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Phantom Fixes

How The Shays-Meehan And McCain-Feingold Bills Would Not Have Curtailed Enron's And Arthur Andersen's Campaign Spending

U.S. PIRG

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TABLE OF CONTENTS

SUMMARY OF KEY FINDINGS

Enron and Arthur Andersen have exerted significant influence on our political system in the past decade.

- Enron and Arthur Andersen contributed a total of $11,171,062 to political campaigns since 1989.

- Since 1997, the firms' lobbying expenditures dwarfed their campaign contributions. Enron has spent $7,575,000 on lobbying since 1997, nearly double its $3,845,299 in campaign contributions over the same period. Andersen spent $9,605,000 on lobbying, compared to $2,781,008 on campaigns over the same period.

Enron, Arthur Andersen, and their employees have helped to elect many public officials, using primarily hard money.

- With one exception, the candidates in the 2000 election receiving the most money from Enron and Andersen outspent their opponents and won their elections.

- Ninety-four percent of candidates that spent the most money won their 2000 congressional general elections.

- More than 62% of Enron's and Andersen's combined contributions were made with "hard money"—funds regulated and limited by current campaign finance law.

- More than 80% of the money raised by parties and candidates during the 2000 election cycle was "hard money."

- Public officials elected with assistance from Enron and Arthur Andersen played significant roles in fostering the regulatory breakdown that led to the Enron collapse.

- At least 73% of Kenneth Lay's contributions were to candidates running outside of his own congressional district.

The Shays-Meehan and McCain-Feingold campaign finance legislation would not have reduced Enron's or Andersen's ability to spend money on elections.

- Through loopholes in the proposed laws and increases in individual hard money contribution limits, Enron, Arthur Andersen, and their employees would have been able to contribute exactly the same amount of money had Shays-Meehan/McCain-Feingold been law—and maintained an equal or greater influence on elections.

- The Shays-Meehan and McCain-Feingold bills allow corporations like Enron to give $10,000 to state and local parties each year. Simply contributing $10,000 to each state party would have enabled Enron and Arthur Andersen to pump $7 million each into political campaigns since the 1990 election cycle—more than each chose to spend under current law.

- **Under Shays-Meehan's and McCain-Feingold's increased contribution limits, Kenneth and Linda Lay would have been able to give $975,000 in hard money alone since the 1990 election cycle. This is more than the $882,580 in *combined hard and soft money* that the couple has given over the same period.**

- Enron employees made $508,000 in $1,000 contributions since the 1990 elections cycle. Under McCain-Feingold's increased contribution limits, these wealthy executives could all double their contributions, increasing Enron's total individual contributions from $1,237,588 to $1,745,588.

- Arthur Andersen's employees made $294,000 in $1,000 contributions since the 1990 election cycle. Andersen's individual contributions could rise from $1,947,064 to $2,241,064 under McCain-Feingold.

- Almost half (46%) of the individual hard money contributed to candidates during the 2000 election cycle came at the $1,000 level.

- Doubling contribution limits could increase the proportion of individual contributions coming at the highest level from 46% to 63% of individual hard money contributed to candidates.

- This could correspondingly decrease the proportion of money coming from donors of less than $200 from 30% in the 2000 election cycle to 21% in future elections.

- To reduce the influence of money in politics, we must lower contribution limits, ban soft money completely, and make candidates raise money from the districts they represent.

INTRODUCTION

The campaign contributions of the two major players in the Enron debacle—Enron and Arthur Andersen—played a major role in insulating the companies from scrutiny and fostering the conditions that led to Enron's collapse. However, there is plenty of confusion about exactly what that role was. When lavishing campaign contributions on presidential and congressional candidates, what did Enron and Arthur Andersen get for their money?

Several concrete lessons can be drawn from this case. A careful review of the facts reveals the profound nature of the problem of money in politics and leads to meaningful solutions, rather than phantom fixes that will make matters worse.

This paper details the extent of Enron's and Arthur Andersen's political influence, touches on the reasons this influence is problematic for our democracy, and examines potential solutions to the problem.

In times of scandal and political breakdown, it is tempting and often reasonable to search for evidence of personal corruption. The Enron debacle has certainly led to many credible allegations of untoward conduct by both private sector and government actors. However, the central theme of this report is that to focus too narrowly on personal corruption and the influence of money on *politicians* is to ignore the larger and more significant influence of money on our political system. The most profound problem in American politics is that money controls *elections*, which allows wealthy individuals and special interests to place their favored candidates in public office.

PART I:
THE PROBLEM OF MONEY IN POLITICS—EXHIBITS A AND E

Enron's and Arthur Andersen's Extensive Political Influence

The two companies central to this debacle have spent millions of dollars over the past decade influencing the political process at the federal level. Enron and its employees[1] have spent nearly $6 million on political contributions since the 1990 election cycle. The company has spent more than $7.5 million on lobbying since 1997 alone. Andersen and its employees have spent just over $5 million on contributions since the 1990 cycle and the firm has spent nearly $10 million on lobbying since 1997. Tables 1 through 4 detail this spending.

