Straight Talk on Campaign Finance:
Separating Fact from Fiction

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BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW

DEMOCRACY AND CAMPAIGN FINANCE REFORM

- "**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**." *Nixon v. Shrink Missouri PAC,* 145 L.Ed.2d. 886, 900 (2000). Last year, with these words, the Supreme Court underscored the rationale now driving Congress to enact campaign finance reform.

- Reform opponents work overtime to ignore mountains of evidence that "large donors call the tune," and that voters increasingly are unwilling to "take part in democratic governance." But the facts tell a different story.

- Forty-nine percent of eligible voters – 100 million Americans – elected not to vote in the 2000 elections.

- In the 2000 election, the Republican and Democratic parties spent $456 million in unregulated money, which came from corporate and union treasuries and from the bank accounts of wealthy individuals. There were no limits on the size of these "soft money" contributions.

- Thirty-eight percent of this party soft money – $173 million – was spent on television and radio ads aired to influence elections. These campaign appeals masquerading as issue ads constituted by far the largest category of soft money spending by the parties.

- The 2000 election was the first in history in which the Republican and Democratic parties financed their television ad buys primarily with soft money.

- Added to the $173 million in party soft money was another $46 million in unregulated money spent by special interest groups on sham issue ads. Like the party soft money, the money spent by groups on televised campaign appeals faced no restrictions on the source of the funding or the size of the contributions. Moreover, the groups were able to evade even disclosing the source of their funding.

- To maintain the openness and integrity of our elections, Congress in the past has (1) required disclosure of the sources of the money paying for the electioneering speech; (2) barred corporations, unions, and foreign individuals from electioneering; and (3) set contribution limits. The Supreme Court has upheld all of these. In the 2000 election, parties and special interest groups expanded the soft money loophole to the point where it swallowed each of these safeguards for democracy.

161 AVENUE OF THE AMERICAS, 12TH FLOOR ★ NEW YORK, NY 10013 ★ 212 998 6730 ★ FAX 212 995 4550
www.brennancenter.org

- For months, the 2000 primary agenda was dominated by Senator John McCain, who made campaign finance reform his signature issue. His popularity continues, largely because of his commitment to this issue.

- Twenty-five years ago, the Supreme Court counseled the House and Senate as follows: "Congress could legitimately conclude that the avoidance of the appearance of improper influence 'is also critical…if confidence in the system of representative government is not to be eroded to a disastrous extent.'" *Buckley v. Valeo* 424 U.S. 1, 27 (1976)*, quoting CSC v. Letter Carriers*, 413 U.S. 548, 565 (1973). That advice never has been more relevant.

The Brennan Center for Justice at NYU School of Law has conducted groundbreaking research studies of political television advertising in the 1998 and 2000 elections. Brennan Center attorneys testify frequently before Congress on the constitutionality of campaign finance bills, appearing this month before the House Judiciary Subcommittee on the Constitution and the Committee on House Administration.