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reform

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PRESIDENT WILLIAM JEFFERSON CLINTON
RADIO ADDRESS TO THE NATION
July 22, 1995

Good morning. Over one month ago, Speaker Newt Gingrich and I met with a group of senior citizens in New Hampshire. That sunlit event had a special spirit. We showed that the great debate now occurring in our country can -- and should -- be conducted with civility and a sense of common ground. Many Americans have told me, since then, that is exactly the way they want their leaders to work together. And that's what I'm committed to doing.

Perhaps the most visible example of that spirit of New Hampshire came when the Speaker and I shook hands on political reform. The first question we answered was from a retired steelworker. He said that politics had become polluted by the special interests, and that too often the voice of the people was shut out. He said that bickering between the parties had blocked reform for too long. And he proposed that we create a blue-ribbon, bipartisan commission to write reforms to curb the power of special interests. There, in front of the nation, the Speaker and I agreed to create this commission.

A bipartisan commission could cut the knot that is strangling change. This panel would follow the approach that has worked on other critical issues: It would be comprised of distinguished citizens and would recommend broad changes in the rules which cover lobbyists, and in how we finance political campaigns. Most important of all, the Congress would have to vote within a strict deadline, up or down, no loopholes, no amendments. I am happy to report that -- in addition to myself and Speaker Gingrich -- this very idea has been strongly endorsed by Senate Majority Leader Robert Dole.

It's clearer than ever that we need political reform. The American people believe that their political system is too influenced by narrow interests, that our government serves the powerful but not hard working families. In the elections of 1992 and 1994, the voters shouted -- screamed -- for change. But instead, the new Congress has given even more power to lobbyists. They let lobbyists for polluters write the legislation rolling back environmental and public health protections; they brought them in to explain the legislation; they even gave them a room off the House floor to write the amendments.

So it was a moment of hope when we shook hands on reform in New Hampshire. Five days later, I sent Speaker Gingrich a letter, laying out in detail my ideas for how to move forward. Now, five weeks later, I must say that I have been very disappointed by what has happened since -- or more accurately, what <u>hasn't</u> happened. The Speaker announced that he would send me his proposal -- but he never has.

I believe the people of this country want us to move forward with political reform. Speaker Gingrich and I shook hands on it. We have an obligation to get this done, and not

John Gardner

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walk away.

Today, to help move this process forward, I am announcing that two distinguished Americans have agreed to work with me to get this commission underway. They are the kind of people I will appoint as its members. John Gardner's name is synonymous with integrity. A Republican cabinet secretary to a Democratic President, the founder of the citizen's lobby Common Cause, he is wise and effective. Doris Kearns Goodwin is a political scientist and Pulitzer Prize winning author. She understands through her knowledge of history and today's political situation how politics affects the lives of ordinary people. I have asked them to work with my staff as we continue to reach out to Speaker Gingrich and the congressional leadership, so that we make this commission a reality.

John Gardner and Doris Kearns Goodwin will help us get political reform moving. Now I call on Speaker Gingrich to come forward and do his part. I believe there is no excuse for further delay.

We already have signs of bipartisan agreement. On Monday, the Senate begins debate on legislation to require the lobbyists to disclose who they are, what they're paid, and what bills they are trying to influence. And the Senate will vote on legislation to ban lobbyists from providing lawmakers meals, gifts and travel. If a judge took a paid vacation from a lawyer in his courtroom, he'd be disbarred -- but if a lobbyist pays for a trip to a sunny climate, right now it's perfectly legal, and it happens all the time. Congress should send me the strongest possible ban on lobbyist gifts, such as the bill introduced by Democratic Senators Carl Levin and Paul Wellstone, and Republican Senator Bill Cohen. Congress should not send me a bill that's more loophole than law.

I hope the action I am taking today will help lead to real political reform. We have to do everything we can to show the American people that their government works for them -- and not the special interests. Thanks for listening.

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From NEWTON N. MINOW

To Hillary Rodham Clinton
c/o Melanne Verveer

The Economic Club of Chicago has invited me to speak at its Annual Dinner next week. I will be proposing a controversial--and I believe important--idea about television and political campaigns. Here is an advance text which the Economic Club will release April 16; it is embargoed until then.

I welcome your comments. Melanne, as we discussed. Please pass this on to Hillary.

All best,

Newt Minow

Attachment

April 9, 1997

ECONOMIC CLUB SPEECH
April 16, 1997

Campaign spending is as old as the republic. When George Washington ran for the Virginia House of Burgesses in 1757, his total campaign expenditures, in the form of "good cheer," came to "28 gallons of rum, 50 gallons of rum punch, 34 gallons of wine, 36 gallons of beer, and 2 gallons of cider royal."

Today, the era of good cheer is gone. For four decades now, campaign expenditures have been driven relentlessly upward by one thing: television. In 1960, in what would be the first presidential campaign to make wide use of television, Democrats and Republicans together spent $14.2 million on radio and television commercials. In 1996, candidates for federal office spent more than 128 times that amount on television and radio commercials, an estimated $1.8 billion.

After the presidential campaign scandals of 1972, Congress tried in 1974 to end the suitcases of cash which sloshed around campaigns in return for favors. But as we now know -- and continue to learn -- the 1974 campaign reform law has failed to solve the problem.

In the 1996 federal elections, the campaign finance laws were bent beyond recognition. We learned about the availability of the Lincoln bedroom to major contributors; the President's meeting with a convicted stock swindler, a Chinese arms merchant, and others of dubious background and intention; the Vice President's raising campaign cash at a Buddhist temple; and the Republicans soliciting "season ticket holders," donors of $250,000 who hoped for special treatment for their special interests, including access to important government officials. Add don't forget Congressional censure of Newt Gingrich for mixing campaign cash with his television program. The only bi-partisan agreement in Washington these days is on one proposition: "Show me the money!"

Strict limits on campaign contributions imposed by the 1974 Act were washed away this year in a flood of "soft money," donations not limited by law because of the foolish fiction that such money was not used to support or oppose particular candidates. Together, the two parties collected $88 million in soft money in 1992; last year they multiplied this by three -- to $263.5 million.

Interest groups ranging from the AFL-CIO to the U.S. Chamber of Commerce bathed in another form of soft money, which they used to broadcast so-called "issue" commercials. Theoretically, at least, issue commercials are not supposed to advance or oppose anyone's candidacy, and so are exempt from the 1974 law's requirement of full disclosure of who contributes money and how that money gets spent.

How did this happen? Dick Morris claims the credit for himself. After the 1994 Republican Congressional victory, Morris developed the Democrats' 1995 and 1996 campaign strategy: take control of the airwaves early, before the Republicans could pick their candidate -- and never let up. To pursue this strategy, the Democratic National Committee and the Clinton-Gore campaign spent an estimated $1 million to $2 million per week.

On October 13, 1995, President Clinton signed the Federal Elections Commission vow that in return for public financing, he would spend no more than $37 million in privately raised funds during the upcoming primary season. That same morning, a White House coffee for large donors to the Democratic National Committee began what would soon become a habit. The money raised from that event and others like it eventually allowed the DNC to spend an additional $44 million for television ads. Because so many of those commercials were issue ads, federal contribution caps did not apply. Donors to the cause, including corporations and labor unions, both of which are barred by law from giving money directly to a candidate, spent freely, without accountability.

The Republicans did even more. By election day, the Republican National Committee had raised more money than the DNC. The Party solicited record contributions from telecommunications, tobacco and pharmaceutical companies, enough to pay for $18 million in television advertising between May 1996 and the GOP convention in August. They, too, pursued the "issue advertisement" strategy. One of the RNC's more controversial issue advertisements was a 60-second spot with 56 seconds of biographical material about Senator Dole and 4 seconds of issues. The RNC insisted this was not a plug for Dole and so was within the federal election guidelines.

Not only did Democrats and Republicans take advantage of the law, so did countless organizations with a cause and the ability to finance it. Millions of dollars in cash swept through House and Senate elections in the states, turning campaigns into ideological contests with little or no relevance to local voters. Some candidates for Congress discovered ads for the first time on radio and television -- as many as 300 a day in their districts, either attacking or favoring them -- but had no idea where the ads had come from, or who had paid for them.

Former Israeli Prime Minister Shimon Peres once said that "television has a good side and a bad side. The good side," Peres said, "is that television makes dictatorship impossible. The bad side is that it makes democracy unbearable."

Tonight, I suggest we amend Mr. Peres' observation, in two respects. First, television does not necessarily make democracy unbearable. At its best, television makes democracy stronger by opening the workings of government to the public. In our own country, whether television's cameras are on the floor of Congress, in a courtroom in Los Angeles, or at a Presidential Debate, they provide unique opportunities for the public to see and to understand how their government works -- and, just as importantly, where it fails.

At its worst, however, television can become a tool of dictatorship. In any country that suffers a coup, the nation's television and radio broadcast facilities are the very first institutions to come under siege. Rulers and rebels alike know that whoever controls the airwaves controls the country.

In our country, we have allowed television, the greatest instrument of communication in history, to create for us a different kind of dictatorship -- a dictatorship of the dollar. In the 1996 elections, total expenditures on all federal races came to approximately $2.1 billion, of which $1.8 billion was spent to buy broadcast TV time! Thus, almost $9 out of $10 went to buy time on radio and television. Fund-raising, not governing, became the principal business of our elected officials. Our best public officials are leaving public service, sick and tired of the current system. Al Hunt in *The Wall Street Journal* quotes a model of integrity, Democratic Congressman Lee Hamilton (Chairman of the House Foreign Affairs Committee) when he announced this year that he would not run for re-election. "My colleagues talk about money constantly. The conversation today among members of Congress is so frequently on the topic of money: money, money, money, and the money chase. Gosh, I don't think I ever heard it when I first came here."

The rest of the world looks with horror at our national campaigns. They are too long, they are too negative, they constantly make personal attacks on the opposition, they are exercises in deception, they turn the voters off and away from the voting booth. In 1996, fewer than half the nation's registered voters even bothered to go to the polls, the second lowest turnout since 1824.

By allowing unlimited political advertising on television and radio, the United States stands almost alone in the world. Only three countries do not require some form of free broadcast time for candidates in national election campaigns. They are Malaysia, Taiwan and the United States. Thomas Jefferson, James Madison, and Benjamin Franklin would be horrified to learn how we have abused the democratic process they bequeathed to us. Television authorities in Great Britain, France, the Netherlands and Japan ban political advertising from the airwaves entirely. In England, the law prohibits advertisements by any person or organization that is "wholly or mainly of a ...political nature" or "directed towards any political end." Instead, British law provides free television time to political parties to air their own programs on important public issues.

Most of the world's democratic nations which do allow candidates to buy advertising time -- such as Australia, Canada, Germany and Sweden -- also provide free time to candidates and their parties. Unlike our own country, these democracies do not believe the only way to provide political broadcast time is to sell it.