Table 1. Enron's Contributions to Federal Candidates and Parties, 1989-2002*

Election Cycle	Total Contributions	Soft Money Contributions	Contributions from PACs	Contributions from Individuals
1989-1990	$163,250	N/A	$130,250	$33,000
1991-1992	$281,009	$75,109	$130,550	$75,350
1993-1994	$520,996	$136,292	$189,565	$195,139
1995-1996	$1,141,016	$687,445	$171,671	$281,900
1997-1998	$1,049,942	$691,950	$212,643	$145,349
1999-2000	$2,441,398	$1,671,555	$280,043	$489,800
2001-2002	$353,959	$304,909	$32,000	$17,050
TOTAL	**$5,951,570**	**$3,567,260**	**$1,146,722**	**$1,237,588**

Source: Center for Responsive Politics, www.opensecrets.org.
NOTE: Soft money contributions were not publicly disclosed until the 1991-1992 election cycle.
**Based on FEC data downloaded 1/1/02.*

Table 2. Enron's Lobbying Expenditures, 1997-2001*

Calendar Year	Lobbying Expenditures
1997	$1,080,000
1998	$1,600,000
1999	$1,940,000
2000	$2,130,000
2001	$825,000
Total	**$7,575,000**

Source: Center for Responsive Politics, www.opensecrets.org
**Based on filings with the U.S. Senate. The 2001 total includes lobbying expenditures reported by Enron between January and June 2001. The final report of the year is not yet available.*

[1] Note: The term "employees" here refers to the relatively small number of highly paid employees that made significant campaign contributions. It is critical to draw a distinction between these "employees" and the rank and file workers whose lives were upended by the Enron debacle.

Table 3. Arthur Andersen's Contributions to Federal Candidates and Parties, 1989-2002*

Election Cycle	Total Contributions	Soft Money Contributions	Contributions from PACs	Contributions from Individuals
1989-1990	$252,780	n/a	$123,975	$128,805
1991-1992	$651,158	$111,026	$209,873	$330,259
1993-1994	$584,361	$0	$344,010	$240,351
1995-1996	$950,185	$36,758	$514,664	$398,763
1997-1998	$825,056	$107,250	$442,086	$275,720
1999-2000	$1,430,510	$262,250	$640,499	$527,761
2001-2002	$525,442	$132,262	$347,775	$45,405
Total	**$5,219,492**	**$649,546**	**$2,622,882**	**$1,947,064**

Source: Center for Responsive Politics, www.opensecrets.org.
NOTE: Soft money contributions were not publicly disclosed until the 1991-1992 election cycle.
*Based on FEC data downloaded 1/1/02.

Table 4. Arthur Andersen's Lobbying Expenditures, 1997-2001*

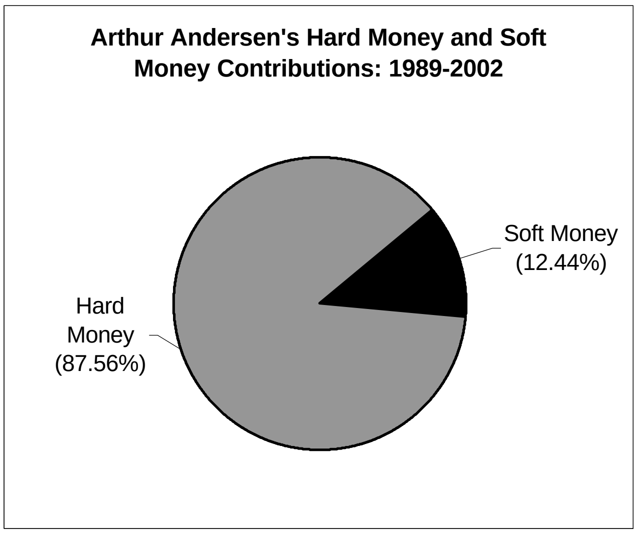
Calendar Year	Lobbying Expenditures
1997	$2,380,000
1998	$1,985,000
1999	$1,840,000
2000	$2,480,000
2001	$920,000
Total	**$9,605,000**

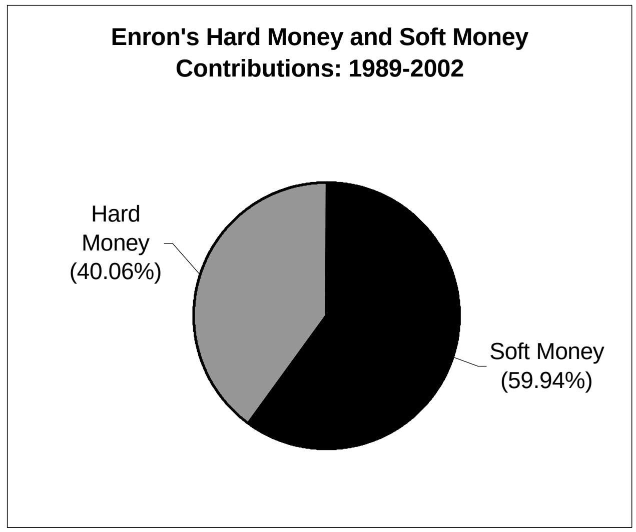
Source: Center for Responsive Politics, www.opensecrets.org
**Based on filings with the U.S. Senate. The 2001 total includes lobbying expenditures reported by Andersen between January and June 2001. The final report of the year is not yet available.*

