April 2, 2001

CONGRESSIONAL RECORD—SENATE

SENATE—Monday, April 2, 2001

(legislative day of Friday, March 30, 2001)

The Senate met at 5 p.m., on the expiration of the recess, and was called to order by the Honorable Peter G. Fitzgerald, a Senator from the State of Illinois.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, who has promised strength for each day, we ask You for a special provision for this busy week ahead. As the week stretches out before us, we realize that there is more to do than it seems there is time to accomplish it. However, our security is that we are here to do Your work, and therefore You will provide for what You will guide.

You have taught us that the secret of strength is thanksgiving: If we will give thanks for the very things that cause pressure, You will open the floodgates for a flow of Your energy into our souls, our minds, and bodies. So thank You, Father, for the long days of work ahead; thank You for the relationships that may be difficult, for the times when stress will mount and our bodies will tire. But most of all, thank You for the fresh supply of power to face each hour. You are our refuge and strength, a very present help when we need it most of all. Amen.

PLEDGE OF ALLEGIANCE

The Honorable Peter G. Fitzgerald led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The Presiding Officer: The clerk will please read a communication to the Senate from the President pro tempore (Mr. Thurmond).

The legislative clerk read the following letter:

U.S. Senate.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Peter G. Fitzgerald, a Senator from the State of Illinois, to perform the duties of the Chair.

Strom Thurmond,
President pro tempore.

Mr. Fitzgerald thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The Acting President pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. McConnell. Mr. President, the Senate this evening will have 30 minutes for debate on the campaign finance reform bill. At approximately 5:30 p.m., the Senate will vote on final passage of the bill. Following the vote, the Senate is expected to begin consideration of the budget resolution. Votes in relation to the budget resolution are expected to occur this evening. Senators should be prepared for late nights and votes throughout the week. It is the intent of the majority leader to complete action on the resolution prior to the Easter recess.

That is the agenda for the coming week.

The Acting President pro tempore. The Senator from Nevada.

Mr. Reid. Mr. President, the order calls for votes at 5:30, and I am going to request the vote be at 5:30. So there is not 30 minutes of debate. I ask the Chair if that is true.

The Acting President pro tempore. The Senator is correct.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—RESUMED

The Acting President pro tempore. The Senator from Kentucky.

Mr. McConnell. Mr. President, this has been a long and interesting debate; and before I begin my final remarks I would like to thank my superb staff, the senior member of which is Tam Somerville. Now staff director of the Rules Committee, she is a long-time veteran of these wars going back to the filibusters of 1988—a good friend and a great colleague. I thank her for her outstanding work over the years on this subject. And Hunter Bates, my chief of staff, has done superb work on this and a great many other matters over the years, and an old friend going back well over a decade. And new members of the team: Andrew Siff, the general counsel of the Rules Committee, who Senator McCain and I would have to agree sort of staffed both sides at times during this debate and did an outstanding job; Brian Lewis, also of the Rules Committee, and John Abegg of my staff, who have been marvelous in this whole debate.

Now, Mr. President, the theory of this bill, the underlying theory, is that there is too much money in politics, in spite of the fact that last year Americans spent more on potato chips than they did on politics.

Then the other theory of the bill is, well, if we can't squeeze all the money out of politics, at least we can get at that odious soft money. Well, I think it is important for our colleagues to know that the average soft money contribution to the Republican Senatorial Committee last year was $320. That is about one-tenth of 1 percent of the total amount of money we raised. The largest contribution to either the Republican National Committee or the Republican Senatorial Committee was $250,000. Admittedly, that is a lot of money, but any one of those donations would only have amounted to one-half of 1 percent of what was raised by the committees.

Now if we were concerned about the appearance of a large contribution, we had an opportunity to address that when we had a vote on the Hagel amendment which would have capped non-Federal money, just as for many years we have capped Federal money. But, no, the Senate opted for prohibition, not moderation. Well, I think it is what has happened when we have gone down that path before with prohibition. Of course, nothing would be prohibited.

We had an opportunity to recognize that there is nothing inherently evil about non-Federal money and that the only issue really the Senate was trying to address was the size of the contributions; we could have dealt with that in the Hagel amendment, but that was defeated.

Now other countries, many of them allies of ours, unburdened by the First Amendment, have squeezed the money all the way out of politics. A good example of that is the Japanese. The Japanese have gotten all the money out of politics.

Let me tell you what it is like to run for office in Japan. The Government determines how many days you can campaign, the number of speeches you can give, the places you can speak, the number of handbills or bumper stickers you can hand out, and the number of megaphones you get—one, one megaphone per candidate. This was all in response to the need, it was widely perceived, to get money out of politics so people's view of the Parliament would go up.

Well, after passing all of these draconian measures, now 70 percent of the
Japanese people have no confidence in the legislature and turnout continues to decline. So it is obvious that had no impact whatsoever.

What we have done here, in an effort to get money out of politics, is to take the parties out of politics, as I pointed out last week, and let me briefly touch again on what we have done.

In a 100-percent hard money world, there would be the impact on the party committees. Looking at the last cycle, last year, if you just applied the current system, the Republican National Committee had $75 million in net hard money to spend on its candidates; under McCain-Feingold, it would have had $37 million. The Democratic National Committee under the current system had $18 million net hard money for candidate efforts; under McCain-Feingold, it would have had $1 million. The Democratic Senatorial Committee had $6 million hard money; under McCain-Feingold, it would have had $800,000. And over on the House side—a real disaster. Under the current law, the Republican Congressional Committee had $22 million net hard money; the Democratic committee over in the House, minus $7 million.

Under McCain-Feingold both of them would have been substantially below water: $13 million in the case of the congressional committee on the Republican side and $20 million on the Democratic side.

In a 100-percent hard money world, as defined by McCain-Feingold, what we will do is take none of the money out of politics; we will just take the parties out of politics. And when we take the parties out of politics, what is the impact of that? Parties are the one entity in America that will support a challenger. Parties are filters. They will support a Republican whether he is a challenger or not. My guess is they will decide they might as well let the national conventions become a relic of the past because they will not be able to afford to put on the conventions and also help the candidates. Given that choice, they clearly will want to help the candidates. The conventions may or may not happen again or they may be very short, maybe a half-day convention. I recommend they come to Louisville, KY. I think we could handle the size of the convention now. We haven’t been able to apply for it in the past.

In addition to that, the McCain-Feingold is so sweeping it is likely to preclude Senators from raising money for churches and charities because there is written into the bill an effort to restrict the ability to raise money for 501(c)s. A query: Will Senator MCCAIN or myself be able to raise money for the International Republican Institute or Senator KENNEDY raise money for the Special Olympics? I doubt it.

In addition to that, there is a very serious question of what to do with the soft money already raised. Both parties are having their dinners this year as if the conventions were being held. I suspect a lot of the lobbyists out in the hall right off the Senate floor won’t take a penny out of politics, not a penny. It will all be spent. It just won’t be spent by the parties. It will be spent by the Jerome Kohlbergs of the world and all of the interest groups out there. As everyone knows, the restrictions on those interest groups has not been struck down in court, if we get that far.

Welcome to the brave new world where the voices of parties are quieted, the voices of billionaires are enhanced, the voices of newspapers are enhanced, and the one entity out there in America, the core of the two-party system, that influence is dramatically reduced. I strongly urge our colleagues to vote against this legislation. It clearly moves in the wrong direction.

Mr. REID. Mr. President, I ask unanimous consent that each side be extended an additional 2 minutes.

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

Mr. DODD. Mr. President, today the Senate took long awaited action to approve legislation to address what the American people believe is the single most egregious abuse of our campaign finance system—that is the unlimited flow of soft money permeating our elections system. If the McCain-Feingold legislation did nothing else but close the soft money loophole, it would still be reform.

But my colleagues have accomplished much more in this legislation. I congratulate Senators McCAIN and FEINGOLD for their vision in recognizing the powerfully negative influence of the money chase on our political system and their dogged persistence in striving to craft a consensus on reform legislation that seeks to address the worst aspects of the current system.

But the Senate would not be here today if not for the equally determined leadership of TOM DASCHLE and the Democratic caucus. No member has been more consistent in support of reform than our leader, and no member has worked harder behind the scenes to hold the Democratic caucus together in support of this measure.

At the same time, I must also acknowledge the powerful influence of my colleague, the chairman of the Rules Committee, for his unstinting
devotion to the principles of free speech and his unyielding belief that most, if not all, proposed campaign finance reforms were not only unwise, but unconstitutional.

While a majority of this body clearly do not share Senator McConnell's views, I appreciate his willingness to allow the debate to continue unimpeded, unlike debates in the past, by repeated cloture votes. This debate has exemplified the Senate at its best. The freeflow of debate, the unrestricted offering of well reasoned amendments, and the opportunity for all members to be heard are the hallmarks of this, the world's greatest deliberative body.

Finally, I must express my great respect to my colleagues in the Democratic caucus, under the very able leadership of Senator Lieberman, the President pro tempore of the Senate debates in the last decade, both in terms of its content and its impact on our system of democracy.

I have been privileged and honored to serve as floor manager of this measure, along with the Senator from Kentucky. As my colleague from Kentucky has alluded, the stakes in this debate were considerable for many interested parties.

And although members disapproved over the need for this measure, and amendments to it, Senators were not disagreeable in their debate. I thank my colleagues for their patience and cooperation, and for this debate.

I also compliment my good friend, the Majority Leader, for his willingness to allow the Senate to have a freeflowing debate. This issue is of paramount importance to the continued health of this democracy, and his willingness to provide for free and open debate on the McCain-Feingold measure has produced, in this Senator's mind, an even better bill than was originally brought to the Senate floor.

I am hopeful there will be an opportunity to make further improvements in this measure in the House. Although I am supporting the McCain-Feingold legislation, there are two provisions, in particular, that cause me concern.

First is the so-called millionaire's provision which purports to level the playing field for candidates who face wealthy challengers. While that may be a laudable goal, the amendment ignores the fact that many incumbents who face wealthy challengers are sitting on healthy campaign treasuries, sometimes amounting to several million dollars. In those instances, this amendment serves as an incumbent protection provision.

As I stated on Friday before passage of the Durbin-Domenici-DeWine amendment to fix this inequity, I am not convinced that this amendment went far enough to recognize the considerable war chests that some incumbents have. I urge my colleagues in the House to carefully consider this provision with an eye to improving it. Secondly, although I reluctantly supported the Thompson-Feingold amendment to increase the individual hard money contribution limits, I did so only in the context of achieving broader reform. Quite simply, the increase in the hard money limits was the price to be paid to gain sufficient support from our Republican colleagues for banning soft money and reining in so-called sham issue ads.

Of particular concern to me is the indexing of the limits which only ensures the continuing upward spiral of money into our political system. While I understand the desire of some to avoid a future debate on reform, the fact that the hard money limits had not been increased since 1974 is when created both the pressure and the opportunity for this reform.

Again, I urge my colleagues in the House to consider these limits and avoid the temptation to increase them ever higher; otherwise, there may come a time when the price for reform becomes too great for this Senator.

I am hopeful that the House will act expeditiously on this measure. While I do not suggest that House members forego their responsibility and right to thoroughly debate and amend this legislation, I encourage them to do so in a manner that will allow this bill to reach the President's desk before the end of this year.

I also thank the numerous staff who have assisted in facilitating consideration of this measure, not the least of which are our Democratic cloakroom staff, including Marty Paone, Lula Davis, and Gary Myrick, along with the outstanding Democratic cloakroom staff.

I also extend my special appreciation to Andrea LaRue of Senator Daschle's staff. She, along with Mark Childress and Mark Patterson, were invaluable in offering much needed expertise and guidance on this legislation.

Of equal assistance were the staffs of Senators Flingold and McCain, including Bob Schiff, Ann Choiniere and Mark Buse, as well as Laurie Rubenstein of Senator Lieberman's staff and Linda Gustitus of Senator Levin's staff.

I also wish to acknowledge the contributions of Senator McConnell's staff, including Hunter Davis of his personal staff, and Tam Somerville and Andrew Siff of the Rules Committee staff.

Finally, I thank Shawn Maher of my personal office staff, and Veronica Gillespie, my Elections counsel on the Rules Committee staff, as well as Kennie Gill, the Democratic staff director and chief counsel of the Rules Committee.

One final point, Mr. President. The great justice, Learned Hand, once spoke of liberty as the great equalizer among men. In his words, "the spirit of liberty is the . . . lesson . . . (mankind) has never learned, but has never quite forgotten; that there may be a kingdom where the least shall be heard and considered side by side with the greatest."

That, my colleagues, should be the ultimate test of whether any matter considered by this body is worthy of support. The McCain-Feingold legislation passes that test.

I urge my colleagues to support this measure.

Mr. Grassley. Mr. President, improving the campaign finance system is an important priority. Without a doubt constructive criticism works to help cleanse the system. More importantly, good debate helps reduce public cynicism. That is why I would like to commend my colleagues for the good discussions we have had in the past 2 weeks.

My goals for campaign finance reform have long included improved citizen participation, enhanced public disclosure, full public disclosure and safeguarding the right of Americans to organize and petition their government.

To accomplish these objectives, I want reform to give individuals a bigger role in the political process, increase up-front participation of political parties, protect corporate shareholders and union members from being forced to bankroll candidates they oppose, discourage misconduct by political campaigns with swift and sure punishment, and require full public disclosure of contribution sources.

Therefore, in evaluating any campaign finance legislation I ask myself, does this bill accomplish these goals?

I believe that we made progress with the McCain-Feingold bill by providing for greater disclosure such as requiring all television and radio stations to include in their "public file" all media buys for all political advertising, by requiring additional disclosure for Federal candidates and national political parties, and requiring the Federal Election Commission to provide the information on the Internet within a reasonable amount of time. I also believe that it was prudent of us to increase the individual hard money contribution limit set back in 1974. Furthermore increasing the penalties for election law violators.

On the other hand, I was disappointed that the Senate failed to agree to several amendments that I feel would have been good reform. Such amendments were those to provide disclosure and consent to corporate shareholders and union members regarding the use of their funds for political activities and the effort to limit soft
money, instead of a complete ban which will likely be thrown out by the Courts.

However, there is a more egregious problem with this legislation. This bill fails to protect an individual's right to organize and petition their government and engage in full public disclosure.

Virtually every American has a “special interest,” whether its lower taxes, endangered species, education, or international trade agreements. To get individual voices heard above the din of American politics, individuals organize to exercise their first amendment rights of free speech. However, this McCain-Feingold bill severely restricts the groups which average citizens join to express themselves: issue advocacy groups and political parties. Therefore, wealthy individuals and the media have a larger role in the political process and the individual role is diminished.

I would like to point out three specific ways the McCain-Feingold bill violates our first amendments rights: 1. Issue Advocacy—This bill imposes limits on communications about issues regardless of whether the communication “expressly advocates” the election or defeat of a particular candidate and restricts the time that issue advocacy communications can be distributed. 2. Coordination—This legislation grossly expands the concept of coordinated activity between candidates and citizen groups. This regulates and prohibits all but the most insignificant contacts and actions from citizen groups as a “contribution” or “expenditure” to a specific campaign. 3. Political Parties—This reform measure limits the role of political parties to simply electing politicians. The restrictions on soft money restrict political parties in their ability to support grassroots activity, candidate recruitment and get-out-the-vote efforts.

In the 21st Century, it’s easy to forget that America’s Founding Fathers sacrificed all to give Americans political freedom. These patriots fought and risked their lives and everything they had to secure and protect free political speech, dissent or assent, of all kinds. Free political speech protects us from tyranny.

Mr. KERRY. Mr. President, yesterday, at long last, the United States Senate voted to take a first step toward reforming our campaign finance system. This long awaited vote comes after countless delay tactics which have long prevented us from taking an up-or-down vote on this bill. It also comes after an election in which $3 billion was spent in an effort to elect or defeat candidates. Today we have the chance to pass reform which at the very least demonstrates that we’ve learned from the most scandalous and year upon year of runaway spending.

But let me be clear about something: despite the rhetoric we have heard on the Senate floor, the bill we vote on today is not sweeping reform that will give one party or the other the edge when it comes to funding campaigns. Instead, this bill simply restores, to a certain degree, the campaign finance reform laws that we enacted more than 25 years ago. Back then, in the post-Watergate era, we recognized that it was time to prevent secret stashes of cash from infiltrating our political system. We succeeded in that effort, and I believe the system worked reasonably well for some time, until the recent phenomena of soft money and sham issue advocacy overtook the real limits we had established for our campaign system.

I want to take a minute to talk about how we got to this point in which our system so desperately needs this modest reform bill. Federal law has prohibited corporations from contributing to federal candidates since 1907. This nearly hundred-year-old ban was enacted in recognition of the fact that corporations accumulate great wealth that could be used to distort electoral outcomes. Labor unions likewise have been barred from contributing to candidates since 1943. In addition, the post-Watergate campaign finance law capped individual contributions to candidates, parties and PACs. These limits were put in place after the country learned a hard lesson about the corrupting influence of money in politics.

Unfortunately, the Federal Election Commission and the courts opened the loopholes that ultimately eviscerated our reform efforts. Soft money first came into play in 1978 when the FEC, the toothless watchdog of our campaign finance laws, opened the door to the cascade of soft money by giving the Kansas Republican State Committee permission to use corporate and union funds to pay for a voter drive benefitting federal as well as state candidates. The costs of the drive were to be split between hard money raised under federal law and soft money raised under Kansas law. The FEC’s decision in the Kansas case gave parties the option to spend soft money any time a federal election coincides with a state or local race.

Sham issue advocacy too, has a history that defies the intent of campaign finance laws. In what remains the seminal case on campaign finance, Buckley v. Valeo, the Supreme Court in Buckley held that limits on individual campaign contributions do not violate the First Amendment. If a limit of $1000 on contributions by individuals was upheld as constitutional, then a ban on contributions of $30,000, $300,000 or $1 million is also going to be upheld. It simply cannot be said that the First Amendment provides an absolute prohibition of any and all restrictions on
speech. When state interests are more important than unfettered free speech, speech can be narrowly limited. Speech is limited if it is false or if it appears to one that it is false, or if it appears to one that it is false. In addition, we are not, as the saying goes, free to yell "fire" in a crowded movie theater. In those cases, there is a compelling reason to limit speech. Buckley, too, said that the risk is the corruption of the appearance of corruption. As a result of the appearance of corruption, individual campaign contributions. Soft money contributions to political parties can be limited for the same reason.