As you know, there are many proposals in Congress and elsewhere to "reform" campaign finance. Most proposals focus on the supply side of the problem: on who gives the money, how much they can give, and for what purpose. There are proposals to limit contributions, to prohibit "soft money," to prohibit contributions from labor unions and corporations, to raise the limit on individual contributions, to curb spending on behalf of candidates by independent organizations, to prohibit PACS, to encourage candidates voluntarily to limit spending, to speed up disclosure of contributors and their contributions, to use public money to pay for campaigns, and to amend the Constitution of the United States. Former Senator Howard Baker suggests that if you can't vote for a candidate, you can't contribute to the candidate.

There are a lot of good ideas -- and some bad ideas -- being discussed and debated. I do not favor limiting individual contributions, but I do favor immediate public disclosure of contributions, even before checks are cashed. I favor ending "soft money", PACs, contributions from unions and corporations, and ending phony outside expenditures unless they are truly independent and not developed in concert with candidates and their campaigns. But dealing only with the supply side of the equation will not work so long as demand exists. I agree with a young journalist from Chicago, *Newsweek's* Jonathan Alter, who writes, "money in politics is like water running downhill; it will always find its way...."

So, this evening, my focus is exclusively on the demand side of the equation -- which has received little attention in the current debates. And I will focus -- ruthlessly focus -- on one specific public policy decision that our country will soon make on the relationship of television and political campaigns.

Let us focus on four words: "public interest" and "digital television." You've been hearing a lot about digital television lately--but not much about the public interest.

Last year, Congress passed and the President signed the 1996 Telecommunications Act. Under the new law, broadcasters are eligible to receive new digital television channels. Congress directed that, unlike other telecommunications service providers, broadcasters do not have to pay for their new channels. They get them free. Digital transmission will allow broadcasters to offer multiple channels instead of one, and if they wish, to use those extra channels for services such as data transmission, paging services or pay-per-view movies. Estimates of the value of these new digital channels ranges from $30 billion to $70 billion.

Why should broadcasters receive this spectrum, these digital channels, free? This was the question former Senator Majority Leader Bob Dole put to his colleagues on the Senate floor last year before the law was passed. Senator Dole said:

"Spectrum is just as much a national resource as our nation's forests. That means it belongs to every American equally. No more, no less. If someone wants to use our resources, then we should be fairly compensated."

Last month, former Senator Dole wrote in the New York Times: "We don't give away trees to newspaper publishers. Why should we give away more airwaves to broadcasters?" Senator Dole wants broadcasters to pay for spectrum, just like everybody else. Why should we give away a national resource that could be worth as much as $70 billion?

Senator John McCain, Republican Chairman of the Senate Commerce Committee, said the spectrum is "the most valuable asset that I know of in America today. Perhaps in the world today." Congress, however, rejected that advice, and decided to give the spectrum away for free. The Federal Communications Commission began to award digital spectrum assignments to broadcasters on April 3rd. However, under the law, including recent emphasis in the 1996 Telecommunications Act, the FCC made it plain that those receiving digital channels are obligated to serve the public interest. So the question before us is this: What should be the public interest obligations of digital broadcasters?

On March 11, President Clinton announced that he will soon appoint a Presidential Commission to advise him, the Congress, and the Federal Communications Commission on this question. Should broadcasters have specific public-service obligations in return for their use of a big slice of the publicly owned spectrum -- property now known to be worth many billions of dollars?

I have been deeply involved in these issues for many years. In 1969, I served as chairman of a bi-partisan Commission for the Twentieth Century Fund on Campaign Costs in the

Electronic Era. Over the decades, I have testified in Congress many times on these issues, and written extensively on them.

Based on that experience, I suggest the time has come to do some thinking outside the box, outside conventional approaches, and outside the Beltway.

We can begin by examining the British system of using broadcasting in political campaigns in the public interest. The British system is simple and direct. Political parties are granted, by law, free time on radio and television in the three or four week period before the election. The parties have complete freedom to make their cases; smaller parties receive time on an equitable basis. This year, for the first time, there will also be debates between the leaders of the political parties. There is no sale or purchase of broadcast time -- no money is involved. The campaign is mercifully short, and the voters are well informed. Indeed, because the campaign programs are simulcast on all channels, there is ample political discussion for the voters.

We should connect the dots: digital television and public interest. We should condition the awarding of digital broadcast licenses on a broadcaster's commitment to provide free time and not sell time.

People who understand television well -- and make their living from it -- like this idea. Don Hewitt (producer of *60 Minutes* on CBS) and Reuven Frank (former President of NBC News) advocate an end to buying and selling political commercials. Barry Diller (formerly of ABC and Fox Television) favors specified free time for candidates during campaigns as part of campaign reform.

There are, of course, many other important policy questions about free time. I have addressed Presidential elections only, not Congressional elections, not primaries, not state and local elections. This is to focus our analysis on the basic principle: No citizen has a constitutional right to buy or sell our natural resources--land, minerals, water, trees or broadcast spectrum--without Congressional approval. Just as Congress has the authority to clean up our natural environment, it has the authority under our Constitution to clean up the current political broadcasting mess we have inflicted on our republic. Once that principle is established, we can analyze and debate many other vital questions about how to apply that fundamental concept fairly to our political process.

What about the First Amendment? The First Amendment is the highest value and treasure in our life. As Judge Learned Hand said so well, "We have staked upon it our all."

First, there is the issue of whether Congress can constitutionally require broadcasters to give free time contemplated by this approach. In resolving that issue, let us listen again to Senator McCain -- a courageous man who suffered four years of torture as a war prisoner in Vietnam -- four years to reflect on democracy and freedom. Here's Senator McCain:

"Let me go back to the First Amendment thing. What the broadcasters fail to see, in my view, is that they agree to act in the public interest when they use an asset that is owned by the American public. That's what makes them different from a newspaper or a magazine. I have never been one who believes in government intervention, but I also believe that when you agree to act in the public interest -- and no one forced them to do that -- you are then obligated to carry out some of those obligations.... If I want to start a newspaper, I buy a printing press and [get] a bunch of people and we start selling newspapers on the street. If I want to start a television station, I've got to get a broadcasting license. And that broadcasting license entails my use of something that's owned by the American public. So I reject the thesis that the broadcasters have no obligation. And if they believe that there is no obligation, then they shouldn't sign the statement that says they agree to act in the public interest. Don't sign it, OK?"

Senator McCain has accurately described the public trustee concept for broadcasting, found to be constitutional by the Supreme Court repeatedly, in 1943, 1969, 1993, and again on March 31 this year. Indeed, the issue here is not free time, but the *voters'* time. Professor Cass Sunstein, the distinguished and respected First Amendment scholar at the University of Chicago Law School, writes: "Requiring free air time for candidates, given constitutional history and aspirations, is fully consistent with the basic goals of the First Amendment. The free speech principle is, above all, about democratic self-government."

Then there is the second issue. Could Congress at the same time lawfully say to the candidates, "You have been given a generous, free opportunity to reach the electorate over the most powerful medium, broadcasting, to say, without interference, whatever you want. As a condition of accepting that offer, you will not buy further time on this medium. For experience has shown that with such purchases comes the drive to raise great sums of money, with all its abuses and detriments to sound governance."

I believe Congress could do these things, and that they would be constitutional because, in the current language of the Supreme Court, such a law would be "content neutral." As Justice Stevens emphasized, as long as the law does not regulate the content of speech rather than the structure of the market, the law is consistent with the First Amendment. I believe Congress could go even further and constitutionally prohibit broadcasters from selling time for political purposes. Congress has already passed the Equal Time law and a law guaranteeing candidates the right to buy time at the broadcasters' lowest rate. Both have been held constitutional by the courts. Banning cigarette commercials on television has been held constitutional in light of the danger to health and broadcasters' public interest obligations. Congress should debate whether our current system of buying and selling broadcast time is a grave danger to our national health. I would happily see these reforms tested at the Supreme Court.

Three years from now, we will have entered a new millennium and a new presidential campaign season. By then, we will also be into the era of new digital television. Almost fifty years ago, E.B. White saw a flickering, experimental television demonstration and wrote, "We shall stand or fall by television -- of that I am sure... I believe television is going to be the test of the modern world, and that in this new opportunity to see beyond the range of our vision, we shall discover either a new and unbearable disturbance to the general peace, or a saving radiance in the sky."

Instead of a saving radiance in the sky, we now have a colossal irony. Politicians sell access to something <u>we</u> own: the government. Broadcasters sell access something <u>we</u> own: the public airwaves. Both do so, they tell us, in our name. By creating this system of selling and buying access, we have a campaign system that makes good people do bad things and bad people do worse things, a system that we do not want, that corrupts and trivializes public discourse, and that we have the power and the duty--a last chance--to change.

Will we change? I leave you with a story President Kennedy told a week before he was killed. The story was about French Marshal Louis Lyautey, who walked one morning through his garden with his gardener. He stopped at a certain point and asked the gardener to plant a tree there the next morning. The gardener said, "But the tree will not bloom for one hundred years!" The Marshal looked at the gardener and replied, "In that case, you had better plant it this afternoon."

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October 30, 1996

MEMORANDUM FOR LEON PANETTA

FROM: Bruce Reed, Paul Weinstein, Peter Jacoby, Michael Waldman, Jim Weber, Elena Kagan

SUBJECT: **Possible Q&A on President's Campaign Finance Reform Announcement**

QUESTION: ***What exactly is the President proposing?***

RESPONSE: The President today is calling on Congress to pass the bipartisan campaign finance reform legislation introduced last session by Senators McCain and Feingold. The principles of McCain–Feingold are ones the President has advocated since he first ran for office in 1992 and are the key elements of real reform: spending limits; curbing PACs and lobbying influence; free and discounted broadcast time; and ending the "soft money" system.

The President is challenging Congress to enact this legislation in the first six months of the 105th Congress. He is committed to working closely with the leadership of both parties in achieving this goal. However, if the Congress cannot find the political will to pass this bipartisan bill, then as a last resort, the President will support legislation to establish a binding campaign finance reform commission that will send comprehensive reform legislation to his desk by the end of 1997.

The President also announced today that he agrees with Senators McCain and Feingold that non-citizens should not be able to influence our elections. From now on, the President will only support campaign finance reform that includes the following rule: if you are a non–citizen and can't vote, you can't contribute.

QUESTION: ***Why are you announcing this now?***

RESPONSE: This announcement is consistent with the President's long–standing commitment to campaign finance reform and to changing business as usual in Washington. In the last three years, the President repealed the tax loophole for lobbyist deductions, enacted legislation to make the Congress and the White House live by the same laws Washington applies to rest of the nation, signed legislation to require lobbyists to disclose how much they spend and what they spend it on, enacted the line–Item Veto, and made it easier for millions of Americans to register to vote.

