Testimony of Congressmen Christopher Shays and Marty Meehan before the Senate Rules Committee on Campaign Finance Reform April 5, 2000

Chairman McConnell, Senator Dodd, and Members of the Committee:

Thank you for allowing us this opportunity to testify before your committee on a matter of great significance to the integrity of government and to our nation -- the reform of our federal campaign system, particularly the unrestrained use of soft money by political parties, Leadership PACs and candidates.

As the sponsors of H.R. 417, the Shays-Meehan Bipartisan Campaign Finance Reform Act, which passed the House on September 14 by a vote of 252 to 177, we are strong supporters of reform. Our legislation bans soft money; closes the sham "issue" ad loophole; codifies the Supreme Court's *Beck* decision; gives the Federal Election Commission (FEC) the teeth its needs to enforce the law; and creates a bipartisan commission to recommend further improvements.

We have long been working with Senator John McCain and Senator Russ Feingold on this issue. We strongly urge the committee to consider the soft money ban included in S. 26/S. 1593, the McCain-Feingold Bipartisan Campaign Reform Act, which a majority of your Senate colleagues support.

The McCain-Feingold bill completely eliminates political party soft money, including money funneled through state parties for use in federal elections; increases the aggregate hard dollar contribution limit from $25,000 to $30,000; and codifies the *Beck* decision to require labor organizations to annually notify employees who pay agency fees of their eligibility to object to the use of their funds for political activities.

Though corporations and labor unions have been prohibited from contributing to federal campaigns for most of this century, soft money is the loophole through which these proscribed donations flow to candidates.

Like the Shays-Meehan/McCain-Feingold bills, we believe a soft money section of campaign finance reform legislation considered by the committee should accomplish the following:

> Ban soft money donations for use in federal elections in totality, including those from union dues, corporate treasuries, individuals and foreign nationals;
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> Ban national parties from accepting, soliciting, directing or spending soft money;
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> Prohibit state parties from spending soft money to influence federal elections; and
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> Ban federal candidates from raising or directing soft money contributions, including Leadership PACs and 527 organizations set up in individual states.

In our judgment, proposals that do not include a comprehensive ban on soft money should not be considered as reform.

Soft money is the loophole that allows candidates to circumvent campaign laws that have been in place for most of the century. These funds, intended for party building, are often spent on sham "issue" ads on behalf of federal candidates. While not specifically mentioning "vote for" or "vote against" a particular candidate, most mention candidates for federal office and are clearly campaign ads.

The Tillman Act of 1907, championed by President Theodore Roosevelt, made it "unlawful for any corporation whatever to make a money contribution in connection with any election at which Presidential and Vice-presidential electors or a Representative in Congress is to be voted for or any election...of a United States Senator."

In 1947, the Taft-Hartley Act amended the Federal Corrupt Practices Act of 1925 to make permanent the ban on contributions using labor union dues to federal elections. And, finally, the 1974 Federal Election Campaign Act (FECA)

Amendments made it illegal for foreign nationals to contribute to any political campaign.

Yet these "forbidden " sources -- corporations and unions -- continue to give unlimited contributions because of the giant soft money loophole. Soft money fundraising began as a result of a 1978 FEC ruling to allow state parties to spend money from federally prohibited sources to benefit federal as well as state candidates. Soft money contributors to the parties then went undisclosed until an FEC regulatory proceeding resulted in soft money disclosure requirements in 1991.

Ending soft money, combined with requiring phony issue ads which are truly campaign ads to abide by the same laws as campaign ads, is the best way to end the abuses by both corporations and labor unions.

At the least, soft money funds create the appearance of corruption in Congress. At the worst, it corrupts and corrodes the representative process, resulting in a Congress responsive to special interests rather than to the public interest.

As Justice Souter stated on behalf of six of the nine Justices, including Chief Justice Rehnquist, in *Nixon v. Shrink Missouri Government PAC*, "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 governance." It's clear to us, and to so many others, that the American people deserve to have the system cleaned up.

During the 1996 elections, the political parties established solicitation programs to raise more soft money. Each political party began focusing on contributions well over the $20,000 individual limits on hard money contributions to party committees. Soft money contributions continued to grow during the 1997-1998 election cycle compared to the last non-presidential election cycle. Overall, according to the FEC, the national political parties raised $224.4 million in soft money, which was more than double the $101.6 million raised during the 1993-1994 cycle.

And during the current 1999-2000 presidential cycle, the parties have already

raised $107 million in soft money. For the comparable period in 1995, the parties raised $59 million -- an increase of 81 percent.

With each passing electoral year, campaigns and political parties are finding newer and bolder ways to evade the spirit of campaign law. Developments like the joint soft money accounts now utilized by both candidates in the New York Senate race make it clear that laws permitting the use of these funds for "party-building" activities only are honored exclusively in the breach.