In addition, in Nixon v. Shrink Missouri, the Supreme Court recently justified its decision to uphold a $1050 contribution limit for elections in Missouri, stating that it was concerned with "the broader threat from politicians who comply with the wishes of large contributors." It went on to say: "Leave the perception of impropriety unanswered, and the cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic govern ance." I think the Supreme Court's language bodes well for the likelihood that a soft money ban will be upheld.

Likewise, I believe that the electioneering provisions of the bill will be upheld. It's a trickier case, but I would submit that the bright line test in McCain-Feingold satisfies the Supreme Court's holding in Buckley. The so-called "magic words" test of express advocacy has come to provide what is a wholly unworkable test that I believe was never the intention of the Court. The magic words test elevates form over substance, and in practice has proven meaningless. The proof of that is in the half-a-billion dollars in sham issue ads that were aired last year. I won't argue that the test in this bill does not stop any advertisements. Advertisements that simply discuss issues, without naming candidates are always permissible. Advertisements that air within 30 days of a primary or 60 days of a general election can discuss issues, as long as the ads do not depict a particular candidate. And any advertisement can be aired at any time, as long as it is paid for with hard money.

A final argument opponents of reform like is that we spend less on campaigns than we do on potato chips or laundry detergent. But I would ask the proponents of this argument whether what we are seeking in our democracy is electioneering that has no more depth or substance than a snack food commercial. Because, despite the ever-increasing sums spent on campaigns, we have not seen an improvement in campaign discourse, issue discussion, education or small money does not mean more ideas, more substance or more depth. Instead, it means more of what voters complain about most. More thirty-second spots, more negativity and an increasingly longer campaign period. Less money might actually improve the quality of some campaigns. But I would caution them not to spend their resources. It might encourage more debates, as was the case in my own race against Bill Weld in 1996, and it would certainly focus the candidates' voter education efforts during the period shortly before the election, when most voters are tuned in, instead of starting the campaign 18 months before election day.

The American people don't buy the arguments made by opponents of reform. The American people want us to forge a better system. A national survey conducted by the Mellman Group in April of last year found that by a margin of 68 percent to 19 percent, voters favored a proposal that eliminates political speech. An important campaign spending limits and gives qualifying candidates a grant from a publicly financed election fund. That same survey also found that 59 percent of voters agree that we need to make major changes to the way we finance elections. Perhaps the most telling statistic from this survey is that overwhelming majorities think that special interest contributions affect the voting behavior of Members of Congress. Eighty-seven percent of voters believe that money impacts Members of Congress, with 56 percent expressing the belief that it affects the members "a lot." Even when asked about their own representatives, the survey again found that voters overwhelmingly believed that money influenced their behavior. Eighty-two percent believe campaign contributions affect their own members, and 47 percent thought their representatives were affected "a lot.

McCain-Feingold is an important piece of legislation that begins to tackle the problems of soft money and issue advocacy I have outlined. I support this legislation, but I would note one serious shortcoming of the bill. It won't curb the rampant spending that drives the quest for money. Unfortunately, we all recognize that creating spending limits is not a simple proposition. In the 1996 Buckley case, the Supreme Court struck spending limits as an unconstitutional restriction of political speech. And to its decision is that spending limits could be imposed in exchange for a public benefit. I wish we had at our disposal a number of bargaining chips, public benefits that we could trade in exchange for spending limits. However, unless the Supreme Court reverses itself, something I am certainly not expecting in the near future, we must accept that if we want to limit the amounts spent on campaigns, we must provide candidates with some sort of public grant.

The votes we have taken on various amendments addressing public funding make it clear that a lot of my colleagues aren't ready to embrace public funding as a way to finance our campaigns. But it is, in my opinion, the most important end of limiting campaign spending and the contributions that go with it. Ultimately, I believe in the potential of a system that provides full public funding for political candidates. I would also support a partial public funding system, such as the one I offered in an amendment to this legislation. That amendment would have freed candidates from the need to raise unlimited amounts of money by providing with "liberty dollars" in the form of a two-for-one match for small contributions, in exchange for the candidates agreeing to abide by spending limits. I believe that any system that reduces candidates' reliance on private money and encourages them to abide by spending limits will ultimately be the best way to truly and completely purify our system of the negative influence of corporate money.

Many of our states are already experimenting with a Clean Money, Clean Elections law. The law, which voters adopted by referendum in 1998, will go into effect this year and will provide candidates for state office with full public funding if they agree to abide by spending limits. A recent survey of voters across the state found that three-fourths support the law. I am optimistic that the majority will grow after the law is put to its first test during the upcoming elections. It seems that Clean Money, Clean Elections laws are off to a good start in the states. But we need to know more about how well these programs work. That is why I am pleased that the managers of this bill accepted an amendment I offered that will require the GAO to examine the impact of Clean Money, Clean Elections laws in states where they have been enacted. Specifically, my amendment will require the GAO to determine more about the candidates who opted for public office using Clean Money, Clean Elections funds. It will provide us with concrete figures on which offices attract Clean Money, Clean Elections
candidates, whether incumbents choose to use clean money, and the success rate of candidates.

In addition, the GAO will be able to determine whether Clean Money, Clean Elections programs reduced the cost of campaigns, increased candidate participation or created more competitive primary or general elections. We should encourage states to experiment with reform. I believe an objective study as required by this amendment will better enable leaders at the state level to evaluate the Clean Money, Clean Elections option. In the end, we may all learn that there is an important role for public financing in state and ultimately federal elections.

As I said before, this bill, which bans soft money, regulates sham issue ads, and provides a study for public funding systems, provides a good first step to reform, and I will therefore support it. I have one serious reservation about the bill, however, and that is its increase in the hard money limits. Although I fully understand the argument that the limits have not kept up with inflation, I am concerned that the increases in individual limits and, most especially, aggregate limits, do not take us in the right direction of decreasing the amount of money in elections. Moreover, this increase simply enables the tiniest percentage of the population that currently contributes large contributions to contribute even more. This increase does nothing at all to increase the role the average voter plays in our election process.

Nevertheless, the vote yesterday is a victory for reform—but it needs to be the first vote, not the last. I want to offer my congratulations to my friends RUSSELL FEINGOLD and JOHN MCCAIN on the Bipartisan Campaign Reform Act of 2001. They were responsible for the first bill that breaks free from the status quo and will help us restore the dwindling faith the average American has in our political system. For too long we’ve known that we can’t go on leaving our citizens with the impression that the only kind of influence left in American politics is the kind you wield with a checkbook. This bill reduces the power of the checkbook and I am proud to support it.

Mr. KOLI, Mr. President, I rise today to support S. 27, the Bipartisan Campaign Reform Act of 2001. I have been a consistent supporter and copartner of campaign finance reform because I believe we must do everything we can to ensure that there is not even a perception of undue influence in Federal elections.

The debate of the last 2 weeks has provided us with a unique opportunity to examine a wide range of issues related to the financing of political campaigns. The result is a bill with strong bipartisan support. This landmark legislation, if signed into law, will succeed in banning soft or unregulated money in Federal elections. The unlimited flow of money into party coffers creates the greatest opportunity for special interests to seek favor with politicians. Moreover, businesses or organizations can be tapped for such vast sums has dramatically changed the atmosphere surrounding the work of our legislative and executive branches of Government.

With this legislation, we are also finally getting at one of the most troublesome areas of unregulated and unreported spending in Federal elections, so-called sham issue ads. This legislation does not ban issue advocacy or limit the right of groups to air their views. Rather, the disclosure provisions in the bill require that these groups step up and identify themselves when they run issue ads which are clearly targeted for or against candidates.

The Supreme Court’s decision in Buckley v. Valeo in 1976 has left us with the difficult task of devising a system of financing campaigns without suppressing free speech. Our Founding Fathers were resolute in their defense of free speech and we must continue to protect the first amendment right. We do so, however, with the understanding that we must reconcile free speech with a competing public interest. This interest, as articulated in Buckley v. Valeo, is preventing corruption of Federal elected officials or even the appearance of corruption. Let me be clear, I do not believe that our system is corrupt or that elected officials are corrupted by campaign contributions. However, I agree that we must combat the perception of corruption.

It isn’t difficult to understand why a majority of American citizens are concerned that the presence of special interest money in politics buys influence. The vast sums of those citizens do not participate in contributing to political candidates—in a recent survey, 6 percent of the electorate said they gave any money to a political candidate and less than one-tenth of one percent even contribute at the current $1,000 contribution limit—so it is no wonder that most Americans believe that they can’t compete with the few who do give and who often gain access as a result. Many Americans believe that their voices are not heard.

Whether the presence of unlimited political contributions is corrupting or whether it just creates the appearance of corruption, the damage is done. Americans are disaffected with politics and political campaigns and have voted against the current system with their feet: For decades we’ve seen a gradual decline in voter turnout. In 1952, about 63 percent of eligible voters came out to vote. That number dropped to 49 percent in 1992. We saw the same minimal increase in this past election with voter turnout at 51 percent of eligible voters, however, not a significant increase given the closeness of the election. Non-President year voter turnout is even more abysmal.

Representation that is working is harmed by eroding participation. As elected officials, we have a responsibility to try to address the sources of voter disaffection. And, that is ultimately what campaign finance reform is all about, restoring the confidence of the American people in our elected government.

I am keenly aware of how fortunate I am to be able to finance my own campaigns. I do not accept contributions from political action committees and I am not burdened with the task of raising vast amounts of money to run for office. However, during debate on this bill I was willing to support amendments which would help level the playing field for all candidates. That is why I supported the Torricelli amendment to increase the contribution limits in a reasonable way, beyond the limits set back in the seventies. And that is why I supported the Torricelli amendment to give political candidates the opportunity to buy advertising time at the lowest unit cost, as originally intended in the Federal Election Campaign Act.

It is my hope that this legislation is signed into law. I fear if this bill becomes bogged down in a conference or if the President vetoes it, we will have missed a rare opportunity to achieve meaningful campaign finance reform. The unprecedented time we have spent debating this issue—and a wonderful debate it has been, fast-paced and unscripted—will not be repeated any time in the near future.

Finally, I want to commend my colleagues from Wisconsin, Senator RUSSELL FEINGOLD. He has been dogged in his pursuit of campaign finance reform. For 5 years now, he has championed this issue, even when it was not always popular with his colleagues. He has forged a potent partnership with Senator MCCAIN and they have waged a campaign across the country and in the Senate to rally the American people for the reform we are adopting today.

While he has been unbending in his desire to move this forward, he has also compromised and adjusted so that we could address the worst abuses of the system. He has earned the respect of all Wisconsinites for his leadership on campaign finance reform.

Mrs. MURRAY, Mr. President, today I am pleased to vote to overhaul our nation’s campaign finance system. The McCain-Feingold legislation represents a great step forward that is long overdue. In recent years, it has become clear that our campaign finance system is broken. There’s too much money in elections. It’s too hard for average citizens
to be heard. Their voices are being drowned out by big-money special interests and wealthy contributors. It’s getting harder for citizens and people who want to run for office. The system is too secretive. There are undisclosed groups giving money and trying to influence elections without any sunshine and no public disclosure. And especially after 9/11, the electoral means to people are wondering if their vote will count. As a result, Americans are cynical about elections and aren’t participating. We need to turn that around.

Ever since I came to the Senate, I’ve fought for campaign finance reform. I’ve consistently voted to get the Senate to debate campaign finance reform. In 1997, I served on the Leadership Task Force on Campaign Reform. In 1998, I offered an amendment for full disclosure, which I think is particularly difficult today. Finally, in the same campaign in 1998, I went above and beyond the legal requirements, and I disclosed everyone who supported me, whether they contributed $5 or $500.

Given the problems in the system, I developed a set of principles for reform that guided my decisions throughout this debate. My principles for reform are: First, there should be less money in politics. Second, I want to make sure that average voters aren’t drowned out by special interests or the wealthy. Third, we must demand far more disclosure from those who work to influence elections. When voters see an ad on TV or get a flyer in the mail, they should know who paid for it. There must be disclosure for telephone calls and voter guides. Citizens have a right to know who’s trying to influence them. We’ve seen a disturbing increase in the number of issue ads, which are often negative attack ads. Too often, voters are left with no idea who’s bankrolling these ads. Voters deserve to know and that is why I have called for far greater disclosure. Fourth, we need to keep elections open to all Americans. We need to ensure that average citizens not just millionaires can run for office. When I ran for the Senate in 1992, the most I’d ever earned was $23,000 a year. I wasn’t a millionaire. I wasn’t a celebrity, but I was able to run for office and win a seat in the Senate because the system was open to anyone. That’s getting more and more difficult today. Finally, we need to make it easier, not harder, for people to vote. We need to make sure that when citizens vote their votes are counted.

The bill now before the Senate makes some progress toward the principles I’ve outlined. I am disappointed this legislation does not go further. Some amendments have strengthened the bill. Other amendments, including raising the limits on hard money, have weakened the bill. The hard-money limit in particular will inject more money into politics at a time when I, and most Americans, want to reduce the amount of money in politics. This bill also has the potential to give a disproportionately larger role in elections to third party organizations. I’d rather see citizens and candidates have a stronger voice than third party organizations.

I know my colleagues recognize that this is a carefully balanced bill. If, at some point in the future, the courts invalidate some portion of this bill, Congress should return to the legislation to restore the balance of fairness in our nation’s elections laws. Campaign finance reform should not be a gift to either party, but should instead return our democracy to its rightful owners, the American people.

Before I close I would like to remind my colleagues that our work on election reform is far from completed. Unfortunately, this bill does nothing to ensure that every citizen’s vote counts in an election, something that is sorely needed in the wake of the Presidential election. If Congress is to truly restore the people’s faith in our electoral system, it must ensure that every vote counts. On that matter, this legislation stands silent.

On the whole, however, this bill is a significant step forward. It should help restore citizens’ faith in our electoral process. It also illustrates the Senate’s ability to address issues of concern to the American people.

I cast my vote in favor of this much-needed reform.

Mr. KYL. Mr. President, I rise to take a few moments to explain why I will oppose S. 27 on final passage. At the outset, however, I want to congratulate my colleague John McCain for bringing this matter to a successful conclusion in the Senate. He has fought long and hard to get to this point.

If this bill becomes law, we know that the Supreme Court will have the final say as to its constitutionality. Few doubt that the bill at least raises issues about the fundamental liberties guaranteed in the First Amendment. Having taken an oath to uphold the Constitution, I cannot vote for a bill I believe the courts are almost certain to strike down. Both the restrictions on issue advocacy contained in Title II of this bill, and the bill’s total ban on soft money contributions to parties are, in my opinion, likely to be declared unconstitutional.

Like the proponents of the bill before us, I believe that it is too difficult to mount a viable challenge to an incumbent Member of Congress; that Members of Congress spend too much of their time raising funds for their campaigns; that voter turnout is lower than it ought to be; and that advertisements by outside groups often drown out the voices of candidates. Worst of all, there is the lingering concern that fundraising campaigns can affect Members’ decisions.

But, whereas the proponents of the bill before us contend that their reforms will promote participation, competition, and disinterested deliberation within our politics, I am concerned that passing this bill, if anything, will have the opposite effect. I am especially concerned about the bill’s adverse effect on our two great political parties, which are the primary targets of S. 27. It is political parties that help challenge the system was open to anyone. That’s why I have called for far greater disclosure for telephone calls and voter guides. Citizens have a right to know who’s trying to influence elections. When voters see an ad on TV or get a flyer in the mail, they should know who paid for it. There must be disclosure for telephone calls and voter guides. Citizens have a right to know who’s trying to influence them. We’ve seen a disturbing increase in the number of issue ads, which are often negative attack ads. Too often, voters are left with no idea who’s bankrolling these ads. Voters deserve to know and that is why I have called for far greater disclosure. Fourth, we need to keep elections open to all Americans. We need to ensure that average citizens not just millionaires can run for office. When I ran for the Senate in 1992, the most I’d ever earned was $23,000 a year. I wasn’t a millionaire. I wasn’t a celebrity, but I was able to run for office and win a seat in the Senate because the system was open to anyone. That’s getting more and more difficult today. Finally, we need to make it easier, not harder, for people to vote. We need to make sure that when citizens vote their votes are counted.

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By causing a contraction of the supply of money available to parties and candidates, this arrangement will lead to either a contraction of political debate or the movement of funds into the coffers of outside single-issue groups. They and the media will take the place of the parties and the candidates in carrying the messages of the campaign.

Again, this is assuming that the Supreme Court upholds a soft money ban.

There are several legal precedents that make this assumption difficult to sustain.

In 1976, in the landmark case of Buckley v. Valeo, the Supreme Court held that restrictions on political donations and expenditures impinge on the rights of speech and association protected by the First Amendment, and, therefore, are subject to the most stringent level of constitutional scrutiny.

In a 1996 case, Colorado Republican Party v. FEC, the Court made it clear that these guarantees extend to political parties, as well as to independent citizens and groups, noting that, as Justice Thomas wrote in a concurring opinion, “political associations allow citizens to pool their resources and make their advocacy more effective, and such efforts are fully protected by the First Amendment.”

It is true that a common manifestation of that protected advocacy is the type of communication that has, not altogether inaccurately, been described as the “sham issue ad.” But the Buckley court anticipated that “the distinction between discussion of issues and candidates and advocacy of the election or defeat of candidates may often dissolve in practical application,” yet insisted that “discussion of public issues and debate on the qualifications of candidates is an integral to the operation of the system of government established by our Constitution.” “The First Amendment,” said the Court, “affords the broadest protection to such political expression in order to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people.”

In light of these holdings, it is difficult to imagine that the courts could find a prohibition aimed at preventing the parties from spending in this type of advocacy to be anything but an infringement on the free speech rights of those organizations. If, as I believe they will, courts strike down these provisions of the bill, and unions, corporations, and other entities are allowed to use unregulated funds for issue advocacy, S. 27’s soft money ban on contributions to parties could give rise to a very plausible equal protection claim.

Of course, activity by independent entities does not fall outside the scope of the bill before us. The proponents of the bill suggest that we who worry about its impact on parties and non-in-
We have to raise the limit on hard money contributions to individual candidates and the parties. The pressure on them has grown exponentially, especially now that we are about to ban soft money.

The Thompson-Feinstein amendment the Senate adopted last Wednesday makes S. 27 possible. It becomes easier for us now to staunch the millions of unregulated soft dollars that currently flow into the coffers of our political parties, and replace a modest portion of that money with contributions that are fully regulated and disclosed under the existing provisions of the Federal Election Campaign Act.

People aren't concerned about individual contributions of $1,000, and I don't think they will be concerned about donations of $2,000. No, what concerns people the most about the current system are the checks for $250,000, or $500,000, or even $1 million flowing into political parties.