In 1992, the President made campaign finance reform a central piece of his agenda and throughout his first term he pressed the Congress to pass real, bipartisan legislation.

QUESTION: ***Both parties have been unable to resolve the campaign finance reform issue for years, why should the American people expect you and Congress to take action next term?***

RESPONSE: Last Congress we enacted Lobbying Disclosure, the Gift Ban, Congressional Accountability Act, the Line-Item Veto. We have a proven track record of getting the job done on political reform. Campaign finance reform is the last step, and most important step. The President believes that the Congress should and must make passage of McCain-Feingold a priority. He is challenging Congress to pass the bipartisan McCain-Feingold bill in the first six months of the 105th Congress, and not deny the American people any longer. If that fails, he will challenge Congress to create a bipartisan commission whose recommendations will become law on a fast-track basis.

QUESTION: ***There has been a lot of controversy about foreign contributions to the DNC. Do you think it is wrong to accept contributions from non-citizens?***

RESPONSE: The system is broken, and needs to be fixed. The voting public must have confidence that the process is fair and works for them. That is why we agree with Senators McCain and Feingold that real, bipartisan campaign finance reform must include effective limitations on non-citizen contributions. If you are a non-citizen and can't vote you should not be allowed to contribute.

QUESTION: ***Does your support for limitations on non-citizen contributions mean that you will direct the DNC to stop taking such contributions immediately and return those contributions received this elections cycle?***

RESPONSE: No. It is clear that the system is broken and that the rules need to be changed. We support banning these contributions by law. We need quick action by Congress on this issue as part of comprehensive, bipartisan campaign finance reform. We will discourage those contributions beginning immediately.

QUESTION: ***How will you enforce this ban, and how broad will it be? For example, would the ban include U.S. subsidiaries of foreign-owned corporations?***

RESPONSE: Many of the specific details of the ban would have to be worked out with Congress. However, the principle is clear, if you are a non-citizen and can't vote, you can't contribute -- individual contributors would have to certify citizenship.

With regards to corporate contributions, the McCain-Feingold bill would ban PACs and eliminate the current "soft money" system. Therefore, no corporate entity, foreign or domestic, could make a Federal campaign contribution.

QUESTION: ***If you believe it is wrong to accept foreign campaign contributions, is it wrong to accept non-citizen contributions to your legal defense fund?***

RESPONSE: The President's Legal Defense Fund does not accept contributions from registered lobbyists and PACs. In addition, contributions are limited to $1,000. (Additional recommended response is: "In the future, the President's legal defense fund will not accept contributions from foreign donors.)

QUESTION: *Aren't you, by endorsing the bipartisan commission as a fallback position, undermining any real hope that McCain-Feingold will pass?*

RESPONSE: The President has been and remains a strong supporter of McCain-Feingold, and believe the principles of that legislation are the key elements of real reform: spending limits; curbing PAC and lobbying influence; free and discounted broadcast time; and ending the "soft money" system. He supports a bipartisan commission only as a last resort, if the Congress lacks the political will to pass McCain Feingold.

QUESTION: *Will this be a number one priority for your administration?*

RESPONSE: This will be a key priority in the President's second term. He has long felt that this is one of the most important issues facing the American political system. We must restore the faith of the American people in their political leadership in order to build a bridge to the 21st century.

QUESTION: *How does your plan compare with Bob Dole's?*

RESPONSE: The President supports the bipartisan McCain-Feingold bill. When he was in the Senate, Bob Dole opposed that legislation. While Senator Dole introduced a bill to create a campaign finance reform commission immediately, the President supported efforts to pass real, bipartisan campaign finance reform. The President continues to support McCain-Feingold, and calls on Congress to pass this legislation in the first six months of the next term. However, if Congress cannot find the political will to pass McCain-Feingold, then as a last resort he supports creating a binding, bipartisan commission that will send a real campaign finance reform bill to his desk by the end of next year. However, Senator Dole and the President do agree that non-citizens should not be able to contribute to campaigns for federal office and that we must end the current "soft money" system.

QUESTION: *How would your plan to ban campaign contributions from foreigners impact unincorporated partnerships?*

RESPONSE: Contributions from unincorporated partnerships would be pro-rated and counted against the $1,000 individual contribution limit of each partner. For example, if a partnership of ten individuals made a $1,000 contribution to a campaign, $100 would be counted against the contribution limit of each partner. If a non-citizen was a member of a partnership, a greater share of the contribution would count against the $1,000 limit of the other partners. A partnership which is owned by a majority of non-citizens should be prohibited from making contributions.

QUESTION: *How would the ban on non-citizen contributions affect entities, such as unions, that collect funds for independent political expenditures?*

RESPONSE: Independent political expenditures would not be covered by the ban on campaign contributions by non–citizens. Independent political expenditures would have to be addressed separately from the contributions issue.

QUESTION: ***How would the McCain–Feingold bill be impacted by the Supreme Court's decision in Colorado Republican Campaign Committee vs. the FEC?***

RESPONSE: [Counsel's Office drafting response]

QUESTION: ***Doesn't a ban on Federal campaign contributions from non–citizens violate the First Amendment of the Constitution?***

RESPONSE: [Counsel's Office drafting response]

QUESTION: ***How would your campaign finance reform plan have prevented the contributions that have caused the recent controversy?***

RESPONSE: I believe it is inappropriate to comment on some of those specific incidents because they are currently under the jurisdiction of the courts. With regards to future elections, passage of McCain–Feingold and the President's proposal to prohibit contributions from non–citizens will greatly insure that the people's interest are protected.

Campaign Finance Reform

The New York Times

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No Delays for Public Trust

"Let us give this capital back to the people to whom it belongs." Five days after President Clinton thundered those words in his Inaugural Address, it is none too soon to say, "Show us what you've got in mind."

Fresh from their inaugural parties, the unrepentant and ever-resourceful hacks who batten at the public trough in times Democratic or Republican are already plotting ways to torpedo real change. If Mr. Clinton is serious about reclaiming the nation's politics from the grip of rich special interests, there's no time to lose.

•

The President has promised early action on campaign finance reform. But advocates of reform warn that he must jam it quickly to the top of his legislative agenda or the Democratic Congressional leadership will be all too happy to stick to its traditional habit of promising to clean up politics in the sweet by and by. Legislation passed last year and vetoed by President Bush offers a good basis for a bold and instantaneous start.

The House provisions call for slowing the Congressional money chase by placing a cap on campaign spending and providing up to $200,000 in matching funds to candidates who agree to abide by it. Mr. Clinton needs to insist on adding tougher measures designed to reduce members' unseemly reliance on PAC's — the special-interest political action committees that now supply half the campaign money raised by House incumbents.

Mr. Clinton, who refused to take any PAC funds during the campaign, has already offered some good ideas on this score: for example, limiting the amount a PAC may give to a candidate to $1,000 instead of the present $5,000.

Reining in the power of Washington's lawyer-lobbyists also hinges on curbing their ability to collect and deliver "bundled" contributions from individuals. The Senate provisions suspend members' free mailing privilege in an election year; the mail-happy House also needs restraint. But the Senate stints on the public resources it offers candidates who agree to a spending cap. Ideally, there would be public financing for Congressional races, much like the system for Presidential elections. But at a minimum, candidates deserve public subsidies totaling as much as half their campaign budgets for things like postage and television time.

Many Americans resist the idea of spending taxpayer dollars on politicians. But the alternative is worse: noncompetitive elections and further mortgaging of government to big-money contributors. The cost can be financed by ending the tax deduction for lobbying.

Having spent much of last week greeting $100,000 donors to his campaign, Mr. Clinton can truly say he has seen the enemy and shown them a good time. Now he can show character of Presidential scale by reforming the funding system that helped get him to the White House.

That means outlawing the flow of soft money — contributions to political parties in order to circumvent limits on contributions to candidates. In the 1992 election, Mr. Clinton's camp, outpacing the Republicans, reported raising $20 million this way. That lumbers Mr. Clinton with a special duty to fulfill his campaign pledge.

Time is of the essence. Jimmy Carter, too, entered the White House promising campaign reform when Democratic majorities in the House and Senate were already on record in support. But he didn't press the issue for six months — plenty of time for opponents to organize a successful filibuster in a Congress that was settling into its summer snooze.

There's no mystery about what needs to be done and no reason for delay. Everyone knows where the buck stops. While Mr. Clinton and his chief of staff, Thomas McLarty, are handing out assignments this week, they need to identify publicly the White House adviser in charge of drafting and shepherding the Clinton ethics package. Nothing short of this kind of effort will dent Washington's culture of co-optation and corruption.

PHOTOCOPY PRESERVATION

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MARKING Per E.O. 12958 as amended, Sec. 3.3 (c)
Initials: RLCR Date: 09/18/14

~~CONFIDENTIAL~~ INTERNAL DRAFT -- NOT FOR CIRCULATION

TO: CIRCULATION

FR: Michael Waldman
Special Assistant to the President for Policy Coordination

RE: Campaign finance reform options memo

Attached is a draft campaign finance reform options memo for the President.

Please return comments to me by noon tomorrow (Tuesday).

Things are moving fast on this!

MARCH 2, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: Michael Waldman
Special Assistant to the President
for Policy Coordination

SUBJECT: Campaign finance reform: options

This memorandum precedes a meeting with you to discuss the options for campaign finance reform.

As you may know, the Senate has heeded your call for early action, and has scheduled hearings for this week and initial committee action for March 18. The House, meanwhile, has asked for direct negotiations involving the White House and the Senate, and the Senate agrees.

Whether you choose to commence negotiations, or to put out your own plan publicly, the first step is these options.

This set of options is based on the legislation that passed the House and Senate, and which has been introduced by the leadership this year; it is also based on your campaign commitments.

This outline is grounded in several principles:

1. During the campaign, you said you would sign S.3, and that you wanted to strengthen the legislation. Accordingly, the proposal can be different from last year's bill, but must, in its totality, be regarded as being as strong as or stronger than the congressional proposal.

2. Although you generally talked about limiting soft money, you also specifically said you would support S.3's soft money restrictions (to Common Cause in February in New Hampshire).

3. As one might imagine, many of these proposals cause great concern on Capitol Hill, even among those who voted for them previously. (To some degree, these will be lessened by postponing the effective date until after the 1994 election.)

4. As we have repeatedly been told, any reform also must be regarded as real reform by the "validators" -- the press and citizen groups such as Common Cause.

6. Public opinion data indicates that despite varying levels of public support for specific provisions of reform, if the

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proposals are packaged as real reform and sold as such by the President and , the public will accept (This may vary regionally.)