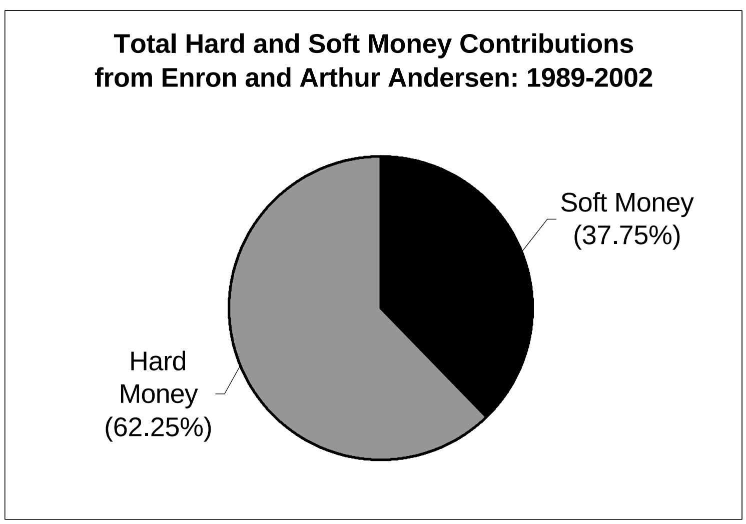
Hard Money vs. Soft Money

While many point to soft money as the primary scourge on our political system, the giving patterns of these two firms tell a different story. Enron did make more than $3.5 million in soft money contributions since 1989, comprising 60% of its total. However, Andersen made more than 87% of its gifts through hard money. More than 62% of the companies' combined contributions since 1989 were made with hard money.

Figure 1. Enron's and Andersen's Hard and Soft Money Contributions, 1989-2002







Source: Center for Responsive Politics, www.opensecrets.org.

Why Is This Influence A Problem?

Enron's and Arthur Andersen's campaign contributions helped ensure that their favored candidates won and kept office.

Enron and Arthur Andersen Used Campaign Contributions to Influence Elections and Ensure Success for Favored Candidates
Through extensive political giving, these companies and their highly paid employees were able to have a significant impact on a presidential race and many congressional contests—most of which did not involve their own representatives.

President George W. Bush
Both Kenneth Lay, Enron's former Chairman, and D. Stephen Goddard, the since dismissed Managing Partner of Andersen's Houston office, were "Pioneers," helping to raise at least $100,000 in hard money for Mr. Bush's presidential campaign.[2] Both Enron and Arthur Andersen contributed significantly more money to George Bush's campaign for the presidency than to Al Gore's.[3] Enron and its employees contributed $113,800 to Bush's presidential campaign and just $13,750 to Al Gore.[4] Andersen and its employees gave Bush $146,650, compared with just $18,850 for Gore.[5] In fact, Andersen and Enron were the fifth and twelfth biggest donors, respectively, to the Bush campaign.[6] In a very close race, these contributions helped determine the outcome. The timing and lopsidedness of these contributions suggest that their primary purpose and effect was to influence an election, rather than curry favor with a candidate.

Representative Sheila Jackson Lee
Recent reporting has brought to light one example of Enron's successful control of elections. Brody Mullins in *Congress Daily* has demonstrated that Kenneth Lay recruited Sheila Jackson Lee to challenge the then-incumbent representative of Texas's 18th district, Craig Washington, in 1994.[7] Lay took issue with Washington's vote against NAFTA and sought to replace him with someone more sympathetic to his "free trade" principles. According to Mullins, "Enron and its employees pumped $24,000 into Jackson Lee's campaign, helping her raise nearly $600,000—three times as much as Washington raised for his previous re-election." The result was an overwhelming victory for Jackson Lee in the Democratic primary and an easy win in the general election. This is a perfect example of how large, early hard money contributions are decisive in most elections.

Representative Jackson Lee's position on NAFTA was likely not influenced at all by Enron or Kenneth Lay. She might never have granted any access to any Enron lobbyist, or returned a single phone call. However, as a result of its excessive political contributions, Enron was able to change the vote of the 18th district of Texas from an

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[2] Center for Responsive Politics: www.opensecrets.org
[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Mullins, Brody. "NAFTA Issue Prompted Enron Support for Jackson Lee." *Congress Daily*, January 15, 2002.

anti-NAFTA position to a pro-NAFTA position. Enron's money did buy the result it wanted, even though there may never have been a "quid pro quo" with Representative Jackson Lee.

Some campaign finance observers believe that it is proper for donors to influence elections, but improper for these contributions to impact the decisions of those elected. This reasoning is flawed. When wealthy interests can influence elections far more than ordinary citizens can, the effect is far more corrupting than the simple trading of access to, or influence on, a decision-maker.

This is why the campaign finance system taints every member of Congress. While the individual representatives may hold true to their positions and not feel that their personal integrity is "compromised", none can dispute that campaign contributions got them elected in the first place. In the case of Enron, 259 members of Congress won their seats in part because Enron found their positions palatable to its corporate agenda.[8] Calls for members to give back their contributions miss this point entirely. The impact of the contribution happened long ago at the ballot box, and this cannot be undone.

Other Top Enron and Andersen Recipients
With one exception, all of Enron and Andersen's top hard money campaign contribution recipients up for reelection outspent their opponents in the 2000 general election. Since outspending one's opponent almost always leads to victory, Enron, Andersen, and other wealthy contributors helped ensure that these candidates would win office in 2000.