These gigantic contributions are what warp our politics and cause people to lose faith in our Government and they must be halted. They give the appearance of corruption.

The Thompson-Feinstein amendment, by increasing the limit on individual and national party committee contributions to federal candidates, will reduce the need for raising campaign funds from political action committees, PACs.

Our amendment, therefore, will reduce the relative influence of PACs, making it easier to replace PAC monies with funds raised from individual donors.

The concern about PACs seems unimportant now, compared with the problems that soft money, independent expenditures, and issue advocacy present.

But we shouldn't dismiss the fact that PACs retain considerable influence in our system.

I represent California, which has more people—34 million—than 21 other States combined. I just finished my twelfth political campaign. For the fourth time in 10 years, I ran statewide. Running for office in California is expensive: I have had to raise more than $55 million in those four campaigns. Soft money, as a percentage of total funding, has more than doubled each election cycle, and the perception that soft money and independent expenditures are making our elections unenticing is rapidly increasing. The result is growing public cynicism towards Congress and its ability to do the right thing here and now.

We have an opportunity here, a rare opportunity, to do the right thing here with S. 27. I hope we don't squander such a precious opportunity.

Mr. BAUCUS. Mr. President, I have long been a supporter of campaign finance reform since 1992. This is not a partisan issue. Soft money has more than doubled for both parties.

My entire State of Montana could fit through the soft money loopholes. The last time Congress considered such a thorough overhaul of campaign finance law was 1974. We thought then that regulations placed on hard money would straighten up the system. Instead, the use of soft money to the parties and groups has exploded. We've all heard this number over these days of debate, but I think it warrants being mentioned again: Last year's election parties collected a record $490 million dollars in soft money. That's obscene.

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With $490 million, school construction projects could be completed so our kids aren’t learning in overcrowded classrooms. With $690 million, we could move towards implementing a prescription drug benefit. Let’s straighten out our priorities and have folks contribute instead to the projects that really need it.

The problem we’re really facing is how grey the campaign finance laws have become. McCain-Feingold, as amended, would make them black and white. Just take issue advocacy advertising as an example. In the last couple campaigns, the lines have been blurred between express advocacy, which requires federal disclosures, and issue advocacy.

We can all recall advertisements in our own state that just barely skirted the lines that the balance and fair disclosure is necessary—one that closes the loopholes. I supported the original bill language that would ban “grey” issue advocacy ads that fall within 60 days of the general election or 30 days of a primary and set specific corporate and labor advertising as an example. In the last couple elections, the lines have been blurred between express advocacy, which requires federal disclosures, and issue advocacy.

A new, clear definition of issue advocacy is necessary—one that closes the loopholes. I supported the original bill language that would ban “grey” issue advocacy ads that fall within 60 days of the general election or 30 days of a primary and set specific corporate and labor advertising as an example. In the last couple elections, the lines have been blurred between express advocacy, which requires federal disclosures, and issue advocacy.

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Now, there is one area where I differ with McCain-Feingold, and that is in my support for a non-severability clause. The bill, as it now stands, is fair and balanced legislation. Non-severability is the only tool available to close the loopholes. I supported the original bill language that would ban “grey” issue advocacy ads that fall within 60 days of the general election or 30 days of a primary and set specific corporate and labor advertising as an example. In the last couple elections, the lines have been blurred between express advocacy, which requires federal disclosures, and issue advocacy.

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I applaud Senators McCain and Feingold for continuing to raise this issue. I believe that we can pass a comprehensive bill and achieve true, bipartisan campaign finance reform.

Mr. NELSON of Florida. Mr. President, I rise today to express my belief that the campaign-finance reform legislation we have before us addresses one of the most important issues facing our nation. It affects the interests of special interests and the enormous amount of money required to effectively run a modern political campaign have created a rift between the Congress and the American people.

The fact is, our political system today is dominated by huge contributions to the national parties of “soft money.” Sometimes, these donations circle around the parties and flow through other avenues that lack public disclosure under the guise of issue advertisements. These large donations and suspect advertisements have cast a cloud of doubt over the entire political process. And this doubt has caused many Americans to lose faith in the system.

Mr. NELSON of Nebraska. Mr. President, I rise today to express my opposition to the McCaин-Feingold bill. To be clear, I am not opposed to the impetus behind this legislation, which is to reform our current campaign finance system. I concur with my colleagues—who support this bill—that the present system is inadequate and inherently flawed. But, unfortunately, this is where our parallel viewpoints diverge.

As I present the campaign finance system is imperfect. I believe that the McCaин-Feingold alternative to that system is even more so. This legislation, once enacted, likely will hurt the status quo more than it will help. And, ultimately, I predict it will foster campaign finance regression, rather than institute campaign finance reform.

From the beginning, I have worked with my colleagues to negotiate a more fair and balanced package that, I believe, would have achieved thorough reform. Key parts such as the Hagel amendment on soft money contributions and the amendment on non-severability are not included in this final bill. Had they been included, these amendments would make the legislation much more effective and comprehensive, and consequently, much more likely to receive my support.

To be fair and consistent, certain aspects of this final bill are laudable and do have my support. I am pleased that the Snowe-Jeffords provision and the Hagel amendment regarding disclosure are included. Increased accountability and transparency for special interest groups are important to the overall reform effort. Moreover, the Wellstone amendment, which extends the Snowe-Jeffords provision to independent advocacy groups, will help remove the facades behind which these groups hide. For too long, special interest groups have funded so-called issue ads whose main objective is to distort the facts. It is encouraging that this bill, as amended, confronts that issue.

The ability of state parties to carry out traditional activities, such as voter registration, is another issue addressed by the Levin amendment, which I was pleased to join as an original co-sponsor. State and local candidates rely on get-out-the-vote efforts and voter registration activities which are usually funded by the state party. Since this campaign finance reform bill, prior to the Levin amendment, would have severely limited state parties, it became apparent that we needed to ensure that such crucial activities are not abolished as well. Without question, I am encouraged by the inclusion of this amendment. It, and the ones regarding increased disclosure, are definitive steps in the direction of genuine campaign finance reform.

That being said, any ground gained by these steps is lost through the ban on soft money and the defeat of the non-severability clause. McCain-Feingold would pass soft money contributions only to the national parties. As I have said before, this measure is ineffective, an ultimately unproductive. The soft money ban in this bill will likely be more of a temporary road block than a true dead end. I believe that eventually soft money will find a detour, and it will flow into federal elections from another direction.

A more realistic approach to the unfettered flow of soft money that pollutes our current campaign finance system, would have been to include the Hagel amendment, which would have capped soft money contributions at $60,000. The Hagel measure was pragmatic and essential to real reform. In the absence of the Hagel provision in the final bill, we are left with a plan that falls short on efficacy and long on futility.

Without the inclusion of a cap, instead of a ban on soft money to national parties, my support for this bill declined, but the nail on the coffin, so to speak, was the defeat of the severability clause. The non-severability
The one silver lining in the legislation is that it will give expedited judicial review by the Supreme Court of challenges to the constitutionality of the bill. The Court will address the constitutional issues and then make a determination of the constitutionality of the bill's controversial provisions. Because the Court will have a more direct and definitive determination of the constitutionality of many of the bill's controversial provisions.

Let me say again that I commend and respect the authors of this legislation for their attempts to address a troubling and unfortunate public perception about our political system. However, we also must respect the freedom of speech granted to every American by our Constitution. While the bill may alter or change our system of campaign finance, I think it will do little in actually reform it or making it better. In fact, McCain-Feingold, if passed and enacted into law, will, in my opinion, exacerbate the very problems that it seeks to solve.

The primary provision of McCain-Feingold essentially bans soft money by making it unlawful for national political party committees and federal candidates to solicit or receive any donations or contributions from labor unions or corporations. The restrictions on political party speech are already ameliorated by standards prescribed by the Supreme Court, which in my opinion Congress has failed to do. Government has no business and no interest in banning the opinions of business or labor. They are already prohibited, and I bet most Americans do not know this, from directly contributing to candidates. This is important because the possibility of bribery, and even the appearance of a quid pro quo, is already ameliorated by law. Therefore, no justification exists for censoring the opinions of corporations and labor unions that this provision mandates. It too violates the Constitution's free speech requirements.

I believe there is also an equal protection problem in that the media is treated differently from Snowe-Jeffords. Now, let me say that I love the media, as I do any institution that brings knowledge to the American people. But the media should not have more rights to free speech than any other group, and Snowe-Jeffords gives the media a monopoly. Some Americans feel that the media is already all-powerful. Personally, I think this is an exaggeration. But if this bill passes, they very well might be.

I have often said that I am an advocate of Oliver Wendell Holmes' view of free speech as a competition in the market place of ideas. The remedy of the wealthy and powerful buying speech is not censorship. This is not what the American way. The remedy is more speech. We Americans have always banded together and pooled our money to compete. Joining is the American way. Banning is not. Let's have competition, no censorship. That is the real problem exists within our system of government. That problem, the real problem, is that people feel detached and disassociated from their government. They feel that.
others, whomever they are, the rich, the special interests, labor, business, must tune the so-called “reform” song to their leaders and more influence with them. The American people want more. They want more access, more accountability, more of a say in the decisions that effect their daily lives.

I suggest the solution is not making it more difficult for people to get involved in politics. It’s not shutting down the parties, which represent the most accessible means for most people to engage in political activity. Real finance reform will only come when the size of the federal is reduced. Until that happens, there will be a powerful incentive for special interests to seek a piece of the federal pie. Real campaign finance reform is passing a tax cut so that the people will be able to spend their own money instead of big government spending their money on behalf of special interests. That is what I have fought for in my 25 years of public service in the Senate.

My esteemed colleagues from Arizona and Wisconsin have spent countless hours doing what they believe is the right thing, their efforts are laudable. I sincerely applaud them for the work that they have put into this debate. However, I must vigorously disagree with their solution. More speech—not less—is the answer. I believe that the correct way to solve the problem is to lift the limits on contributions; increase disclosure, and stiffen the penalties.

Unfortunately, my attempts to increase disclosures by corporations and labor unions were defeated, probably because of the pressures by the same special interest labor unions, that the authors of this legislation wanted to address. But today, instead of advocating these policies, I must oppose the McCain-Feingold bill. I must attempt to turn the so-called “reform” movement away from the very dangerous path down which it is now proceeding. Hopefully, at some point, we can discuss some real, and I must say Constitutional alternatives.

Let me focus on Title I of the McCain-Feingold and describe why I believe the bill is likely to have constitutional challenges. Title I of the McCain-Feingold is labeled “Reduction of Special Interest Influence.” Indeed, this is the primary intent of the entire bill—to diminish the “influence” of so-called “special interest groups.” While I cannot fault the bill’s supporters for their genuine efforts, I do not believe that the bill effectively solves the problem that it is intended to address. McCain-Feingold will increase the influence of special interests, and it will do so by effectively ruining the political parties. I will not support McCain-Feingold, in part, because it, in my opinion, intentionally suppresses the voices of the political parties.

In its effort to regulate “soft money,” McCain-Feingold has two dramatic adverse effects on political party activity. First, it dramatically limits the issue advocacy, legislative, and organizational activities of political parties. Second, it imposes federal election law limits on the state and local activities of national political parties.

It is important to recall the U.S. Supreme Court’s comment in Colorado Republican Party v. Federal Election Commission that “[w]e are not aware of any special dangers of corruption associated with political parties. . . .” Political parties are merely the People associating with others who share their values to advance issues, legislation, and candidates that further those values. When they do these things, they are just doing their historical job as good citizens. The notion that they are somehow corrupt for doing so is both strange and constitutionally incomprehensible.

Let me first describe the beneficial role of political parties in American democracy. I don’t need to tell any of my fellow Senators what political parties do or how they do it. Nor do I need to tell them that the focus of political parties is to win elections. They also already know how the parties go about winning elections. For the most part the parties do it by spending money. They spend their money—their own money—to promote their views and convince others of them. They fund activities like voter registration drives, get out the vote activities, and advertising.

Political parties have many beneficial effects on American democracy. The Senate recognized their importance when it passed the FECA in the mid-1970s and expressed its desire to strengthen political parties. The Committee Report accompanying FECA observed then that “a vigorous party system is vital to our democratic process.” It was true then, and it remains true today. The Committee Report noted that parties perform “crucial functions in the election apart from fund-raising.”

In our country, while one man has one vote, inevitably citizens will gather to pool their votes into blocks. It has always been this way, and it will continue to be so regardless of whatever legislation we pass. The problem with these interest groups or voting blocks is that they focus on their own very narrow interests and not on what is best for the country at large.

James Madison identified these groups as “factions.” He noted in The Federalist 10 that there are no means of controlling the “evils of faction that are consistent with liberty. The only way to eliminate faction is to eliminate liberty, which is worse than the disease” of faction.

Madison’s solution to the problem presented by factions—embodied in the Constitution—was to create a system that pitted interest groups against each other and so as to bring the best ideas to the top. The sheer size of the new republic—and its subsequent growth—created the need for participants to engage in political debate. As a result, regional and other interest groups balance each other out to an extent. Political parties continue this process of moderation.

Parties moderate special interests because they must appeal to the entire nation. You will recall that the goal of parties is to win elections. They can only do this by laying out broad policy platforms that will appeal to wide groups of people. They offer a broad and encompassing vision of governance. Party leadership has to craft a message that will allow its candidates to win election in all 50 states. Contrast the role of parties to special-interest groups, which only want to pursue narrowly defined legislation. Leadership is not seeking to win elections in states throughout the union, but typically only the passage of a narrow set of legislation.

Allow me to add that I am not dispensing with these special interest groups. They play an extremely crucial role in our democracy as well. They are not the problem, as they are essential to our democracy. They heighten the public’s and Congress’ awareness of key issues. They have a role to play, but so do the political parties. I do not want to favor one over the other, and that is what McCain-Feingold will do. No soft money for political parties, but unlimited amounts to special interest groups.

However, political parties are not just about electing candidates, particularly federal ones. Political parties constitute a vital way by which citizens come together around issues and values expressed in the planks of their party platforms at all levels of government. Parties advocate these issues in the public forum in addition to lobbying for legislation and engaging in efforts to elect candidates. Parties are just as focused on the promotion of issues as are ideological corporations, such as the National Right to Life Committee or The Christian Coalition of America, and labor unions, such as the American Federation of Labor and Congress of Industrial Organizations, although they do a broader spectrum of issues. McCain-Feingold ignores this reality and treats political parties as simply federal candidate election machines.

Now, the big point the supporters of McCain-Feingold make in support of the soft money ban is that large contributions to political parties create undue influence or an appearance of impropriety. This is not even a gross exaggeration. It is simply wrong.

Philip Morris, the largest donor to the Republican National Committee during the 1998 cycle, gave approximately $2 million in soft money, but this represented less than 1 percent of
the total that the Republican National Committee raised. Similarly, the Communication Workers of America, the Democratic party's largest soft money donor, gave $1.5 million to the Democratic National Committee, but this too represented less than 1 percent of its total.

It doesn't make sense to conclude that an entity that contributes less than 1 percent of a party's funding could have any significant effect on the party's policies. The parties must keep in mind the goals of the other interests to which they also have to appeal. A more likely explanation for the largesse is that the donors to both parties support the policies they already espouse.

I would also like to note that whatever influence a large donation made to a party to party grants the public and, yes, I am pragmatic enough to realize that it does grant the donor a certain amount of access, the effect of donations is diluted among all of the party's elected officials, the 200 plus Senators and Representatives in either party. Also, because soft money donors cannot direct to which candidate or race their money should flow, they sometimes support losers. I make these points to demonstrate that soft money donations are greatly diluted and do not pose the same "appearance of corruption" that direct contributions to candidates do. Importantly, the Supreme Court has clearly stated that First Amendment rights can only be regulated where there is corruption or an appearance of corruption.

As is apparent, McCain-Feingold will dramatically weaken political parties. In the last election cycle, the Democratic Party raised $243 million in soft money, or 35 percent of its total. The Republican Party raised $241, 35 percent of its total. Under McCain-Feingold, the parties would lose this important source of funding, and this shortfall could not be filled by simply wishing into existence more hard money. It can't take a Fields Award winner in math to determine that this kind of reduction will dramatically hinder the parties' ability to effectively deliver their messages. Such a ban would accordingly weaken the ability of the parties to participate in the public debate, while simultaneously enhancing the relative power of special interest to dominate that debate. I believe that McCain-Feingold will effectively end the system of two-party government that we now know. And this system has brought remarkable stability to the United States.

Political parties already complain that interest group spending threatens to marginalize parties as interest groups control the agenda, crowd out political party commentary, and confuse the electorate. A ban on political party soft money would exacerbate this situation. Voters would have a less clear idea of the party agenda, and parties would find it more difficult to translate election returns into policy gains. Effective government would suffer.

Parties fill a vital role in our political system. In the Information Age, narrow, specialized interest groups have an easier time of forming and organizing themselves. In times like these, we need to maintain the party system rather than weaken it, as McCain-Feingold will do.

Let me highlight why McCain-Feingold is unconstitutional as it relates to political parties. Let me begin by asking a question, "if individuals and narrow interest groups enjoy the basic First Amendment freedom to discuss issues and the position of candidates on those issues, how can political parties, which does not expressly advocate the view that are necessarily tempered and diffused, be deprived of the right to engage in such issue advocacy?" My answer is simply that they should not be deprived of their rights.

I note at the outset of this analysis that political speech and association are at the heart of the First Amendment protections. As the United States Supreme Court declared in Buckley, "the constitutional guarantee of the First Amendment, has its fullest and most urgent application precisely to the conduct of campaigns for political office. The Court has also stated that free expression in connection with elections is "at the core of our electoral process and of the First Amendment freedoms." [Williams v. Rhodes, 393 U.S. 23, 32 (1968).] Thus, as the Supreme Court noted, "there is practically universal agreement that a major purpose of the First Amendment was to protect the free discussion of governmental affairs including discussions of candidates." [Mills v. Alabama, 384 U.S. 214, 218 (1966).]

Efforts by Congress, the FEC, and state election commissions to regulate issue advocacy have been repeatedly and consistently rebuffed by the federal courts as violations of the First Amendment right to free speech. No fewer than the two dozen court decisions have made clear that interest-group advertising or pamphleteering that does not expressly advocate the election or defeat of a candidate cannot, consistent with the First Amendment, be subject to contribution or expenditure limits, or even reporting limits. Yet this is exactly what McCain-Feingold seeks to do.

