the Senator from Arizona, the votes for this reform have been supplied by this side of the aisle. We appreciate its bipartisan approach, doing what’s best, and we have people who believe in campaign finance reform who have amendments. They believe they strengthen the bill, and we will work with them to try to cut down their time. Some of them have waited, they haven’t been off the Hill doing something else, they have been waiting to offer these amendments. We will do everything we can to protect them so they can offer these amendments for what they believe will strengthen this bill.

Mr. McCAIN. Hopefully, we can collate the number of the amendments, perhaps work out some time agreements on each one, so we can have an idea as to when we can finish.

Mr. McCONNELL. Mr. President, one final item: I want to notify the Senate that about 4 o’clock I am planning to address the Senate on the implications of this bill on our two parties. I know we frequently don’t show up to listen to each other’s speeches, but I recommend that Senators who are interested in the impact of this bill on the future of the two-party system and on their own re-elections might want to pay attention to what I have to say. My current plan is to deliver that speech around 4 o’clock, and I want to notify people on both sides of the aisle and the staff who may be listening to the proceedings on the Senate floor.

I think this is one speech that maybe Senators on both sides of the aisle ought to listen to. So maybe just to give notice, I ask unanimous consent I be allowed to address the Senate for up to 30 minutes, beginning at 4 o’clock.

Mr. REID. I have no objection as long as there is 30 minutes reserved to respond to the Senator from Kentucky by someone from this side of the aisle.

The ACTING PRESIDENT pro tempore. Does the Senator so modify his request?

Mr. McCONNELL. I say to my friend from Nevada, I don’t think there will be anything to respond to. I am sure it will be a factual presentation of the impact.

Mr. REID. I am sure that will be the case, but we ask for 30 minutes.

Mr. McCONNELL. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the DeWine amendment, No. 152, on which there shall be 15 minutes for closing remarks.

First, the clerk will report the bill.

The legislative clerk read as follows:

A bill, S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Pending:

Specter amendment No. 140, to provide findings regarding the current state of campaign finance laws and to clarify the definition of electioneering communication.

DeWine amendment No. 152, to strike certain provisions relating to noncandidate campaign expenditures, including rules relating to certain targeted electioneering communications.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

AMENDMENT NO. 152

Mr. DeWINE. Mr. President, I yield myself 4 minutes.

Mr. REID. Will the Senator yield for a minute?

Mr. DeWINE. I yield.

Mr. REID. Mr. President, I yield, on behalf of the opponents of this measure, 7½ minutes to the Senator from Maine.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for 4 minutes.

Mr. DeWINE. Mr. President, in a few moments the Senate will have an opportunity to vote on an amendment I have offered along with Senator HATCH. Senator HUTCHINSON from Arkansas, Senator BROWNBACK, and Senator ROBERTS. This amendment is a very simple amendment. It strikes title II from this bill.

This will be the last opportunity that Members of this Senate will have to strike what is blatantly and obviously a unconstitutional provision of this bill. We all take an oath to support and defend the Constitution. I think it is one thing to say we are not sure how a court is going to rule. That is certainly true. We are never totally sure. It is one thing to say a provision of a bill may be held unconstitutional. But I do not know how anyone can look at the amended bill, which is no longer Snowe-Jeffords—it is now Snowe-Jeffords-Wellstone; it is fundamentally different—I don’t know how anyone can look at this bill and not know it is blatantly unconstitutional. I think everyone knows when it leaves here it will be held unconstitutional and that is why we will have, later today, a debate about this whole issue of severability. We would not have to have that debate if people did not believe this provision is unconstitutional.

What does it do? What does Snowe-Jeffords-Wellstone do? What will the bill say unless we amend it by striking this provision? It will draw an arbitrary, capricious, and I submit an unconstitutional line in the sand 60 days before an election, and it will say that within 60 days of an election free speech goes out the window. No longer can a corporation, no longer can a labor union, and most important and clearly the most unconstitutional part, no longer will citizen groups that come together to oppose them be able to do that if they mention the candidate’s name. That is an unbelievable restriction on free speech at a time when it is the most important, when it has the most impact—60 days before the election—and in the most effective way, on TV and radio.

This Congress will be saying in this bill, if we pass it and if we keep this provision in, that we are going to censure that speech, we are going to become the free political speech police corps and we are going to swoop in and say you cannot do that.

Groups that want to run an ad criticizing Mike DeWine or criticizing any other candidate will then go into a locked TV studio and run an ad talking about an issue and mentioning the name or putting up our picture on the screen and will no longer be able to do that. The station manager will have to say: I am sorry, you can’t run that ad. People will say: Why not?

The Congress passed a ban on your ability to do that.

That is clearly unconstitutional.

What is the criterion? What have the courts held necessary, before Congress can abridge freedom of speech? There are certain areas where clearly we can do it and the courts have held we can do it. What is the test?

There must be a compelling State interest to do it. If it is done, it must be done in the least restrictive way. Least restrictive? What could be more restrictive than to say you can’t go on TV, you can’t communicate to people? If this remains in the bill, we will end up with a situation in this country where the only people who can run ads in the last 60 days, to the electorate, will be the Tom Brokaws of the world, the TV commentators, the radio commentators, and the candidates. This is not a closed system. It is not an exclusive club. It is something in which everyone should be able to participate. That is the essence of free speech.

The courts have held all kinds of things to be part of free speech. But the most pure form of free speech, the thing that absolutely must be protected, the thing that obviously the Framers of the Constitution had in mind when they wrote the first amendment, is political speech in the context of a campaign when we talk about issues and when we talk about candidates.

I do not like a lot of these ads. My colleagues who come to the floor—and by the way, every colleague who came to the floor to oppose the DeWine amendment, everyone except Mr. WELLSTONE—voted against the Wellstone amendment. Every single one of them did. I don’t know why they did. I know why Mr. EDWARDS did. He said it was unconstitutional, and I
think everybody in this Chamber knows it is unconstitutional. But that is what the restriction will be. It is blatantly unconstitutional. It does not pass the Supreme Court’s test of a compelling State interest.

What is the compelling State interest to smash free speech within 60 days before an election? I will stop at this point and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Maine controls the time in opposition.

The Senator from Maine.

Ms. SNOWE. I yield 2 minutes to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 2 minutes.

Mr. FEINGOLD. Mr. President, I rise to oppose the DeWine amendment. I believe the Senator from Ohio raises serious and legitimate issues about the Snowe-Jeffords amendment. The fact is, to put it in plain terms for the people around the country, they are being subjected to things about everybody knows are really campaign ads. They are what many people call phony issue ads. They know very well they are not issue ads but that they are really campaign ads. They know is what many people call phony issue ads. They know it is unconstitutional. But that is what the restriction will be. It is blatantly unconstitutional.

The constitutionality of our provisions is common sense. How can you say that something which merely asks the person who put out the ad to let everybody know they are unconstitutional? How in the world can you say that it is unconstitutional to require somebody to disclose who they are and what they are? That is all we are doing in Snowe-Jeffords.

The Wellstone amendment does make things a little more confusing in that regard.

Let’s remember what we are doing if we vote on this bill without leaving in the electoral provisions of Snowe-Jeffords, which say that anyone who does ads and does so in a way to attack a candidate, they have to let people know who they are. What is wrong with that? I think everybody believes that is a positive addition.

The Snowe-Jeffords provisions also make sure that when the time comes down to the very end, that unions and corporations are not precluded from ads by any means. But they are required to disclose from where the money came and use individually donated hard money.

It can’t be unconstitutional in the sense of the corporations or unions using individually donated funds instead of their own funds to run these ads. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me briefly respond to my colleague from Vermont.

Look to one likes these ads. No one likes to be attacked. My friend said he is disturbed by these ads; they say terrible things, and they are inaccurate. I understand that. All of us have had that experience. All of us have been in tough campaigns. All of us have been attacked by what we consider to be unjustifiable ads. All of us have had attacks where people have said things that we just shudder about and just can’t believe that it is running on television. Our families do not like it. Our mothers do not like it. Our kids do not like it. But do you know something? That is part of the system. That is part of democracy. This is not some other country where we restrict campaigns and what can be said at the time campaigns take place.

It might be easier. It might be cleaner. It might be easier to look at. No one ever said democracy was easy and wasn’t sometimes messy. But that is the first amendment. That is not a justification to put a clamp on freedom of speech.

My friends talk about disclosure. That is not the biggest problem with this bill. It is not a disclosure problem so much as it is a restriction on free speech within 60 days of an election.

Let me repeat what it does. Within 60 days of an election, you can’t run an ad that mentions a candidate’s name or that has the candidate’s image unless you are the candidate for that particular office.

That is what it says. It is wrong to make it unconstitutional.

I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, it is my pleasure to speak in support of the provision originally crafted by the distinguished Senators from Maine and Vermont, Senators SNOWE and JEFFORDS, and in opposition to the DeWine amendment. When the debate on campaign finance reform reached a stalemate in the fall of 1997, Senator SNOWE and Senator JEFFORDS first came together to draft this language, and it has been a vital contribution to reform effort. I thank them both for their continued dedication to closing the issue ad loophole which, next to soft money, is surely the most serious violation of the spirit of our campaign finance laws.

