's authorized committee.

I thank the Senator from Kentucky for pointing out that error and allowing us to correct it.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I say to the Senator from Maine and the Senator from Oregon, we have had an opportunity to review the amendment and discuss it on the floor. As everyone knows, current law already requires certain things of the candidates, but this amendment is a useful addition that codifies and clarifies the law.

Consequently, I am happy to support it and see no particular need for a roll-call vote unless there is a desire to do so on the other side.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield to the Senator from Oregon 5 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. WYDEN. I thank the Chair.

Mr. President, I will be brief. It has been interesting that on the floor of the Senate today no one has spoken in defense of negative ads. The very ads that the media consultants believe are most successful or most likely to win

elections have not won a defense. I guess the media consultants in this country are going to have to go back to school if this proposal, as it makes its way down the gauntlet, becomes law, as the Senator from Maine and I hope to make possible.

The fact is that this is a stand-by-your-ad requirement. This is a proposal that makes it clear that to get that lowest unit rate, you have to be held personally accountable.

What the Senator from Maine did is useful. We believed we had made it clear in terms of linking it to the appropriate Federal election statute. What we just did makes it even more so.

I, too, thank the Senator from Kentucky. This is an area in which I have had a special interest since what I think was the harshest campaign in Oregon history in 1995 and 1996. My friend and colleague, Senator SMITH, and I believe that race was just completely out of hand. Neither of us could recognize the kinds of commercials that were being run by the end.

This is an opportunity to draw a line in the sand and to say the Senate wants to make it clear that we are not going to let candidates disown these corrosive, negative commercials. They are not going to be able to hide any longer if this becomes law.

I express my thanks again to the Senator from Maine.

There are a number of staff who have put in a huge number of hours: Jeff Gagne and Carole Grunberg of my staff, Michael Bopp with Senator COLLINS, Linda Gustitas with Senator LEVIN, Bob Schiff with Senator FEINGOLD, and Andrea LaRue with Senator DASCHLE. All of them contributed to this effort to make sure that in this country we are no longer subsidizing dirty campaigning. That is what happens today. We are subsidizing the local hardware store owner and the local restaurant owner is subsidizing dirty campaigns, and we are taking a step away from that.

With thanks to my colleague from Maine, with a pledge to the Senator from Kentucky to continue to work with him in this area, I express my thanks to him for taking this by voice vote.

I yield the floor.

Mr. McCONNELL. I yield back the remainder of my time.

Mr. REID. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon, Mr. WYDEN, and the Senator from Maine, Ms. COLLINS, numbered 138, as modified.

The amendment (No. 138), as modified, was agreed to.

Mr. McCONNELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. The Senator from Kentucky and the Senator from Connecticut have graciously consented to allow the Senator from New Mexico until 1 o'clock for morning business for the introduction of legislation.

Mr. MCCONNELL. Let me say to all Members of the Senate, the next amendment will be on this side, offered by the assistant majority leader, Senator NICKLES. It will be laid down around 1 o'clock.

Mr. REID. I ask unanimous consent that the Senator from New Mexico be recognized.

The PRESIDING OFFICER. The Senator from New Mexico will be recognized for 20 minutes.

Mr. BINGAMAN. I thank my friend and colleague, Senator REID, from Nevada, and my friend and colleague from Kentucky, also, for their courtesy in allowing me to speak as in morning business.

THE PRESIDING OFFICER. The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 596 and S. 597 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Senator leaves the floor, I extend my congratulations to him for the work that he has put into this legislation. I have been involved with just a little tiny bit of it. He has spent as much time with me as he has with other Members making sure that everyone who had questions about this legislation had their questions answered.

I feel very comfortable with Senator BINGAMAN being the ranking member of this most important committee. We in Nevada believe that problems in California are just a little ways behind us. We are hopeful and confident this much needed legislation will move quickly out of his committee on to the floor so we have an opportunity to debate it.

So, again, I appreciate very much the work of my friend from New Mexico.

Mr. President, there is no one on the floor in relation to the bill. If Senator NICKLES comes to offer his amendment, Senator STABENOW has indicated she would be most happy to give up the floor. She needs 5 minutes to speak as in morning business. I certainly do not want to take advantage of anyone. I do not think I am. I ask unanimous consent that she be allowed to speak for 5 minutes, or until the assistant majority leader comes to the floor to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I thank the Chair and Senator REID. I echo Senator REID's comments of congratulations to Senator BINGAMAN for his excellent work in forging ahead a very visionary energy proposal covering so many important aspects for American families and businesses.