~~CONFIDENTIAL~~ INTERNAL DRAFT -- NOT FOR CIRCULATION

CAMPAIGN FINANCE REFORM ISSUES

1. **SPENDING LIMITS** (linked to public benefits)

Current law: None

S. 3: Included voluntary spending limits for both House and Senate candidates.

• House: $600,000 per candidate, plus an extra $150,000 if there has been a closely contested primary. This would be indexed for inflation.

• Senate: limits varied by state population, ranging from California ($8.25 million) to Wyoming ($1.6 million). (The limit for Arkansas would be $1.76 million.)

Campaign position: you supported capping the spending in congressional campaigns, but gave no specifics about the level of spending.

Proposed option: Our proposal should adopt the spending limits in S.3.

Pro: The spending limits were the most widely praised and generally accepted part of last year's proposal. Spending limits have generally been advocated by Democrats, and opposed by Republicans.

Con: Although spending limits have been the heart of Democratic proposals for years, some House Democrats are now getting butterflies. The reason: The spending limits in last year's bill is lower than the amount spent by several members in close races -- including nearly every member of the House leadership. (Among the top 10 House spenders, all of whom spent at least twice the spending limit, were Gephardt, Fazio, Hoyer and Frost. In addition, 28 of 70 Senate general election candidates spent more than the limit in 1992.)

___ Accept ___ Accept as amended ___ Reject ___ More info.

2. PUBLIC BENEFITS (linked to spending limits for complying candidates)

Current law: none

S.3: Candidates who complied with spending limits received a mix of public benefits.

- House candidates received matching funds of up to $200,000, matching contributions of $250 or less.

- Senate candidates received "communications vouchers," to be used for purchase of TV, radio or postage, worth 20% of the spending limit.

- Senate candidates also received deeply discounted TV advertising time (50% of the lowest unit rate, nonpreemptible).

- Both House and Senate candidates received one discounted mailing per voter (at the lowest nonprofit rate).

Campaign position:

- In Putting People First, you proposed "opening up the airwaves."

- You also said you hoped that future congressional campaigns would be like the recent presidential campaign, where candidates took to the airwaves to debate.

Recommended options:

1. Adopt the most dramatic reform by introducing a Presidential-style system for Senate races (full public funding for general elections, matching funds for primaries, and a ban on PAC contributions), and matching funds for House races.

Pro: This would be the simplest and most dramatic reform: we would literally be eliminating most of the special interest private money from the system.

Con: Because of the level of the public funding, this would be difficult to sell to Congress (both because of fear of possible public backlash, and of a desire not to equalize the playing field with challengers). Sen. Mitchell has stated that he could not get the votes for this approach.

2. You should propose to strengthen the provisions in last year's bill that would open up the airwaves and enhance candidates' ability to communicate with the public.

• Senate races:

- propose that broadcast vouchers be transformed into communications vouchers (i.e., used for TV, radio, print and/or postage), and that they be worth 50% of the general election spending limit. (The Senate leadership is now talking about 40% of the general election, or 25% of the total.)

- retain deep discount for broadcast time (50% in last year's bill)

• House races:

- Propose that last year's matching funds be replaced by communications vouchers, usable for TV, radio, print and/or postage. (In other words, these matching funds would go not into the hands of candidates, but into public communication activities).

- The amount -- which was 33% of the spending limit ($200,000), should be increased to 50%.

- House candidates could also receive access to deeply discounted broadcast rates. (Note: Chairman Dingell sides with the broadcasters and opposes this step.)

• Presidential races: The 50% discount could also be extended to presidential candidates. (This would have the effect of freeing up substantial hard money sums for field, thus lessening the need for soft money.)

• The communications vouchers could be conditioned on proposals to improve the level of campaigns:

- Candidates could be required to appear in their own ads.

- Candidates could be required to debate their opponents.

<u>Pro:</u> This would be regarded as a major strengthening of S.3, and would also meet the goal of empowering small contributors and candidates. It would mark the single greatest enhancement of democracy in this entire package. Polls by Celinda Lake show that the public supports these measures if they

drive special interest money out of the system, and especially if they are paid for by lobbyists and other earmarked sources.

Con: Public financing is considered controversial, and Southern Democrats in the House resist public financing provisions. (They have been willing to go along with vouchers, though, especially if the funds come from an earmarked source.) Strengthening these provisions might buy us some running room on other areas, such as soft money.

___ Accept   ___ Accept as amended   ___ Reject ___ More info.

3. PAYING FOR THE PUBLIC BENEFITS

S.3: None.

However, congressional Democrats (and reform groups) strongly believe that funding for the public benefits should come from eliminating the deductibility of lobbying expenses, and/or other earmarked funds.

Campaign position: You proposed eliminating the tax deductibility of lobbying expenses, which would bring in about $200 million per year ($400 million per cycle, more than enough to pay for even the most ambitious public resources).

This proposal was recently included in the economic package. The supporting document stated: "The Administration is committed to enactment of campaign finance reform legislation. If such legislation calls for public resources, funds raised by the repeal of the provision are a possible source of funding for this purpose."

Proposed option: **Using some form of "earmarked" revenue to pay for "opening up the airwaves."**

- Eliminating the deductibility of lobbying: $200 million per year.

- A tax on all contributions above a certain level (say, a 30% tax on all contributions above $500).

- Lobby registration fee.

- Tax on the operation of PACs.

___ Accept ___ Accept as amended ___ Reject ___ More info.

4. PAC LIMITS

Current law: PACs can give candidates $5000 for primary and general election campaigns ($10,000 total).

S.3: The House and Senate took different approaches.

• Senate cut the size of PAC gifts in half (to $2500) and capped total receipts at 20% of spending limit.

• House did not change PAC contribution size, but capped total at $200,000.

Campaign commitment: You proposed to limit PAC contributions to $1000 per race. (This is extremely controversial with House Democrats, since wealthy givers favor Republicans while PACs favor Democrats; one option would be to reduce PACs to $2500 and individual contributions to $500, thus cutting both in half. Senate Democrats are probably willing to incorporate the $1000 limit.)

Proposed options:

1. **The initial proposal should retain the $1000 PAC limit, possibly coupling it with a limit on individual contributions. It should be silent on aggregate limits for PACs.**

Pro: This is the most memorable, and frequently repeated, campaign pledge on this issue. It would be hard to back away from it at the outset -- even while recognizing that it may make sense to change it during negotiations.

Con: The proposal tilts private campaign financing away from labor and other pro-Democratic donors, who can give only with PACs, and toward wealthy individuals (especially Republican-leaning businesspeople and professionals).

2. **Raise the amount giveable by a PAC under our proposal from $1000 to $2500.**

Pro: This would cut in half the amount a PAC can give, and could be enough to justify the retreat from the $1000 proposal. It is also close to high enough to enable labor-oriented Democrats to get their allocation of PAC money from labor PACs, without having to turn to corporate PACs. (Some on the hill have calculated that the figure to allow that would be $3500; however, that amount sounds too jerry-rigged; $2500 is more defensible.)

Con: This would mark a retreat from the oft-repeated campaign position.

3. Raise the amount a PAC can give to $2500, or even $3500, but limit the aggregate amount of PAC money a House member can receive to 25% of the spending limit.

Pro: This would balance the pullback on the amount of the individual limitation with the stronger restriction on the aggregate limit. Hence, we would have the ability to say that the proposal is as strong as the $1000 pledge, albeit different.

3. Limit "high roller" PACs to $1000, but create "small donor committees" made up of a large number of relatively small donors, and allow them to give a larger amount (say, $5000).

Pro: This proposal is advocated by the DNC, by labor, and by many House Democrats. It would preserve labor's PACs, as well as ideological PACs of left and right.

Con: This proposal has been tried and failed before, because it seems too clever by half -- as if we think we can define away what a PAC is. Also, it will appear to be highly partisan (pro-Democrat, pro-labor). When Rep. Swift proposed this in 1990, it was quickly shot down as "phony reform."

5. SOFT MONEY

Current law: The 1979 FEC amendments and the 1990 and 1992 FEC rules have allowed substantial sums to be raised and spent for presidential campaigns in sums that are larger than allowed under federal election law (FECA). These exemptions include funds used for voter registration and get-out-the vote drives, "volunteer" activities, slate mailers and sample ballots, etc. These sums are generally not disclosed and are not limited. Reformers argue that this effectively negates the entire edifice of federal campaign law.

S.3:

As you know, Sen. Mitchell is insistent on retaining the soft money provisions in last year's bill, or some semblance thereof.

• During a period between April and November of an election year, any money raised or spent for state party GOTV, voter registration or other specified activities that affect a federal race would be brought under federal spending and contribution limits. (This repeals the "party building" exemptions in the 1979 law and the allocation formulae that are used to implement them.)

• S.3 would increase to $10,000 per year the amount that any individual or PAC can give to state party committees and their subordinate or local committees.

• It would limit spending on behalf of the national ticket by state or local party committees (for example, about $800,000 in California).

• National party committees, federal officeholders and federal candidates would be barred from soliciting contributions on behalf of state parties unless they are exclusively used for state parties.

• National political parties would be required to itemize and disclose to the FEC all receipts and disbursements above $200.

Campaign commitment: In February, in New Hampshire, you promised to support the soft money language of S.3. Common Cause: "Will you make a public commitment now to support the legislative provisions passed by the U.S. Senate last year to end the use of huge Watergate-style 'soft money' contributions to support presidential campaigns?" Answer: "Yes, provided that upon enactment the Republican Party is held to the same rules."

On other occasions, BC used more modest language. Putting People First said, "End the unlimited 'soft money' contributions that are funneled through national, state, and local parties to presidential candidates."

Proposed option:

1. The DNC proposal

[NEED SUMMARY AND PROS & CONS -- MW CAN DO, OR DNC CAN TAKE FIRST CRACK]

2. **Accepting the S.3 limits.**

Pro: This is what was pledged to during the campaign. In addition, Senator Mitchell supports these provisions quite strongly, and it would require a contentious fight to move him off his support for ending soft money. Finally, the editorial boards -- goaded by Common Cause -- regard this as the "self-interest" test for us in this legislation.

Con: The DNC and state parties argue that this provision would significantly hinder their operations. They argue that it would cut back on the resources available for field, would restrict coordinated campaigns, and would lead to a severing of ties between federal and state candidates.

3. **Accepting the S.3 limits, with some changes** -- This would a) increase the amount of hard money available; b) use the public funds now used for conventions and the checkoff to free up money for field.

Pro: This would accept as fact that soft money is being restricted, but would ensure that enough money is available both for the presidential campaigns, the DNC, and the state parties.

Con: This might cut the amount of available money, at least at first.

___ Accept ___ Accept as amended ___ Reject ___ More info.

6. INDEPENDENT EXPENDITURES[1]

Current law: Individuals, corporations or PACs that make independent expenditures must disclose them to the FEC, and must have a disclaimer stating their sponsorship.

S.3: The legislation seeks to blunt the impact of independent expenditures rather than prohibiting them (which is constitutionally barred).