Snowe-Jeffords gets at the heart of the issue ad loophole. Right now wealthy interests are abusing this loophole at a record pace. They are flouting the spirit of the law, there is no question about it. They advocate for the election or defeat of a candidate, even though they don’t say those “magic words,” such as “vote for,” “vote against,” “elect,” or “defeat.” These ads might side-step the law, Mr. President, but they certainly don’t fool the public. One recent study decided to see how the public viewed sham issue ads. They wanted to see if people thought they were really about the issues, or whether they were about candidates. The results were definitive. Take a look at this chart, which cites the results of a study conducted by
David Magleby at Brigham Young University. Nearly 90 percent of respondents in the study thought that phony money ads were really all about. That was just as true for issue ads paid for by the parties as it was for ads paid for by outside groups.

Party soft money ads were just as clearly crafted to influence the voters. When respondents reviewed party soft money ads, 83 percent ranked those ads as "clearly intended to influence their vote." And this is perhaps even more interesting, more respondents thought the parties' ads were intended to influence their vote than the ads paid for by the candidates. The party ads, the sham issue ads paid for with soft money, were more obviously advocating for or against a candidate than the ads the candidates made themselves. That is a great example of how soft money and the issue ad loophole have come together to warp the current campaign finance system.

As you can see in this next chart entitled "Political Party Soft Money Ads Overtake . . .", party spending on soft money ads has now overtaken candidate spending on ads in the presidential race. You can see on this chart how this shift has taken place between the 1996 and 2000 elections. The parties are now spending phenomenal amounts of soft money on sham issue ads.

Again, on this chart, you can see how party spending on ads has overtaken candidate spending in the race for the Presidency, and dwarfs spending by outside groups. And here is the kicker: None of these party ads mention party candidates. It simply requires a group to advance their common beliefs. It did not require a group to identify Federal candidate—in other words, they show the face, or speak the name of the candidate. And third, they are not spent within 60 days of an election or 30 days of a primary in which that candidate is running.

The original Snowe-Jeffords provides that for-profit corporations and labor unions cannot make electioneering communications using their treasury funds. If they want to run TV ads mentioning candidates close to the election, they must use voluntary contributions to their political action committees. We believe that this approach will withstand constitutional scrutiny, because corporations and unions have long been barred from spending money directly on Federal elections.

The Supreme Court upheld the ban on corporate spending in the Austin v. Michigan Chamber of Commerce case. It noted that a Michigan regulation that prohibited corporations from making independent expenditures from treasury funds prevented corruption in the political arena: the intrusive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas. According to the Court, the Michigan regulation "ensured that the expenditures reflect actual public support for the political ideas espoused by the corporations."

We are merely saying through this provision that actual public support, shown by voluntary contributions to a PAC, must be present when corporations and unions want to run ads mentioning candidates near in time to an election.

The Snowe-Jeffords provision goes on to permit spending on these kinds of ads by non-profit corporations that are registered as 501(c)(4) advocacy groups, by 527 organizations, and by other unincorporated groups and individuals. But it requires disclosure of the spending and of the large donors whose funds are used to place the ads once the total spending of the group on these "electioneering communications" reaches $10,000.

A few things should be noted about the disclosure requirement that entities other than unions and for-profit corporations are subject to if they engage in these kinds of electioneering communications. The disclosure is not burdensome: It simply requires a group placing an ad to report the spending to the FEC within 24 hours, and to provide the name of the group, of any other group that exercises control over its activities, and of the custodian of records of the group, and of the amount of any disbursement and the person to whom money was given.

Second, disclosure is triggered by spending a total of $10,000 or more on these kinds of ads. So a small group that spends only a few thousand dollars on radio spots will never have to report a thing.

Wellstone amendment. The first thing that the provision does is define a new category of communications in the law—we call them electioneering communications. These electioneering communications are communications that meet three tests: First, they are made through the broadcast media—radio and TV, including satellite and cable. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly crafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters. Second, they refer to a clearly drafted set of call letters.

The net result will be that the public will learn through this amendment who the people are who are giving large contributions to groups to try to influence elections. And if a group is just a shell for a few wealthy donors, then we will know who those big money supporters are and be much better able to assess their agenda.

On the other hand, if an established newspaper company with a large membership of small contributors wishes to engage in this kind of advocacy, it need not disclose any of its contributors because it can pay for the ads from small donor money that has been raised for the special bank account...
pointed out many instances where revealing the identities of its members exposed them to economic reprisals, loss of business, and the threat of physical coercion. The Court held that the state had not demonstrated a sufficient interest in obtaining the lists that would justify the deterrent effect on the members of the NAACP exercising their rights of association.

Snowe-Jeffords is totally different from what the State of Alabama tried to do in the NAACP case. Snowe-Jeffords doesn’t ask for membership lists; it asks for the very limited disclosure of large contributors to a specific bank account used to pay for electioneering communications. Most membership groups won’t have to disclose anything if they receive sufficient small donations to cover their expenditures on these types of communications. Contributions to the groups that don’t want to be identified can simply ask that their money not be used for the kind of ads that would subject them to disclosure. And finally, the disclosure requirement can be avoided altogether by crafting an ad that does not specifically refer to a candidate during the short window of time right before an election.

The Supreme Court has shown much more willingness to uphold disclosure requirements in connection with election spending than opponents of Snowe-Jeffords have been willing to recognize. In the Citizens Against Rent Control v. City of Berkeley, a 1981 case, for example, the Court struck down a limit on contributions to committees formed to support or oppose ballot measures. But the Court noted specifically, and I quote, “the integrity of the political system will be adequately protected if contributors are identified in a public filing revealing the amounts contributed; if it be thought wise, legislation can outlaw anonymous contributions.” It is worth noting that the opinion in that case was by Chief Justice Warren Burger and the vote was 8-1. The dissent, Justice White’s, was about the limit on contributions should be upheld.

In U.S. v. Harris, the Court upheld disclosure requirements in connection with election spending than opponents of Snowe-Jeffords have been willing to recognize. In the Citizens Against Rent Control v. City of Berkeley, a 1981 case, for example, the Court struck down a limit on contributions to committees formed to support or oppose ballot measures. But the Court noted specifically, and I quote, “the integrity of the political system will be adequately protected if contributors are identified in a public filing revealing the amounts contributed; if it be thought wise, legislation can outlaw anonymous contributions.” It is worth noting that the opinion in that case was by Chief Justice Warren Burger and the vote was 8-1. The dissent, Justice White’s, was about the limit on contributions should be upheld.

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The conclusion is supported by a letter we have received from 70 law professors who support the constitutionality of the amendment bill, including the Snowe-Jeffords provision. This is what they write with respect to Snowe-Jeffords:

The incorporation of the Snowe-Jeffords amendment into the McCain-Feingold Bill is a well-meaning attempt to fine-tune electioneering in a more realistic manner while remaining faithful to First Amendment vagueness and overbreadth concerns.... While no one can predict how the courts will finally rule if any of these provisions are challenged in court, we believe that the McCain-Feingold Bill, as currently drafted, is consistent with First Amendment jurisprudence.

As the Brennan Center for Justice wrote in an analysis of Snowe-Jeffords:

Disclosure rules do not restrict speech significantly. Disclosure rules do not limit the information that is conveyed to the electorate. To the contrary, they increase the flow of information. For that reason, the Supreme Court has held that disclosures re- quiring disclosure are subject to less exacting constitutional strictures than direct prohibitions on spending.... There is no constitutional bar to expanding the disclosure rules to provide accurate information to voters about the sponsors of ads indisputedly designed to influence their votes.

The opponents of our bill speak with great disdain of the Snowe-Jeffords provision and act as if it is certainly and indisputably unconstitutional. Now I will not pretend that there are not difficult constitutional issues raised, but I simply do not think it is accurate to say, as our opponents do, that there is no hope for this provision before the Supreme Court. And the Supreme Court is going to decide this issue, that we know for sure. All the lower court decisions in the world on state statutes that don’t have a bright line test like this one don’t mean much of anything. The Supreme Court has not yet addressed this issue; if we enact this bill, it is, to the contrary, we increase the disclosure requirements in the McCain-Feingold legislation; that it is a restriction on the first amendment rights of speech. That is not only a mischaracterization, but it is false.

The Supreme Court never said you can’t make distinctions in political advertising that is express advocacy and issue advocacy. That is what we have attempted to do with the support of more than 70 constitutional experts—to design legislation that is
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March 29, 2001

carefully crafted that says if these organizations want to run ads, do it as the rest of us. Use the hard money that
we have to make these reform efforts to finance those ads 60 days before an election that mention a Federal
candidate.

We are seeing the stealth advocacy ad phenomenon multiplying in America
today—three times the amount of money spent on so-called sham
ads in the election of 2000, and three
times the amount in 1996. Why?
Because of what they have done to skirt
the disclosure laws because they do not use
the magic words vote for or against. They mention a candidate.

Is it no coincidence that they are
mentioning the candidate’s name 60
days before an election? What for? It
is to impact the outcome of that election.

What we are saying is disclose who you are! Let’s define a party. Let’s unveil this cloak of anonymity. Tell us who you are. Tell us who is fi-
nancing these ads to the tune of $500
million in this last election. The public has the right to know. We have the right to know.

That is what this amendment is all
about. It is not an infringement on free
speech. It is political speech. Even my
colleague from Ohio said it is political
speech, political speech you have to
disclose.