Table 5. Enron's Contributions to Victorious Campaigns, 2000 Election Cycle

Candidate	Race	Enron Contributions Since 1989	Campaign Expenditures in 2000 Election	Opponent Expenditures in 2000 Election
Kay Bailey Hutchison	TX-Senate	$101,500	$4,291,077	$10,010
Phil Gramm	TX-Senate	$101,350	N/A	N/A
Ken Bentsen	TX-25	$44,250	$1,337,579	$3,247,033
Sheila Jackson Lee	TX-18	$39,200	$409,631	$18,244
Joe L. Barton	TX-6	$28,909	$936,534	no report
Tom Delay	TX-22	$28,900	$1,298,995	$6,597
Martin Frost	TX-24	$23,250	$1,983,181	$208,618
Charles Schumer	NY-Senate	$21,933	N/A	N/A
Michael Crapo	ID-Senate	$18,689	N/A	N/A

Source: Center for Responsive Politics, www.opensecrets.org
Note: These figures reflect PAC and individual contributions.
Totals do not reflect any returned contributions.

[8] Center for Responsive Politics: 71 current Senators and 188 current House members have received Enron contributions.

Table 6. Andersen's Contributions to Victorious Campaigns, 2000 Election Cycle

Candidate	Race	Andersen Contributions Since 1989	Campaign Expenditures in 2000 Election	Opponent Expenditures in 2000 Election
Phil Gramm	TX-Senate	$76, 850	N/A	N/A
Christopher Dodd	CT-Senate	$54,843	N/A	N/A
W.J. "Billy" Tauzin	LA	$57,000	$1,477,133	no reports
Charles Schumer	NY-Senate	$38,584	N/A	N/A
Sherrod Brown	OH-13	$34,687	$789,866	$28,276
John L. Kyl	AZ-Senate	$34,628	$2,803,432	$21,491
Ron Wyden	OR-Senate	$33,590	N/A	N/A
E. Clay Shaw Jr.	FL-22	$32,950	$3,086,708	$2,378,327
Martin Frost	TX-24	$32,000	$1,983,181	$208,618
Dennis Hastert	IL-14	$27,685	$2,299,072	no reports

Source: Center for Responsive Politics, www.opensecrets.org
Note: These figures reflect PAC and individual contributions.
Totals do not reflect any returned contributions.

Big Money Controls Elections

The pattern of large contributors controlling elections holds true on a larger scale. Ninety-four percent of the candidates that raised the most money won their 2000 congressional general elections.[9] This might not be a problem if the amount of money a candidate raises is an indication of community support. This, however, is far from the case. Money raised is not a proxy for public support, but simply moneyed support.

Most citizens do not participate in the "wealth primary," the critical political side game that decides who gets to run for office—and who wins. Our current campaign finance system ensures that special interests, influential lobbyists, and the wealthiest Americans maintain control of our political system. This is accomplished first by selecting (and filtering out) candidates long before the public gets to vote—and then by influencing who wins elections.

The candidate selection process takes place through the contribution of large hard money checks early in an election cycle. Unlike soft money, which is rarely spent until a general election, the pervasive influence of hard money begins months or years before the primaries—when candidates are sitting in quiet living rooms contemplating campaigns. The first question any candidate must ask herself is "Can I raise enough money to be competitive?" Unfortunately, in modern elections, this question is analogous to "Will my political ideas appeal to the types of people who can give me $1,000?"

As a result, grassroots candidates are effectively locked out of the system. This is because almost half (46%) of all the individual hard money contributed to candidates

[9] "Look Who's Not Coming to Washington." *U.S. PIRG*, January 2001

during the 2000 election cycle came at the $1,000 level—the current limit.[10] Yet, only about 1/9th of one percent of voting age Americans gave a contribution at that level.[11] A small sliver of the wealthiest Americans—people like Enron and Andersen executives—have a vastly disproportionate influence on who gets elected to public office in the U.S.

Political Bribery

Enron and Arthur Andersen may have received special favors from some of the politicians to whom they contributed substantial amounts of money. A recent Public Citizen report makes some compelling allegations about untoward behavior by the Bush administration and Senator Phil Gramm and his wife, Dr. Wendy Gramm.[12]

However, while political bribery may be a problem in the U.S.—and may have had a role in this particular scandal—focusing on this practice masks a much more profound impact of wealth on American politics. It is more instructive to consider the influence of money on *elections* than on *politicians*. The most profound problem facing our campaign finance system is not outright bribery, but how a small number of corporate interests such as Enron and Andersen decide who runs for office in the first place—and then who wins. Once these interests have hand-picked our elected officials—filtering out anyone who may threaten the status quo—they have little need to engage in unseemly bribery. The most comprehensive corruption of our system imaginable has already been accomplished.

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[10] "Reinforcing the Rich: The Consequences of Proposals to Raise the $1,000 Limit on Individual Contributions to Federal Candidates." *Public Citizen*, February 2001.
[11] Ibid.
[12] "Blind Faith: How Deregulation and Enron's Influence Over Government Looted Billions from Americans," *Public Citizen*, December 2001.

By placing their favored candidates in office, these executives were able to change or forestall important rules that were designed to protect the public from events such as the Enron collapse.

One cause of Enron's collapse—in addition to the dishonesty and questionable business practices of its executives—was a severe regulatory breakdown on behalf of the U.S. government. This breakdown can be linked to actions by lawmakers that Enron and Arthur Andersen helped to elect.

An Auditor's Conflict of Interest

At the center of the Enron debacle lays a clear conflict of interest. Arthur Andersen was hired to audit Enron's accounting and hence ensure that the company was compliant with standard accounting procedures. However, Andersen also was marketing more lucrative consulting services to Enron. This provided a clear incentive to rubber stamp its client's accounting practices to avoid jeopardizing this consulting relationship. As little as five years ago, auditing firms rarely marketed other services to their auditing clients.[13] The change occurred as the risks associated with auditing were reduced.