(The remarks of Ms. STABENOW are located in today's RECORD under "Morning Business.")

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 139

Mr. MCCONNELL. Mr. President, Senator NICKLES' amendment is next and he will be over in a while. In his absence, I send his amendment, on behalf of himself and Senator GREGG, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. NICKLES, for himself and Mr. GREGG, proposes an amendment numbered 139.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike section 304)

Beginning on page 35, strike line 8 and all that follows through page 37, line 14.

Mr. MCCONNELL. Mr. President, the debate on this amendment will begin shortly. In the meantime, I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I want to reserve time on this amendment because I don't know whether Senator NICKLES will want to use all of the time or not. I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent, after having checked

with my friend from Kentucky, that the Senator from Washington be recognized for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

AMENDMENT NO. 138, AS MODIFIED

Ms. CANTWELL. Mr. President, I thank Senator WYDEN and Senator COLLINS for offering this amendment that I think truly improves the McCain-Feingold bill.

In the 2000 election, Seattle and Tacoma were the second and third largest markets for political advertising.

The Seattle Post Intelligencer noted earlier this week that campaign ads "rained down on—or bludgeoned, according to some—viewers throughout the late summer and fall. And this wasn't an intermittent, drip torture kind of rain that Seattle residents know so well. It was a deluge, a constant unavoidable torrent, stretching across three solid months."

With this constant torrent of negative advertising, it is no wonder that voting among 18 to 24 year olds has dropped from 50% to only 32%—a much steeper decline than overall turnout.

Part of the reason for this disaffection with voting and with politics is undoubtedly due to negative attack advertising.

This amendment makes candidates accountable for those ads.

By requiring a picture and a readable statement that the candidate approved the ad, it would certainly make candidates think twice before running negative ads.

By requiring candidates to take responsibility, the amendment also helps the viewer.

It lets the viewer know who is paying for those ads, not just text that they have to run up close to the screen to see.

It gives the viewer some of the information that they need as a voter to make a fully informed decision about the candidates.

Studies by the Annenberg Center for Communications have found that advertising that includes a personal appearance by the candidate is more accurate, less negative, and is received more positively by voters.

This amendment also only deals with ads paid for by candidates.

It does not address the problem of out of control issue ads.

But one of the things that will happen as a result of this amendment is that there will be a clear contrast created between ads sponsored by candidates and issue ads that are outside the candidates own control.

This amendment is a step in the right direction. I am pleased to support it and I thank my colleagues for offering it today.

I yield back the remainder of my time.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 139

Mr. MCCONNELL. Mr. President, in the underlying bill it is suggested that there is a codification of the Beck decision. In fact, it is just the opposite. McCain-Feingold does not codify Beck; it eviscerates Beck. The so-called Beck codification in McCain-Feingold is a big win for big labor. It does two things the unions love: No. 1, it will let unions keep more of the fees nonunion members pay to unions, and, No. 2, it will make it much harder for those seeking a refund to get one because it takes away their existing right to pursue relief in Federal court and forces them into a burdensome, time-consuming, and hostile administrative process.

The Nickles amendment, of course, will simply take out the so-called Beck codification in the underlying McCain-Feingold bill and go back to the Supreme Court. In the Beck decision, the Supreme Court affirmed a fourth circuit opinion that objecting nonunion members required to pay agency fees as a condition of employment were entitled under section 8 of the National Labor Relations Act to receive a refund of the pro rata share of their fees expended on activities unrelated to the union's role as "exclusive bargaining representative," which consisted of "collective bargaining, contract administration, and grievance adjustment."

The Supreme Court affirmed the fourth circuit ruling that, as a matter of law, the fees unrelated to "collective bargaining, contract administration, and grievance adjustment" that the unions had to refund to objecting nonunion members, along with any accrued interest, included not only fees for political and lobbying activities but also union community service projects, union charitable donations, union organizing, supporting strikes by other unions, and administrative costs related to the above activities. All of those items were entitled to be refunded to agency shop nonunion members who requested such a refund.

In the original Beck case, the court found that 79 percent of the objecting nonunion member's fees had to be refunded because only 21 percent was used for activities related to collective bargaining, contract administration, and grievance adjustment.

The Beck provision in McCain-Feingold limits objecting nonunion members to getting their fees reduced only by the pro rata share of such fees spent

on political and lobbying activities that the union deems "unrelated to collective bargaining."