That is what we are talking about in
this amendment.

I ask unanimous consent to have printed in the RECORD a study entitled

There being no objection, the mate-
rial was ordered to be printed in the
RECORD, as follows:

THE FACTS ABOUT TELEVISION ADVERTISING AND THE MCCAIN-FEINGOLD BILL

(By Jonathan Krasno and Kenneth
Rasmussen)

The McCain-Feingold bill and its House counterpart sponsored by Repre-
sentatives Shays and Meehan are universally regarded as the most significant campaign finance
legislation under serious consideration by Congress in a generation, perhaps since
the 1974 amendments to the Federal Election
Campaign Act (FECA). This legislation
would not expand on the 1974 reforms but
instead restore them by regulating the two
mechanisms that have developed in the
intervening decades to circumvent FECA, so-
called “soft money” and “issue advocacy.”

Together and separately soft money and
issue advocacy have become an enormous
part of many federal campaigns, in some
cases even eclipsing the efforts of candidates
operating under FECA’s rules.

That popularity, naturally, has created
a powerful group of donors and recipients who have exploited these loopholes and now op-
pose any attempt to close them, even as
some contributors have begun to complain of
the relentless pressure to give money. These
political realities are connected in the putative
relationship between soft money, issue ad-
vocacy and several core constitutional values,
have made McCain-Feingold among the most
controversial of the campaign finance reforms.

This paper uses a unique source of data
about television commercials to examine
some of the most important issues raised in
connection to this proposal. It is appropriate
that we bring to Congress the evidence since
it is the largest—and most discussed—single
category of expenditures by candidates, par-
ties and interest groups in federal elections.
McCain-Feingold would surely be
seen on the nation’s airwaves, on the hun-
dreds of thousands of issue ads paid for with
soft money. The claims made for and against
McCain-Feingold are rooted in different interpretations of those very ads.

For its critics, the huge outlay on issue
ads is a dangerous development in democ-
racy, a scam predicated on twin falsehoods
that issue ads promote issues and soft money
builds parties. For its defenders, the spend-
ing on issue advertising is a sign of democ-
racy’s vitality and any attempt to limit
issue ads or soft money is inherently ham-
pered and dangerous. Fortunately, many of
these claims are empirical questions; given
the proper data they can be carefully dis-
sected and weighed. That is precisely what we
do here by using the most extensive data
set on television advertising ever developed
to explore some of the core assumptions in-
voked by proponents and opponents of
McCain-Feingold.

MONITORING THE AIRWAVES

The sheer amount of television adver-
sising—on approximately 1300 stations in
the nation’s 210 media markets over the 15 or 16
most popular hours in the broadcast day—
makes commercials extremely difficult to
study. Fortunately, using satellite tracking
first developed by the U.S. Navy to detect
Soviet submarines, a commercial ad track-
ing firm called the Campaign Media Analysis
Group (CMAG), is able to gather information
about the content, targeting and timing of
each ad aired. CMAG tracks commercials by
the nation’s top 75 media markets. Together
these markets reach approximately 80
percent of households in the U.S. CMAG’s tech-
nology recognizes the seams in programming
where commercials appear, creates a unique
digital fingerprint of each ad aired, then
downloads a version of each ad detected
along with the advertising on the station on
which it appeared. The company later adds
estimates of the average cost of an ad shown
in the time period.

With funding from the Pew Charitable
Trust, CMAG’s data for 1998 and 2000 were
purchased. These data are literally a minute-
by-minute view of political advertising
across the country—along with “storyboard”
(a frame of video every 4-5 seconds plus full
text of audio) for each ad detected during
these two election cycles. The storyboards
were then examined by teams of graduate
and undergraduate students at the Univer-
sity of Wisconsin (2000) and Arizona State
University (1998) who coded the content of
each commercial.

Some of the questions—such as whether an
ad mentioned a candidate for office by name
or urged voters to “vote for” or “defeat” a
particular candidate—were objective. Others
were subjective. These included items asking
coders to assess the purpose (to support
a candidate, to oppose a candidate, to support
an issue) and tone (promote, attack, or con-
trast) of an ad. Both types of questions elic-
ited nearly identical responses from different
coders, even when the coder issue due
indica-
ting a reassuring degree of intercoder reli-
ability. In addition, we also took special care
to examine the disclaimer in each commer-
cial, the source of the funding usually
at the end of each commercial noting its
sponsor (“Paid for by . . .”), where possible.

From this we were able to determine whether
an ad was sponsored by a candidate, party or
interest group, and, if paid for by a party or
group, whether it is an issue ad or not.

Coders ended up examining approximately
2,000 different ad categories (including ads
referring to state and local candidates or
basket propositions) in 1998 and nearly 3,000
in 2000. As Table One shows, these ads fell
to either issue advocacy or hard money cate-
gories and appeared on the air hundreds of thou-
sands of times. Most of the astonishing
growth from 1998 to 2000, of course, is attrib-
uted to the president and the two
parties. Total soft money spending for the
federal elections also rose in this two-year period from 302,377 to
$20,656 and expenditures nearly doubled.

Most of this upsurge came from parties and
interest groups.

<table>
<thead>
<tr>
<th>TABLE ONE.—TELEVISION ADVERTISING IN TOP 75 MARKETS</th>
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<tr>
<td>Candidates:</td>
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<tr>
<td>Total</td>
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<td>Parties:</td>
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<td>Issue ads</td>
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<td>Issue ads</td>
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<td>Hard $ ads</td>
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<td>Total</td>
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*The vast majority of commercials sponsored by interest groups were issue ads. We are continuing to examine the data to determine how much
groups spent on hard money ads (independent expenditures) in 2000.

WHOSE OX IS GORED

The first question the professional politi-
cians in Congress are asking about McCain-
Feingold is who will it affect. Such questions
are always perilous since advertisers will un-
doubtedly try to adapt to any new regu-
lations, searching for new loopholes to exploit.
Which direction their search will eventually
take them is at best an educated guess. What
is more than guesseswark, however, is the
matter of how much has been spent on issue
ads by the parties and their allies over the
last two cycles.

Figure One (not reproducible in the
RECORD) breaks down the issue ads in Table
One by party, showing the total number run
by various Democratic and Republican party
committees and their allies. While Repub-
licans had a noticeable advantage in issue
ads in 1998, Democrats claimed a small lead
in 2000. This modest reversal illustrates the
 unpredictability of soft money. Since con-
tributions (to either parties or interest groups)
for issue ads are unlimited, the gen-
erosity of a relatively small number of well-
heeled donors may shift the tide. But equally
striking is the near equality between the
parties. Total soft money spending for the
Democrats and Republicans is separated by
no more than $5,000,000 in either year, a rel-
itively small amount among the hundreds of
millions spent on political advertising in
both years. That is not to say, of course,
that no candidates would have been partic-
ularly helped or hurt by the funding.
McCain-Feingold had been in effect earlier, only that the Demo-
crats’ and Republicans’ gains and losses come fairly close to balancing out across the
country.

REGULATING ISSUE ADVOCACY

The working definition of issue advocacy
comes from a footnote in the Supreme
Court’s seminal decision in Buckley v. Valeo
The failure of the magic words test does not mean, of course, that all issue ads are necessarily electioneering. But several things suggest that a great majority of them are. To begin with, the issues raised in commercial candidates and in issue ads are virtually identical. Table Two lists the top five themes appearing in both types of ads in 1998 and 2000. While occasional variations occur, the overwhelming impression is that issue ads mimic the commercials that candidates run. This may be more coincidence, but it is clear. As the table contradicts the argument that issue ads by parties and interest groups introduce policy matters into the political arena that are otherwise ignored. The truth is that candidates agenda generally the only thing addressed by any advertiser, particularly in the final hectic weeks of the campaign.

TABLE TWO.—COMPARING THE ISSUES IN CANDIDATE ADS AND “ISSUE ADS”—Continued

<table>
<thead>
<tr>
<th>Percent</th>
<th>5. Taxes</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998:</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>2000:</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>1. Health Care</td>
<td>34</td>
<td></td>
</tr>
<tr>
<td>2. Education</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>3. Social Security</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>4. Health Care</td>
<td>14</td>
<td></td>
</tr>
<tr>
<td>2. Education</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>3. Social Security</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>4. Health Care</td>
<td>6</td>
<td></td>
</tr>
</tbody>
</table>

Note—Ads may mention multiple themes so percentages do not sum to 100.

There is also the matter of timing. If issue ads were intended only to promote or oppose a particular politician; in that figure was lower still, appearances after Labor Day and mentioned a federal ad. In 1998 just 7 percent of issue ads that we rated as presentations of policy matters (22 percent of issue ads in 1998, 16 percent in 2000). Would the definition of electioneering created by McCain-Feingold—any ad mentioning a federal candidate; in that figure was lower still, appeared after Labor Day (about 20 percent in 2000 did name a particular candidate. It seems fairly clear that these ads do far more to highlight the fortunes of candidates than the fortunes of their sponsors. A piece of supporting evidence for this conclusion comes from the perceived negativity of these ads. Coates found ads by parties to be much more likely to be pure attack ads (60 percent in 1998, 42 percent in 2000) than ads by candidates. While we remain agnostic about whether attack ads, somehow better or worse than other forms, do we note that there is little hope that this flood of commercial candidates magically strengthens either party.