In 1995, the *Private Securities Litigation Reform Act* limited the liability of outside professionals (like Andersen) in securities litigation. The statute made it more difficult to state a cause of action against an auditor and altered their liability standard from "joint and several liability" to "proportionate liability."[14] This significantly reduced the risks associated with a faulty audit. A Congress that Andersen and other accounting firms helped elect passed a law that benefited these firms while jeopardizing the public interest and contributing to the Enron meltdown.

In 2000, former Securities and Exchange Commission Chairman Arthur Levitt, Jr. proposed a rule that would have limited the ability of independent auditors to perform consulting services for companies they audit. This conflict of interest ruling, which may have prevented the Enron debacle (Andersen reportedly earned $25 million for auditing Enron and $27 million in consulting fees for the firm), was vigorously opposed by the Big Five accounting firms as a threat to their bottom line. Rep. Tauzin, Andersen's biggest recipient of campaign contributions in the House, played a significant role in ensuring that strong regulations were scuttled.

Protecting Tax Havens

One of the reasons that Enron was able to successfully falsify its earnings statements and deceive sophisticated Wall Street banks was that it registered an unusually high number of its subsidiaries in officially designated "tax havens" with poor disclosure laws.[15] President Clinton had initiated efforts to crack down on these havens, but the Bush administration scuttled these efforts immediately upon taking office.[16] As we noted earlier, both Enron's and Andersen's contributions helped elect President Bush.

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[13] "Interview with John Coffee, Professor of Law, Columbia Law School, New York, New York." *Corporate Crime Review*, Vol. 16, No. 1; January 7, 2002.
[14] Ibid.
[15] Public Citizen, "Blind Faith," pg. 24.
[16] Ibid.

Campaign contributions did not necessarily buy the support of Rep. Tauzin, President Bush, and others who supported these changes. These politicians might full well have agreed with limiting the liability of major accounting firms like Andersen in cases such as this. However, big money from Andersen and other accounting firms helped put these officials in office in the first place. Even if there was no improper relationship between Tauzin and Andersen, their money helped put a friend in high places. Once these firms had supporters in positions of power, there was no need to “buy” votes.

PART II:
SOLUTIONS—FALSE AND TRUE

False Solutions: The Shays-Meehan and McCain-Feingold campaign finance legislation will not solve the problems that led to this collapse—and will make some aspects of the problem worse.

In the wake of the Enron debacle, many are calling for the passage of the prominent campaign finance proposals pending before Congress. Supporters of the McCain-Feingold and Shays-Meehan bills claim that the legislation will help sever the link between money and politics and prevent similar regulatory breakdowns in the future.

However, a closer look at the facts reveals that passing these bills will do nothing to reduce the influence of money on our political system. There are several concrete reasons that passing the Shays-Meehan and McCain-Feingold bills into law would not have reduced the likelihood of the Enron debacle.

Soft Money Loopholes
In spite of what its sponsors and supporters assert, the Shays-Meehan and McCain-Feingold bills do not actually ban soft money. There are three important loopholes that allow individuals and corporations to continue to flood the political system with large contributions.

State and Local Parties/Get Out the Vote
The House and Senate bills allow corporations like Enron to give $10,000 to state and local parties for voter registration drives, to "educate" voters and to fund get-out-the-vote activities. Although these efforts cannot mention federal candidates by name, registering, identifying and educating voters on behalf of a particular party will clearly benefit that party's federal candidates—whether they're mentioned by name or not.

By using this loophole, Enron and Andersen could simply shift most of their soft money giving to state and local parties. Given the number of local parties in all 50 states, there are plenty of opportunities to spread millions of dollars around. In fact, by simply making one $10,000 contribution to each state party each year, Enron and Andersen could have each pumped $7 million into political campaigns since 1989—more than each chose to spend under current law.[17]

Electioneering by Issue Groups
Another way for Enron or Andersen to use corporate funds for electioneering would be to make contributions to issue advocacy groups. Under Shays-Meehan and McCain-Feingold, these organizations—such as The Chamber of Commerce or the anti-tax "Club for Growth"—could spend an unlimited amount of money influencing elections through

[17] $10,000 X 50 states X 14 years = $7 million

non-broadcast electioneering campaigns.[18] They could send attack mailings, undergo "push polling" telephone campaigns that defame a targeted candidate, take out print ads, or invent any other imaginable way to influence an election. These ads could not urge a citizen to vote for or against a candidate, but a recent Brennan Center for Justice report found that nearly 90% of all election ads run by candidates do not do this anyhow, and do not need to in order to be effective.[19]

In fact, candidates and issue advocacy groups already are intensifying their use of these "ground war" tactics. As media markets become increasingly saturated with political advertisements, candidates and parties are having difficulty getting their message out. Many are turning to more traditional tactics like direct mail, which can be much more targeted and cost effective.[20] For example, of the $69 million that Michael Bloomberg spent in the last weeks of his recent New York City Mayoral campaign, just $9.1 million was spent on television and radio ads, compared to $8 million spent on pollsters and $9.6 million on mailings.[21]

If Enron's or Andersen's executives wanted to use unlimited funds from their corporate accounts and maintain absolute control over all expenditures, they could simply set up their own front group to carry out the activities described above.