In Buckley v. Valeo, the Supreme Court ruled that restrictions on political giving and spending interfere with political debate. Such restrictions survive under the First Amendment only if justified by a compelling government interest in preventing corruption or the appearance of corruption. Those restrictions must also be narrowly drawn to achieve that interest. Soft money cannot, under current law, be used by political parties to expressly advocate the election or defeat of a candidate. Rather, it is used in large part for issue advocacy, which the Supreme Court and numerous lower courts have helped may not be regulated. Thus, McCain-Feingold inhibits the ability of political parties to engage in issue advocacy by restricting the resources available to them. Thus, it infringes on the political parties' right to free speech.

However, proponents of abolishing "soft money" argue that this is simply a "contribution limit." The fallacy of that argument, of course, is that the Supreme Court has justified contribution limits only on the ground that large contributions directly to candidates create the reality or appearance of quid pro quo corruption. Soft money contributions are not contribution to candidates.

Indeed, the proposed ban on soft money contributions cannot be justified on the theory that political parties corrupt federal candidates, which the Supreme Court has already rejected. In Colorado Republican Fed. Elec. Comm. v. FEC, the FEC took the position that independent, uncoordinated expenditures by political parties ought to be treated as contributions to the benefited candidate. Such treatment would have resulted in allowing individuals, candidates, and political action committees to spend unlimited amounts of money on independent expenditures to advocate the election of a candidate, while limiting the amount a political party could spend for the same purpose.

The Supreme Court disagreed with the FEC, noting that "[w]e are not aware of any special dangers of corruption associated with political parties" and, after observing that individuals could contribute "political parties, $20,000, than to candidates, $1,000, and PACs $5,000, and that the "FEC permits unregulated 'soft money' contributions to a party for certain activities," the Court concluded that the "opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated." The Court continued in this vein with respect to the FEC's proposed ban on political party independent expenditures, which has direct application to McCain-Feingold ban on soft money contributions.

Rather than indicating a special fear of the corruptive influence of political parties, the legislative history of the Act demonstrates Congress' general desire to enhance what was seen as an important and legitimate role for political parties in American elections.

We therefore believe that this Court's prior case law controls the outcome here. We don't see how a Constitution that grants to individuals, candidates, and ordinary political committees the right to spend unlimited independent expenditures could deny the same right to political parties.
The concurring justices also found little, if any, opportunity for party corruption of candidates because of their very nature.

The Supreme Court found in the MCFL case that the prohibitions on corporate contributions and expenditures could not be constitutionally applied to non-profit ideological corporations which do not serve as a conduit for business purposes. Fed. Election Comm. v. Mass. Citizens for Life, Inc., 479 U.S. 238 (1986). Similarly, political parties similarly pose no risk of corruption because people give money to parties precisely because they support what the political party stands for.

A contribution to a political party is for the purpose of enhancing advocacy of the issues the party represents. Any individual unhappy with the use of the money may simply quit contributing and leave the political party. In sum, the threat of corruption cannot justify a limit on issue advocacy and, even if it could, political parties pose no threat of corruption to their candidates.

In sum, in Colorado Republican Fed. Election Comm., the Supreme Court found that, just as independent expenditures of interest groups pose no danger of corrupting candidates, neither do those of political parties.

A second constitutional infirmity with McCain-Feingold results from the proposed unequal treatment of political party speech in relation to speech of other entities. Whereas non-party group may use funds that it collects from its members to engage in issue advocacy, McCain-Feingold would excessively regulate and burden political party issue advocacy.

The final constitutional defect of McCain-Feingold is its prediction that political parties is its insult to the federalist system. Under a provision of the bill, state and local parties are directly affected by the party soft money ban as a result of the bill’s exceedingly broad definition of “federal election activity”, which governs political party expenditures if even a single federal candidate appears on the general election ballot, no matter how many state and local candidates also appear on the ballot.

In simpler terms, under McCain-Feingold, in those even numbered years in which typically federal congressional elections occur, state and local parties may only use federally regulated hard money for: Any voter registration within 120 days of the election; All voter identification, get-out-the-vote or “generic campaign activity” before the election. The bill defines “generic campaign activity” as “an activity that promotes a political party and does not promote a candidate.” Thus, it would even include yard signs that say “vote Democrat” or “support the GOP.” Any TV, radio, newspaper, magazine, billboard, mass mailing, telephone bank, leafleting or other “public communication” that mentions a candidate for federal office—whether or not it also mentions a candidate for state or local office. The entire salary of any state, district or local party employee who spends 25% or more of the employer’s compensated time in a chronic manner of the above activities, or any “activities in connection with a Federal election”:

This constitutes an unprecedented federalization of the most basic party-building functions engaged in by state and local party committees.

Forty-five states hold elections for state and local candidates only during the even numbered years that federal elections occur. The only states that do not are Virginia, Kentucky, Louisiana, and West Virginia. Consequently, for these 45 States, State and local party mechanisms become entirely federalized and subject to federal regulatory authority. Imposition of federal contribution limits on party activity is thoroughly regulated by state campaign finance laws.

The money spent on elections has consistently increased over the years, and no one believes that McCain-Feingold is going to reverse this trend. Rather than stop soft money, the bill will simply move it into other channels, ones that are more opaque, less accountable, and represent narrower interests than do the national parties.

What do you suppose the result of this bill will be? As the New York Times article, entitled, “Big Donors Unfazed by Prospect of Soft Money Limits,” dated March 24, it was reported that if Congress banned party soft money, most big donors would evade the ban by writing big checks to advocacy groups allied with candidates and the national parties as a way to get their pet projects and issues before the public.

The problem with such a result is that these non-party groups are completely unregulated, as they should be. We cannot constitutionally compel them to disclose their activities, and so citizens will have no way of knowing who is actually behind the efforts. This genie gets away with unintended effect of McCain-Feingold. Money will be more hidden, and people will feel less responsible for their democracy, as they have no control over these groups as they do over the parties. Despite the fact that it is undoubtedly inevitable is nevertheless practically inevitable.

It is important to remember, that soft money donations to political parties do not go unregulated, as Bobby Bitchfield noted in the Senate Rules Committee hearings on Campaign Finance last year. First, with receipts and disbursements of soft money by political parties are currently reported to the FEC, and are available on the Internet. Second, much of the activity financed by soft money is regulated by state election laws. Finally, political parties cannot use the soft money they raise—nor can candidates—to advocate the election or defeat of a candidate for federal office.

Let me conclude with wholeheartedly agreeing with these observations of Alan Reynolds of the Manhattan Institute. I quote.

On the face of it, the McCain-Feingold obsession with “soft money” looks risky. Soft money accounts for less than 16 percent of federal campaign expenditures according to Common Cause. And campaign expenditures do not include important ways of influencing policy, such as lobbying and issue ads. Lobbying cost $2.7 billion in 1997-98, according to the Center for Responsive Politics (Common Cause counted soft money collections of merely $130 million during those years. Lobbyists would be wise to lobby for a ban on soft money, because they would then have even more clout and more money.

Everyone in Washington knows who the most politically influential interest groups are, and most of them do not even appear on lists of top soft money donors. Fortune asks lawmakers and congressional staffers to name the most politically influential organizations. In 1999, the top 10 were the AARP (American Association of Retired Persons), the NRA (National Rifle Association), the National Federation of Independent Business, the American Israel Public Affairs Committee, the AFL-CIO, the Association of Trial Lawyers, the Chamber of Commerce, the National Right to Life Committee, the National Education Association and the National Restaurant Association. What gives most of these groups political clout is not contribution to politicians, but their ability to influence policy, such as old-fashioned lobbying, public policy advertising, and in some cases (such as AARP, the NRA and the AFL-CIO) the ability to influence large numbers of people...—Alan Reynolds, “The Economics of Campaign Finance Reform,” The Washington Times, March 22, 2001.

I believe, no, I know, that we are not a corrupt body. The United States Senate is made up of fine and exemplary men and women, with whom I am proud to associate. I also know that Americans are able to discern the truth of political matters; and that more speech, not less, will allow them to make the most informed decision. Finally, I know that the American people should be able to give money in support of whatever cause they choose. Whether it’s a group of 10,000 or a single person, their right to speak should be unfettered. I urge my colleagues to vote against this bill.

Mr. DASCHLE. Mr. President, Mark Twain once noted that politicians’ biggest objection to “tainted” money is, “taint’m mine.” My colleagues, today we stand on the verge of proving that saying wrong.
In the last two weeks, we’ve achieved some things in this Senate that few people thought, going into this debate, were possible.

We have had a real debate. We have reached bipartisan agreements. We have stood together, Republicans and Democrats, and rejected amendments that would have made this bill unworkable.

And we have accepted amendments that improve the bill. Thanks to the hard work of Senator WELSTONE, we broadened the Snowe-Jeffords provision to bar sham issue ads so that all outside groups are treated equally.

Thanks to the hard work of Senators TORRICELLI, CORZINE, DURBIN and DORGAN, we lowered the cost of campaigns by ensuring that the stations that enjoy the benefit of federally licensed airwaves give candidates the lowest unit cost for their political advertisements.

Thanks to the hard work of Senator SCHUMER, we put new teeth into the unit cost for their political advertisements by ensuring that the stations that enjoy the benefit of federally licensed airwaves give candidates the lowest unit cost for their political advertisements.

Moreover, we turned back destructive amendments aimed at silencing the voices of working people.

I will be honest, this bill is not perfect.

It now includes increases in the amount of hard money that may be contributed to candidates and parties. I believe we must reduce the amount of money in politics—no matter the form. Still, I supported this amendment reluctantly, and only because it allowed this bill to move forward, and to reach this important vote.

The bill also includes an unworkable scheme for financing opponents of wealthy candidates that, in my view, favors incumbents and unwisely multiples the amount wealthy individuals can contribute to candidates.

These flaws are not insubstantial, but the benefits of this bill far outweigh them. And when it comes to an issue as central to our democracy as the trust people place in their elected officials, we cannot let the perfect be the enemy of the good.

And make no mistake this is a good bill.

We owe that to the stewardship and commitment of Senators MCCAIN and FEINGOLD. Throughout these last two weeks, Senators MCCAIN and FEINGOLD have shown the same steadfast leadership that brought us to this point.

They have refused to compromise the essential components of their bill in face of incredible pressure from all sides.

And they have acted in the national interest rather than their respective partisan interests.

I thank them for their service to our republic and to this Senate.

As a wise man once said on another occasion: “We cannot escape history.” This is a critical moment in our nation’s history.

What we do will be remembered for years to come.

Success is within our reach. Let us remain united. Let us pass this final test. Let us take the power away from the special interests and give it back to the American people, where it belongs.

We can do it. The time is now.

Mr. THURMOND. Mr. President, I rise today to express my opposition to S. 27, the so-called Campaign Finance Reform bill. My opposition is based on three conclusions I have reached regarding this measure. First, the legislation is unconstitutional; second, the legislation will hinder rather than encourage citizens from participating in the political process; and third, the legislation will push more political money into the shadows of undisclosed special interest spending.

This bill, on its face is unconstitutional on at least three counts. The measure restricts free speech, the right of association, and the right of persons to petition their government for redress of grievances.

The underlying premise of their campaign finance reform legislation is the proponents claim that there is too much in political campaigns, and the increasing reliance on and influence of third-party interests groups. While there is a legitimate concern regarding the fairness of elections and the need to eliminate the actual or perceived buying and selling of elections, this bill takes the wrong approach.

To address concerns of the reality or appearance of improper influence stemming from candidates dependence on larger campaign contributions, a number of campaign and election reforms were enacted during the 1970s. These reforms imposed limits on contributions, required disclosure of campaign receipts and expenditures, and set up the Federal Election Commission, FEC, as a central administrative and enforcement agency. This framework has been upheld by the Courts and works well. Campaign contributions and expenditures are fully reported, giving all voters the opportunity to know the basis of support of a particular candidate.

I supported the amendment to raise the limit of campaign contributions. The increase in the limit was appropriate, given the limit was established 1974, and inflation has lessened the value of the 1974 dollar to about 35 cents. More importantly, regulated and disclosed contributions of a reasonable amount assist candidates in publicizing their message. Democracy can only be preserved by more political discussion and participation. Yet, supporters of this bill apparently seek to reduce political funding and associated political discourse.
The bill’s limitations on political expenditures are similar to prior expenditure limits set down by the Supreme Court’s landmark Buckley v. Valeo ruling [424 U.S. 1 (1976)]. In that case, the Supreme Court invalidated limitations on independent expenditures, on candidate expenditures from personal funds, and on overall campaign expenditures. These provisions, the Court ruled, placed direct and substantial restrictions on the ability of candidates, citizens, and associations to engage in protected First Amendment rights.

The legislation that will likely be adopted by the Senate includes limitations on independent groups who wish to publicize and advocate their positions on matters of public policy. Attempts to regulate political speech, even if party support for limited disclosure, will have a chilling effect on issue-oriented speech.

The bill restricts the right of citizens to associate and coordinate their activities as a political party. The limitations on party funding and activities extend to voter registration drives, get-out-the-vote drives, and public communications, including advertising, mass mailings and phone banks.

The purpose of political parties is to identify and elect candidates who support policy choices shared by members of the party. Members of political parties have a constitutional right to gather together and to petition their government for the redress of grievances. The pending legislation restricts the ability to associate, to raise needed funds for legitimate party activities, and to adequately publish the message of the party. Again, this impedes political participation and only helps incumbents maintain their advantage in the electoral process.

The bill will have the consequence of pushing political spending from the regulated and disclosed “hard money” side into the unregulated, undisclosed world of third-party independent expenditures. I do not believe this measure will reduce the amount of money spent on campaigns. But I do fear it will result in candidates losing control of their own campaigns. As direct candidates and party support for limited disclosure, I believe there will be a move by independent groups to exercise their constitutional right to speak on political matters. Candidates and parties will be left defenseless against the onslaught of such advertising. This will likely result in less open political discourse, and an increase in the “noise” level of attack ads and unsubstantiated political claims.

My campaign days are over. I have no personal interest in the manner in which campaigns will be financed or run in the future. But I do have an interest in defending the liberty and constitutional rights of my constituents.

This legislation restricts those rights and will discourage their participation in the public policy process.

For these reasons I will not support final passage of S. 27. I express my appreciation to the Senate, for the manner in which the debate has been conducted. In particular, I thank the Chairman of the Rules Committee, Mr. McCONNELL, for his leadership in protecting the Constitution and defending the rights and liberties of all Americans.

Mr. DODD, Mr. President, I yield for the balance of my time to Senator Schumer.

The ACTING PRESIDENT pro tempore, The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, we have had a full two week debate on the Bipartisan Campaign Reform Act of 2001. It has been a good debate, and the bill has been improved and perfected in many respects. Thirty-eight amendments were offered, and 17 were adopted. Our vote this evening will be the 27th roll call vote of the debate. All Senators have an opportunity to make a mark on the bill, and I think the Senate and the country have benefitted from this full and fair debate.

The sponsors and supporters of the bill have done everything we can to address legitimate concerns about its provisions. In some cases, amendments were offered and adopted, in others, sections of the bill were dropped. Still, this is a complex area of the law, and we know that questions remain about how certain provisions are intended to work. We want to try to answer as many of those questions as we can.

Mr. MCCAIN. Mr. President, two weeks is a long debate in the Senate. I want to thank all my colleagues for their participation and their cooperation. We hope that many of the questions that might arise about the intent of our bill have been answered in this extraordinary exchange in which so many Senators have taken part. But other questions will undoubtedly come up. To the extent we can anticipate those questions, we want to make sure that our intent is clear.

I therefore ask unanimous consent on behalf of myself, Senators THOMPSON, LIEBERMAN, JEFFORDS, LEVIN, SNOWE, SCHUMER, COCHRAN, COLLINS, CANTWELL, EDWARDS, and DURBIN, that a document entitled Statement of Supporters of the Bipartisan Campaign Reform Act of 2001 Concerning Intent of Certain Provisions be printed in the RECORD.

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

STATEMENT OF SUPPORTERS OF THE BIPARTISAN CAMPAIGN REFORM ACT OF 2001 CONCERNING INTENT OF CERTAIN PROVISIONS

As supporters of S. 27, the Bipartisan Campaign Reform Act of 2001, we want to make clear our intent with respect to certain questions that have been raised concerning the effect and operation of the bill. We intend this statement to be guidance for our colleagues in the House, the Federal Election Commission, and the courts.

New section 323(c)—We intend that this restriction on the raising of non-federal money by the parties, their officials, or entities controlled by the parties or allowed to use their tax-exempt organizations should only apply to 501(c) organizations that have made or intend to make disbursements in connection with Federal election activities as defined by the bill. Thus, charitable contributions to groups like the Red Cross are not restricted as long as those groups do not use money donated by Federal candidates for election activities. Furthermore, the 527 organizations referred to in new section 323(d)(2) are not intended for Federal campaigns, and the restrictions that have been raised concerning the raising of non-federal money applicable to 527 organizations will not apply to political activities that have been raised concerning the raising of non-federal money applicable to 527 organizations.

The definition of “Federal election activity” in section 101(b) was modified by the Specter amendment. That amendment is intended to provide that if subclause (iii), which describes a certain type of public communication, is held to be unconstitutional, then an additional limitation on that type of public communication is to be added, narrowing the reach of the definition.

New section 203(b)—We intend that the new section 304(d) added by section 103(a) of the bill are not intended to apply to authorized campaign committees of state or local candidates whose only expenditures on Federal election activities do not refer to a Federal candidate.

Only direct costs of producing and airing electioneering communications is intended to be included in determining whether a person reaches and $10,000 aggregate amount of disbursements in a Federal election cycle, an ad that appears within 60 days of an election and mentions only the second Senator for that state is not an electioneering communication, even though the second Senator is also technically a candidate for election some years hence.

With respect to the requirement that an advertisement be targeted to the electorate of the candidate who is running for election in that two-year cycle. Therefore, if one Senator is up for election in a year, an ad that appears within 60 days of an election and mentions only the second Senator for that state is not an electioneering communication, even though the second Senator is also technically a candidate for election some years hence.

The reference to a clearly identified candidate is intended to mean a candidate who is running for election in that two-year cycle. Therefore, if one Senator is up for election in a year, an ad that appears within 60 days of an election and mentions only the second Senator for that state is not an electioneering communication, even though the second Senator is also technically a candidate for election some years hence.

The references to a “true issue ad” and “independent expenditure” were intended to allow for a small number of ads in “true issue ads” that happen to be traveling in the state where a true issue ad is run. Therefore, if one Senator is up for election in a year, an ad that appears within 60 days of an election and mentions only the second Senator for that state is not an electioneering communication, even though the second Senator is also technically a candidate for election some years hence.