Finally, some defenders of party soft money also argue, in conflict to the claims about building parties, that these commercials—help provide vital information to voters in various places and about various candidates which they would otherwise receive. This is a complicated assertion to unravel. It is obviously debatable whether any particular ad conveys much information to voters. If we assume—quite charitably—that political advertisers then the question becomes a matter of allocation. Do party ads appear for candidates about whom little is known or in otherwise neglected districts and media markets? If the answer is yes, then it is fair to conclude that party ads may play an important role in informing the public.

The truth, however, is that the best predictor of the number of commercials aired by parties in a particular contest and media market is the number of candidates contest. The number of candidates in the same location. There are exceptions—the RNC sponsored all of the pro-Bush advertising in California, and neither party ran commercials in New York after the two Senate candidates agreed to forgo soft money—but parties overwhelmingly concentrated their efforts in swing states and districts, the very places already saturated by the candidates. One indication of how focused party advertising in congressional races is that in both years about 70 percent of party ads appeared in just three Senate races and a dozen House contests, even though the CMAG system tracks advertising in scores of states and districts. In contrast, the educational value of party ads is inevitably limited, as is any effect they might have on the competitiveness of elections.

Our examination of television commercials in 1998 and 2000 shows that the current campaign finance system is unmistakably flawed. The magic words test supposed to distinguish issue advocacy from electioneering is a complete failure. The rules allowing parties to collect unlimited amounts of soft money to build stronger parties have in fact weakened particular parties unrelated to that goal, and perhaps even in conflict with it. The evidence for both of these conclusions is, in our view, overwhelming. The plain fact is that any contention that most issue ads are motivated by issues or that most soft money builds political parties must itself be cast into the maelstrom of conflicting evidence. We find such claims completely unsustainable.

Whether that conclusion should translate automatically into parties equal to the sum of its parts? It is not hard to imagine how a commercial might strengthen a party if it neglects to praise its sponsors or at least malign the opposition. Further, parties may be saying anything about “Democrats” or “Republicans”—just 15 percent of party ads in 1998 and 7 percent in 2000 mentioned either party by name. Yet 88 percent of these ads in 1998 and 99 percent in 2000 did name a particular candidate. It seems fairly clear that these ads do far more to highlight the fortunes of candidates than the fortunes of their sponsors.
our analysis suggests two important facts in its favor: Experience outside of the last two elections suggests that neither Demo-
crats nor Republicans would be disproportionately harmed by a ban on soft money or a stricter definition of issue advocacy. Indeed, neither party stands to gain or lose much against their counterparts since the Democrats’ relative financial weakness is proportionately smaller in soft money than in hard, and their allies outspent Repub-
licans in both years. Past experience suggests that neither party would gain an advantage on TV if the McCain-Feingold bill becomes law.

Second, we found no evidence that the new dividing line between issue advocacy and electioneering in McCain-Feingold is overly broad and would affect many commercials that we found to be genuine attempts to ad-
vocate issues, not candidates. Some critics will surely complain that we have no objec-
tive standards for determining which commer-
cials are genuine issue advocacy, but that is true. The standards offered in McCa

inicient? The League of Women Voters does not think so. The Constitution requires,

and the standards offered in McCa

ciare subjective. They are based on what they perform so well against the subjective
code of our coders, each of whom exam-
ined hundreds of ads, is extremely reas-
suring. They do not have to consider im-
provements, but there is no reason not to
conclude that the definition of electione-
ering in McCain-Feingold is, at the very
least, a good compromise.

Ms. SNOWE. Mr. President, ninety-
ine percent of the ads that were run in
that 60-day period mention Federal
candidates. They tested the Snowe-Jef-
fords language. Guess what. Ninety-
ine percent were ads that mentioned a
Federal candidate. Only 1 percent were
nine percent of the ads that were run
in that 60-day period mention Federal
candidates. Ninety-nine percent of the
candidates. Ninety-nine percent were ads that mentioned a
Federal candidate. Only 1 percent were


This is the last time on this vote that
members of the Senate are going to
have the opportunity to strike out
what obviously the courts will later
strike out. That is not Snowe-Jeffords,
but it is now Snowe-Jeffords-Wellstone.
It is unconstitutional.

A vote for the DeWine amendment is
a vote for freedom of speech, for the
first amendment, and for the Constitu-
tion.

I ask my friends when they come to the
to the floor in just a minute to remember
the oath that all of us took to support
the Constitution.

It is one thing for us to vote on
things that are close. This one is not
close. This one is unconstitutional. It
needs to come out of the bill.

I yield the floor.

The ACTING PRESIDENT pro tem-
pore, The Senator’s time has expired.

The Senator from Minnesota.
Mr. WELLSTONE. Mr. President, I
ask unanimous consent to have 40 sec-
donds to respond to my colleague, if he
would be so gracious.

Mr. DeWINE. I have no objection.

The ACTING PRESIDENT pro tem-
pore. Is there objection?

Mr. DeWINE. I ask for the yeas
and nays.

The ACTING PRESIDENT pro tem-
pore. Is there a sufficient second?
There is a sufficient second.

The yeas and nays were ordered.
Mr. WELLSTONE. I ask the Chair if
I don’t use the 40 seconds to give me 5
more.

The ACTING PRESIDENT pro tem-
pore. The Senator asked for 40 seconds.

The result was announced—yeas 28,
nays 72, as follows:

[Rollcall Vote No. 57 Leg.]

The amendment (No. 152) was re-
jected.

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

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

The motion to lay on the table was
agreed to.

Mr. MCCONNELL. Mr. President, for
the information of all Senators, the
new amendment will be from Senator HARKIN,
who is in the Chamber and ready to go. I want to also announce that the Republican amendment after
that will be offered by Senator Frist of Tennessee, along with a Democratic co-
sponsor, on the subject of nonover-
ability, which is one of the most impor-
tant, if not the most important, amendments remaining before we com-
plete this bill at some point—the leader
says today.

With that, I yield the floor.

The PRESIDING OFFICER. Under
the previous order, the Senator from Iowa, Mr. HARKIN, is recognized to offer
an amendment on which there shall be
2 hours of debate.

Mr. SPECTER. Mr. President, my
distinguished colleague from Iowa has
consulted to let me take just a few
minutes at this point to introduce a
bill. I have checked with the distin-
guished manager, Senator MCCONNELL,
and it is agreeable.

Mr. SPECTER. Mr. President, I ask
unanimous consent to proceed for up to
10 minutes for the introduction of a bill
as in morning business.

The PRESIDING OFFICER. Is there
objection?

Mr. REID. Mr. President, reserving
the right to object.
The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I could not hear the request.

The PRESIDING OFFICER. The request was to proceed for up to 10 minutes as in morning business for the introduction of a bill.

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

The Senator from Iowa is recognized.

Mr. SPECTER. I thank the Chair, and I thank my distinguished colleague from Iowa for yielding to me.

The PRESIDING OFFICER. The Senator from Iowa is recognized to offer an amendment on which, as I stated earlier, there shall be 2 hours of debate. The Senator from Iowa.

AMENDMENT NO. 155

(Purpose: To amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits with respect to Senate election campaigns)

Mr. HARKIN. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself and Mr. WELLSTONE, proposes an amendment numbered 155.

Mr. HARKIN. Mr. President, I ask unanimous consent that the full text of an extensive statement be printed in the Record and that the record reflect—sometimes the record does not reflect the actual language: there is a cutoff. The statement is printed, and there is repetition and redundancy. But I ask that the record show that there is a unanimous consent request made that the text be printed in the record, even though there is redundancy with what has been summarized orally.

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

(The remarks of Mr. SPECTER pertaining to the introduction of S. 645 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions."

Mr. SPECTER. I thank the Chair, and I thank my distinguished colleague from Iowa for yielding to me.

The PRESIDING OFFICER. The Senator from Iowa is recognized to offer an amendment on which, as I stated earlier, there shall be 2 hours of debate. The Senator from Iowa.

We have debated a wide range of amendments, accepted some, rejected others. The good news we have adopted is: To stop the price gouging on TV ads, the Torricelli amendment; to require up-to-date inspection of all reports on the Internet, the Cochrane-Landrieu-Snowe amendments; stronger disclosure rules by the Senator from Nebraska, Mr. HAGEL; bringing all organizations under the issue ad ban; the Wellstone amendment.

And we rejected some amendments. Attempts to preserve soft money were rejected; an attempt to dramatically increase hard money was rejected; provisions to silence the workers of America, paycheck protection, were rejected. I am a little disappointed that yesterday we did, unfortunately, increase the amount of money we can raise for campaigns. I do not believe increasing the amount of money one can raise from hard dollars is reform, but that was adopted by the Senate.

But, there is something missing in this debate. There is something that has been missing for a week and a half from this debate. It is like the crazy uncle in the basement who no one talks about. What kind of reform can we have when all we are talking about is how we raise the money and how much can we raise for campaigns? I do not believe increasing the amount of money one can raise from hard dollars is reform, but that was adopted by the Senate.

With the increase in the amount of hard money we can raise—and we have banned soft money, which is good; I voted to ban soft money—that just means all of us now will be running our fool heads off raising more hard money.