Independent Expenditures

Finally, Shays-Meehan and McCain-Feingold would allow individuals and some 501(c)(4) non-profit organizations to make unlimited "independent expenditures" that are not explicitly coordinated with a candidate. Individuals or groups can take out TV and radio ads, make use of the "ground war" tactics mentioned above, or do anything else in their power to elect or defeat a candidate.

Kenneth Lay personally contributed $401,910 in soft money to the parties since 1989.[22] He could simply have found issue groups that shared his electioneering goals or hired his own consultants and used this money to influence elections directly, bypassing the parties. Since a large percentage of party money goes through consultants now anyway, the results would have been remarkably similar.

Hard Money Increases

Helping Handpick Candidates

The Shays-Meehan and McCain-Feingold bills both contain several important increases in contribution limits for individuals. Both bills increase the aggregate limit that one person can contribute annually to all candidates, parties, and political action committees (PACs) from $25,000 to $37,500. This means that Kenneth and Linda Lay would have

[18] Reps. Shays and Meehan have offered an amendment to their bill which will allow federal candidates to raise money on behalf of 501(c)(4) organizations up to $20,000 at a time.
[19] "Straight Talk on Campaign Finance Reform: Paper No. 5, Magic Words." Brennan Center for Justice, www.brennancenter.org
[20] Magelby, David. "Election Advocacy: Soft Money and Issue Advocacy in the 2000 Congressional Elections." Center for the Study of Elections and Democracy, Brigham Young University, p34.
[21] Reported by the *Associated Press*, December 4, 2001. Numbers were for spending in the last 5 weeks of the campaign.
[22] U.S. PIRG analysis of Center for Responsive Politics data.

been able to contribute $975,000 of hard money since the 1990 election cycle. This is more than the $882,580 of *combined hard and soft money* that the couple gave over this time period.[23]

McCain-Feingold doubles the amount that an individual can contribute directly to one candidate from $1,000 to $2,000 per election. This means that wealthy couples would be able to contribute $2,000 per adult for a primary and another $2,000 each for the general election—or $8,000 to one candidate in one election cycle. Shays-Meehan doubles the limits for presidential and senatorial candidates and leaves the limits for House candidates at $1,000. However, there will almost certainly be an amendment offered to bring the House limits up to $2,000 as well. Both bills also increase the annual limit on giving to political parties from $20,000 to $25,000 per person. Finally, all of these figures are indexed for inflation, which means these figures will continue to rise from this point forward.

It is important to note that hard money is the most valuable form of currency for candidates because there are no restrictions on how it can be spent. Furthermore, as noted above, it is early hard money that determines the viability of a candidate's campaign—months before the primary. In spite of concern over a soft money "explosion," over 80% of the money raised by federal candidates and parties during the 2000 election cycle was hard money.[24] Even the parties raised more than half of their money from hard sources.[25]

In fact, a number of corporate executives have found soft money contributions to be largely ineffective and have redirected their political giving into more productive avenues of influence. Linda Fisher, Pharmacia's vice president for government affairs, says that her company had no problems maintaining its relationships with members of Congress after it stopped giving soft money donations. She was quoted in the *New York Times* as saying: "we support them through our PAC and fund-raisers, and we have found that to be the most successful way to have our voice heard."[26] Spokespeople from General Motors, Monsanto and Revlon, all companies that have virtually eliminated their soft money giving, concurred that their political relationships and degrees of influence have not been affected by their decisions. Bill Noack, a General Motors spokesman, reflected on his company's decision to abandon soft money contributions: "There are so many issues that affect us on the environment, safety and trade, there is something every day. And I can't say our decision has made an impact at all."[27]

Enron and Andersen Hard Money Contributions
Enron employees have made $508,000 in $1,000 contributions since the 1990 election cycle.[28] Under McCain-Feingold's increased limits, these wealthy executives could all

[23] Center for Responsive Politics, www.opensecrets.org.
[24] Makinson, Larry, "The Big Picture: The Money Behind the 2000 Elections." *Center for Responsive Politics*, September 2001.
[25] Magelby, David. "Election Advocacy: Soft Money and Issue Advocacy in the 2000 Congressional Elections," Center for the Study of Elections and Democracy, Brigham Young University.
[26] Van Natta, Jr., Don. "As political gifts set a record pace, some stop giving." *New York Times*, May 2, 2000, p.A1.
[27] Ibid.
[28] U.S. PIRG analysis of Center for Responsive Politics data. Note: A small number of these contributions were made $2,000 at a time, which is legal as long as candidates credit $1,000 to

double their contributions, increasing Enron's contributions from individuals from $1,237,588 to $1,745,588. Arthur Andersen employees have made $294,000 in $1,000 contributions since the 1990 election cycle.[29] Under McCain-Feingold's increased contribution limits, Andersen's individual contributions could rise from $1,947,064 to $2,241,064.[30]

Doubling the individual contribution limits will strengthen the ability of these politically active executives to ensure that their favored candidates win office. By contributing large hard money checks early in the primary season, they can lock out grassroots candidates and grant instant viability to a favored office-seeker's campaign.

Increasing the Clout of Lobbyists

As we noted previously, both companies have used lobbyists as an important way of influencing federal policy. In fact, since 1997, both Enron and Andersen's lobbying expenditures have dwarfed their campaign contributions. Enron has spent $7,575,000 on lobbying since 1997, nearly double its $3,845,299 in campaign contributions over the same period. Andersen spent $9,605,000 on lobbying, compared to $2,781,008 on campaigns over the same period.