The references to a “true issue ad” and “independent expenditure” were intended to allow for a small number of ads in “true issue ads” that happen to be traveling in the state where a true issue ad is run. Therefore, if one Senator is up for election in a year, an ad that appears within 60 days of an election and mentions only the second Senator for that state is not an electioneering communication, even though the second Senator is also technically a candidate for election some years hence.

A communication that mentions candidate names only by announcing or promoting a non-partisan candidate debate or forum is not intended to be considered an electioneering communication.

The Snowe-Jeffords provision is intended to have no effect on the determination by
the Internal Revenue Service of what kinds of activities tax-exempt organizations are permitted to engage in under the Internal Revenue Code.

John McCain; Russ Feingold; Thad Cochran; Carl Levin; Fred Thompson; J. Larry Johnson; Olympia Snowe; Chuck Schumer; Maria Cantwell; Dick Durbin.

Mr. FEINGOLD. Mr. President, I rise to reflect on the road this legislation has traveled, and thank the many Members of this body, past and present, who have helped to bring us to this moment.

It has been a long road to this moment, and we wouldn’t even have begun this journey without the tenacity, dedication and the courage of my good friend from Arizona. He is a great legislator, a great leader, and, above all, a great American.

But this bill, however modest, is also monumental. This is the best chance we have had in more than two decades to rebuild the election laws that have been nearly washed away by the influx of soft money. The system that came from the Federal Election Campaign Act, and was altered by the Buckley decision, has never been perfect, and I am sure it never will be. But the system once served the Nation well, and it can be reformed to serve the Nation well again if we pass the legislation before us.

When we stand in this Chamber, we all know that what we say here, and how we choose to cast our votes, becomes a part of the record. All of us have that privilege, to be a part of that history, to add our own words to that indelible record of democracy. We have that privilege because the American people sent us here to be stewards of this system of government. The record is the testament to how well we fulfill that duty, and today I think the record will reflect that we served the people.

In this moment, we can show the American people that we are the Senate they want us to be, and the Senate they want to put this legislation and put our lasting mark on the record of democracy, for ourselves and, most of all, for the people we serve.
Mr. President, this is a rare moment. I hope this body will seize this opportunity to enact real reform. My colleagues, I thank you for your support and for your work, and I especially thank the people of Wisconsin for supporting me throughout this effort. I thank my very able staff for their work.

My colleagues, I ask all of you now to vote in favor of this bill, S. 27, on final passage.

I yield the floor.

Mr. DODD. Mr. President, I yield for the Senator from Michigan, Mr. LEVIN.

Mr. LEVIN. Mr. President, it is now time for the Senate to step up to the plate, as we open this baseball season, to do what needs to be done—to bring an end to the soft money loophole that has destroyed the law that is supposed to place limits on campaign contributions.

Passage of McCain-Feingold will bring an end to solicitations and contributions of hundreds of thousands of dollars in exchange for access to people in positions with the committees, chairman of our choice for $50,000, “tame with the President for $100,000,” “participation in a foreign trade mission with Government officials for $50,000.”

The moment of truth is now—with this vote—because this is the first time we are voting with the real possibility that what we do here can become law. Mr. President, I also want to talk about two concerns about the impact of this legislation that I have heard from some of my colleagues—that the parties will be weakened and that the soft money will now flow to the outside groups. It is true, of course, that no one can predict with certainty just what will happen. But what the soft money loophole is closed and provisions with respect to issue ads are in place. There is some of the unknown to what we are doing here today. But I'd like to re-emphasize some concerns about the parties and the increased strength of outside groups that there are provisions in the bill to ameliorate those concerns.

First, with respect to the parties, while the bill eliminates soft money, it also increases the hard money limits to the parties and makes those limits subject to indexing. The bill also contains an amendment I sponsored along with Senator ENSIGN, that will allow State parties to raise and spend non-Federal money subject to the State contribution limits for voter registration and get-out-the-vote activities in a Federal election year. The bill as introduced prohibited any money not subject to the federal limits from being used even by State parties for voter registration or get-out-the-vote activities in a Federal election year. Many of us thought that provision went too far, since these activities are often the heart of what State parties do. The provision we added by amendment has a number of limits. Federal candidates and National Party Officials can't be involved in soliciting the State party money, the bill eliminates soft money, a candidate in conducting these activities, and a State, district or local committee can't raise more than $10,000 from any one person for these activities in a calendar year and the activities must be paid for with a formula of federal and non-federal money established by the Federal Election Commission. This provision will enable State parties to engage in important voter registration and get-out-the-vote activities.

With respect to the flow of money to outside groups, the bill contains several brakes on that happening. First, Federal candidates are barred from soliciting non-federal money not only for the campaigns of outside groups. Many people who make large contributions do so because we personally ask them to do so. Without that personal involvement, most large contributors will not contribute, and the large sums that are now being given to the parties, will simply not be raised or spent anymore. The bill also prohibits unions and corporations from running issue ads in the last 30 days of a primary election and the last 60 days of a general election. That will significantly reduce the amount of sham issue ads run in the days before an election. Finally, the national parties which in the past have contributed significant sums of money to these outside groups will not be in a position to do that with the absence of soft money.

So, Mr. President, while I understand these concerns, and realize to some extent we are all stepping into unknown territory with the enactment of this legislation, there are a number of moderating influences in the bill that should avoid the draconian effects suggested by some of our colleagues.

I would also, Mr. President, like to address a statement made by my colleague from Texas, Senator GRAMM, the other night. He said in his statement opposing this legislation on the Senate floor, that this legislation would prohibit him from selling his house and using all of the money from that house to support a candidate of his choice. The Senator was passionate about how wrong such an outcome could be. But, Mr. President, the legislation would not create such a prohibition. Senator GRAMM has the other alternative of using his own resources to promote such a candidacy. This bill would not prevent that. The Supreme Court has indeed that is a right guaranteed to everyone under the Constitution. What this legislation does and what the Court has re-established under the Constitution, is prohibited from using the proceeds of the sale of his house to contribute to a candidate or a political party in amounts that exceed the limit established by the Federal Election Campaign Act. An individual can spend an unlimited amount of money to support a candidate, so long as those expenditures are not coordinated with a candidate. But an individual cannot contribute an unlimited amount of money to a candidate, because, as Congress has determined and the Supreme Court has affirmed, unlimited or large contributions can create the appearance of corruption which can damage the institution of democracy.

Mr. President, I also want to say a few words about the so-called Millionaire’s amendment we adopted that was sponsored by Senators DOMENICI, DEWINE and DURBIN. It is a complicated proposal and one with which we had insufficient time to work. It was an attempt to reform PACs, not to achieve the fair result that I believe we intended. I am afraid that the amendment as drafted, although improved by the Durbin Amendment, is still too advantageous to incumbents and too cumbersome to administer. I hope this can be addressed at a later stage or even in subsequent legislation, and I hope the Federal Election Commission proceeds carefully and with extensive public comment when implementing the statutory language. The intent of the Durbin Amendment was to reduce the incumbency advantage that the original amendment created when it allowed a well-funded incumbent to use the increased contribution limits even though the incumbent’s expenditures and cash on hand far exceeded the millionaire challenger’s. The Durbin Amendment tried to reduce the effect of the original amendment by requiring the millionaire to reach one-half of the amount of expenditures plus cash on hand that the incumbent has when the higher limits are triggered. While this is an improvement, I think we need to work with the numbers to see if another approach would be preferable.

Mr. President, 25 years ago this Congress passed a pretty decent campaign finance law.

Individuals aren’t supposed to give more than $1,000 to a candidate per election, or $5,000 to a political action committee, or more than $20,000 a year to all PACs, or contributing to a political action committee or more than $5,000 total in any one year for all contributions combined.

Corporations and unions are prohibited from contributing anything to a candidate except through carefully prescribed political action committees. The limit of a corporate or union PAC contribution is $5,000 per candidate.

Presidential campaigns are supposed to be financed just with public funds.

That’s the law on the books today. But what the Court has done in recent cases of Buckley v. Valeo and reasserted that position in the recent case of Nixon v. Missouri Government Shrink PAC. In those
cases the Supreme Court held that limits on contributions in campaigns do not violate free speech guarantees in the First Amendment.

In *Buckley v. Valeo*, the Supreme Court upheld contribution limits as a reasonable and constitutional approach to deterring actual and apparent corruption of federal elections in the Buckley case. Let me read what the Court said:

It is unnecessary to look beyond the Act’s primary purpose—to limit the actuality and appearance of corruption resulting from large independent contributions. In that case, Justice Souter, speaking for a majority of the Court, wrote that：“the principle of good government is undermined. If confidence in avoidance of the appearance of improper influence over public policy and in the integrity of the legislative process is eroded, the many salutary purposes discussed elsewhere in this opinion, Congress was surely intended to further, are fostered at informal meetings in exchange for access to people with the power to affect the life or livelihood of the person being solicited creates an appearance of impropriety and a misuse of power. People who are in power are asking for large sums of money for access to them. This is done openly. Marlin Fitzwater, Press Secretary to former President Bush said it clearly in 1992 when he said, “It’s buttering access to the system, yes. That’s what the political parties and the political operation is all about.”  

Former Senator Paul Simon made a similar observation a number of years ago on the Senate floor. That’s why over 25 persons—corporations and individuals gave over $100,000 each to both parties. They didn’t contribute because of shared values, obviously. They contributed to cover their bets—to make sure they had access to the winners. They had enough money to do that. That’s how far this system has fallen. The parties advertise access. It’s blatant. Both parties do it. Openly.

Invitation after invitation sells access for large contributions. From 1996:  
$100,000 contribution or for raising $250,000 will be entitled to have lunch with the Republican Senate and House Committee Chairman of the contributor’s choice. That’s what we’re openly offering for sale for large contributors and that’s what Congress is often buying. Both parties do it, and there are dozens of examples.

One invitation in 1997 to a Senatorial Campaign Committee event promised that large contributors would be offered “the opportunity of sharing [their] personal ideas and vision with” some of the top leaders and senators. Failure to attend, the invitation said, means that “you could lose a unique chance to be included in current legislative debates—debates that will affect your family and your business for many years to come.”

One letter from a Senatorial Campaign Committee invited the recipient to be a life member of the party’s Inner Circle. It said that $10,000 will “bring you face-to-face with dozens of our Senators, including many of the Senate’s most powerful Committee Chairmen.”

Another solicitation offered, for a contribution of $10,000, the choice of “attending one of 60 small dinner parties, limited in attendance to 20 to 25 people, at the home of a Senator, Cabinet Officer, or senior White House Staff member.”

They offer for membership in a Senatorial Trust said, “Trust members can expect a close working relationship with all [of the party’s] Senators, top Administration officials and other national leaders. Personal relationships are fostered at informal meetings that contribute year in Washington, D.C. and abroad.”

Another solicitation offers lunch at the White House with the President and his wife. It also goes so far as to say that “Attendance at all events is limited. Benefits based on receipts.”

That means you don’t get the benefit until the cash is in hand. Pledges of contributions are not enough. That’s how blatant these offers to purchase access have become.

The sale of access to small, private meetings is the product of the soft money loophole. The amounts we see on these solicitations aren’t $1,000 and $2,000 contributions. They’re large—
$50,000 or $100,000 contributions in soft money. The soft money loophole has increased and intensified the sale of access. The soft money loophole is swallowing our political system whole.

Do these large money contributions create an appearance of personal access and improper influence by big contributors? Yes. Look at the kinds of articles that are being written about the ups and downs of pending legislation. Many of them draw links—in my mind unfairly—between large soft money contributions and legislative activity. Here's one from the Wall Street Journal on the bankruptcy legislation. It even has a chart of all the organizations in the Coalition for Responsible Bankruptcy Laws and the amount each contributed to the Democrats and Republicans. Here's a similar one from the 3/22 York Times. The opening paragraph reads: “A lobbying campaign led by credit card companies and banks that gave millions of dollars in political donations to members of Congress and contributed generously to President Bush’s 200 campaign is close to its long sought goal of ousting the nation’s bankruptcy system.”

Here's another recent article from the New York Times linking large soft money contributions to ambassadorships. Here's another Wall Street Journal article from last year talking about the so-called “wish list” of large contributors to the Bush campaign. And, of course, we are all well aware of the stories linking President Clinton’s pardons to campaign contributions. These articles are the evidence of the appearance of impropriety created with large soft money contributions.

In *Buckley v. Valeo*, the Supreme Court also answered “yes” to the question whether large contributions create the appearance of impropriety, which an appearance of corruption created from the size of the contribution alone, without even looking at the sale of access.

It noted, “Congress was justified in concluding that the interest in safeguarding against the appearance of impropriety requires that the opportunity for abuse inherent in the process of raising large monetary contributions be eliminated.”

Add to that situation the actual sale of access for large contributions, and you have an even greater “opportunity for abuse” and the appearance of corruption.

These soft money contributions are not used just for get out the vote or voter registration activities, which is how the loophole got started in the first place. The truth is they are most often used for television ads that appear in thousands of spots in support of and against individual candidates. The truth is, while the parties claim these ads are issue ads, they clearly have one purpose—to help elect or defeat a particular candidate.

The Brennan Center analyzed all of the ads from the 1998 election ads paid for with hard money (candidate ads), and ads paid for with soft money (issue ads) and they found practically no difference. Although the Supreme Court in *Buckley* attempted to define a candidate ad as one actually promoting the election or defeat of a candidate through the use of words such as “vote for” or “vote against,” the Brennan Center found that over 90% of the candidate ads, didn’t do that—they didn’t say “elect” or “defeat” or “vote for” or “vote against” a particular candidate. They were, it appears, virtually indistinguishable from the sham issue ads directed at a particular candidate and paid for with soft money.

In the 1996 Presidential campaign, the Democratic National Committee ran ads on welfare and crime and the budget which were basically designed to support President Clinton’s reelection. At our hearings on the campaign finance system, Harold Ickes was asked about these DNC ads and the extent to which the people looking at the ads would walk away with the message to vote for President Clinton. “I would certainly hope so,” he said. “If not, we ought to fire the ad agencies.”

Listen to this ad from the Republican National Committee on behalf of then President Bill Clinton.

Voice Over: Bob Dole grew up in Russell, Kansas. From his parents he learned the value of hard work, honesty and responsibility. So when his country called, he answered. He was seriously wounded in combat. Paralyzed, he underwent nine operations. The doctors said he'd never walk again. But after 39 months, he proved them wrong.

A Man Named Ed: He persevered, he never gave up. He fought his way back from total paralysis.

Voice Over: Like many Americans, his life experience and values serve as a strong moral compass. The principle of work to replace welfare. The principle of accountability to strengthen our criminal justice system. The principle of discipline to end wasteful Washington spending.

Mr. Dole: It all comes down to values. What you believe in. What you sacrifice for. And what you stand for.

That ad was paid for with soft money contributed to the Republican National Committee. And that’s argued as permissible under current law, because and ads paid for with soft money are not an issue ad, and would be subject to the hard money limits. Well, any reasonable person who hears that ad knows it is an ad supporting the candidacy of Bob Dole. It is not an ad about welfare or wasteful government spending. And in most, it should have been paid for with regulated or hard money contributions. That isn’t the case today.

So, Mr. President, the truth is that this kind of candidate advertising, which should clearly be subject to contribution limits, exempts through the soft money loophole. And it’s that soft money loophole that the bill before us would close. It would ban the solicitation or receipt of soft money by the national parties; it would ban the solicitation or receipt of soft money by the candidates or their representatives.

Mr. President, the large majority of the American people want campaign finance reform. The large majority of the American people want us to clean up our act. We’re the only ones who can do it.

As the Supreme Court said in *Buckley*, an appearance of corruption is “inherent in a system permitting unlimited financial contributions.” And permitting the appearance of corruption undermines the very foundation of our democracy—the trust of the people in the system. We have the right to protect our democratic institutions from being undermined by the open sale of access for large contributions which people believe reasonably translates into influence. It’s time to step up to the plate.

Mr. President, I want to extend my deepest thanks and appreciation to the two Senators who made this moment possible Senator JOHN MCCAIN and Senator RUSS FEINGOLD. They have been warriors in this fight for campaign finance reform. They have pushed this when it wasn’t popular to do so, and they have made what many thought impossible a reality. It took guts and savvy, and I commend and congratulate them.

I also commend our Democratic Leader, TOM DASCHLE. Without his strength and vision, this legislation would not have happened. Senator DASCHLE steered a course for our side that kept us on the road to reform. I don’t know if anyone else could have done what he did—and, as always, he does it with grace and wit and charm. I commend Senator MCCONNELL for his very strong and fair fight. He is an intimidating opponent and has our respect for his dedication and perseverance. I know he is not happy with the outcome, but I believe his dire predictions will be unrealized. I also want to congratulate Senator MCCONNELL for his tireless and unflagging service as the Democratic floor manager. His ability to capture the essence of an issue and related it to real life so we can all understand it is impressive. He served the Senate well in this open-ended and somewhat unpredictable debate.

I also want to thank the staff who worked so hard and so diligently on
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this effort. Bob Schiff and Mark Busse did a terrific job serving at the center of this great spinning wheel of legislation: they combined both excellent legal and political skills to keep the bill on track. Kennie Gill served everyone well as the staff floor manager. Laurie Rubenstein provided excellent legal advice, and Andrea LaRue did a great job keeping the Democratic Leadership represented and informed. I also want to thank Linda Gustin and Ken Saccoccia of my staff for their endless time and truly extraordinary effort. It is certainly rewarding that this good work has paid off with the passage of this bill.

LOAN PAYBACK PROVISION

Two weeks ago the Senate passed an amendment to this bill that allows an increase in the individual contribution limits when a candidate is challenging a 'so-called' millionaire candidate. Included in that amendment was a provision that prohibits candidates from repaying personal loans over $250,000 with contributions from other persons.

This provision was enacted on a prospective basis; in other words, this provision would not apply to any candidate loans incurred before the enactment of this legislation.

I want to ask my good friend from Arizona, Senator MCCAIN, whether it is his understanding that the underlying intent in making this provision prospective is because this is the only fair and reasonable approach in this situation. Does the Senator from Arizona agree that it would be unreasonable and unfair to expect a candidate who conducted a campaign according to one set of rules to have to retroactively attempt to apply new rules? Isn't applying this provision on a prospective basis the only fair and reasonable approach?

Mr. MCCAIN. The Senator's understanding is correct on the interpretation of the loan payback provision. It is intentionally prospective because it would be unfair to do otherwise.

Mr. LEVIN. This vote counts. It is real, it is not a signal or a message.

I thank the Chair and commend our good friends, Senators MCCAIN and FEINGOLD.