Until now, federal legislators worked with the parties to raise soft money. Today, the office holder is now directly soliciting soft money for his or her own political committee account through joint committees and federal Leadership PACs. At a minimum, these practices raise the appearance of corruption, without a doubt.

For example, the Senate campaign of First Lady Hillary Clinton established a joint fundraising committee, New York Senate 2000, with the national party's Democratic Senate Campaign Committee (DSCC) to raise unlimited soft money contributions. This joint committee accepts donations of any amount, channels the maximum hard money amount of $2,000 to the First Lady's Senate campaign, and transfers the remaining funds to the DSCC. The DSCC then funnels these soft money funds to the New York state Democratic party to pay for sham "issue" ads promoting Hillary Clinton's candidacy.

This approach, which essentially creates a soft money "bank account" for the Senate candidate, institutionalizes direct relationships between the federal candidates and their soft money donors. These joint committees brazenly undermine the limits on contributions to federal candidates.

Like most campaign finance loopholes, this practice is not limited to one party. Mayor Rudy Giuliani has recently set up an identical operation, called the Giuliani Victory Fund, with the National Republican Senate Committee (NRSC).

Federal Leadership PACs are another way for Congressional leaders and prominent Members to amass influence by raising soft money. Currently, this soft money cannot be used on federal elections but can go to anything else: sham

“issue” ads, state races or party committee soft money accounts, and to subsidize an individual member's political operations, such as travel, consultants and polling.

And in a number of instances, disclosure requirements are quite weak. If a Leadership PAC is established under state law, the disclosure requirements are only as good as state law requires. This practice defeats the rule currently in place that requires the disclosure of soft money to the national parties.

The 1996 Presidential campaign and its aftermath of scandals and investigations demonstrate that our campaign system is a bipartisan problem in need of bipartisan solutions. Perhaps the most notable, and yet least reported, story arising from the 1996 election was the record amount of soft money raised during that election cycle. Overall, according to the FEC, the two principal parties raised $262 million in soft money -- more than three times what was raised in 1992. This Congress must pass meaningful, effective, bipartisan campaign reform to ensure that our future elections are the result of a strong and effective democracy rather than the outcome of a no-holds-barred fundraising race.

Today we have a political campaign system that is more loophole than law, and both sides of the aisle are using the same playbook. In a race to outdo the opponent, the parties are raising more and more money. Inter-party fundraising competitions, in turn, will leave our campaign finance system in shambles . Worse yet, our narrow view of elections as mere money races has savaged the public's perception of individual politicians, as well as our political system overall.

We have a system in which our President, Vice President and Members of Congress, as well as other good men and women from both political parties, are tempted to make telephone solicitations for campaign contributions from government buildings, or to accept donations from foreign nationals.

We have a system in which special interest groups can broadcast campaign ads without limitation, disclosure or oversight by telling us their ads are "educational." Yet campaign reform has not been addressed since 1974, and most of the basic laws on the books today are a result of the 1974 act. While the 1974 law worked well for a number of years, people have found more and better ways to get around

the law.

Contrary to the inside-the-Beltway perspective, **the public cares about campaign finance reform**. Unfortunately, as witnesses to abuse after abuse of our campaign finance laws, the public has become so cynical about the perpetrators of the system that they don't believe their legislators have either the integrity or the will to fix it.

A February 17, 2000 New York Times/CBS News poll found "42 percent of the respondents said the campaign finance system has so much wrong with it that it needed to be completely overhauled. Another 44 percent said fundamental changes were needed." Clearly, 86 percent of overall respondents support fundamental or complete changes to current law.

As Charlie Kolb will likely tell you later this morning, the Committee for Economic Development (CED) -- a group comprised of corporate leaders and university officials across the country -- released their report on campaign finance in March 1999. According to the report, two out of three Americans think that money has an "excessive influence" on elections and government policy. And two-thirds of the public think "their own representative in Congress would listen to the views of outsiders who made large political contributions before a constituent's views."

The Center of Policy Attitudes -- an independent non-profit -- released polling data showing that 74.5 percent of the respondents believe the government is pretty much run by a few big interests looking out for themselves.

If we eliminate the unregulated, unlimited campaign gifts known as soft money, apply our campaign laws to sham issue ads, and increase disclosure, we will slam shut the open door that currently allows anyone -- corporations, labor unions, wealthy individuals, even foreign nationals -- to purchase limitless influence in our political system.

Under today's loophole-ridden system, advocates and special interest groups are judged not by the strength of their arguments, but by the power of their

checkbooks. We urge you to consider the McCain-Feingold bill. It's high time we prove to the American people that we can close the loopholes and restore our democracy.

Thank you for your consideration of this testimony. We welcome any questions you may have.