We do have the Torricelli amendment that says TV stations have to sell us their ads at the lowest unit rate based upon last year, and that is fine; I am all for that. But, we can buy more ads. We will raise more money, and we will buy more ads.

It has gotten so that now we hire ad agencies. They write the ads and sell us like soap. We are just a bunch of bars of soap to the American people; that is all we are. They see these ads, one ad after another come election time, and it is just like selling soap. Can we be surprised when the American people are upset about the amount of ads they see?

We have the Torricelli amendment that says TV stations have to sell us their ads at the lowest unit rate based upon last year, and that is fine; I am all for that. But, we can buy more ads. We will raise more money, and we will buy more ads.

We have to think about how we can limit how much we spend on campaigns so all of us aren't running around, weekend after weekend, week after week, month after month, to see how much money we will spend and how much we will spend on TV ads. That is what this amendment Senator WELLSTONE and I have offered does. It is very simple and straightforward. It puts a voluntary limit on how much we can spend in our Senate campaigns.

The formula is very simple. It is $1 million plus 50 cents times the number of voting-age residents in the State. Every Senator has on his or her desk the chart that shows how much you would be limited in your own State. With that limitation, there is a low of $1.2 million in Wyoming to $12 million in California. My own State of Iowa would be limited to $2.1 million for a Senate campaign. I say to the occupant of the Chair, in Virginia the limit would be $3.6 million. I don't know how much the Senator spent this last campaign, but I know for myself in Iowa, $2.1 million runs a good grassroots campaign as long as your opponent doesn't have $4 million. So, that is what this amendment does. It puts a voluntary limit on how much we can spend on TV ads.

I'd like to stress that this is a voluntary limit. Why would anyone abide by the limit? You abide by the limit because the amendment says if one candidate spends over the voluntary limits by $10,000, then the other person who abided by the limits will begin to get a public financing of 2:1. For every $1 someone would go over the limit, you get $2. For example, in Virginia, if the limit is $3.6 million and the Senator from Virginia voluntarily agrees to abide by that limit, if the person running against the Senator from Virginia went over $3.6 million—say they spent $4 million, which would be $400,000 more—the Senator from Virginia would get $800,000. Two for one. Now, that is a great disincentive for anyone to go beyond the voluntary limits because the
other person gets twice as much money as the person who went over the limits.

I point out the difference between my amendment and the one offered earlier by Senator BIDEN and Senator KERRY. Their amendment included public financing from the beginning. This amendment does not. This amendment says, raise money however we decide to let you raise money. That is the way you raise it. PACs, personal contributions, whatever limits we decide on around here, you raise that money. There are no public benefits. The only time public benefits kick in is if someone went over the voluntary limits.

My friend from Kentucky said the other day on the floor that all of the polls show the American people don’t like public financing. They don’t want their tax dollars going to finance Lyndon B. Johnson and分辨率 people.

First of all, the money we use here to counter what someone might spend over the limits is not raised from tax dollars; it is a voluntary checkoff and from FEC fines.

Second, if the Senator from Kentucky is right, and I think he may well be—I don’t know—that the American people don’t want public financing of campaigns, then that is a second hammer on discouraging someone from going over the voluntary limits. If someone goes over the voluntary limits, that person is responsible for kicking in public financing. That person is responsible for kicking in public financing, not from a tax but from a voluntary checkoff and from FEC fines.

There are two prohibitions here to keep someone from going over the voluntary limits. One, your opponent gets twice as much money as whatever you spent over those limits; second, there would be a built in public reaction to this. If you are going to continue to raise hundreds of millions, billions of dollars for these campaigns. My amendment will burst that water balloon and make the existence of loopholes irrelevant, by creating voluntary spending limits and providing a strong incentive for candidates to comply with them. That is what this amendment is about.

Again, I am going to be very frank. The voluntary limit for my State of Iowa would be about $2.1 million. In 1996, when I ran for re-election, I spent $3.2 million. Can I abide by $2.1 million? You bet I can. As long as my opponent has to—fine. We can run our campaigns the old fashioned way—at the grassroots. Then we will not have to be buying ad after ad after ad, countering back and forth and all that stuff. Then maybe we will get down to real debates and things people care about, without just hiring ad agencies to buy all these ads.

On each desk is a copy of basically what the amendment does, and a list by State of what the limits would be.

I conclude this portion of my remarks by saying, again, this is the crazy uncle in the basement no one wants to talk about. Everybody wants to talk about stopping how we raise money, getting rid of soft money, but no one wants to talk about cutting down on how much we spend. Let’s start talking about it. Now is the time to do something about it. This voluntary limit is constitutional and it will answer the other side of the campaign finance reform debate that herefores we have not addressed.

I yield whatever time the Senator from Minnesota requires. How much time do I have all told?

The PRESIDING OFFICER. The Senator from Iowa has 44 minutes remaining.

Mr. HARKIN. I yield 15 minutes to the Senator.

Mr. WELLSTONE. I may not need 15 minutes. The Senator from North Dakota is here, as are others.

First, I say to my colleague from Iowa and other Senators, I do want to talk about a principle that we spend. I am very honored to be a co-sponsor of this amendment with the Senator from Iowa. I think this is a great amendment. This amendment could very well pass in the Senate because it makes a lot of sense. It is just common sense.

My colleague from Iowa has described what this amendment is about. I do not know that I need to do that again. We are talking about voluntary limits. Then what we are saying is, if you agree to that voluntary limit but the opponent doesn’t, then you get a 2-to-1 match for however many dollars your opponent goes over this limit. This amendment makes the McCain-Feingold bill, which deals with the soft money part, quite a strong reform measure.

I say to my colleague from Iowa, I believe so strongly in this amendment for all of the reasons of discipline and reining in the power of special interest groups.

I say to my colleague from Iowa, I think this is a great amendment.

I also make another point. I just finished saying the system is wired for incumbents but that I think all of us are going to want to support this amendment. The truth is, in one way it is
wired—but it is so degrading. Who wants to have to constantly be on the phone asking for money? Who wants to be traveling all around the country constantly having to raise money? Who wants, every day of the week during your reelection cycle when you want to be out on the floor debating issues and doing what people want you to do to be on the phone for whatever time, every single day, making these calls?

None of it is right. This amendment is just a commonsense amendment, such a modest amendment, yet it has such major, major ramifications, all in the positive and all in the good for how we finance campaigns.

This is really one of the great amendments. I thank Senator HARKIN for his work on it, and I am very proud to be a part of this effort. I am going to finish by making two other quick points. I say this being a little bit peevish, but do not think it is a bad point to make. I say to Senator HARKIN and Senator DORGAN, this should be called the good food amendment. The reason I think it should be called the good food amendment is when you no longer have to go to these hotels for the $1,000—oh, I forgot, now it is $2,000, actually $4,000—when you no longer have to go to these hotels for these $2,000 and $4,000 contributions and eat the rubber chicken meals, now you get to eat in the neighborhoods. I get to eat Thai food and Vietnamese food and Somali food and Ethiopian food and Latina and Latino food. You get to be at real restaurants with real people out in the neighborhoods, out in the communities. You get to stand up speak. You get to debate. This is the good food amendment. We will all be healthier if we support this amendment. I am trying to get to my colleagues through their stomachs, I guess.

This is the last point I want to make because I want to end on a very serious note. The voluntary spending limit for Minnesota would be $2,604,158. Could I campaign and have a chance to get my message out?” on $2.6 million if we would have both candidates agree? Absolutely. Do I, today on the floor of the Senate, want to make a commitment that if this amendment is agreed to and becomes the law of the land that I will abide by this voluntary spending limit if my opponent would do so—or I am sorry, it doesn’t matter. The answer is: Yes, I am ready to do this. This would be a gift from Heaven, from my point of view, because I am tired of all of the fundraising. And I haven’t even started. I am not even doing what I am supposed to do. I am tired of it. So I am ready to say right now, if this amendment becomes the law of the land, I am going to abide by it. I want to be one of the first Senators to step forward and say I agree.

I think a lot of Senators will. I think it will be a lot better for us, whether we are Democrats or Republicans. It will be a lot better for the people we represent. It will be a lot better for Minnesota and Iowa. It will be a lot better for the American people.

Mr. HARKIN. I thank my friend from Minnesota. The Senator makes a good point. I am going to have some more data on how much money was raised in the last cycle and what this might mean, but in terms of time, let’s be honest about it. How much time do we spend on the phone raising money and traveling on weekends, going here and there? This would help us because now we can spend more time in our States, meet with people, spend more time, as I would say, transit time in the small cafes and restaurants rather than running all over the country trying to raise money all the time. I think the Senator makes a good point on that. It will bring us closer to representative democracy.

Mr. WELLSTONE. It would bring us closer to the people we represent and bring the people closer to us, all of us, in whatever State.

Mr. HARKIN. Mr. President, so far as I see, we have done a lot of good things in the McCain-Feingold bill. We rejected a lot of bad amendments. It looks good. But all in all, the way our campaigning financing system is today, it is still an incumbent protection system. It is still incumbent protection. For example, in the 2000 election, the average incumbent raised $4.5 million, while the average challenger raised $2.7 million. This helps to level that playing field a little bit. And I also point out the statistics in the 2000 election cycle. Senator candidates spent $334.4 million in hard money. If we had had this voluntary limit in existence in the 2000 election, Senator candidates would have spent $133.4 million, a difference of $201 million less than Senator candidates would have had to raise in the 2000 election.