Mr. DODD. Mr. President, I yield 1 minute to the Senator from Mississippi, Mr. COCHRAN.

Mr. COCHRAN. Mr. President, while many Senators have had a very active and effective role in bringing us to this point on this legislation, I think we should also recognize the excellent Senators who really deserve real credit—Senators MCCAIN and FEINGOLD. Because of their perseverance, determination, and effective leadership, they have brought us to the point where we are near passage of this legislative reform effort of the Federal Election Campaign Act.

While nobody can be really certain exactly what the implications of all of the provisions will be, I am convinced we are going to see this effort as a major step toward improving the Federal election campaign system and restoring the confidence of the American people in the integrity of the political process. That is very important, and I am very glad to have been a part of it.

Mr. DODD. Mr. President, I yield 1 minute to the Senator from New York, Mr. SCHUMER.

Mr. SCHUMER. Mr. President, at the beginning of this debate I pleaded with my colleagues to not let the perfect be the enemy of the good, and praise God they have. We have. Is this bill perfect? No, far from it. Is it good? A heck of a lot better than the present system, you bet it is.

I thank our leader, Senator McCAIN, particularly for his courage, and Senator FEINGOLD, particularly for his integrity and leadership, and Senator DASCHLE and Senator DODD for keeping our party together.

I also thank all my colleagues in the Senate. Today and these past 2 weeks represent the best. Every time a crippling amendment came up, we rose to the occasion and defeated it. This is the Senate the Founding Fathers envisioned.

Mr. President, my guess is, if Jefferson or Madison or Washington were looking down on this Chamber today, they would smile.

Mr. DODD. Mr. President, I yield for the Senator from Tennessee, Mr. THOMPSON.

Mr. THOMPSON. Mr. President, this is a good day for the Senate. It demonstrates once again that this body can respond to its public's needs. Even the casual observer must agree that our change from a system of the small contributions to the large ones is not good for this country. To those who say we are launching off into uncharted waters, that we are unsure how this might affect us as politicians or our political committees in Washington, I say that we as elected officials can never be harmed if our country is benefitted. We as elected officials can never be harmed if we are doing something that increases the public trust. And if we are, Mr. President, so be it, because we must know that we are doing the right thing.

Mr. President, twenty-seven years ago Congress decided to fix a campaign finance system that was clearly broken. The American public was scandalized and increasingly cynical about the integrity of the political process. In 1974, the President signed into law the Federal Election Campaign Act. Unions and corporations had long been prohibited from contributing to campaigns, and that year Congress decided to limit the amount of money an individual could give to candidates and parties to avoid corruption, and just as important, the appearance of corruption, in our system. Those limits on contributions were upheld by the Supreme Court in Buckley v. Valeo.

The Court stated, 'The Act's primary purpose is to limit and apportion the appearance of corruption resulting from large individual financial contributions—[provides] a constitutionally sufficient justification for the $1,000 contribution limitation.' The Court also uphold the constitutionality of limits on contributions to political parties. The Court found such limits serve to prevent evasion of the $1,000 limitation on contributions to candidates by an individual who might otherwise contribute massive amounts to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.

Just last year, the Supreme Court reaffirmed the position it took in Buckley. In Nixon v. Shrink Missouri PAC, the Court upheld an individual contribution limit of $1,650 under Missouri law and found, '[T]here is little reason to doubt that some of these contributions will work actual corruption of our political system, and no reason to question the existence of a corresponding suspicion among voters.'

In the years following the passage of FECA, amendments to the Act and certain FEC regulations and rulings attempted to clarify the law, particularly as it related to state parties. Mr. President, I ask unanimous consent that the statement by campaign finance expert and scholar Tony Corrado, a professor at Colby College, that explains thoroughly the origin and rise of soft money, be printed in the Record.

The ACTING PRESIDENT pro tempore, without objection, it is so ordered. (See Exhibit 1.)

Mr. THOMPSON. Mr. President, in short, in the late 1970s, Congress and the FEC attempted to address concerns by state parties regarding their use of non-Federally regulated funds in elections involving both state and federal candidates. The Commission determined that state parties could use non-Federal money, also known as soft money, to fund a portion of activities related to federal elections. The national parties soon argued that those rules applied to them as well, since they also participated in state and local elections. By the mid-1980s, both parties were actively raising soft money in the millions of dollars, primarily for voter registration drives and turnout programs conducted by state party committees. By 1992, the national party committees raised about $30 million in soft money and were spending the funds in a variety of ways, often de- signed to influence both federal and non-federal elections such as generic television advertising that did not mention a specific candidate. I ask
unaided consent that a November 5, 1984 letter from Fred Wertheimer to the FEC regarding soft money be printed in the RECORD.

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

(See Exhibit 2.)

Mr. THOMPSON. Mr. President, in 1995, the Clinton-Gore campaign began using soft money to fund candidate specific issue ads. They argued that because these ads did not use “magic words” such as “vote for” or “vote against” that they were not campaign ads and thus could be funded with soft money. The Republican Party soon followed suit, and the demand for soft money increased exponentially. Soft money receipts by the two major parties exceeded $260 million in 1996.

There was little doubt at that point that the soft money raised by the parties was being used for campaign purposes. While addressing a group of DNC donors in 1996, President Clinton made clear that these contributions were helping his campaign.

(We even gave up one or two of our fundraisers at the end of the year to try to get more money to the Democratic Party rather than my campaigns. My original strategy had been to raise all the money for my campaign this year, so I could spend all my money next year being president, running for president.)

As a result, soft money has become the primary source of funding for party ads that promote the election of or defeat of federal candidates. In addition, soft money was used for get-out-the-vote, voter registration, and virtually every aspect of the parties’ campaign efforts in connection with federal campaigns.

In short, soft money is now such an integral part of federal elections that it has effectively subverted the hard money limits in the Federal Election Campaign Act. Mr. President, I refer my colleagues to a study entitled “The End of Limits on Money in Politics: Soft Money Now Comprises the Largest Share of Party Spending on Television Ads in Federal Elections” by Craig Holman for the Brennan Center for Justice which further emphasizes this point.

As in 1974, Congress is about to fix a campaign system that is clearly broken. The McCain-Feingold bill will restore a campaign finance system that has been completely thwarted by loopholes created in the late 1970s. Once again, Congress will prohibit union and corporate money from being used to fund campaigns. Once again, Congress will require individual contributions to be capped at reasonable levels and require disclosure. We as a Congress will once again ensure that unlimited corporate, union and individual funds will not compromise the integrity of the political process. In short, we are about to restore the campaign finance system to what was intended prior to the appearance and exploitation of the soft money loophole.

In order to fix this problem, this bill contains three essential components in establishing an effective soft money ban. First, national parties are banned from soliciting, receiving, directing, transferring or spending soft money. Second, state parties are prohibited from spending soft money on federal election activities “issue ads” that promote or attack a federal candidate and get-out-the-vote activities on behalf of a federal candidate. Third, Federal officeholders and candidates are prohibited from raising or spending soft money, or directing soft money to a party or other entity.

These three provisions work together: each of them is an essential part of closing the soft money loophole and ensuring that national parties, federal officeholders and federal candidates use only funds permitted in federal elections to influence federal elections, and that state parties stop serving as vehicles for channeling soft money into federal races to help federal candidates.

In the last election, for example, Republican and Democratic Senate candidates set up joint fundraising committees, joining with party committees, to raise unlimited soft money donations. The joint committees then transferred the soft money funds to their Senate party committees, which transferred the money to their state parties, which spent the soft money on “issue ads,” targeted get-out-the-vote and other activities promoting the federal candidates who had raised the money. As a result, the money is currently raised by federal officeholders and candidates for political parties and then used by these parties on expenditures to help elect the candidates to federal office.

In order to prevent corruption and the appearance of corruption, the bill breaks the nexus between soft money donors and federal officeholders and candidates by banning these federal officeholders and candidates and their national party committees, from raising these funds.

Under this bill, there are no restrictions on state parties raising funds under state law and using them solely to effect state elections. The only restrictions apply to circumstances where money is being used to affect federal elections and where absent those restrictions money could continue to pour into federal races through the state parties.

In addition, McCain-Feingold includes a provision colloquially known as Snowe-Jeffords which requires disclosure for some groups running ads which mention a candidate within a certain number of days of an election. In addition, it prohibits such ads from being funded from the general treasury funds of corporations and unions. As has been pointed out by Senators Snowe and Jeffords, these sham issue ads are clearly intended as electioneering and just as clearly have that effect. I refer my colleagues to the following studies which demonstrate that sham issue ads have the effect of express advocacy and should be regulated by Congress: “Dictum Without Data: The Myth of Issue Advocacy and Party Building” by David Magleby of the Center for the Study of Elections and Democracy at Brigham Young University; and “A Narrow and Appropriate Response to Cloaked Electioneering: Measuring the Impact of the 60-Day Bright-Line Test on Issue Advocacy” by Craig B. Holman for the Brennan Center for Justice.
The flow of money in the 1986 and 2000 elections demonstrates how dramatically the world of party fundraising has changed since the amendment of the Federal Election Campaign Act (FECA) in 1974. Regulatory changes have created a new legal environment in which parties are free to accept contributions to the types of unlimited contributions that were supposed to be eliminated after Watergate. Innovations in party campaign strategies have led to fundraising efforts far surpassing the original limits placed on party contributions and expenditures. The new rules, which were included in the 1979 FECA amendments, changed the legal definition of "contributions" and "expenditures" to exclude the amounts spent on certain "grass-roots" political activities. The funds for those activities were raised in compliance with FECA. This change was designed to allow state and local party organizations to pay for certain specific activities that might indirectly benefit a federal candidate without having to count this spending as a contribution or expenditure under the act.

In changing the law in 1979, Congress sought to allow party committees to spend unlimited amounts of hard money on certain, limited types of election-related activities, which were clearly specified in the law. It did not allow national party organizations to receive unlimited contributions or to accept corporate or labor funds. It did not permit the production of certain types of political advertising. Yet both presidential campaigns chose to concentrate their limited resources on media advertising rather than "grass-roots" political activities. As a result, party leaders complained after the election that the FECA had indirectly limited traditional "grass-roots" and party-building activities, thus reducing the role of party organizations in national elections.

The 1979 FECA amendments: Expanding hard money spending

Congress responded to these concerns by accepting a recommendation made by the Federal Election Commission to ease the restrictions placed on party contributions and expenditures. The new rules, which were included in the 1979 FECA amendments, changed the definition of "contributions" and "expenditures" to exclude the amounts spent on certain "grass-roots" political activities. The funds for those activities were raised in compliance with FECA. This change was designed to allow state and local party organizations to pay for certain specific activities that might indirectly benefit a federal candidate without having to count this spending as a contribution or expenditure under the act.

The provisions of the act had raised anumber of regulatory decisions: Opening the door to unrestricted fundraising and party committee receipt of corporate or labor donations. In addition to direct contributions and coordinated expenditures, party organizations could spend unlimited amounts on voter registration and identification, certain types of campaign material, and voter turnout programs. Congress supported this revision because these activities were important in "party-building" activities that would develop organizational support for party candidates and promote citizen participation in electoral politics.

In 1979 Congress authorized a currenccy of unlimited party expenditures. But it did not sanction unlimited spending on activities designed to assist a particular candidate for federal office. Nor did it open the door to unrestricted fundraising or party committee receipt of corporate or labor donations. Instead, it was the Federal Election Commission, the agency empowered to enforce the law, that changed the rules governing party fundraising and gave birth to a new form of funding: soft money.

The provisions of the act had raised another major issue with respect to party financing: how to accommodate the federal and nonfederal roles of party organizations. The act imposed limits on party financing for all activities conducted in connection with federal elections. But party committees also play a significant role in nonfederal elections—gubernatorial races, state contests, legislative elections, and campaigns to manage various local offices. Their financial efforts in these races are governed by state campaign finance laws, which are generally much more permissive than federal law. For example, in the post-Watergate era, state and local election officials have been able to accommodate corporate and labor union contributions.

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limit on individual gifts, while nineteen had no limit. Nationally the only organizations that could receive contributions for nonfederal purposes that are not allowed in federal elections.

The issue of nonfederal party funding first arose in 1976. The Illinois Republican State Central Committee asked the FEC for guidance on how to allocate nonfederal and federally regulated funds in paying some of their general overhead and operating expenses, as well as the expenses of voter registration and get-out-the-vote drives that would benefit both federal and nonfederal candidates. The party sought the FEC's opinion in part because Illinois allowed corporate and labor contributions that were not permissible under federal law.

In its Advisory Opinion 1976-72, the FEC clearly stated that corporate or labor union money could not be used to finance such federal-election-related activities as a voter registration drive: "Even though the Illinois law apparently permits corporate contributions for State elections, corporate/union treasury accounts cannot be used to pay for a portion of a registration or get-out-the-vote drive conducted by a political party." However, the Commission did approve the use of nonfederal funds to pay the party's overhead and administrative costs, since these costs—for example, rent, utilities, office supplies, salaries—supported the administration of activities related to both federal and nonfederal politics. The agency approved an allocation formula based on the proportion of federal to state elections being held that year, with greater weight given to federal races. To pay these costs, the Illinois party had to establish separate federal and nonfederal accounts; the federal account could accept contributions permissible under the act, and the nonfederal account solely for monies allowed under state laws. The proportionate share of administrative costs would be paid from the relevant account; that is, the federal election—related share of the costs would be paid from the federal account, and vice versa.

The FEC’s attempt to hold the line on corporate contributions was short-lived. Less than two years after their 1976 advisory opinion, the Illinois party leaders and the FEC were faced with a potential corporatelabor funding of party voter mobilization efforts. This time the Republican State Committee of Kansas sought the Commission’s approval to use corporate and union funds, which were legal under Kansas law, in a voter drive that would benefit both federal and nonfederal candidates. Specifically, the Kansans asked the Commission how they could use nonfederal funds for their voter registration and get-out-the-vote efforts. In a surprising ruling, two Republican commissioners switched their earliest positions and joined two Democrats in approving Advisory Opinion 1978-10, which reversed the 1976 decision. Instead of prohibiting the use of corporate and union money, the agency declared that the Kansas party could use these funds to finance a share of their voter drives, as long as they also pay for their costs to reflect the federal and nonfederal shares of any costs incurred. The decision thus opened the door to the use of nonfederal money on election-related activities conducted in connection with a federal election.

Commissioner Thomas E. Harris, a Democrat, believed so strongly that the ruling violated the FEC’s own guidelines, and the FEC’s intent in framing the act that he took the unusual step of filing a written dissent. In it, he noted that there would normally be no limit on the role of the state or local races taking place in a state, and that many of the costs of voter drives could be financed from monies not permissible under federal law. He believed the FEC should have issued guidance in response to a state party request. The idea was to recognize the role of state party committees in federal elections and the different contribution rules that might apply to state and federal races. To pay these costs, the Illinois party committees were involved in both federal and nonfederal politics. National parties serve as umbrella organizations that work with party leaders and elected officials at all levels of government. They make contributions and provide campaign assistance to federal, state, and local candidates. These parties organize activities related to both federal and nonfederal politics. The FEC's attempt to hold the line on corporate contributions was short-lived. Less than two years after their 1976 advisory opinion, the Illinois party had to establish separate federal and nonfederal accounts; the federal account could accept contributions permissible under the act, and the nonfederal account solely for monies allowed under state laws. The proportionate share of administrative costs would be paid from the relevant account; that is, the federal election—related share of the costs would be paid from the federal account, and vice versa.

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April 2, 2001

these funds in an effort to maintain control over the campaign spending levels. In the case of monies transferred to state and local party organizations, the national committees allowed little autonomy with respect to how the funds were to be spent. In most instances, the funds were used on projects approved by the national organization.

Most of the soft money spent in 1992 was spent in ways designed to support the election of federal candidates. The major share of the soft money raised in both parties was devoted to activities that were designed to influence federal and nonfederal elections. Examples of such activities include the costs of fundraising efforts, the administrative expenses associated with soft money operations; the monies paid for generic campaign materials and advertisements that say “Vote Democratic” or “Vote Republican”; and expenses for phone banks and other voter identification and turnout projects that assist party candidates at all levels.

The most prominent form of joint activity was generally advertising, especially television advertising. While voter turnout programs remained an important component of the party activities, both parties invested heavily in generic television ads that were designed to bolster the prospects of their candidates. This allowed them to finance the combination of hard and soft money. Overall, the Democrats spent about $14.2 million on ads and the Republicans spent about $18 million. The Republicans basically followed the strategy employed in previous elections, since they had previously spent substantial sums on generic advertising. For the Democrats, a new emphasis on电视 advertising represented a new approach to general election campaigning. While the party did broadcast some ads in 1988, the total amount spent was only $1 million.

Many of the ads broadcast by the party committees were designed to reinforce the message of the party’s presidential nominee. The Democrats, for example, spent $14 million to finance ads that did not mention Bill Clinton directly (since this was thought at the time to be a violation of federal law) but did bolster the message that the economy was the foundation of Clinton’s campaign. These ads also helped to free up resources that the Clinton campaign could use for other purposes. During the last week of the campaign, for instance, the Clinton campaign was running tight on money and thus decided to use campaign resources to buy a half-hour of national television time as opposed to additional broadcast time in the highly competitive state of Texas. The campaign, however, did not leave Texas unattended; instead, the national committee instructed state committees to broadcast generic ads in the state to spread the party’s message. The Bush campaign adopted a similar strategy, relying on party ads to shore up support in traditional Republican strongholds and in crucial battleground states like Texas and Florida.

Parties also raised soft money as a vehicle for providing financial assistance to state and local committees. In 1992, about a quarter of the funds raised nationally by the two major parties were transferred to state and local committees. These funds provided state and local party organizations with the resources needed to conduct activities that they would otherwise not be able to afford. Often used for such activities as mail-}

rading expenses; and to hire party workers and poll watchers. While both Congress and the FEC have found that both parties spent money on these types of activities in 1992, the bulk of the funds transferred to state parties were used for generic phone bank programs designed to identify voters, supervise voter registration, and thus decided to use campaign resources for other purposes. During the last week of the campaign, for instance, the Clinton campaign was running tight on money and thus decided to use campaign resources to buy a half-hour of national television time as opposed to additional broadcast time in the highly competitive state of Texas. The campaign, however, did not leave Texas unattended; instead, the national committee instructed state committees to broadcast generic ads in the state to spread the party’s message. The Bush campaign adopted a similar strategy, relying on party ads to shore up support in traditional Republican strongholds and in crucial battleground states like Texas and Florida.

