
Commission Meeting

of

NEW JERSEY CITIZENS' CLEAN ELECTIONS COMMISSION

"Testimony from the public regarding the New Jersey Fair and Clean Elections Pilot Project. The Commission will also receive testimony regarding the Clean Elections program in Maine from Mr. Jonathan Wayne, Executive Director of the Maine Commission on Governmental Ethics and Elections Practices"

LOCATION: Duffy Lounge
Seton Hall University
South Orange, New Jersey

DATE: December 2, 2005
2:00 p.m.

MEMBERS OF COMMISSION PRESENT:

William E. Schluter, Chair
Assemblywoman Linda R. Greenstein
Victor DeLuca
Carol Murphy

ALSO PRESENT:

Frank J. Parisi
Office of Legislative Services
Commission Secretary



Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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SENATOR WILLIAM E. SCHLUTER (Chair): Let's get started.

We have some, I'll call them, *heavyweights* to testify today, which we're looking forward to.

And we do expect more Commissioners to be here. But we want to get started to be sure that those who have come here on time are not hanging around unnecessarily.

Mr. Secretary, do you have anything to report, as far as housekeeping or business?

MR. PARISI (Commission Secretary): No, Mr. Chairman.

SENATOR SCHLUTER: Mr. DeLuca, do you have any words before we get started?

MR. DeLUCA: No, sir.

SENATOR SCHLUTER: Mr. DeLuca has been at all the hearings. He's always on time. And it's a pleasure to work with him.

And I think we're going to stage the testimony so that the representative from the state of Maine gets a little bit of the flavor of what we do and what we're asking. So we're not going to put him on first.

And I'd like to call on the League of Women Voters, Sandy Matsen, to come forward. And in case those here are not aware, Ms. Matsen has been appointed to the ethics group of the Governor's transition team, which is a very prestigious honor and position. And she comes as former chair of the New Jersey State League of Women Voters. And she's been active in a number of issues, campaign finance reform and other reform efforts.

Ms. Matsen.

SANDRA L. MATSEN: Thank you.

I have prepared written testimony, which has already been submitted. And, perhaps, I'll just work through and summarize it, because I know you all can read.

I do want to just start by saying that the League of Women Voters in New Jersey, and also nationally, has supported private -- public financing of elections in New Jersey since 1974. And it's really based on two goals that we believe public financing can achieve: opening the process to qualified candidates by leveling the playing field, with respect to financing a campaign; and, secondly, being able to limit the size and type of contributions as a means of combating undue influence of money in the process.

So this pilot is really the first success we've had in many attempts that we've tried. And so we are really excited to be here to be able to say we've made this first step. And it's provided actual experience with which to move forward and to continue in 2007.

I've listed eight items that I would hope the recommendation from the Commission will address. The first is the goal to have public financing available in the 40 legislative districts, and to set some date certain as our goal. I suggest 2011, but it will be what it will be. But, certainly, there should be a really hard push that, in 2007, we should not do less than four. I think that's just a requirement, to get some more data and some more real sense.

The primary election should be included, beginning in 2007, for most of our districts. That's where the game is. That we need to simplify the collection of qualifying contributions. That we need to keep

the level -- the number of qualifying contributions at a meaningful level so that candidates have shown really widespread support within their legislative districts. I think we have to look at the seed money threshold and consider increasing that.

We would argue that all candidates, whether they're candidates that go through the primary or third party independent candidates, if they are able to become certified -- they should be entitled to the same amount of money.

We hope you would reconsider what I'm sort of calling the *receipt by certified candidates* of the sort of nonparticipating candidate share. I mean, the reasoning, I'm assuming, was that they were really hoping not to have one party or the other opt out in the first year. But I think that needs to be considered. And, also, we hope your recommendations will at least include a push for some money for a public education effort.

So under each of those-- I mean, I think the first is self-explanatory.

Under the inclusion in the primary election, each candidate should be allowed to individually decide if they want to run as a Fair and Clean Elections candidate. We would hope there would be few uncontested primaries, with public financing available. And I don't think it follows -- I mean, certainly not in a primary, necessarily -- that you would run as teams. But, certainly, if our vision comes true, it's not obvious that you would necessarily have teams in the general election.

That candidates who go through the primary process -- in other words, the Republicans and the Democrats at this time -- cannot opt out of

the primary and then apply for public financing in the general election. You either opt in at the beginning or you're out.