- Requires faster and fuller disclosure, and tightens the definition of independent expenditures (i.e., the expenditure is no longer "independent" if the spender has communicated with the candidate about the campaign).

- If a participating House candidate faces an independent expenditure, that candidate may waive the spending limits and receive extra matching funds to compensate for independent ads.

- Last year's bill did not cap the amount of compensatory matching funds. For constitutional reasons, it will likely be necessary to cap the amount of compensatory funds available.

Campaign commitment: None.

Proposed option: **Accept the independent expenditures provisions contemplated by congressional drafters.**

___ Accept   ___ Accept as amended   ___ Reject ___ More info.

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[1] This is particularly important if S.3's soft money restrictions are adopted. Without effective discouragement of independent expenditures, soft money expenditures will effectively be taken up by 501(c)(3)s such as the Christian Coalition. (With respect to the Christian Coalition, whose activities seem to me to be flagrantly illegal, we should remember that we now control the IRS.)

7. NONCOMPLYING OPPONENT

Current law: None.

S.3:

- House: candidate may exceed spending limit once opponent raises 50% of spending limit, and may receive additional matching funds once opponent raises 80% of limit.

- Senate: Receives additional public benefits to match non-complying opponent's spending beyond limit (up to double the spending limit); at that point, additional spending allowed if non-complying opponent more than doubles the limit.

- As with independent expenditures, it will likely be necessary to cap this compensatory spending for constitutional reasons.

Campaign commitment: None.

Proposed option: **Accept the congressional proposal.**

___ Accept ___ Accept as amended ___ Reject ___ More info.

CAMPAIGN FINANCE REFORM

WHERE WE ARE

- Action to date
- Clinton's campaign promises
- Positioning/public opinion data

HOW TO PROCEED

Big decision:

  - present a plan?
  - issue a deadline to Congress (reserving our right to protect ourselves on soft money?)
  - negotiate a plan
    - with both houses?
    - ask them to negotiate among themselves, and then come to us

SOFT MONEY

- deciding on internal position

PUBLIC FINANCING

- Pres. Clinton's "signature": opening up the airwaves
  - how to pay

PROCESS

- internal deadlines
- assembling working group

TIMING/DEADLINES

- Congressional leadership meeting
- State of the Union

CAMPAIGN FINANCE REFORM ISSUES

1. **SPENDING LIMITS** (linked to public benefits)

Opening position: Follow the limits in last year's bill.

• The Senate limits may be unreasonably low, but we'll let the Senate bring that up.

___ **Accept** ___ **Accept as amended** ___ **Reject** ___ **More info.**

2. **PUBLIC BENEFITS** (for candidates who comply with the spending limits)

House: Retain last year's provision (which was matching funds for small contributions worth up to $200,000, or 1/3 of the spending limit).

Senate: You reserved your options for the Senate. They are:

1. Going along with Mitchell-Boren. Their bill had broadcast vouchers worth 20% of the general election limit (13% of the total). They are now likely to increase the public funding to 40% of the general election total (25% of the total).

___ **Accept** ___ **Accept as amended** ___ **Reject** ___ **More info.**

2. Go one step beyond Mitchell-Boren: propose that the partial public funding be increased to 50%. (As you may recall, that is the figure Mitchell used at the leadership meeting on this topic. This would push the envelope, and possibly make it easier for Mitchell to sell a somewhat smaller proposal.)

___ **Accept** ___ **Accept as amended** ___ **Reject** ___ **More info.**

3. Proposing something like what Kerry, Biden and Bradley advocated -- full public funding for Senate general elections, which would "ban all special interest contributions from Senate general election campaigns."

___ **Accept** ___ **Accept as amended** ___ **Reject** ___ **More info.**

Conditions for communications vouchers: Require recipients of broadcast vouchers to debate their opponents (following a model proposed by Sen. Graham).

___ Accept ___ Accept as amended ___ Reject ___ More info.

Broadcast discounts: Seek to extend the 50% discount for broadcast time, now available only for Senate candidates, for House candidates as well.

___ Accept ___ Accept as amended ___ Reject ___ More info.

3. PAYING FOR THE PUBLIC BENEFITS

Opening position: Use the funds from the repeal of the tax deductibility of lobbying.

Note: This position will win wide acceptance among Democrats on the Hill.

___ Accept ___ Accept as amended ___ Reject ___ More info.

Backup position: Expansion of the checkoff (to $2.50, $3, or whatever).

___ Accept ___ Accept as amended ___ Reject ___ More info.

4. PAC LIMITS

Opening position: Cut PAC contributions to $1000.

Bottom line: We cannot move beyond the aggregate limit for the House of $200,000 in S.3. (As Stan Greenberg pointed out, an increase in this amount simply will not fly. This position will make the House very unhappy.)

Next proposal: Change the nature of PACs by a) cutting the size of PAC contributions to candidates in half, to $2500; and b) cutting the amount that can be given to a PAC from $5000 to either $250 or $500. (We are analyzing the variable partisan impact of either number.)

___ Accept ___ Accept as amended ___ Reject ___ More info.

5. INDIVIDUAL LIMITS

Proposal: Cut the amount of money that can be given by individuals to candidates by one half -- to $500 per election -- the same rate that PAC money is cut.

___ Accept ___ Accept as amended ___ Reject ___ More info.

6. **SOFT MONEY**

Proposal: The DNC's proposal, which does the following:

- Soft money is banned from use in federal (presidential and congressional) campaigns. Only "hard money" -- legal under federal limits -- could be used for coordinated campaigns (get out the vote, voter registration, etc.).
- Individuals and PACs (but not direct contributions from corporations or unions) would be allowed to give up to $25,000 to national Democratic committees.
- Each state party will be authorized to establish a "Grassroots Fund" from which to fund all "grassroots activity." These will be the sole funds to pay for candidate specific and generic activity including: voter registration, town meetings and rallies, GOTV, volunteer-processed mail and volunteer-processed phone banks, literature and generic media.
- Contributions to the "Grassroots Fund" will be limited to $25,000 for individuals or PACs, with an aggregate national total of $100,000 for individuals and $250,000 for PACs.
- Full disclosure.
- National parties will be entitled to federal matching funds for contributions of $250 or less to be paid from the funds currently designated for the funding of the national conventions.
- Another method for funding these matching funds could come from either to expand the Presidential checkoff (which must be raised to approximately $3 to pay for future presidential funding) to $5, or by allowing taxpayers to donate up to $10 of any refund owed them to the political party of their choice.

NOTE: The DNC is drafting this proposal in detail, and the details of the draft will be available to you before the formal discussions, if you desire.

___ **Accept** ___ **Accept as amended** ___ **Reject** ___ **More info.**

7. <u>LOBBYISTS</u>: Ban registered lobbyists (or those who should register under the law) or their employers from contributing to candidates.

Note: Employers are generally corporations, who cannot contribute now.

S.3's bundling provision already bars lobbyists from bundling.

___ Accept ___ Accept as amended ___ Reject ___ More info.

8. <u>INDEPENDENT EXPENDITURES</u>

<u>Proposed option</u>: Accept the independent expenditures provisions contemplated by congressional drafters:

• Faster and fuller disclosure of independent expenditures.

• Bans covert cooperation between "independent" spender and candidates.

• Provides capped matching funds for complying candidate to compensate for independent ads.

___ Accept ___ Accept as amended ___ Reject ___ More info.

9. <u>NONCOMPLYING OPPONENT</u>

<u>Proposed option</u>: Accept the provisions contemplated by congressional drafters:

• House: Complying candidate may exceed spending limit once opponent who has declared he or she will not comply raises 50% of spending limit, and may receive additional matching funds once opponent raises 80% of limit.

• Senate: Complying candidate receives additional public benefits to match non-complying opponent's spending beyond limit (up to double the spending limit); at that point, additional spending allowed if non-complying opponent more than doubles the limit.

___ Accept ___ Accept as amended ___ Reject ___ More info.

10. **BUNDLING**

Proposed options:

· Generally, accept the anti-bundling provisions in S.3.

· In re: EMILY's List, a) let it be fought out on the Hill, and b) support a compromise that lets EMILY's List continue to bundle, but narrows the exemption as much as possible.

Note: This compromise is politically necessary, and EMILY's List has been instrumental in electing Democratic women. However, it is also the case that this exemption will ultimately allow big money to bundle -- e.g., insurance executives who oppose national health care could give $100,000 to congressional candidates through a PAC, but the UAW would be limited to $2500, or whatever the PAC limit is.

___ **Accept** ___ **Accept as amended** ___ **Reject** ___ **More info.**

TWO ISSUES THAT WERE NOT DISCUSSED AT THE MEETING

1. <u>THE PRESIDENTIAL SYSTEM</u>

The FEC argues that the Presidential checkoff fund -- which has not been indexed to inflation -- is about to run out of money. The agency, Sen. Mitchell and other congressional reformers propose that this bill include reforms to the presidential system as well:

- **Increase in the checkoff to $3 to cover additional costs**

  NOTE: This could include the matching funds for small contributions to parties sought by David Wilhelm for the DNC.

  NOTE: As an incumbent President, a collapse of the presidential fund might help deter primary opponents for you, but would also limit the number of Republican candidates who would likely carve each other up.

___ Accept ___ Accept as amended ___ Reject ___ More info.

- **Repealing the state-by-state spending limits for primaries, which add complexity and gamesmanship to presidential primaries (while retaining overall primary spending limit).**

___ Accept ___ Accept as amended ___ Reject ___ More info.

2. <u>STRENGTHENING THE FEC</u>

The FEC is currently relatively toothless, and would be required to assume new responsibilities under this system.

The agency is very slow. In addition, its makeup of 3 Democrats and 3 Republicans guarantees gridlock.

In addition to being sound public policy to strengthen the FEC, it is probably good partisan politics -- since the Republicans generally are much more aggressive about ignoring the rules (e.g., the Coverdale election, where they pumped $500,000 into the runoff with dubious legal cover).

<u>Proposal</u>: We work with congressional staff and the FEC to strengthen the agency. Preferred options:

- Creating an administrative law judge corps at the FEC to make quick preliminary rulings on complaints.

• Requiring a majority vote of the commission to overrule the General Counsel (who in turn is chosen by a bipartisan majority).

___ Accept ___ Accept as amended ___ Reject ___ More info.

APPENDIX A:
GENERAL SCHEME OF S.3
(a refresher on last year's congressional proposal)

HOUSE:

• General scheme: spending limits of $600,000, with up to $200,000 in PAC money, $200,000 in individual contributions and $200,000 in matching funds (i.e., 1/3, 1/3, 1/3).

• PACs: aggregate cap, but contribution size stays at current level ($5000).

• Individuals: current level.

SENATE:

• General scheme: spending limits varying by state size.

• PACs: contribution size cut to $2500; aggregate limit of 20% of spending limit.