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strategy as soon as its presidential nominee was decided. The FEC had decided to resign from the Senate to devote himself to full-time campaigning, RNC Chair Haley Barbour announced a $20 million issue advocacy advertising campaign that would be directed at the period leading up to the Republican national convention in August. The purpose of this campaign, said the chairman, would be “to show the differences between Dole and Clinton and between Republi cans and Democrats on the issues facing our country, so we can engage full-time in one of the most consequential political campaigns in our history.” In essence, the campaign was designed to assist Dole, who had basically reached the public funding spending limit, by providing the additional resources needed to match Clinton’s anticipated spending in the remaining months before the nominating conventions.

By the end of June, the RNC had already spent at least $14 million on ads promoting Dole’s candidacy, including an estimated $9 million in soft money. Like the Democrats, the RNC focused their spending on key electoral college battlegrounds. Indeed, the “target” list looked very similar to that of the Democrats; eight of the top twelve states were the same for both parties.

This innovative form of party spending essentially rendered the contribution and spending limits of the FECA, at least as far as the party committees were concerned, meaningless. So long as the party committees did not coordinate their efforts with the candidate or his staff, and did not use any of the “magic words” that would cause their spending to qualify as candidate support, they were free to spend as much as they wanted from monies received from unlimited sources. Naturally, these funds took the form of issue advertisements that featured federal candidates and were broadcast in close proximity to Election Day.

The national party committees together spent $79.1 million on television advertising in the presidential campaign in the top 75 of the nation’s 219 media markets, as compared to $67.1 million spent by the candidate themselves. According to an analysis by the Brennan Center for Justice of these top 75 media markets, on June 1 $7.7 million was spent.

By the end of June, the RNC had already spent $39.2 million on television advertising, while the Republican National Committee spent $44.7 million. By the end of the Gore campaign spent $27.9 million on television advertising, while the Democratic National Committee expended $35.1 million. As in 1996, much of the funding came from soft money, so that the national party transferred to state parties, since under FEC guidelines, state parties were able to use a greater percentage of soft money when buying television time and it was purchased by state party committees. This was in accord with FEC rules, which place different allocation requirements on state party committees. These expenditures therefore, were not designed to strengthen state and local parties; they were simply made through state or local party financial accounts to take advantage of the opportunity to spend soft money.

The Democrats were the first to resort to issue advocacy spending, airing their first ad on May 30, 1996. Some realized that Gore had earlier said the Democrats would not run soft-money financed advertising unless the Republicans did so first. In announcing the advertising strategy Democrats cited what they estimated to be $2 million in anti-Gore advertising by political groups that favored Bush, including a group called Shape the Debate and a missile defense organization called the Coalition to Protect America Now. The ad, which touted Gore’s commitment to fight for a prescription drug benefit for seniors, ran in 15 states and was financed with a combination of hard and soft money.

Once the Democrats had begun their assault, the Republicans were quick to follow. Only a few days after the Democrats launched their ads, the Republicans announced a campaign of their own. On June 10, the Republican National Committee unveiled a $2 million ad campaign targeted mainly in the same presidential battlegrounds as the Democratic television buy. The only difference was that the Republicans spent $1 million to our knowledge has failed to accept their recommendations and did not take action against the parties or the presidential candidates for their acts of subterfuge. Conse quently, the parties have overstepped the boundaries of issue advocacy efforts financed with soft money. And they made the most of this opportunity.

Exactly how much soft money was spent to finance issue advertising or other efforts is difficult to determine due to the inadequacy of the disclosure requirements applicable to national party committees. But it is certainly true that the vast majority of the soft monies raised in 2000 were used to assist federal candidates and did not involve violating any of the spending limits and prohibitions contained in the federal campaign finance laws. The FEC, our knowledge has failed to take any formal action in this area. In using the term “soft money” we are referring to funds that are raised by Presiden tial campaigns and national political parties, and which are not limited by the contribution limits of the FEC.

What was most notable in 2000, however, was the significant rise in the use of soft money by the national senate and congressional campaigns. Half of the soft money raised in this election, almost $214 million, was raised by the congressional committees. This sum is ten times greater than the $20 million raised by the Senate Committees in 1992. The Democratic Senatorial Campaign Committee raised $33 million in soft money, while the Democratic Congressional Campaign Committee raised $20 million. The National Republican Senatorial Committee solicited $43 million in soft money and the Na tional Republican Congressional Committee, about $51 million.

About half of the soft money raised by the senatorial and congressional committees, $106 million, was used to pay for soft money advertising. Tens of millions more was spent on voter identification and turnout efforts. Most of the money spent on these activities was in states that had large soft money expenditures. Therefore, it is being used to produce campaign materials such as post ers and slate cards that feature federal candidates. It is being used to register, identify, and mobilize voters who support federal candidates. It is therefore not surprising that the party committees have made soft money fundraising a major component of their financia l efforts. In every election cycle since its advent, the majority of soft money has been allocated to finance activities that are primarily designed to influence the outcome of federal elections.

CONCLUSION

By the election of 2000, national party soft money was being used to finance every aspect of a party’s campaign efforts in connection with federal elections. It is being used to produce candidate-specific ads and broadcast them on television and radio. It is being used to produce campaign materials such as posters and slate cards that feature federal candidates. It is being used to register, identify, and mobilize voters who support federal candidates. It is therefore not surprising that the party committees have made soft money fundraising a major component of their financial efforts. In every election cycle since its advent, the majority of soft money has been allocated to finance activities that are primarily designed to influence the outcome of federal elections.

EXHIBIT 2


DEAR COMMISSIONER ELLIOTT: I am writing on behalf of Common Cause to express our deep concern about the improper role that “soft money” has been playing in federal campaigns and about the Federal Election Commission’s inattention to this very serious problem.

It appears that “soft money” is being used in federal elections in a manner that violates and severely undermines the contribution limits and prohibitions in the federal campaign finance laws. While these practices and abuses have received considerable public attention, the Federal Election Commission has so far failed to take any formal action in this area.

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and from individuals who have reached their federal contribution limits.

According to various press reports and public statements, including statements by campaign and party officials, it appears clear that “soft money,” in fact is raising and being raised for nonfederal election purposes. Such funds are being channeled to state parties with the clear goal of influencing the outcome of federal elections. (The complaint filed by the Center for Responsive Politics, for example, sets forth a clear example of the use of “soft money” for federal purposes in the Senate election in the State of Washington.)

Under the federal campaign finance laws, “soft money” is prohibited from being spent “in connection with” federal elections. There is no question that “soft money” currently is being spent “in connection with” federal elections, if that term as used in the federal campaign laws is to be given any realistic meaning. If the Commission leaves such “soft money” practices unchecked it will be implicitly sanctioning potentially widespread violations of the current federal campaign finance laws.

Soft money practices are facilitating the reemergence in national political fund-raising of contributing sources such as corporations and unions that have been prohibited for decades from providing such funds for federal elections. They are similarly facilitating the reemergence of large individual campaign contributions that have been prohibited since 1975.

These contributions are highly visible to national campaign and party officials, in the awareness of their purported use by state party organizations for nonfederal election purposes. When national campaign and party officials know that federal candidates are raising and coordinate or channel the distribution of “soft money” to state organizations, the potential for corruption is exactly the same as it was when those national campaign and party officials directly received that kind of money. If the Commission leaves soft money practices unchecked, it will directly undermine a core protection against corruption in the federal campaign finance laws.

Soft money practices are also undermining the discipline of federal campaign finance laws. Very substantial sums of money are being channeled to and through state parties in order to influence federal elections without these sums being disclosed as contributions or expenditures under the federal law. A primary purpose of the federal campaign finance laws is to open the political financing process to public scrutiny. If the Commission leaves soft money practices unchecked, it will allow the national campaigns and political parties to potentially hide millions of dollars in federal related campaign funds from public view, thereby creating widespread opportunities for actual and apparent corruption.

Furthermore, in presidential campaigns, “soft money” returns private funds to a potentially prominent role and thereby subverts the purpose of the presidential public financing system. In 1992, Congress passed the federal campaign finance laws to permit state parties to spend money in connection with presidential campaigns, but only for certain purposes, and only with funds subject to the limitations and prohibitions of the federal law. Congress did not intend to authorize centralized national fundraising of private contributions to fund the presidential public financing system. If the Commission leaves soft money practices unchecked, just that will continue to occur.

Common Cause believes that it is essential for the Commission to make the “soft money” problem a top priority in carrying out its statutory mandate to enforce the federal campaign finance laws. The Commission’s current approach, which appears to be limited to sporadic policing of political committee allocation rules, is totally inadequate.

We therefore strongly urge that the Commission promptly take the following steps:

(1) The Commission should begin its own broad-ranging factual investigation into soft money practices, with a view toward prosecuting actual past violations.

(2) Initiate a rulemaking proceeding to establish what broader administrative tools, such as additional disclosure requirements, are needed to facilitate the Commission’s effective enforcement of the current laws; and undertake a review of the current laws to determine what additional statutory remedies may be needed to stop soft money abuses that are most effectively curtailed.

“Soft money” is a very serious problem. The Commission must address it aggressively. One reason, individually, is that the legislation rightfully imposed on corporate soft money abuses is most effectively curtailed.

Money is a very serious problem. The Commission must address it aggressively. One reason, individually, is that the legislation rightfully imposed on corporate soft money abuses is most effectively curtailed.

Mr. WELLSTONE. President, the Senate today takes a historic step toward fairer elections, and I rise to join many of my colleagues in urging a vote for final passage of the McCain-Feingold legislation. The bill that will be passed by the Senate is in some ways better, and in other ways weaker, than the legislation we started the debate on two weeks ago. In two instances I believe the Senate took a step backward. Still, on balance, this is a positive reform bill, I believe.

Debates about campaign finance reform should be debates about who is at the table. Looking back at the last two weeks from this perspective highlights not only the importance of the bill that we will vote on today, but also its severe limitations. I say importance, because if you believe that reform of our federal elections is essential for the reasons I believe, restoring the centrality of one person, one vote, then you need to get soft money out of the system, because it allows too much political power to flow from too few. But I also say sever limitations because even if we ban soft money, even if we ban shams issue ads, we will still have too much money in politics in America. The McCain-Feingold bill, the players will still have an all too prominent role in our elections.

It is unfortunate that the Senate voted to raise the hard-money contribution limits. Nearly 80 percent of all large individual campaign contributors are individuals, not organizations or unions. Again, this is a step backward and is blatant incumbent protection.

I am pleased that the Senate twice voted to include, the second time overwhelmingly, a reform amendment I offered, which significantly strengthens the McCain-Feingold bill. The amendment ensures that the sham issue ads run by nonprofit special interest groups fall under the same rules and are prohibited from using the loophole in federal election law.

These often virtually unaccountable groups engage regularly in electioneering communications. Make no mistake, they are not trying to influence policy debates. This amendment targets those ads that we all know are trying to sow division in our elections, distracting us from the issues at hand.

At the same time, this amendment does not prohibit these groups from running electioneering ads. It merely requires that they comply with the same rules that unions and corporations must comply with under the bill. Groups covered by my amendment can set up PACs, solicit contributions and run electioneering ads. This amendment simply prevents them from using their regular treasury money to run such ads in a secret and unaccountable way. Spending on genuine issue ads is completely unaffected, as it should be.

The amendment directly addresses constitutional concerns. A February 20, 1998 letter signed by 20 constitutional scholars, including a former legislative director of the ACLU, which analyzed underlying bill’s shame issue ad provision, argued that even though that provision was written to exempt certain organizations from the ban on electioneering communication, such omission was not constitutionally necessary. In other words, the restrictions on corporations and unions need not have
be limited to corporations and unions. In any case, the amendment is seervable. If courts find it to be unconstitutional, it will not jeopardize the rest of this bill.

This is what was at stake in the last two weeks: a government where the people are the priority, not the powerful. The Abramoff crowd has tried to cast this debate in terms of regulating political speech and limiting political freedom. I reject the argument that freedom, freedom of speech, freedom to participate in the election of one’s govern- ment is served by the current system or that it is undermined by efforts to reform that system. On the contrary, freedom is on the side of reform, and indeed the more comprehensive the campaign finance reform we enact, the more we empower every American to capture control of his or her own destiny.

While I will vote in favor of McCain-Feingold, I do so with my eyes open. Fundamentally, this legislation seeks to patch a badly broken system, one that is likely to continue saving every little minor repair, and stops far short of the complete overhaul of the financing of elections that are required. Ultimately, an approach that seeks to stop a leak here, and block a loophole there but does not meaningfully remove the demand for private, special interest money form candidates and parties—either through reducing costs to campaigns, providing public sources of funds, or a combination of the two—will be doomed to failure.

It is for this reason that I am a supporter of comprehensive public financing of federal campaigns, what is known as the Clean Money, Clean Elections approach. The McCain-Feingold bill is a token defense that would get some of the money out of politics. Not all of the money, but the under-the-table money, the largest contributions, the grossest examples of favor currying and access buying. With my amendment, it will ban most sham issue ads. Such unregulated funds have made a mockery of the current campaign finance reform system. However, there is no question that we should go much further, that most Americans would like to see us go further and that it is not truly comprehensive campaign finance reform. During debate on this bill, 36 senators supported an amendment I offered which would have allowed states to establish voluntary spending limits in exchange for full or partial public financing for federal can-
didates. I am hopeful that the numbers here in the Senate in favor of public fi-
nancing of federal elections will in-
crease.

Now that the Senate will finally go on record in favor of the modest reform that McCain-Feingold represents, I believe the time is right to begin the fight for fundamental reform: public financing of elections. This week I will reintroduce, my Clean Money, Clean Elections legislation. This legislation attacks the root cause of a system founded on the belief that the special interest money, curing the disease rather than treating the symptoms. I look forward to working with my colleagues on this new phase. Again, passage of this bill is not the end of the reform debate but merely the beginning.

I ask unanimous consent that the text of an editorial in last Friday’s Boston Globe be printed in the RECORD.

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

A STEP TOWARD REFORM

By rejecting a malignant non severability amendment, the US Senate has moved the nation significantly closer to real political reform. This Senate takes a ‘stand,’” Senator Russell Feingold said near the end of a dramatic two-week debate. And the Senate stood for reform, 57-43.

If a solid version of the McCain-Feingold bill is agreed to by the House and signed by President Bush, as now seems more likely than ever, Americans will receive something that is better than a straw from the drink— the return of a portion of the democracy that has been snatched away by the growing in-
fluence of big money in the political system.

McCain-Feingold does not offer the sweeping reform that the system desperately needs, but it is a large step forward and a prerequisite to more basic changes. The bill’s targets are the major abuses that have grown since the Watergate reforms of 1974. Largely unregulated “soft money” dona-
tions, ostensibly for party-building but often used to advance specific candidates, would be eliminated. And “independent” expendi-
tures, by groups supposedly not linked to campaigns, would be restricted close to vot-
ing dates.

The key vote yesterday means that if a constitutional flaw is found in one part of the law the reform will lose its teeth. Several opponents of reform last week helped pass a provision offered by liberal Senator Paul Wellstone of Minnesota that would further curtail independent expenditures. The ob-
vious hope that the provision would be found unconstitutional and scuttle the whole ef-
fort.

We support the Wellstone amendment and believe it is constitutional. If not, yester-
day’s vote will keep the rest of the law in-
tact.

The road for campaign reform has been long. The House has approved similar mea-
sures, but must now take the bill up again, this time playing with live ammunition—the increased likelihood that it will become law. Bush added to the momentum this week by indicat-
ing for the first time he might sign it. On this bill as in other political reforms, Congress should give priority to the rights and needs of voters. Reform should not have to wait for a tangled election like the one just concluded—or a Watergate.

Mr. WELLSTONE. Mr. President, I don’t agree with my colleague from Kentucky, though I have great respect for him. I think our parties will be stronger not dependent on soft money, to get away from the obscene money chase, and we will be more connected to the people. I also think the provi-
sions on the sham issue ads across the board will make a huge difference, with less poison politics and bringing people back.

This hated the increase in the hard money limits. I think it is a mistake. But this bill is a step forward. I am proud to vote for it. This is all about representative democracy. This will be a great vote, and I hope it whets the appetite of people in the country for even more. I thank Senators MCCAIN, FEINGOLD, DODD, DASCHLE, and a lot of other Senators as well.

Mr. DODD. I yield 1 minute to Sen-
ator EDWARDS of North Carolina.

Mr. EDWARDS. Mr. President, I will first thank my friends Senator MCCAIN and Senator FEINGOLD for their extraordinary leadership. It has been a wonderful honor for me to participate in this very important debate in our history. The American people deserve a big campaign reform that the system desperately needs, but it is a large step forward and a prerequisite to more basic changes. The bill’s targets are the major abuses that have grown since the Watergate reforms of 1974. Largely unregulated “soft money” dona-
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The ACTING PRESIDENT pro tempore, The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, each of us at one point in the well of the Senate raised our right hand and swore to uphold the Constitution of the United States. On 21 occasions in the last 26 years, efforts to restrict issue advocacy by outside groups have been struck down, including just last summer when the second circuit struck down the precise language in Snowe-Jeffords.

This bill is fatally unconstitutional. I hope Senators will uphold the oaths they have taken and oppose this unconstitutional bill.

I yield the floor.

Mr. DODD. Mr. President, I yield the remaining minutes on the proponents' side to the principal author of this bill, the person who deserves enormous credit, John McCain of Arizona.

Mr. MCCAIN. Mr. President, in a few moments the Senate will vote on final passage of the Campaign Finance Reform Act, and I respectfully ask all Senators for their support. I want to speak very briefly, mainly to express my appreciation to my colleagues, on all sides of this issue, for the quality of our debate.

I thank first two men who were as good as their word: The majority leader, for the commitment to an open debate and for keeping the amendment process both fair and expeditious, and the Democratic leader for so effectually safeguarding his party's support for genuine campaign finance reform.

I also show my respect for the skill, grit, and honesty of the formidable Senator from Kentucky and his able staff. There are few things more daunting in politics than the determined opposition of Senator McConnell. I hope to avoid the experience more often in the future.

I thank Senator Dodd, the Democratic manager of the bill, and his staff. His leadership was as critical to our success as his unflagging good humor was to our morale.

The majority and minority whips, Senators Nickles and Reid, worked hard to ensure a fair and complete debate and to encourage both sides to reach for good-faith compromises whenever it was possible.

Words cannot express how grateful I am to all the co-sponsors of our legislation, for the willingness of Senators Thompson and Feinstein to find common ground on the issue of increasing hard money limits, I fear our efforts would have proved futile as they have in the past.

I cannot exaggerate how big a boost Senator Thad Cochran's support was to our cause and how important his wise and courteous guidance was to our success.