I think we would have had better campaigns, and we would have had better issue-oriented campaigns in the 2000 election cycle. That $201 million represents how many hours, how many days, and how many times Senators have to travel all over the country and have to get on the phone to raise the money, as Senator WELSTONE said, when those Senators could be in their home State meeting with their constituents?

I yield 10 minutes to my colleague from North Dakota.

The PRESIDING OFFICER (Mr. At-Land). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I thank the Senator from Iowa for yielding the time.
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It addresses the bull’s eye of the target by saying we can construct a set of voluntary spending limits with mechanisms that will persuade people to stay within those limits. Because if someone waltzes in and says they are worth a couple billion dollars, that they intend to spend $100 million on the Senate seat, if they do not like it, tough luck. We have a series of mechanisms now described by my colleague in this amendment that says that is going to cost them. They have every right to spend that money, but, by the way, their opponent is going to have the odds evened up because their opponent is going to get twice as much as they are spending over the voluntary limit through fees that are through check-offs of income tax, from a fund that provides some balance in our political system.

The funding of politics has almost become a political e-Bay. It is kind of an auction system. If you have enough money, get involved, and the bid is yours. We bid on a Senate seat. Here is how much money we have. We have big friends and bank accounts. So this Senate seat is ours.

That is not the way democracy ought to work. That is not the way we ought to have representative government work.

Some while ago, I was in the cradle of democracy where 2,400 years ago in Athens, the Athenian state created this system of ours called democracy. This is the modern version of it. What a remarkable and wonderful thing.

But democracy works through representative government when you have the opportunity for people to seek public office and the opportunity to win in an election in which the rules are reasonably fair.

There are circumstances where that still exists.

I come from a family without substantial wealth. I come from a family without a political legacy. I come from a town of 300 people. I come from a high school class of nine students. I come from a rural ranching area in southwestern North Dakota, and I pinch myself every day thinking: What a remarkable and wonderful thing.

But democracy works through representative government when you have the opportunity for people to seek public office and the opportunity to win in an election in which the rules are reasonably fair.

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But democracy works through representative government when you have the opportunity for people to seek public office and the opportunity to win in an election in which the rules are reasonably fair.

So I am very pleased to support this amendment. I hope my colleagues will support this amendment. I hope we can address this amendment because this is a significant step.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. How much time does the Senator from Iowa have remaining on this side?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. DODD. Inquire of my friend and colleague from Kentucky, I presume if we need some additional time, as Members come over, we can let it flow. Two and a half hours, is that what we have agreed on this side?

The PRESIDING OFFICER. Two hours evenly divided.

Mr. DODD. Two hours.

The PRESIDING OFFICER. How much time does the Senator from Iowa have remaining on this side?

Mr. DODD. Mr. President, I commend my colleague from Iowa and my colleagues, as well, who have spoken today—Senator DORGAN and Senator WELLSSTONE—for their support of this amendment. I, too, support this amendment.

Senator DORGAN has said it well. Senator WELLSSTONE has said it well. This is true reform. If we are really interested in doing something about the money chase, both in terms of contributions and the rush to spend even more in the pursuit of political office in this country, then the Harkin amendment offers a real opportunity for those who would like to do something about this overall problem by casting their vote in favor of his amendment.

Senator HARKIN has explained this amendment very well. It is a voluntary provision. It does level the playing field. I, too, over and over again over the past week and a half have expressed my concerns and worry about the direction we are going. I made the point the other day that we are shrinking the pool of potential candidates for public office in this country.

At the founding of our Nation, back more than 200 years ago, the only people who could seek public office and could vote were white males who
owned property. Pretty much those were the parameters. Of course, we abandoned those laws years ago. Nonetheless, that restricted the number of individuals, obviously, who could seek a seat in the Congress—the Senate or the House—or a gubernatorial seat.

Unfortunately, what has happened over the years, particularly in the last 25 years or so, is we have created new barriers to seeking public office. The largest of those barriers is the cost of running for public office, the cost of raising the dollars, and the cost of getting your voice heard. One of the reasons we have had, is because of the Supreme Court decision back in 1974 that said money is speech.

Justice Stevens, to his great credit, in a minority opinion in that decision, said it, but I would suggest, in the absence of those provisions—and it is a voluntary system—President Bush, the present occupant of the White House, did not take public moneys during the election, as has every other candidate, accepted public monies in both the primary and the general election, as has every other candidate. But what Senator HARKIN has

offered, and those of us who are supporting him—while not applying that same set of rules—is the same philosophical idea.

Mr. HARKIN. No public financing.

Mr. DODD. No public financing, but the notion that we have public controls, in a sense, limitations on how expenditures have been Senator Feingold and candidates who are going to spend unlimited amounts of their own personal resources in order to be heard. I happen to believe, as I said a moment ago, that money is not speech anymore than I think this microphone that is attached to my lapel is speech or anymore than the speaker system in this Chamber is speech. Those are vehicles by which my voice is heard; it is amplified. You can hear me better than you would if I took this microphone off and the speakers were turned off. If I spoke loud enough, you might hear me, but in the absence of those technological assistance, my voice would be that of any candidate without the ability to have it amplified.

Money allows your voice to be amplified. It is not speech. It just gives you a greater opportunity to be heard. So I fundamentally disagree with the Court’s decision on the issue of money being speech.

In fact, the notion of free speech in American politics today is, as one editor-writer in my home State of Connecticut said on my program, there is nothing free about political speech in America today. It belongs to those who can afford to buy it. That is what it is. There is nothing free about it.

So this amendment really does give us an opportunity to control the expenditure side, which is tremendously valuable. As some have said repeatedly over the last several years, we may not get back to this subject matter again, considering how difficult it was to get here. It may be Senator DOTT- 

GAR who made the point we owe a debt of gratitude to our colleagues from Arizona and Wisconsin, Senator McCaIN and Senator FEINGOLD, for insisting that this debate be part of the public agenda this year; and that if their opponents, or even some of their supporters, are accurate, it might be another quarter century before we come back to this debate again, and then the appropriateness of the Harkin amendment is even more so. Because if we did not come back to the expenditure side of this, at some future date our successors in these seats will be looking at campaigns that are double and triple and quadruple the amount we are spending today.

If you look at what we were spending 25 years ago—the Senator from Iowa and I arrived on the very same day in the Halls of Congress; both a little leaner and had a little more dark hair in those days.

Mr. HARKIN. That is true.

Mr. DODD. But we have been here to- gether for those many years.

In those days, statewide races in Iowa and Connecticut were a fraction of what they are today. If we extrapolate those numbers and set them 20 years or so down the road, we are doubling it, which would probably be around $10 to $13, $14 million to seek a seat in Iowa or Connecticut in a contested contest, maybe more. Imagine how difficult it would be for some young person, some young man or woman in Iowa or Connecticut today, thinking one day they might like to be a candidate for the Senate. We ought to tell them today, if they are thinking about it, in the absence of the Harkin amendment being adopted, they had better be prepared to finance themselves or have access to something in the neighborhood of $10 to $15 million.

The pool of people I know in my State of West Virginia, the Senator knows his State better than I do—is a relatively small number of people who could even think about coming to the Senate under that set of circumstances.

I applaud the Senator for this amendment. I urge my colleagues to support it. I am fearful we are not going to get very far with this. I hope I am wrong on that, but I tell the Senator from Iowa, if we don’t pass this today, some- day we will. It will take some other outrageous set of circumstances, much as it did in 1974, to provoke this institution to do what it should have done before then. Unfortunately, it will probably take that happening again to bring this body and the other Chamber around to the point the Senator from Iowa has embraced with this amendment.

I commend him for it. I support it. I am hopeful our colleagues will join him in adopting the amendment. This will add immensely to the “reform” on the McCain-Feingold legislation.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that an out- standing column by George Will on the subject we have been debating for the last 9 days, from this morning’s Washington Post, be printed in the RECORD.

[From the Washington Post, Mar. 29, 2001]

THE SENATE’S COMIC OPERA

(By George F. Will)

The overtire for the Senate’s campaign fin- ance opera—opera bouffe, actually—was in- dignation about President Bush’s decision against cutting carbon dioxide emissions. Reformers said the decision was a payoff for the coal industry’s campaign contributions. But natural gas interests, rivals of the coal interests, suffered from Bush’s decision—yet they gave Republicans more money ($4.8 mil- lion) last year than coal interests gave ($3.37 million). The “reforming” senators began their re- forming by legislating for themselves an even stronger entitlement to buy television

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CONGRESSIONAL RECORD—SENATE

March 29, 2001
time at a discount, and by voting themselves a right to receive larger contributions (up to $6,000, rather than the at least $1,000) when running against a rich, self-financing opponent. The Supreme Court says the only permissible reason for limiting political speech by limiting money is a weak form of bribery. But this cannot be true. If an association formed to criticize the government is, in fact, the government, then we have a case of a shark trying to eat itself. Another provision of McCain-Feingold would ban or sharply limit advertising by private groups that refers to candidates before elections—or to impose so many regulations on their ability to do so that many would give up trying and would seriously interfere with free speech.