• "Broadcast vouchers" worth 20% of general election limit (12.5% of total).

• Broadcast discounts of 1/2 lowest unit rate for complying candidates

SOFT MONEY:

• Bans use of soft money in federal campaigns.

• Slight increase in availability of hard money.

APPENDIX B

CAMPAIGN FINANCE REFORM ISSUES -- SUMMARY OF ORIGINAL OPTIONS MEMO

1. **SPENDING LIMITS** (linked to public benefits)

2. **PUBLIC BENEFITS** (linked to spending limits)

   A. Most dramatic: Presidential-style reform for Senate races and matching funds for House races.

   B. Strengthening last year's bill

   - Senate races:

   - House races:

   - Presidential races:

   - Using communications vouchers to improve level of campaigns -- debates, candidates in ads, etc.

3. **PAYING FOR THE PUBLIC BENEFITS**

   A. "Earmarked" revenue: using the repeal of tax deductibility of lobbying

   B. Increasing the checkoff

   C. Tax credits

4. **PAC LIMITS**

   A. Cutting indiv. contribs to PACs; lowering PAC gift to $2500.

   B. $1000 PAC limit & lower individual contributions.
   C. $1000 limit but increase the aggregate amount available from PACs (e.g., to 40%).

   D. $2500 PAC limit.

   E. $2500 or $3500 limit, but aggregate cap of 25% of the spending limit.

   F. Limit "high roller" PACs to $1000, but let "small donor committees" (e.g., labor) give more (e.g., $5000).

   G. Retain S.3's PAC limits

APPENDIX B

5. **INDIVIDUAL LIMITS**

   A. Eliminate the spending limit for contributions of $250 or less.

   B. Cut the amount of money that can be given to candidates by one half (to $500 per election).

   C. Increase the amount individuals'can give to $2500.

6. **SOFT MONEY - DNC proposal**

7. **INDEPENDENT EXPENDITURES**

8. **NONCOMPLYING OPPONENT**

9. **BUNDLING** -- what to do about EMILY'S LIST

APPENDIX B

CAMPAIGN FINANCE REFORM ISSUES:
ORIGINAL OPTIONS MEMO (FOR WEDNESDAY'S MEETING)

1. **SPENDING LIMITS** (linked to public benefits)

Current law: None

S. 3: Included voluntary spending limits for both House and Senate candidates.

- House: $600,000 per candidate, plus an extra $150,000 if there has been a closely contested primary. This would be indexed for inflation.

- Senate: limits varied by state population, ranging from California ($8.25 million) to Wyoming ($1.6 million). (The limit for Arkansas would be $1.76 million.)

Campaign position: you supported capping the spending in congressional campaigns, but gave no specifics about the level of spending.

Options: **Our proposal should adopt the spending limits in S.3.**

Pro: The spending limits were the most widely praised and generally accepted part of last year's proposal. Spending limits have generally been advocated by Democrats, and opposed by Republicans. The average spending in House and Senate races in 1992 was below the limits (in the House, average spending in 1992 was $388,000; spending by winners was $551,000).

Con: Although spending limits have been the heart of Democratic proposals for years, some House Democrats are now getting butterflies. The reason: The spending limits in last year's bill is lower than the amount spent by several members in close races -- including nearly every member of the House leadership. (Among the top ten House spenders, all of whom spent at least twice the spending limit, were Gephardt, Fazio, Hoyer and Frost. In addition, 28 of 70 Senate general election candidates spent more than the limit in 1992.)

APPENDIX B

2. **PUBLIC BENEFITS** (linked to spending limits for complying candidates)

Current law: none

S.3: Candidates who complied with spending limits received a mix of public benefits.

• House candidates received matching funds of up to $200,000, matching contributions of $250 or less.

• Senate candidates received "communications vouchers," to be used for purchase of TV, radio or postage, worth 20% of the spending limit.

• Senate candidates also received deeply discounted TV advertising time (50% of the lowest unit rate, nonpreemptible).

• Both House and Senate candidates received one discounted mailing per voter (at the lowest nonprofit rate).

According to CBO, S.3 in its current form would cost between $100 million and $150 million every two years (approximately $50-75 million per year).

Campaign position:

• In Putting People First, you proposed "opening up the airwaves."

• You also said you hoped that future congressional campaigns would be like the recent presidential campaign, where candidates took to the airwaves to debate.

Options:

1. **Adopt the most dramatic reform by introducing a) a Presidential-style system for Senate races (voluntary full public funding for general elections, matching funds for primaries, and a ban on PAC contributions) (this is the Kerry-Bradley-Biden proposal), and b) matching funds for House races for small contributions.**

Pro: This would be the simplest and most dramatic reform: we would literally be eliminating most of the special interest private money from the system. It would guarantee that all credible candidates have a chance to communicate with the voters.

APPENDIX B

Con: Because of the level of the public funding, this would be difficult to sell to Congress (both because of fear of possible public backlash at a time of tight budgets, and of concern over giving up the incumbent fundraising advantage). Sen. Mitchell has stated that believes he could not get the votes for this approach.

2. **Alternately, you could propose to strengthen the provisions in last year's bill that would open up the airwaves and enhance candidates' ability to communicate with the public.**

• Senate races:

- propose that broadcast vouchers be transformed into communications vouchers (i.e., used for TV, radio, print and/or postage), and that they be worth 50% of the general election spending limit. (The Senate leadership is now talking about 40% of the general election limits, or 25% of the total.)

- retain a deep discount for broadcast time (50% in last year's bill).

• House races:

- propose that last year's matching funds be replaced by communications vouchers, usable for TV, radio, print and/or postage. (In other words, these matching funds would go not into the hands of candidates, but into public communication activities).

- House candidates could also receive access to deeply discounted broadcast rates. (Note: Chairman Dingell sides with the broadcasters and opposes this step.)

• Presidential races:

The 50% discount could also be extended to presidential candidates. (This would have the effect of freeing up substantial hard money sums for field, thus lessening the need for soft money.)

• The communications vouchers could be conditioned on proposals to improve the level of campaigns:

- Candidates could be required to appear in their own ads.

APPENDIX B

- Candidates could be required to debate their opponents.

Pro: This would be regarded as a major strengthening of S.3, and would also meet the goal of empowering small contributors and candidates. It would mark the single greatest enhancement of democracy in this entire package. Polls by Celinda Lake show that the public supports these measures if they drive special interest money out of the system, and especially if they are paid for by lobbyists and other earmarked sources.

Con: Public financing is considered controversial, and Southern Democrats in the House resist such provisions. (They have been willing to go along with vouchers, though, especially if the funds come from an earmarked source.) Strengthening these provisions would buy us some running room on other areas, such as soft money.

APPENDIX B

3. PAYING FOR THE PUBLIC BENEFITS

S.3: None.

However, congressional Democrats (and reform groups) strongly believe that funding for the public benefits should come from eliminating the deductibility of lobbying expenses, and/or other earmarked funds.

Campaign position: You proposed eliminating the tax deductibility of lobbying expenses, which would bring in about $200 million per year ($400 million per cycle, more than enough to pay for even the most ambitious public resources).

This proposal was recently included in the economic package. The supporting document stated: "The Administration is committed to enactment of campaign finance reform legislation. If such legislation calls for public resources, funds raised by the repeal of the provision are a possible source of funding for this purpose."

Options:

1) **Using some form of "earmarked" revenue to pay for "opening up the airwaves" and voter communication.**

- Eliminating the deductibility of lobbying: This would bring in $200 million per year, according to the Treasury Department's estimate. It could be earmarked in the reconciliation bill to pay for a "Make Democracy Work Fund," to pay for public financing as needed. Sen. Mitchell and (in the past) Rep. Gejdenson have proposed that funds raised by ending the tax deductibility of lobbying be used for these purposes. The deductibility repeal was included in the economic plan, implicitly for deficit reduction; however, the OMB accompanying document noted that if campaign finance reform called for public resources, funds raised through repeal of the deduction could be used for that purpose.

Pro: This would mean that "the lobbyists" would pay for "opening up the airwaves" -- arguably a very sellable concept. It would raise more than enough money, without touching directly the average taxpayer. Soundings indicate that this significantly softens congressional nervousness about public financing.

Con: At a time of tight budgets, this money should be used for the deficit. Since it was included in the original budget plan, we would need to come up with some corresponding budget cut or tax increase to fill the hole. (Note: Since it's "only" $200 million per year, that might be relatively easy in the tumult of the economic plan.)

There are other potential options that would pay for public benefits without taxing the general public:

• A tax on all contributions above a certain level (say, a 30% tax on all contributions above $500).

• Lobby registration fee

• A PAC registration fee

(Note: These options could not raise nearly as much money as ending the tax deductibility of lobbying.)

2. **Increasing the checkoff -- which is now used for Presidential campaigns -- for use in congressional campaigns. (It could be increased to, say, $5 to pay for shortfalls in the presidential fund as well as partial public financing.)**

Pro: It means that any use of taxpayer money would be voluntary, and relies on an already familiar mechanism.

Con: The checkoff is clearly taxpayer revenue. Moreover, the number of people who check off continues to drop -- and might drop further if the dollar amount is increased.

3. **Tax credits for small contributions to candidates.**

Pro: This would be a form of backdoor public financing, that -- like matching funds -- encourages and rewards small contributions.

Con: This is widely disliked by Democrats, because a) it does not bring much new money into the system (it rewards the contributor but does not enrich the recipient), b) it is thought to generally reward Republican contributors (who are sophisticated enough to itemize), and c) it is susceptible to fraud.

APPENDIX B

4. PAC LIMITS

Current law: PACs can give candidates $5000 for primary and general election campaigns ($10,000 total).

S.3: The House and Senate took different approaches.

• Senate cut the size of PAC gifts in half (to $2500) and capped total receipts at 20% of spending limit.

• House did not change PAC contribution size, but capped total at $200,000.

Campaign commitment: You proposed to limit PAC contributions to $1000 per race. (This is extremely controversial with House Democrats, since wealthy givers generally favor Republicans while PACs favor Democrats; one option would be to reduce PACs to $2500 and individual contributions to $500, thus cutting both in half. Senate Democrats are probably willing to incorporate the $1,000 limit.)

Options:

1. **Changing the nature of what a PAC is -- lowering the amount that can be given to the PAC from $5000 to $250, plus other changes favoring broad-based PACs over small "high roller" PACs -- while lowering the amount a PAC can give from $5000 per race to $2500.**

Pro: While this retreats from the $1000 limit, it does so while dramatically reducing the amount of money available to PACs as well as from PACs. It favors labor and ideological PACs over business PACs.

Con: This is subject to two criticisms: first, that it retreats from the $1000 PAC limit; second, that it would hinder House Democrats, who continue to rely heavily on PAC funds.