The increases in hard money contribution limits will significantly increase the clout of lobbyists in Washington, DC, as lobbyists overwhelmingly use hard money as the currency of their political contributions. In the 1999-2000 election cycle, the largest lobbying firms made 92% of their contributions ($22.2 out of $24 million) in hard money gifts to candidates, PACs, and parties.[31] Lobbyists and employees from the top 144 lobbying firms in the country could have given 58% more to candidates and parties had the McCain-Feingold campaign finance bill been law during the last election cycle.[32]

In short, increasing hard money contribution limits increases the influence of the wealthiest Americans and K Street lobbyists and drowns out the voices of average citizens. $1,000 donors already account for 46% of all individual contributions to candidates. Increasing the limit to $2,000 could push this proportion up to 63%.[33] Of course, there would be a corresponding decrease in the role of donors giving less than $200. These smaller contributors could see their impact drop from 30% of total donations to as low as 21%.[34]

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each election. Some were also made with two separate $500 checks to the same candidate in the same election cycle.

[29] Ibid.

[30] Note: None of Enron's or Andersen's individual donors appear to have given more than half of the new $37,500 aggregate individual annual limit. Therefore, every donor should be able to double his or her contributions under the new law.

[31] "Lobbyist's Last Laugh." *U.S. PIRG*, July 5, 2001.

[32] Ibid.

[33] "The Consequences of Raising Federal Contribution Limits." *U.S. PIRG*, March 2001.

[34] Ibid.

Reshuffling the Formula

Tables 7 and 8 demonstrate just one of many examples of how Enron and Arthur Andersen could have spent the exact same amount of money—and had equal or greater influence on elections—if McCain-Feingold had been law for the past 14 years.

Table 7. How Enron Could Have Spent Just as Much Money Influencing Elections Had McCain-Feingold Been Law Since 1990

	PAC	Individual	Soft Money	Soft Money to State and Local Parties	Contributions to Issue Group Electioneering	Independent Expenditures	Total
Contributions since 1990 Election Cycle	$1,146,722	$1,237,588	$3,567,260	n/a	n/a	n/a	**$5,951,570**
Possible Contributions under McCain Feingold since 1990 Election	$1,146,722	$1,745,588	n/a	$3,000,000	$29,260	$30,000	**$5,951,570**

- PAC contributions would have remained the same, as the legislation does not change the rules for PACs.
- Individual contribution could have risen by $508,000 if those employees contributing $1,000 at a time doubled those contributions.
- By exploiting the $10,000 state and local party loophole, Enron could have contributed a virtually unlimited amount of soft money over these fourteen years. Simply by contributing $10,000 each year to each state party—and making no donations to local parties—the company could have pumped $7 million into the political system over this time period. This example assumes they would have only contributed $3 million.
- Enron could have well surpassed its giving total through the state and local party loophole. However, if Enron had wanted to vary its giving and ensure its contributions were used to attack or praise federal candidates by name, the company could have contributed an unlimited amount of money to issue groups and/or started a front group.
- Enron's employees could also convert their soft money spending to independent expenditures aimed at electing or defeating selected candidates.

Table 8. How Arthur Andersen Could Have Spent Just as Much Money Influencing Elections Had McCain-Feingold Been Law Since 1990

	PAC	Individual	Soft Money	Soft Money to State and Local Parties	Contributions to Issue Group Electioneering	Independent Expenditures	Total
Contributions since 1990 Election Cycle	$2,622,882	$1,947,064	$649,546	n/a	n/a	n/a	**$5,219,492**
Possible Contributions under McCain Feingold since 1990 Election	$2,622,882	$2, 241,064	n/a	$200,000	$55,546	$100,000	**$5,219,492**

- Since Arthur Andersen preferred to contribute primarily through hard money, a $294,000 increase in individual contributions—resulting from their $1,000 contributors doubling their checks—would have allowed them to shift almost half of their soft money giving to more valuable hard money contributions.
- They could easily have spread the other $355,546 among the various loopholes discussed above.

As the above charts demonstrate, the so-called campaign finance “reform” measure passed by the U.S. Senate in 2001 would have had no serious impact on Enron’s or Arthur Andersen’s ability to influence federal campaigns. In fact, by increasing the limits on hard money contributions, the law would have increased the influence of wealthy executives from these and other corporations on our political process.

McCain-Feingold proponents argue that pushing money away from the parties towards “independent” groups may reduce the possibility for corruption of officeholders and prevent them from shaking down corporations for contributions. However, there is no evidence that Enron or Andersen were “shaken down” for contributions over the past 14 years. Focusing on personal corruption masks the more important problem of money controlling elections. As we have demonstrated above, the McCain-Feingold bill will not affect these companies’ ability to put their supporters in office.

True Solutions: Real Reform

Lower Contribution Limits
A true soft money ban without a huge loophole for contributions to state and local parties is an important first step towards reducing the influence of money on elections. However, true reform must lower individual hard money contribution limits, not raise them. A dramatic lowering of hard money contribution limits would create a system in which all Americans are able to participate meaningfully in the candidate selection process. Even those who can only afford to contribute $15 or $20 could have a significant impact. The extremely rich would no longer enjoy a vastly disproportionate influence on who is able to run for office, and grassroots candidates would be able to appeal to average Americans and still run viable campaigns. This reform would hold our public officials just as accountable to Enron's thousands of displaced employees as to their wealthy executives.