I appreciate the wise and experienced leadership of Senator Carl Levin.

Senators Snowe, Jeffords, Collins, Specter, Schumer, Edwards, Kerry, and all the sponsors worked tirelessly and effectively to reach this moment, and more than competent for my own deficiencies as an advocate.

I am also much indebted and inspired by the community of activists for campaign finance reform. The faith, energy, and never-say-die spirit they have shown in a fight they have waged for so many years are the best attributes of patriots. Although we have a few more miles to travel, they have given good service to our country, and my admiration for them is only surpassed by my gratitude.

I owe a special thanks to the many thousands of Americans who lent their voice to our cause this year, many who supported my campaign last year and many who did not but who believe that reforming the way we finance Federal election campaigns is a necessary first step to re-forming the practices and institutions of our great democracy.

I also thank my staff for their extraordinary support, particularly Mark Buse who has worked by my side on this issue for many years and whose industry and creativity will never fail to impress me.

Mr. President, I ask unanimous consent for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. What is the request?

The ACTING PRESIDENT pro tempore. For 2 additional minutes. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent to print in the RECORD a list of the staffers of the Senators who were very helpful and critical to our success.

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

Senator Cochran—Brad Prewitt;
Senator Collins—Michael Bopp;
Senator Daschle—Andrea LaRue;
Senator Dodd—Kennie Gill, Veronica Gillespie;
Senator Feingold—Mary Murphy, Bob Schiff, Bill Dauster;
Senator Feinstein—Gray Maxwell, Mark Kadee;
Senator Hagel—Lou Ann Linehan;
Senator Jeffords—Eric Buehlmann;
Senator Levin—Linda Gustitus, Ken Saccocecia;
Senator Lieberman—Laurie Rubenstein;
Senator Lott—Sharon Soderstrom;
Senator McCain—Mark Buse, Ann Choiniers, Lloyd Atoz, Ken LaSala;
Senator McConnell—Tamara Somerville, Hunter Bates, Andrew Siff, Brian Lewis;
Senator Schumer—Martin Siegel;
Senator Snowe—Jane Calderwood, John Richter;
Senator Thompson—Bill Outhier, Hannah Sistare, Fred Ansell.

Mr. MCCAIN. Mr. President, were I limited to thanking one individual, it would be Senator Russ Feingold of Wisconsin, a man of great courage and conviction. His partnership in this effort is one of the greatest privileges I have ever had in public life. He is in every respect the better half of McCain-Feingold. I want him to know, Mr. President, that I will never forget it. I might also add that he is well served by his staff as I am by mine.

Lastly, I thank every one of my colleagues, those who supported our bill and those who did not, particularly my friend Senator Hagel, for the good faith and fairmindedness that all have brought to this debate.

I believe the events of the last 2 weeks have been a great credit to this body, and that is tribute to every Senator. Indeed, as we approach what I believe will be a successful outcome for the proponents of this legislation, I can say I have never been prouder to be a Member of the Senate. Because of my fillings, I might not always show it, but I consider myself blessed to serve in the company of so many capable leaders of our fair country.

I asked at the start of this debate for my colleagues to take a risk for America. In a few moments, I believe we will do just that. I will go to my grave deeply grateful for the honor of being part of it.

I yield the floor.

Mr. DODD. Mr. President, have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. They have not been ordered.

Mr. DODD. I ask for the yeas and nays on the McCain-Feingold bill.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is, shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 41, as follows:
The 1996 Clinton campaign’s courting of ill-\

will be a “reform” of a campaign financing

option offered by Senator HOLLINGS.

The bill (S. 27), as amended, was passed.

(The bill will be printed in a future edition of the CONGRESSIONAL RECORD.)

Mr. LOTT. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD, Mr. President, I support the effort by Senators McCaIN and FEINGOLD to try to rein in some of the rampant spending that takes place in political campaigns. Today I voted for S. 27, the Bipartisan Campaign Reform Act of 2001.

While I voted for final passage of S. 27, I do not feel that it goes far enough.

The only way that we will ever get con-
trol over the money in politics is if we put limits on campaign spending, and the only way to achieve that goal is to address the constitutional hurdles raised by the Supreme Court. Unfortu-
nately, by equating free speech with campaign spending, the Supreme Court placed a substantial roadblock in the path to campaign finance reform. We will not have true campaign finance re-
form until Congress and the States ap-
prove a Constitutional Amendment which clearly articulates that Congress can regulate fundraising and expendi-
tures for campaigns. That is why I sup-
ported the constitutional amendment offered by Senator HOLLINGS.

I understand that the sponsors of this bill worked to craft legislation that would maintain the support of a major-
ity of Senators, and, at the same time, would also stand up to the certain Court challenge. I will face. I hope that this bill will make some progress in limiting the power and influence of money in our elections, but I believe that we still have a long way to go.

Mr. MCCONNELL. Mr. President, oc-
casionally, that massive soft money machine, the New York Times, runs something accurate about campaign fi-

nance. Such as the op-ed I authored which appeared in the April 1 edition. The focus of the piece is the tre-

menous harm enactment of the McCain-

Feingold bill would do to our democ-

cy, by severely weakening the two

great political parties.

I ask unanimous consent that my op-
ed be printed in the RECORD.

There being no objection, the mate-
rial was ordered to be printed in the

RECORD, as follows:

[From the New York Time, Apr. 1, 2001]

IN DEFENSE OF SOFT MONEY

(By Mitch McConnell)

WASHINGTON—It now appears that among the legacies of the Bill Clinton presidency will be a “form” of a campaign financing

vehicle that devastate the national political parties. The 1996 Clinton campaign’s courting of ill-

gal foreign contributions for the Democratic National Committee and the Clintons’ use of

the Lincoln Bedroom to entertain contribu-
tors, followed by Mr. Clinton’s pardons for criminals championed by big donors to the Democrats, have cast a pall on national

party committees. And all of this propelled the prohibition of soft money—donations made to political parties and not subject to federal contribution limits—to the top of the reform agenda.

Earlier, the centerpiece of reform ef-

forts had been limits on candidates’ own spending. In 1997 Senators JOHN McCAIN and RUSS FEINGOLD dropped their re-

form bill, along with bans on political action committees and on “bundling”—

when individuals and groups collect multiple contributions.

Hard money, in Washington parlance, is the funds and activities targeted to electing specific candidates to federal office. These funds are already subject to severe contribution limits, set in 1974 and never adjusted for inflation, and to requirements for disclosing the names and amounts they gave. The national parties themselves also raise money, which they need for issue advocacy, for helping state and local candidates, for paying overhead expenses like the costs of computers and lawyers (to comply with the array of election laws), and for get-out-the-

vote efforts that benefit all of a party’s nominees on Election Day. This “non-
federal” money is subject to regula-
tions in the States. But because it has often been used in ways that do help federal candidates, it has come to be called “soft money.”

The Republican and Democratic Na-

tional Committees, and the Republican and Democratic senatorial and con-
gressional committees, are national in

scope. Gubernatorial and state legisla-
tive elections are among the highest priorities of the national parties, so they help candidates in those races ac-
cordingly—with funds governed under the relevant state laws and spent in con-

form bill, along with bans on political action committees and on “bunding”—

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Hard money, in Washington parlance, is the funds and activities targeted to electing specific candidates to federal office. These funds are already subject to severe contribution limits, set in 1974 and never adjusted for inflation, and to requirements for disclosing the names and amounts they gave. The national parties themselves also raise money, which they need for issue advocacy, for helping state and local candidates, for paying overhead expenses like the costs of computers and lawyers (to comply with the array of election laws), and for get-out-the-vote efforts that benefit all of a party’s nominees on Election Day. This “non-federal” money is subject to regulations in the States. But because it has often been used in ways that do help federal candidates, it has come to be called “soft money.”

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tional Committees, and the Republican and Democratic senatorial and con-
gressional committees, are national in

scope. Gubernatorial and state legisla-
tive elections are among the highest priorities of the national parties, so they help candidates in those races accordingly—with funds governed under the relevant state laws and spent in connection with state party commit-

tees. But federal candidates are a focus of the national committees, too. And with campaigns for federal offices starved for hard money by the anti-

quated 1974 limits, the national parties have been forced to go outside Congress to raise funds. Soft money is proving an especially attractive resource in utilizing soft money to fill the void in federal elections.

In recent years, the parties have used soft money to run ads defending their nominees from attacks by donors and the worst groups and to help challengers compete against well-financed incumbents. Help from the parties often provides the only chance nonincum-

bents and nominees have to be competitive in Congressional elections.

The McCain-Feingold bill now working its way through Congress would prohibit the na-
tional committees or spending any soft money—that is, any money not cov-

ered by federal contribution limits—at any time for any purpose. It would also federalize the campaign committees of state parties in even-numbered years, thus forcing even the state parties to rely on far more scarce hard money, with results that are likely to be devastating.

Even if only one federal candidate were on the ballot in a state where the chief voter in-
terest was in the governor’s race, a mayoral contest or control of city council, all party voter registration and turnout activ-

ities in that state within 120 days of the election would be subject to the severe lim-

its on contributions or spending, and therefore underfunded and diminished. Spec-

ial-interest group issues would go unan-

swered by the parties. Challengers, histori-
cally shunned by political committees but boosted by parties, would be on their own. Incumbents and self-funded millionaire candidates would flourish.

Speculation rages over which party would get the greater advantage from the ban on soft money. Many Republicans, believing that liberal-leaning news outlets will favor Democrats and noting that much of the po-

litical activity of the biggest Democratic ally, the A.F.L.-C.I.O., is largely unimpeached by McCain-Feingold’s provisions, fear Demo-

crats may be the greatest beneficiary. Con-

versely, there is concern among some Demo-

crats that forcing the parties to rely solely on the limited and relatively puny hard-

money contributions may benefit Repub-

licans.

One result of McCain-Feingold is certain: America loses. The parties are vital institu-

tions in our democracy, smoothing ideolog-

ey edges and promoting citizen participa-

tion. The two major parties are the big tents where multitudes of individuals and groups with narrow agendas converge to promote candidates and broad philosophies about the role of government in our society.

If special-interest groups are given to parties as they have, they will use their money to influence elections in other ways: placing unlimited, unregulated and undisclosed issue advertisements; mounting their own get-

out-the-vote efforts; forming their own ac-

tion groups. Unrestrained by the balancing effect of parties, which bring multiple inter-

ests together, America is likely to fragment. “Virtual” parties will be able to proliferate—shadowy groups with innoc-

uous-sounding names like the Group in Favor of Republican Majorities or the Civil-

izens for Democrats in 2012 that will hold potentially enormous sway in a post-McCain-

Feingold world where the parties are dimin-

ished for lack of money.

Under McCain-Feingold, the power of special interests will not be deterred or dimin-
ished. Their speech, political activity and right to “petition the government for a re-
dress of grievances” (that is, to lobby) are protected by the First Amendment. Political spending will not reduced; it just will not flow through the parties.

Do we really want the two-party system, which has served us so well, to be weakened in favor of greater power for wealthy can-
didates and single-issue groups? McCain-

Feingold will not take any money out of politics. It just takes the parties out of politics.

Mr. MCCONNELL. Mr. President, it’s a

bitter pill, but hopefully not too late, that the Washington Post runs a page one story exploring the McCain-

Feingold’s destructive impact on vital democratic institutions: the two great political parties.

I ask unanimous consent that this article be printed in the RECORD.

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

RECORD, as follows:

April 2, 2001

CONGRESSIONAL—SENATE
If the Senate approves it Monday, the McCain-Feingold act would be "a genuine" surmount. It must pass the House, which has voted for similar measures, but now—with campaign overhaul far closer to reality—Republican leaders are vowing opposition. "The best example of why Republicans will do better than Democrats is to look at the Bush primary campaign," Democratic National Committee spokeswoman Jerry Backus said, citing the more than $100 million the Bush primary campaign raised in hard money.

Democrats also voiced concern that they would be targeted in the waning days of the campaign by well-funded independent Republican groups.

"We have established interest groups that have been very effective on our behalf," a Democratic strategist said. "What we have never had are the instant groups that spring up for the specific immediate purposes of influencing elections and that are encouraged to form under this bill... . Democrats are going to be shut out, especially in districts with more limited resources and not able to provide air cover for their members against those attacks." 

"Republicans say democrats would be helped because they would benefit from continued heavy union spending and because wealthy Democrats would simply write checks to outside groups.

Two academics who are sympathetic to McCain-Feingold said the Democrats' short-term problems in hard money would be offset by the greater number of advocacy group ads supporting Democrats. The experience of the last two elections suggest that neither Democrats nor Republicans have been proportionately harmed," said Kenneth Goldstein and Jonathan Krasno. "Indeed, neither party stands to gain or lose much against their counterparts.

Michael S. Berman, a veteran Democratic political strategist, said any predictions are foolhardy. "Of one thing I'm certain," Berman said. "Whatever we think the outcome will be, whoever we think it will help, we will be wrong, because we've always been wrong."

Mr. McCONNELL, Mr. President, the courts have repeatedly struck down electioneering restrictions.

I also ask unanimous consent that this list of cases be printed in the RECORD.

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

See Buckley v. Valeo, 424 U.S. 1, 44, n. 52 80 (1976), FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 249 (1986); Vermont Right to Life Comm. v. Sorrell, 221 F.3d 376, 383 (2d Cir. 2000); North Carolina Right to Life, Inc. v. Bartlett, 168 F.3d 705 (4th Cir. 1999); Iowa Right to Life Comm. v. Williams, 187 F.3d 963, 965–70 (8th Cir. 1999); Virginia Right to Life v. Dulles, 124 F.3d 248, 274 (4th Cir. 1997); Brownsville Area Patrons Affecting Change v. Baldwin, 137 F.3d 833, 836 (7th Cir. 1998); FEC v. Christian Action Network, 110 F.3d 1049 (2d Cir. 1997); Maine Right To Life Comm., Inc. v. FEC, 914 F. Supp. 8, 12 (D. Me. 1996), aff'd per curiam, 88 F.3d 1 (1st Cir. 1996); Faucher v. FEC, 926 F.2d 161 (1st Cir. 1991); Rangel v. FEC, 926 F.2d 506 (9th Cir. 1991); Cisneros v. FEC, 926 F.2d 661 (D. Kan. 1991); Right to Life of Mich., Inc. v. Miller, 23 F. Supp.2d 766 (W.D. Mich. 1998); Planned Parenthood Affiliates of
Mr. DAYTON. Mr. President, I spent the past three days with a number of my colleagues on a fact-finding trip to the Artic National Wildlife Refuge. I took this trip to help prepare myself for one of the most important environmental and energy issues before us: whether we should permit drilling for oil in the 1002 Area of ANWR. I wish to thank my distinguished colleague, Senator Murkowski, for arranging and hosting our tour.

This trip was reportedly scheduled several weeks ago in consultation with the Majority Leader, who at that time did not expect the trip to conflict with votes in the Senate. Unfortunately, two votes did occur last Friday on amendments to S. 27, the campaign finance bill, and I was not present for them. Last Thursday evening, after reviewing the nature of these two amendments, I was advised by Democratic leaders to keep my commitment to undertake the trip.

Had I not been necessarily absent last Friday, I would have cast my vote in support of the Reed Amendment Number 164, as modified, because it would improve the ability of the Federal Election Commission to enforce the law. I would also have voted in favor of the McCain Amendment Number 165, because it would make more workable the bill’s restrictions on the coordination of independent expenditures. Both of these amendments would have strengthened the underlying bill, which I strongly support.

Mr. LOTT. Mr. President, I now move to proceed to H. Con. Res. 83, the House budget resolution, and my motion to proceed be limited to 10 minutes—5 minutes under the control of Senator CONRAD and 5 minutes under the control of Senator DOMENICI—and, following that debate, the Senate proceed to the adoption of the motion and that the motion to reconsider then be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LOTT. In light of this agreement, then, Mr. President, there will be no further votes today. However, votes will occur throughout the day and into the evening, probably Wednesday and Thursday also.

I thank my colleagues for helping work out this agreement.

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

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I note the presence of the ranking member of the Budget Committee, Senator KENT CONRAD. What have we agreed to in the unanimous consent? Let us talk for 5 minutes each speak for 5 minutes, after which we will adopt the House-passed budget resolution, after which the Senator from New Mexico will send a substitute to the desk which will be the Bush-Domenici amendment. We will get that much done tonight.

For Senators who might want to speak, we should be there rather quickly, do what I have just described, and we will be here if Senators want to come in and speak. I understand there is at least one Senator on our side who would like to make a speech tonight, and we have talked with Senator Conrad, if there are any on his side who would like to speak.

I look as though the magic hour tonight is certainly somewhere around 9 o’clock because it seems like it would be very uncomfortable after 9 o’clock for Senators to be around here, and we will not be doing any voting until tomorrow. So that looks like a nice time to shoot for, as far as how much time we will use. I will certainly save for tomorrow a more detailed analysis of why we are here.

I will say tonight that it is very important to most Republicans—I think I spoke for almost every Republican Senator; I am not overstating the case, almost every Republican Senator—that this President, George W. Bush, deserves to have his budget and his tax plan considered by the Senate. That is what the arguments have been about thus far. Should he have a chance? What I am saying tonight is, yes, he should and, yes, I am grateful now that, after a lot of back and forth, the other side of the aisle has agreed that we can call up the budget that we here-tofore talked about, the Bush-Domenici budget.

Everyone should know that budget has a couple of things different than the one I proposed maybe a week ago. Those things are that the reconciliation instructions are not in the budget resolution. The reason for that is simple and does not require much finger pointing or much time.

Essentially, it was determined, parliamentary-wise, that would not work, putting the reconciliation instructions on a budget resolution at this time. We intend to offer it at a later time in an up-or-down vote on the floor of the Senate, and I am certain that while some might want to delay that—I haven’t heard that from my friend, Senator Kent Conrad— we will have that vote. We are hopeful by then we will have 51 votes for that, and we will be back where we were originally. It will be in our budget resolution as it goes on its way to the House for conference.

Having said that, in the few minutes I have, I will say that I think the President of the United States and a very brand new staff, who did not have very much time, put together a rather good budget, and to provide new and increased spending for education. And he did that, and we proposed that within the discretionary funding in this budget resolution.

In addition, the President of the United States proposed that we should have a major tax bill. Frankly, in due course, the tax-writing committee will work their will. This is not a Senator putting something off; it is just stating the facts and the law. In a budget resolution, you just use dollar numbers. So you tell the Finance Committee where they have latitude to cut taxes. They will determine how, what kind, and we will be saying in this budget resolution