2. **The initial proposal should retain the $1000 PAC limit, possibly coupling it with a limit on individual contributions. It should be silent on aggregate limits for PACs.**

Pro: This is the most memorable, and frequently repeated, campaign pledge on this issue. It would be hard to back away from it at the outset -- even while recognizing that it may make sense to change it during negotiations.

Con: The proposal tilts private campaign financing away from labor and other pro-Democratic donors, who can give only with

PACs, and toward wealthy individuals (especially Republican-leaning businesspeople and professionals).

3. **Cut the available gift to $1000 or $2500, but increase the aggregate amount available from PACs (e.g., to 40%).**

Pro: Many in the House, especially the House leadership, raised substantially more from PACs than the $200,000 allowed under S.3. Since most PACs don't "max out," this would enable us to show us following through on our pledge, while making life easier for House Democrats.

Con: This would be attacked as a retreat from S.3 and its PAC limits; it would provide an inviting target for Republicans as well as reformers.

3. **Raise the amount giveable by a PAC under our proposal from $1000 to $2500.**

Pro: This would cut in half the amount a PAC can give, and could be enough to justify the retreat from the $1000 proposal. It is also close to high enough to enable labor-oriented Democrats to get their allocation of PAC money from labor PACs, without having to turn to corporate PACs. (Some on the hill have calculated that the figure to allow that would be $3500; however, that amount sounds too jerry-rigged; $2500 is more defensible.)

Con: This would mark a retreat from the oft-repeated campaign position.

4. **Raise the amount a PAC can give to $2500, or even $3500, but limit the aggregate amount of PAC money a House member can receive to 25% of the spending limit.**

Pro: This would balance the pullback on the amount of the individual limitation with the stronger restriction on the aggregate limit. Hence, we would have the ability to say that the proposal is as strong as the $1000 pledge, albeit different.

Con: It would still represent a retreat from the $1000 limit. In addition, the 25% limit is significantly less than the amount of PAC money that most House Democrats receive.

APPENDIX B

5. **Limit "high roller" PACs to $1000, but create "small donor committees" made up of a large number of relatively small donors, and allow them to give a larger amount (say, $5000).**

Pro: This proposal is advocated by the DNC, by labor, and by many House Democrats. It would preserve labor's PACs, as well as ideological PACs of left and right.

Con: This may be unconstitutional, since it is difficult to argue that a $5000 contribution from a PAC with few contributors is more corrupting than a contribution from a PAC with many members. This proposal has been unsuccessful previously, in part because it was seen as an attempt to redefine rather than reform PACs. Also, it will appear to be highly partisan (pro-Democrat, pro-labor).

6. **Retain S.3's PAC limits.**

Pro: This is simple and was widely hailed as reform last year.

Con: This would pain House Democrats, while opening us to criticism for going back on the $1000 proposal.

APPENDIX B

5. INDIVIDUAL LIMITS

Current law: Individuals can give up to $1000 in a primary and $1000 in a general election.

S.3: No provision.

Campaign position: None.

Options:

1. **Eliminate the spending limit for contributions of $250 or less.**

Pro: This would encourage candidates to build up small-dollar fundraising, including grass-roots fundraisers (e.g., barbecues, etc.) and direct mail.

Con: It might benefit Republicans, and if bundling is not effectively restricted, could lead to circumvention of the spending limits.

2. **Cut the amount of money that can be given to candidates by one half (to $500 per election), which may be the same rate that PAC money is cut.**

Pro: This would prevent wealthy individuals -- who give individually rather than through PACs -- from further dominating the system if PAC restrictions are enacted. (Many House Democrats believe that PAC restrictions without individual contribution restrictions will disproportionately benefit Republicans.) In addition, it would further democratize the system -- forcing candidates to engage in grass-roots fundraising.

Con: Depending on the level of public funding, if any, this could force candidates to spend even more time raising money than they do now. It also could result in non-incumbents being unable to raise enough money to mount an effective challenge.

3. **Increase the amount individuals can give to $2500, possibly in conjunction with cutting the size of PAC contributions to that amount.**

Pro: Inflation has eroded the value of the individual contribution limit (enacted in 1974). This would also limit the amount of time candidates had to spend fundraising.

Con: This would give wealthy individuals even greater sway over the process. Because it "increases" rather than "cuts" contribution size, it would be a difficult public sell.

4. Ban registered lobbyists (or those who should register under the law) from contributing to candidates.

Pro: It starkly deliniates the problem of money influencing legislation. It will help change the culture of Washington.

Con: It may face constitutional challenge, and -- standing alone -- would not at first much change the pattern of giving.

(Note: S.3's bundling provision already bars lobbyists from bundling.)

APPENDIX B

6. SOFT MONEY

Current law: The 1979 FEC amendments and the 1990 and 1992 FEC rules have allowed substantial sums to be raised and spent for presidential campaigns in sums that are larger than allowed under federal election law (FECA). (Our campaign raised at least $40 million in soft money.) These exemptions include funds used for voter registration and get-out-the vote drives, "volunteer" activities, slate mailers and sample ballots, etc. These sums are generally not disclosed and are not limited. Reformers argue that this effectively negates the entire edifice of federal campaign law.

S.3: As you know, Sen. Mitchell is insistent on retaining the soft money provisions in last year's bill, or some semblance thereof.

- During a period between April and November of an election year, any money raised or spent for state party GOTV, voter registration or other specified activities that affect a federal race would be brought under federal spending and contribution limits. (This repeals the "party building" exemptions in the 1979 law and the allocation formulae that are used to implement them.)

- S.3 would increase to $10,000 per year the amount that any individual or PAC can give to state party committees and their subordinate or local committees.

- It would limit spending on behalf of the national ticket by state or local party committees (for example, about $800,000 in California).

- National party committees, federal officeholders and federal candidates would be barred from soliciting contributions on behalf of state parties unless they are exclusively used for state parties.

- National political parties would be required to itemize and disclose to the FEC all receipts and disbursements above $200.

Campaign commitment: In February, in New Hampshire, you promised to support the soft money language of S.3. Common Cause: "Will you make a public commitment now to support the legislative provisions passed by the U.S. Senate last year to end the use of huge Watergate-style 'soft money' contributions to support presidential campaigns?" Answer: "Yes, provided that upon enactment the Republican Party is held to the same rules."

APPENDIX B

On other occasions, you used more modest language. Putting People First said, "End the unlimited 'soft money' contributions that are funneled through national, state, and local parties to presidential candidates."

Options: **The DNC proposal would ban soft money from federal campaigns, while ensuring that adequate funds flow to party activities and grass-roots politics.**

- Soft money could no longer be used for federal (presidential and congressional campaigns). Only "hard money" -- legal under federal limits -- could be used for coordinated campaigns (get out the vote, voter registration, etc.).
- Individuals and PACs (but not direct contributions from corporations or unions) would be allowed to give up to $25,000 to national Democratic committees.
- Each state party will be authorized to establish a "Grassroots Fund" from which to fund all "grassroots activity." These will be the sole funds to pay for candidate specific and generic activity including: voter registration, town meetings and rallies, GOTV, volunteer-processed mail and volunteer-processed phone banks, literature and generic media.
- Contributions to the "Grassroots Fund" will be limited to $25,000 for individuals or PACs, with an aggregate national total of $100,000 for individuals and $250,000 for PACs.
- Full disclosure.
- National parties will be entitled to federal matching funds for contributions of $250 or less to be paid from the funds currently designated for the funding of the national conventions.
- Another method for funding these matching funds could come from either to expand the Presidential checkoff (which must be raised to approximately $3 to pay for future presidential funding) to $5, or by allowing taxpayers to donate up to $10 of any refund owed them to the political party of their choice.

Pro: This would be real reform. We could correctly say that we banned soft money from federal election -- no more money that is raised under state law, not disclosed, from prohibited sources, and in prohibited amounts. And it ensures adequate funding for the party.

Con: The major counter-argument will be that we continue to allow large amounts of money from individuals and especially PACs into the presidential process.

APPENDIX B

7. INDEPENDENT EXPENDITURES

Current law: Individuals, corporations or PACs that make independent expenditures must disclose them to the FEC, and must h ave a disclaimer stating their sponsorship.

S.3: The legislation seeks to blunt the impact of independent expenditures rather than prohibiting them (which is constitutionally barred).

- Requires faster and fuller disclosure, and tightens the definition of independent expenditures (i.e., the expenditure is no longer "independent" if the spender has communicated with the candidate about the campaign).

- If a participating House candidate faces an independent expenditure, that candidate may waive the spending limits and receive extra matching funds to compensate for independent ads.

- Last year's bill did not cap the amount of compensatory matching funds. For constitutional reasons, it will likely be necessary to cap the amount of compensatory funds available.

Campaign commitment: None.

Proposed option: **Accept the independent expenditures provisions contemplated by congressional drafters.**

APPENDIX B

8. **NONCOMPLYING OPPONENT**

Current law: None.

S.3:

- House: candidate may exceed spending limit once opponent raises 50% of spending limit, and may receive additional matching funds once opponent raises 80% of limit.

- Senate: Receives additional public benefits to match non-complying opponent's spending beyond limit (up to double the spending limit); at that point, additional spending allowed if non-complying opponent more than doubles the limit.

- As with independent expenditures, it will likely be necessary to cap this compensatory spending for constitutional reasons.

Campaign commitment: None.

Proposed option: Accept the congressional proposal.

9. BUNDLING

(Note: This is the "next frontier" in legislatively interested money, especially if PACs are limited.)

Current law: Contributions made by an individual through a conduit are counted as a contribution made by the individual, not the conduit.

S.3: Contributions through an intermediary or conduit are counted against the intermediary's contribution limit, if the intermediary is a:

- PAC with a connected organization (i.e., not free-standing PACs). This distinction was inserted to protect EMILY's List; however, it encompasses approximately 1/4 of all PACs, and critics charge that this will be the loophole through which PAC funds flow.

- union, corporation, or trade association;

- partnership (e.g., law firm)

- someone required to register as a lobbyist

The bundling limit does not apply to a) professional fundraisers (for fee); b) volunteers hosting a house party; or c) individuals transmitting the spouse's donation.

Options:

1) **Seek to tighten last year's language while preserving the ability of EMILY's List -- and other PACs that don't lobby -- to bundle.** EMILY's List says it will produce language that lets them continue to serve as a conduit, but which limits that for PACs that lobby (e.g., Council for a Livable World).

Pro: EMILY's List has many friends on Capitol Hill, and was instrumental in electing many good Democratic lawmakers. It is one of the few ways that women candidates can raise enough money to be competitive in elections. This compromise would protect this special PAC, while continuing to prohibit bundling by PACs that lobby.

Con: Even this would open a potential loophole to benefit one PAC, no matter how worthwhile. There would be nothing stopping, say, insurance industry executives to form a non-connected, non-lobbying PAC that would bundle well in excess of the normal limit -- and only to those candidates who oppose the administration's health care plan.