According to the unions, all of their activities related to legislation at the State and Federal level, including health care, judicial and executive appointments, as well as most State ballot initiatives, are "related to collective bargaining." Thus, unions could continue to use nonmember dues for such activities under McCain-Feingold, which is great for them because they cannot use nonunion member fees for most of those things under existing law.

McCain-Feingold will also allow unions to keep and use the portion of an objecting nonmember's agency fees spent on other activities that the Beck court affirmed were unrelated to "collective bargaining, contract administration, and grievance adjustment," such as a union's charitable contributions and a union's support of a strike by another union.

Thus, McCain-Feingold's Beck provision is really bogus. Instead of codifying Beck, it eviscerates Beck by diminishing the scope of the refund the Supreme Court directed for objecting nonmembers required to pay agency fees as a condition of employment.

This is not the only way in which McCain-Feingold's bogus Beck provision is a big gift to big labor. Unions would also love it if we passed this bogus Beck provision because it would close the courthouse doors for nonunion members seeking relief from confiscation of their dues for purposes unrelated to collective bargaining, contract negotiation, and grievance adjustment.

It does this by stating that a union's failure to adhere to the bogus Beck provision "shall be an unfair labor practice" under the National Labor Relations Act. Unfair labor practice claims fall within the exclusive jurisdiction of the National Labor Relations Board.

A recent piece in Roll Call noted that:

The National Labor Relations Board [has] for 13 years, under both Republican and Democratic administrations, displayed an intense bias against workers who assert their Beck Rights.

Make no mistake. Saying that nonunion members seeking to enforce their Beck rights can only pursue an unfair labor practices claim alters existing law. Under existing law, nonunion members can pursue an unfair labor practices claim or they can avoid the NLRB's time-consuming, hostile and burdensome administrative process by going directly to Federal court against a labor union.

If we enact the bogus Beck provision in McCain-Feingold nonunion workers will no longer be able to go directly to court and seek judicial enforcement of their rights as the plaintiff in the original Beck case did.

Instead, their only recourse would be to navigate a tedious, complex and hostile administrative process that, according to documents from the NLRB itself, regularly takes years.

Unions would love this because they know that giving nonunion members no alternative to this administrative process will greatly deter people's ability and willingness to seek refunds pursuant to Beck.

If we adopt McCain-Feingold's bogus-Beck provision, the other portions of Beck will not remain.

Advocates of McCain-Feingold are using a completely untrue and baseless argument to assuage people concerned about their big gift to big labor in the form of a bogus-Beck codification.

The argument is: Well, we just wanted to focus on the political part of Beck and, if we pass this, the rest of Beck will remain.

This is, of course, untrue because Beck was a decision in which the Supreme Court was interpreting a Federal statute, specifically section 8 of the National Labor Relations Act.

At the beginning of the Supreme Court's decision in Beck, Justice Brennan, the author of the decision, made clear it was statutory interpretation case, not a case about a constitutional right.

Quoting the decision:

The statutory question presented in this case, then, is whether this financial core includes the obligation to support union activities beyond those germane to collective bargaining, contract administration, and grievance adjustment. We think it does not.

And at the end of the case, in stating the Court's holding, Justice Brennan again made clear that Beck was a statutory interpretation case. Again, quoting from the decision.

We conclude that [section] 8(a)(3) [of the National Labor Relations Act] . . . authorizes the exaction of only those fees and dues necessary to performing the duties of an exclusive bargaining representative.

The significance of the indisputable fact that Beck was a case in which the Supreme Court interpreted a statute enacted by Congress rather than a portion of the Constitution is that any subsequent codification by Congress in light of the Court's interpretation will completely override the court interpretation.

Every lawyer knows that when a court interprets a statute and the legislature subsequently enacts a law clarifying what that statute means, as the bogus-Beck provision does, the court's interpretation is completely displaced by that statutory action.

Therefore, no serious person can give any weight to the assertion that somehow any part of the Supreme Court's interpretation of section 8 of the National Labor Relations Act in Beck will remain once we pass McCain-Feingold's big gift to big labor—the evisceration of Beck.

Senator NICKLES, as I indicated, will be over shortly to speak on this amendment. Even though he may demand a rollcall vote, we understand that the proponents of the underlying bill are prepared to accept or vote for this provision, and we are glad to hear that. We think restoring the Beck case to its original language is certainly appropriate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the manager of this bill, Senator DODD, is off the floor doing other Senate business. He told me before he left that he would not accept this amendment until there were negotiations. He has a statement he wishes to make, and there are others who wish to speak on this amendment.