There are those who say that issue ads—ads that end by saying something like "Please call X and tell X that such-and-such a policy is bad" (in other words, the very ads that McCain-Feingold would limit or ban)—are nothing more than thinly veiled pieces of express advocacy. But this couldn't be a more cruel irony because non-profits would love to expressly advocate the election of X or the rejection of Y without knowing whether or without paycheck protection, or without fear of overly aggressive interpretation of existing federal law by the Federal Election Commission.

Indeed, this state of affairs gives rise to two distinct anomalies. First, people watching TV are annoyed by issue ads that don't refer to candidates before elections—or to impose so many regulations on their ability to do so that many would give up trying and would seriously interfere with free speech. Thus, issue advertising, so much maligned today, is an important form of advocacy that non-profits would love to expressly advertise. And make no mistake: McCain-Feingold would fail short of literally banning issue advertising, it would accomplish about the same thing, at least with regard to small associations and groups whose members want to remain anonymous, by imposing onerous accounting and reporting requirements on issue advertisers. McCain-Feingold is unconstitutional. If it passes Congress, the president should veto it—with or without paycheck protection. With or without a severability clause. And Kentucky’s senior senator, Mitch McConnell is right to oppose it.

Mr. McCONNELL. Mr. President, there is much not to like in the Harkin amendment and one provision that has some appeal. I will talk about the provision that has some appeal. As I understand the Harkin amendment, it is taxpayer funding with a little different twist. What the Senator from Iowa has shrewdly done is suggest that the spending limit in his amendment is voluntary.

What in fact happens is, you have candidate A and candidate B. Let's assume candidate A, who is a well-known...
incumbent who doesn’t need to spend as much to get his message home, is up against an unknown challenger, and that unknown challenger knows that the needs to spend more to have a chance to win. As soon as that unknown challenger encroaches above the Government’s specified spending limit, the Treasury of the United States provides $2 out of our tax money for every $1 the noncomplying candidate gets to spend. In other words, a hammer comes down on a noncomplying candidate just as soon as they encroach above the Government-specified speech limit—hardly voluntary.

That is sort of like a robber putting a gun to your head and saying: I would like to have your wallet but you, of course, really don’t have to give it to me.

If you choose to exercise your right to speak beyond the Government-prescribed limit, bad things happen to you. The Federal Treasury of the United States gives you $2 for every $1 your opponent is spending to bludgeon you in a public submission.

The second part of the Harkin amendment is interesting in that it relies on volunteered tax money to provide the funding. This is different from the Presidential system where, as we know, we are able, if we choose, to check off $3 of tax money we already owe and to divert it away from things such as children’s nutrition and food stamps and other worthwhile activities into a fund to pay for the Presidential elections. As I understand the Harkin checkoff, the taxpayer is actually asked to volunteer an additional sum of money from his return.

I predict to my friend from Iowa, there is going to be darn little participation. I know what the checkoff rate has been among taxpayers when it doesn’t even add to their tax bill. The high water mark was in 1980, when it was slightly under 30 percent of taxpayers. There has been a steady trend downward to the point last year there were 11.8 percent of taxpayers volunteering money they already owed—it didn’t add to their tax bill; it was money they already owed—to go to pay for buttons and balloons and campaign commercials and national conventions.

My colleagues get the drift. There is not a whole lot of interest on the part of the American taxpayer to pay for our political campaigns. In fact, we have a huge poll on that every April 15. The most massive poll ever taken on any subject is taken on the subject of using tax dollars for political campaigns. That poll is taken every April 15 on our tax return. Even when it doesn’t add to our tax bill, about 10 percent of America chooses to participate; 90 percent choose not to.

I say to my friend from Iowa, I don’t think this will be a very reliable source of funds if the taxpayer actually has to ante up and provide money for a candidate he doesn’t know. The chances of an American taxpayer choosing to do that is not a whole lot of money for an American taxpayer.

A slightly differently nuanced version of taxpayer funding than we had before us earlier, the Kerry amendment, got 30 votes. I hope this amendment will get no more than 30 votes.

We have come a long way on this subject. Earlier in the Senate careers of the Senator from Connecticut and the Senator from Iowa and myself, we were actually debating taxpayer funding of elections and spending limits for campaigns on the floor of the Senate. That kind of bill actually passed the Senate in 1993. We have come a long way.

It is noteworthy that the underlying McCain-Feingold bill does not have any tax money in it. It is more common to have tax money in it. It doesn’t have any spending limits on candidates in it. We have come a long way.

Now all we are debating is whether or not we are going to destroy the great national conventions. I think is a terrible idea. We will get back to that issue later.

The Senator from Iowa sort of resurrects one of the golden oldies, one of the ideas from the past that sort of moved right on out of the public debate, by offering once again an opportunity for the taxpayers to subsidize candidates. There is a serious constitutional problem in the Treasury of the United States bludgeoning a noncomplying candidate who chooses to speak as much as he wants to with a 2-for-1 match out of the Treasury. $2 out of the Treasury for every $1 the poor challenger is trying to raise to get his name out. It seems to me that has serious constitutional problems.

There is one provision in the amendment of the Senator from Iowa that I do find intriguing, and I commend him for it. That is the importance of the principle of nonseverability in this kind of debate. As I think our colleagues may remember—if they don’t, let me remind them—the last three campaign finance reform bills that cleared the Senate, that actually got out of this body, had nonseverability clauses in them. In fact, on this subject of campaign finance, we have nonseverability clauses in them than out of them. The norm has been to have nonseverability clauses in campaign finance reform bills.

The Senator from Iowa— I commend him for this—links his amendment to the Snowe-Jeffords language in a nonseverability clause. And I commend the Senator from Iowa for doing that because it is a clear understanding that these kinds of bills are fraught with constitutional questions—fraught with them. And it is entirely appropriate to have linkages within these bills. It doesn’t necessarily have to apply to the whole bill. And the amendment that the Senator from Tennessee, Mr. Frist, will be offering early today does not link the whole bill. But it is an attempt to link the important parts of that principle is worthy of commendation. I commend him for that.

Mr. President, beyond that, I find not much to like about the amendment of the Senator from Iowa. I hope it will not be approved. I don’t know if we will have other speakers on this side. For the moment, I reserve the remainder of my time, which is how much?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. DODD. A noon vote. To let people know, why don’t we do a unanimous consent request.

Mr. McCONNELL. Mr. President, I ask unanimous consent that at noon a vote occur on the Harkin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I want to respond and maybe get in a little colloquy with my friend from Kentucky. I appreciate the struggle he has had with the logic of his argument. But, quite frankly, I think the logic is unsound. I recall from Kentucky talks about a challenger out there, someone who wants to run for the Senate who has a message, such as Senator Dodd talked about, someone who has an idea, some convictions and issues they want to bring out. They want to run for the Senate.

The Senator from Kentucky says, rightfully, that they need some money to get that message out and, by putting this limit on it, they would not able to spend any more to get their message out than say, an incumbent. Of course, we have access to the airwaves and the newspapers and all that kind of stuff. So a challenger might want to have more money.

Well, again, to attack the logic of that is to look at the facts. In the 2000 election, the average incumbent raised $6.5 million—the incumbent—us—to get our message out. The average challenger raised $2.7 million. So under the present system, the challenger can’t get that money. He is swamped by what we can raise.

Mr. McCONNELL. Will the Senator yield?

Mr. HARKIN. Yes, I will, in a second.
Now in the amendment I am offering, they would be equal in terms of how much they could raise to spend. In fact, this amendment would help any of those challengers out there to get the message out.

Mr. McConnell. I say to my friend from Iowa, the problem is that spending is not important to the incumbent. As the Senator pointed out, the incumbent is already well known at the beginning of the campaign. If you liken this to a football field, the incumbent is down on the opponent’s 40—maybe 35- or 30-yard line at the beginning of the race, the typical challenger is back on his own 5. If they both have the same amount of money to spend, the incumbent wins. Spending beyond the Government-prescribed amount is way more important to the challenger than it is to the incumbent.

So simply adding up the figures doesn’t tell you much. I mean, it is true that incumbents spend more than challengers; but it is almost irrelevant to the problem of the challenger, which is to have enough to get his message across. Having enough clearly is in the eye of the beholder. We incumbents, of course, will always set the limits low enough to make it very difficult for anybody to get at us.

For example, I believe the spending limit in Kentucky is $2.5 million under the Senator’s proposal. That is about $300,000 or $400,000 more than I spent 17 years ago in a race in which I was outspent by the incumbent and won. That is about what two competitive House candidates spent last year, each, in one of our six congressional districts.

The proposal of the Senator from Iowa would be a big advantage to me, unless I happen to have been running against Jerome Kohlberg, about whom we have heard a great deal every day. I will get back to that later today in another context. That billionaire put this full-page ad in the Post a couple days ago. These kinds of people are going to be more and more running the show—people of great wealth. This may help you guys because most rich people are liberals. We are going to have to come up with really rich conservatives, too, unless I am running against Jerome Kohlberg, in which case I am going to clearly be outspent. I don’t need the money, too.

Treasury just as soon as I am beginning to get my message across and trying to catch up with that guy to head toward the end zone.