APPENDIX B

2) **Remove last year's exemption for "non-connected PACs," and ban bundling by all PACs.**

Pro: This would be the most consistent and the most effective way to ensure that bundling does not continue.

Con: Emily's List argues that this would greatly restrict its fundraising ability. It would become a source of opposition on the Hill.

3) **Retain last year's language altogether, which would allow pro-Israel, religious fundamentalist, and other non-connected PACs to bundle.**

Pro: This would enable some pro-Democratic PACs -- especially the pro-Israel PACs -- to continue to bundle.

Con: This would effectively negate much of the anti-bundling language.

TO: President Clinton, Mrs. Clinton, Carol Rasco
CC: Howard Paster, George Stephanopoulos
FR: Michael Waldman
RE: Campaign finance reform: current prospects
January 21, 1993

I. OVERVIEW

For the first time in years, the planets seem to be aligned for strong campaign finance reform legislation. But reform must navigate tricky shoals -- both meeting the approval, or at least acquiescence, of political institutions, <u>and</u> being seen as "real reform" by the interpreters of this issue (primarily, the press). And, of course, this affects both Congress (where there are 535 "experts") and the 1996 presidential campaign.

The key players are:

The House. The House is traditionally more reluctant than the Senate to support reform. It voted for S. 3 last year, but only because the House Bank scandal forced a vote on a "reform" measure, and then only with reassurance it would be vetoed. However, with the ongoing House Bank and Post Office scandals, the House once again has institutional reasons to back reform. Grumbling and/or resistance will come privately, in the caucus; once a bill is brought to the floor, it will likely pass easily.

The Senate. The Senate is much more comfortable with reform, having debated it in three successive Congresses. Senators could probably be persuaded to strengthen S.3. Senate leadership is willing to consider greatly increasing the public funding component, and the Senate is committed to strong soft money language.

Democratic party committees. The DNC and state parties were opposed to the soft money provisions in S.3. State party chairmen, in particular, believe that the bill's soft money language would federalize the state parties. The DNC, too, has funded much of its activities through soft money.

The "interpreters": good government groups and the press. Reform will be considered either real, or a partisan whitewash, based on what the public is told. This, in turn, depends heavily on what the public interest groups tell the press -- particularly Common Cause, but also a broad coalition (Public Citizen, AARP, League of Women Voters, etc.). In the past, a package that is denounced by them will not pass muster as real reform; possibly, the President's access to the bully pulpit may change that.

II. TIMING AND PROCESS

The House and Senate have signalled that they intend to move quickly on campaign finance reform.

Two weeks ago, despite initial reluctance, Speaker Foley introduced last year's conference report as a "placeholder," and designated it H.R. 3. Staff are now drafting a new version of the legislation. According to House staff, Rep. Charlie Rose intends to mark-up a campaign finance reform bill in late February or early March.

The Senate leadership intends to introduce campaign finance reform legislation on January 21. Sen. Mitchell's office says that the proposal will probably be last year's conference report, again as a "placeholder," although they may strengthen the public financing element of the bill.

Both House and Senate staffs are in close touch, and are hoping to work in tandem to try to negotiate a consensus bill.

III. ELEMENTS OF GOV. CLINTON'S PROPOSALS ON CAMPAIGN FINANCE REFORM

Gov. Clinton put forward broad proposals on reform, with few details. In addition, he said that he would have signed S.3 (which Bush vetoed), and wanted it strengthened.

A. Spending limits

Campaign promise: Gov. Clinton supported capping the spending in congressional campaigns, but gave no specifics about the level of spending.

Current legislative proposal: S. 3 included voluntary spending limits for both House and Senate candidates. For the House, with its uniform districts, the limits were $600,000 per candidate. In the Senate, limits varied by population.

Issues to resolve: The spending limits in last year's bill were generally widely praised. There is little reason to revisit them. Two issues: Some House members argue for varying limits, to account for regional differences in campaign costs. In addition, the House spending limits may need to be adjusted to account for reduced broadcast time.

B. "Opening up the airwaves"/public financing

Campaign promise: We will "open up the airwaves" or "lower the cost of airtime." In addition, by saying he would have signed S.3, Gov. Clinton implicitly endorsed public financing, though not explicitly.

Legislation: S. 3 includes two reforms:

Partial public financing for congressional elections. Senate candidates who comply with the spending limit would be eligible for up to 20% of the limit in "broadcast vouchers." House candidates would be eligible to receive matching funds for up to $200,000 (1/3 of the spending limit).

In addition, S.3 lowers the cost of airtime by requiring stations to give candidates airtime at half the lowest-unit-rate. (That was true only for the Senate; however, House drafters are now moving toward that proposal as well.)

Issues to resolve: There are several issues to resolve. 1) Should the proposal include "candidate communication vouchers" -- to pay for television, radio or postage? How should it be paid for? (Having the "lobbyists and special interests" pay for "TV time" may be far more politically salable than "giving taxpayer money to politicians.") 2) How should the reduced rate TV time be included in the proposal?

C. PAC limits

Campaign promise: Slash the maximum size of PAC gifts to $1000, the same amount given by individuals. (This would arguably reduce the total amount of PAC receipts by 80%.)

Current legislation: S.3 does not touch the size of the individual PAC gift, but imposes an aggregate cap on all candidates. In the Senate, the amount was 30% of the spending limit; in the House, $200,000 (1/3 of the spending limit).

D. Independent expenditures and millionaire opponents

Campaign promise: None.

Current legislation: S.3 includes a complex set of disincentives for independent expenditures and millionaire opponents. When an independent expenditure is made, or a noncomplying candidate exceeds the spending limit, the complying candidate receives additional funds.

E. Soft money ("non federal money" in federal campaigns)

Campaign promise: Gov. Clinton signed a Common Cause pledge that said he supported the soft money language in the Senate version of S.3, which was stricter than what passed. Putting People First said, "End the unlimited 'soft money' contributions that are funneled through national, state, and local parties to presidential candidates."

Current legislation: S.3 includes complex and strict soft money language. It limits spending by local, state and federal party committees for electioneering during federal election periods (from late spring of election years).

- A state party's spending to elect the presidential ticket would be limited; the amount would vary by state and would be indexed for inflation.

- Any money raised or spent for GOTV, voter registration or other specified activities would be brought under federal spending and contribution limits.

- State level campaign activities, conducted by federal, state or local parties, would be subject to spending limits.

- National party committees, federal officeholders and federal candidates would be barred from soliciting contributions on behalf of state parties.

- Political parties would be required to itemize and disclose to the FEC all receipts and disbursements above $200.

F. Effective Date

Campaign promise: None.

Current legislation: Some members of Congress have suggested that the effective date of the legislation be postponed until after the 1994 election. They argue that an earlier effective date would be unfair to lawmakers who have already begun raising money, and would be difficult to implement. On the other hand, it will be hard to argue that we are "changing Washington" if we effectively postpone the cleanup of the campaign finance system until the end of the President's term.

IV. LOBBYING REFORM

A. Tax deductibility of lobbying expenses

Campaign promise: We will ask Congress to end the deductibility for special interest lobbying expenses.

Current legislation: During early consideration of S.3 last year, Democratic leaders proposed eliminating the deductibility of lobbying expenses to pay for reform. However, it was subsequently dropped from the bill. (This would raise approximately $100 million per year, enough to substantially pay for communications vouchers.)

B. **Lobbying disclosure**

Campaign promise: "We will push for and sign legislation to toughen and streamline lobbying disclosure. The new law will require all special interest groups to register with the Office of Government Ethics within thirty days after contacting a federal official, lawmaker, or lawmaker's aide. Lobbyists will be required to report twice a year on their contacts and expenses. We will instruct the Justice Department to strictly enforce disclosure laws and collect fines."

Current legislation: Carl Levin's bill was the model for the PPF proposals. It has strong bipartisan support, and was introduced too late last year to be brought to the Senate floor, but passed the Government Operations Committee.

The legislation's main points:

- It would require registration of all professional lobbyists, and broaden the definition of lobbying.

- It would streamline lobbying disclosure requirements.

- It would create a new entity within the Justice Department to administer the statute.

- It would substitute fines for current criminal laws.

C. Foreign agent registration

Campaign promise: We will close the "lawyers' loophole," which allows lobbyists to disguise work for foreign governments and corporations as legal work.

Current legislation: The Levin bill does this as well.

D. Revolving door legislation

Campaign promise: In PPF, Gov. Clinton promised to challenge Congress to follow our lead on the five year ban and other revolving door proposals. In addition, there is the implicit suggestion that we will seek to codify our own "pledges."

Current legislation: None. Sen. Boren has told the press that Gov. Clinton asked that the five-year pledge be codified in campaign finance reform legislation.

V. RECOMMENDED NEXT STEPS AND DECISIONS

• I will continue to reach out to the Hill, party and political organizations, public interest groups, etc. on this issue.

_____ Approve _____ Disapprove _____ More info. needed

• We should convene a regular White House working group on these issues, so that various interests are considered from the outset. The participants should include the domestic policy, communications, congressional relations, political/DNC, and possibly the counsel. Vice-President Gore has expressed strong interest in this issue, and he should have a staff representative as well.

The goal should be to have the outlines of a "Clinton plan" within two weeks. This does not suggest detailed legislation by that time merely a firm sense of where we are going.

The major internal dilemmas will be soft money. Ultimately, Gov. Clinton will have to decide what our stance will be on this. At David Wilhelm's request, the DNC and political people are analyzing S.3 to see how it would affect their operations, and to suggest alternative proposals.

In addition, we will have to decide how we want to frame the "opening the airwaves" issue -- i.e., public funding.

_____ Approve _____ Disapprove _____ More info. needed

• We will need to decide whether to negotiate a bill with Congress, to propose our own plan and then negotiate, or to draft a plan in close consultation with Congress and then release it as "our" plan. **Howard Paster strongly believes that you should initially give the Congress a deadline for drafting and/or passing legislation.** This will ease their comfort level somewhat. On the other hand, unless you are given credit for the reform, it would diminish your identification with issue. We should give them our "minimum standards" on this issue, and be in a sign-off position; this need not be inconsistent with us putting forward a public outline of a plan.

_____ Approve _____ Disapprove _____ More info. needed

• Celinda Lake has conducted a poll for a coalition of groups advocating campaign finance reform. (We have their preliminary results.) **We may want to set up a formal briefing for relevant WH staff and officials.**

_____ Approve _____ Disapprove _____ More info. needed

• **To identify himself with this issue, Gov. Clinton should stress political reform whenever possible -- such as in the State of the Union Address, and in a talk to the White House staff and administration officials.** The goal is to send signals that Congress should act, while expending minimal political capital.

_____ Approve _____ Disapprove _____ More info. needed