In light of the fact that no one is here, I suggest the absence of a quorum and ask that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I will speak briefly on the pending amendment. I thank my friend and colleague, Senator MCCONNELL, for sending this amendment to the desk on behalf of myself and Senator GREGG.

The purpose of this amendment is to strike the language that is in the bill on page 35, section 304. Under the bill, it says "codification of the Beck decision." When I initially heard that Beck would be codified, I thought that was good. I support the Beck decision and would like to see it codified. When I read the language, I found out it did not codify the Beck decision. In fact, it rewrote the Beck decision, undermined it in many ways, and led me to the conclusion that we would be better off having no language rather than this language.

I very much appreciate the cooperation I have received from Senator MCCAIN and Senator FEINGOLD, who have agreed to drop this language, and as I also mentioned, Senator GREGG from New Hampshire, who has been working on this. Actually, we were both going to fight a big battle to strike this language. We thought that once people reviewed this language and contrasted it to the Beck decision, they would find out they are not the same and this wasn't actually a codification of the Beck decision in many different respects.

I am pleased. I think everybody will be on board for striking this language. I could go into the details regarding

the difference in notification in Beck, because we think all employees, union and agency fee employees, should be notified. Under the pending language, it would only be those who are agency fee members who would be notified.

The Beck decision was very clear. The only instances in which a person would be compelled to contribute would be when they directly germane to collective bargaining, contract administration, and grievance adjustment. In other words, in those instances that are directly involved in negotiating contracts, solving enforcement of the contracts, and solving grievances, then a person would be compelled to contribute.

Under the language we had in the pending bill, it was much, much broader than that. Individuals could be compelled to pay in many instances determined by the union, and what might be regarded as unrelated to collective bargaining, they might define everything as related to collective bargaining and there would be no reimbursements for employees who went through the refund process.

Again, I think we are better off having no language in it than to have the language that is in section 304. The purpose of this amendment is to strike section 304, and I am pleased that our colleagues on both sides of the aisle have come to that conclusion.

I look forward to this section being removed from the bill, making, in my opinion, a significant improvement in the underlying legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the senior Senator from West Virginia, Mr. BYRD, be recognized to speak as if in morning business for up to 30 minutes, and that the time be equally charged to both sides on the underlying amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Democratic whip, Mr. REID, for his courtesy. He is always very courteous and attentive to the needs and wishes of his colleagues. I also thank the distinguished Senator from Kentucky, Mr. MCCONNELL, for his characteristic courtesy as well.

May I say I merely sought the floor because the Senate was in a quorum and had been in a quorum for quite a while; otherwise, I would not have come at this time.

Mr. President, I ask unanimous consent to speak out of order, if the time is being charged to both sides on the campaign finance legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BYRD are located in Today's RECORD under "Morning Business.")

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

Mr. LEVIN. Mr. President, I will be supporting the Nickles amendment because I think it is the wiser course to leave this issue at this time to the courts and to the NLRB.

I will say a few things about the Beck provision in the bill. I believe this is a different perspective than what we have heard from the Senator from Kentucky. However, we reached the same conclusion, that it is best to leave Beck to the courts and to the NLRB rather than to try to see if we can distill or characterize the Beck decision at this time.

Mr. President, it was said that the codification of Beck or the Beck provision in this bill is the opposite of a codification. But, Section 304 of McCain-Feingold goes to the heart of the Beck decision, that is, whether a nonunion member can opt out of paying dues for political activities. The Supreme Court says "yes" in Beck, and section 304 would make that right to opt out statutory law. That is the technical holding in Beck that a nonunion member in a bargaining unit can opt out. It is that holding which is at the heart of Beck which is also at the heart of the provision in section 304.

We don't believe section 304 would make it harder for nonunion members to exercise their Beck right; that, we believe, is not the case and we know it is not the intent.

The National Labor Relations Board has told unions how they can and should implement Beck. The NLRB said in the California Saw and Knife Works case, in 1995, the following: First, before a union can require a nonunion member to pay what is called an agency fee, which is similar to union dues for a union member, the union must tell the nonmember employee of his or her right to object to paying for activities "not germane to the union's duties as bargaining agent," and his or her right to "obtain a reduction in fees for such act."

The nonmember employee can then file an objection, and the union must then charge the nonmember objecting employee an agency fee reflecting only that portion of the agency fee that represents the cost of activities related to collective bargaining.