So I understand what the Senator is doing. I appreciate his recognition of the importance of nonseverability clauses but I don’t think we won’t help challengers at all. In fact, it will be a great boon to incumbents.

So I understand what the Senator is doing. I appreciate his recognition of the importance of nonseverability clauses but I don’t think it won’t help challengers at all. In fact, it will be a great boon to incumbents.

Mr. Harkin. Mr. President, again, the Senator’s reasoning flies in the face of facts. That is why his reasoning is specious. Look at the data. In the last election cycle, incumbents had $4.5 million. I will tell you what; I dare my friend from Kentucky to go out and ask any challenger who ran in the last race if they would have accepted this kind of deal. They could spend as much money as the incumbent in the campaign. I will bet you, you would find very few who would turn that offer down, if they could keep the incumbent down, keep them at the same level. That is why I say I think the reason flies in the face of the facts.

Mr. McConnell. The challenger might accept it, but it would be good for second place. The point is, if in a typical race, if you are a challenger, your biggest problem, unless you are very wealthy, or a celebrity, or war hero, is that nobody knows who you are. The Senator set the spending limits at such a level that almost no incumbent would ever lose.

Mr. Harkin. Let’s take this analogy of the football field. You cannot win.

Both of us have been on the same side. I have been a challenger running against a sitting Senator, and so have you. And we have run as incumbents. We have seen both sides of this. Now, I suppose all things being equal, I would rather be an incumbent, obviously. But there are certain advantages to not being an incumbent. As I remember, when I ran, I had an open field. I am on the 5-yard line, the incumbent Senator is on the 30-yard line. But guess what. I am out there every day. I am in that State every day getting my message out from town to town, community to community, newspaper to newspaper, radio show to radio show. The person sitting here has to be in the Senate all year long, sitting on his own 5. If they both have the money, they would have accepted this kind of deal. They could spend as much money as they used to. Is that right? I think the Senator said that is what is happening. Well, the fact is, I have talked to a lot of people about the checkoff. Do you know why they don’t want to give money to the checkoff? We just spend it.

We buy more TV ads, we hire more ad agencies, and the price keeps going up and up. They say: Why should I check off money to give to a candidate and all I do is see more of these soap ads, selling them like soap to me?

Under my amendment, a person checking off the money is putting money into a reserve fund to prevent that from happening. There is another hammer there; the person who exceeds the limits is the one who triggers, then, the financing that comes from a voluntary checkoff.

Mr. McConnell. Mr. President, I say to my friend from Kentucky I know how strongly he feels about public financing. Perhaps my friend was right the other day when he said polls show that people don’t want their tax dollars used for public spending for people such as Lyndon LaRouche. My friend is probably right there. That is why I think there is another hammer—and you are right, this is a hammer—because there is no public financing in my amendment unless and until someone exceeds the limits. The person who triggers, then, the financing that comes from a voluntary checkoff.

Now, my friend says, well, there probably won’t be enough money there because the people are not checking off as much money as they used to. Is that right? I think the Senator said that is what is happening. Well, the fact is, I have talked to a lot of people about the checkoff. Do you know why they don’t want to give money to the checkoff? We just spend it.

We buy more TV ads, we hire more ad agencies, and the price keeps going up and up. They say: Why should I check off money to give to a candidate and all I do is see more of these soap ads, selling them like soap to me?

Mr. Harkin. There is nothing I can do about you getting publicity. That comes with the territory of being a Senator. I am saying you should not have it both ways; you should not have the money and all the advantages that incumbents have. You can’t do anything about all the stuff—the stuff a Senator gets. We can set voluntary limits.

Mr. McConnell. Mr. President, I say to my friend from Iowa, he is counting on people who do not contribute to candidates they do not know, to contribute their money to a nameless candidate and cause with which they might not agree.
The Senator from Iowa is correct; under his amendment there would be no taxpayer funding provided you complied with the Government speech limit. The problem is, if you do not, your complying opponent gets tax dollars from the Government to counter your excessive speech. That is the constitutional problem with the proposal of the Senator from Iowa.

I do not think that makes the spending limit voluntary if, when you encroach above the Government-prescribed speech limit, the Government subsidizes your opponent. That is more than a hammer, that is a sledgehammer.

Also, it is worthy to note that all of the challengers who won last year, as far as I can tell—and the Senator from Iowa can correct me if I am wrong—I believe all the challengers who won last year spent more than the spending limits in his amendment, further proving my point that a challenger needs the freedom to reach the audience. To the extent we are drawing the rules, crafting this in such a way that we make it very difficult for the challenger to compete, we are going to win even more of the time. Of course, incumbents do win most of the time, but we would win more of the time if we had a very low ceiling.

In any event, my view is this is clearly unconstitutional. It is taxpayer funding of elections, more unpopular than a congressional pay raise, widely voted against every April 15 by the taxpayers of this country.

We have had this vote in a slightly different way on two earlier occasions. The Wellstone amendment got 36 votes; the Kerry amendment got 30. I hope the amendment of the Senator from Iowa will be roundly defeated.

I do applaud him, however, for recognizing the importance of nonseverability clauses in campaign finance debates.

UNANIMOUS CONSENT REQUEST—AUTHORITY FOR COMMITTEES TO MEET

Mr. McCONNELL. Mr. President, I have 10 unanimous consent requests for committees to meet during today's session of the Senate. They have all been approved by the majority and minority leaders. I ask that these requests be agreed to en bloc and printed in the RECORD.

Mr. DODD. Reserving the right to object, I ask my friend and colleague if he will withhold that request for a few minutes. I will share with him a message I am getting. I will let him know about it.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. At this juncture, at this particular moment.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

AMENDMENT NO. 155

Mr. DODD. Mr. President, I saw my colleague from Kentucky, but I guess he is not now on the floor. We have a couple minutes. My colleague from Kentucky and I talked about this the other day. He makes a very good point about the declining participation in the checkoff. The dollar amounts have been raised. If my friend from Kentucky is correct, originally it was $1 for the checkoff. You are not paying more in taxes. It is the money you send in. The checkoff of $1 of your tax returns would be used for the public financing of Presidential races. That number then went up to $3 because there were fewer and fewer people who were actually doing the voluntary checkoff.

His numbers, I believe, are correct. We have seen a decline in the number of people who are voluntarily checking off that $3 of their Federal taxes they are sending in or that are being withheld to be used for these Presidential races.

I am worried about that because I think there is an underlying cause for this. The debate we are having about campaign finance reform, while we are not going to adopt public financing for congressional races despite the fact there is a lot of merit going that route in terms of dealing with the constitutional problems that exist in the absence of having some public financing, there is an underlying reason that I think contributes to that declining statistic, and that is the people are disgusted with the whole process.

I do not think it is people's lack of patriotism or their lack of understanding how campaigns work is to contribute to strengthening our democracy. People are getting fed up. Witness that last year despite the overwhelming amount of attention and advertising on a national Presidential race, a race that included Ralph Nader and the Green Party, there was Pat Buchanan and the Reform Party, the Democratic candidate, Al Gore, and his running mate from my home State, Joe Lieberman; President Bush and Richard Cheney. Out of 200 million eligible voters in this country, only 100 million participated. One out of every two eligible voters in this country decided they were not going to make a choice for President of the United States and Vice President, not to mention the congressional races, the Senate races, and gubernatorial races that occurred.

On the Federal election for the leader of the oldest continuous democracy in the world, one out of every two adults in this country decided they were not going to participate. I know some may have had legitimate excuses, but I suspect a significant majority of those who did not participate knew it was election day, did not have some overriding family matter that caused them to miss voting. I think they made a conscious decision. I think they decided they were not going to show up, and I cannot express in our native language adequately the deep, deep concern I have over that fact and what appears to be a growing number of people.

I hear it particularly among younger people. I visit a lot of high schools in my home State of Connecticut. I get a sense that too many of our younger people are embracing the notions held by one out of every two adult Americans in the last election, that they are not going to participate by showing up to choose the leader of our country. I suspect that a good part of the reason is that people are just disgusted by what they see and how elections are run when they see this mindless advertising, these 30-second spots, the attack ads that go after each other as if this was somehow an athletic contest rather than a debate of ideas where we are talking about the future of our country and what the priorities of a nation ought to be.

I, too, am very concerned with the declining statistics that my friend from Kentucky has identified, but I think it is more a poll not about public financing. I think it is a poll we ought to pay attention to, what the American people are saying, at least in the majority of cases, I believe: We think the system is not working very well. We think the system is out of control. We think there is too much money in politics; that our voices do not get heard; that we cannot afford to participate in these contests where contributions of $1,000, now $2,000 per individual, that people can write a check now for $37,500 if this McCain-Feingold bill is adopted.

Last year—I said this over and over in the past week and a half—there were only 1,200 people in this country who wrote the maximum check of $25,000; 1,200 people out of 280 million Americans. We now have raised that because this hasn't been enough. We are told you can't finance these campaigns with maximum contributions of $25,000, $200,000 for a husband and wife. We are told the system is financially bankrupt. We don't have enough money in politics, we are told.

Those who wanted that number higher wanted $100,000 per individual, $200,000 for a husband and wife. We are told the system is financially bankrupt. We don't have enough money in politics, we are told.

What we ought to do with these declining numbers of people voluntarily checking off for some of their tax dollars to be used to publicly finance the Presidential races in America. I am