Since lowering contribution limits is not politically feasible at this time, Congress must at least hold the line on the current $1,000 limit—and not raise the limit for House and/or Senate candidates as is proposed in the McCain-Feingold and Shays-Meehan bills. Representative Ken Bentsen (D-TX) has been listed as the top House recipient of Enron campaign contributions. He also is the only member of the House to put forth an amendment to the Shays-Meehan bill that would bring the individual contribution limits to Senate candidates back down to the current $1,000 level. Members of the House of Representatives, especially Minority Leader Gephardt and reform sponsors Shays and Meehan, should follow his lead and support a similar amendment if the Shays-Meehan bill is offered on the House floor this year.

Make Candidates Raise Money from Those They Seek to Represent
Enron and Arthur Andersen executives have been able to influence who is elected to federal office, not just in their home states or districts, but throughout the country. Enron founder Kenneth Lay made at least 73% of his personal contributions from 1989 to present to candidates that he could not vote for because they were seeking to represent districts other than his own.[35] U.S. PIRG called attention to this problem in a 1997 report that found that candidates for the U.S. House and Senate in the 1996 general election received more than 51% of their non-personal, non-party contributions from outside of their districts.[36]

Officials are elected to represent the needs of their constituents, not those of wealthy corporations based in Houston and other out-of-state locations. Congress already has banned contributions from foreigners to political campaigns, on the grounds that members of Congress should represent their constituents, not outsiders. Similarly, candidates should have to raise money from the district they wish to represent. This reform would have confined Enron's major sphere of influence to Houston and the surrounding areas, where most of their executives are based.

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[35] U.S. PIRG analysis. Methodology: contributions were downloaded from the CRP website on 1/25/02. Candidates were researched on Thomas.gov and politicalgraveyard.com to determine the districts for which they ran. Contributions to any candidate who ran for Texas districts 7,8,18,25, 29,31 were assumed to be in-district. Contributions to any candidate who we could not link to a district were assumed to be in-district.
[36] "Carpetbagger Cash: Out of District Contributions to Congressional Candidates—1995-1996." *U.S. PIRG*, May 1997.

CONCLUSION

Calls for reform in the wake of the Enron collapse are absolutely correct. Our federal campaign finance system is fundamentally broken. Moneyed interests control our elections through large hard and soft money contributions. Americans perceive—correctly—that due to this influence, our government consistently pursues the agenda of special interests and wealthy individuals, while neglecting issues of importance to the public at large. Over the last few weeks, the evidence of Enron's and Andersen's ability to manipulate the process has been laid bare on the front pages of every major newspaper across the country. Americans are sickened, offended, and disheartened.

Congress must act soon to restore the public's faith in American democracy. Solutions, however, must focus on fundamental systemic problems, not the unseemly behavior of a few bad actors. Those that search only for signs of personal corruption are missing the forest for the trees.

Unfortunately, as this report has demonstrated, the Shays-Meehan and McCain-Feingold bills will not help solve the systemic failures that allow wealth to dominate American politics. In some ways, the legislation will make matters worse. Increased limits will only price more Americans out of the system and put holding office further out of reach for middle and working class citizens.

Perhaps even more tragic, passing these bills will discredit the cause of reform. Americans will notice no difference in how government works. The same people will be elected—and re-elected—to office and business as usual will continue in Washington. Those that are already cynical and skeptical that we can take back our democracy from moneyed interests will find further cause for withdrawal.

It is not too late for Congress to abandon the proposed phantom fixes and grant U.S. citizens the true reform we all so richly deserve.

ADDENDA

1. Information recently released by Public Citizen reveals that Enron has already contributed to issue advocacy organizations. In 2000, the company gave $160,000 to Section 527 tax exempt political groups.[1] $110,000 of these contributions were to organizations controlled by candidates, which would be illegal under McCain-Feingold and Shays-Meehan.

This new information shows that Enron is already taking advantage of what would be a new loophole in campaign finance law should McCain-Feingold and Shays-Meehan pass. The company would simply have to move all of their 527 giving to non-candidate controlled organizations. Enron could also move all or part of their soft money contributions from federal parties to these groups and continue to have the same influence on election outcomes.

The following is an update of Table 7:

Table 7. How Enron Could Have Spent Just as Much Money Influencing Elections Had McCain-Feingold Been Law Since 1990

	PAC	Individual	Soft Money	Soft Money to State and Local Parties	Contributions to Issue Group Electioneering	Independent Expenditures	Total
Contributions since 1990 Election Cycle	$1,146,722	$1,237,588	$3,567,260	n/a	$160,000	n/a	**$6,111,570**
Possible Contributions under McCain Feingold since 1990 Election	$1,146,722	$1,745,588	n/a	$3,000,000	$189,260	$30,000	**$6,111,570**

2. The Center for Responsive Politics (CRP) announced January 29, 2002 that Enron had under-reported its lobbying expenditures for the first six months of 2001. According to CRP, "The company reported spending $825,000 on lobbying in the first six months of 2001, according to its mid-year report. However, 13 outside lobbying firms reported income from Enron totaling at least $1,785,000 over the same period, a discrepancy of $960,000."[2]

[1] Public Citizen: http://www.citizen.org/hot_issues/issue.cfm?ID=216, January 25, 2002.
[2] Center for Responsive Politics: "Enron Understated its Lobbying Expenditures, CRP Analysis Finds," January 29, 2002.