We would suggest, and I really hope -- perhaps more controversial -- that a possible timetable would be that the districts have been selected by the general election date of the year preceding. And that would, essentially, allow the exploratory period when seed money would be collected to run from the day after the general election until whatever the last day of the qualifying period is. And once a candidate files their petition and submits their declaration of intent, the qualifying period could start. So that would mean that if I was really going to make sure that I was able to qualify, and decided I was going to become a candidate, by mid-November -- certainly January 1 -- I could have filed my petition to run, I could have filed my intent, and then I could start collecting both seed money and qualifying contributions before a primary. That would give you, certainly, four months before you probably wanted to really actively start campaigning.

Now-- And I must admit, I didn't take time to double check. It's Title 19:23-14 -- sets the petition filing deadline, which is 57 days before an election. What I didn't check and don't know is, whether or not you can file any time before that. And, if so, you're in a position to do that. If not, that is something that would have to be addressed.

And I guess I would suggest that simplicity -- would suggest that independent candidates use the same timetable. But since they have a primary day petition filing deadline, you'd really have to hear from them as to whether or not they find that an issue.

I think, for simplifying the qualifying contribution process-- You've heard most of these. For this size of donation, employer information is not necessary. We would suggest that, for small donations -- and by that I'm defining less than \$10 -- that we allow cash to be used. If we had a date receipt, which included the contributor's signature over a statement that the contribution is made without coercion or reimbursement, and if there's some specific, meaningful penalty, we argue that would be a safeguard for accepting cash at this level.

And I think also, we would suggest that you consider that candidates are required to submit their qualifying contributions on some regular schedule. And, certainly, I think if you start allowing cash, that becomes critical. "By the 10th of each month, you must file all qualifying contributions you received in the previous month." If you look at the candidates in the 6th, they were filing their qualifying contributions every two weeks, starting the end of July.

That you continue to allow qualifying contributions with debit cards, and the online process, as well as by check or money order. I think that individuals simply don't carry checkbooks in the year 2005. And so if you have to do a check, you obviously aren't collecting your qualifying contributions standing outside the post office so you can get a money order. I think that just makes it very difficult.

We believe you should set one level of contribution. And, obviously, we've extended the time to collect them if you buy into our idea that things could begin right after the general election, or December 1, or January 1, or some date certain.

For the number of qualifying contributions, we would suggest a thousand reflect real grassroots support. I did some not very scientific -- look at what a thousand contributions represented in this past election. I was using 2002 data. And I've referenced it for the 6th District. And I was also only looking at registered Rs and Ds, because the population data was not voting-age population data. So I didn't want to skew the numbers.

But you were looking at-- A thousand contributions was 5 percent of the registered Republicans, 3 percent of the registered Democrats in District 6. And in District 13, where the break was more even, it was 4 percent for each party. That's significant, but I think it's doable.

We do believe that the seed money threshold that's available at \$3,000 is not sufficient. I would have expected -- and I looked at how the seed money was spent to see expenses for phone, some kind of campaign office rent -- I mean, you can only work for so long off of your kitchen table -- some part-time salaries, some printing and mailing. And if you're starting in January or so, \$3,000 won't get you very far. And I also think, once you -- if you decouple candidates running as teams, then you don't have the ability to share your seed money and gives you a little more flexibility.

So we're suggesting that you need to look at \$5,000 to \$6,000. And there's, perhaps, some more scientific ways you can kind of consider that. But, of course, you have to balance how much seed money versus the small contributions, and what that says to the public in the process. I mentioned already that independent candidates -- if they can become a qualified candidate, they should get the same amount of money.

On the receipt of the nonparticipating candidate share, I think it should be tied to the money raised by one's opponents who are not

participating, and not be tied simply to the fact that they chose not to participate. And I realize that-- I think this makes it, perhaps, difficult. I would love to see, for other reasons that may not be tied closely enough to this issue-- If we had a cutoff date after which all candidates could not receive contributions -- say seven days before an election -- and a 24-hour reporting period, we would solve just a whole lot of problems that have really not a whole lot to do with Clean Elections even -- as opposed to huge amounts of money coming in, in the last couple of days, when you know perfectly well everybody expected it and knew how they were going to spend it.

I think candidates' fears that they're going -- that their opponents-- Candidates who are running as Fair and Clean Election candidates -- their fears that they won't receive the additional allocations in a timely manner, to be used effectively, is real. I mean, you have to file the form, and then ELEC has to say it's okay, and then they've got to get to the Department of the Treasury, and then they've got to cut the check. If we're talking about three or four days out-- If I was a qualified candidate, I think I'd be a little bit worried.

And, lastly, we would urge the Commission to recommend some money for public education. Candidates in 2005 were burdened not only with meeting the requirements, but trying to explain the system. And I think that's something that will continue into the future.

So, thank you. We really look forward to the Commission's recommendations as you work through your next three or four meetings.

SENATOR SCHLUTER: Thank you very much, Ms. Matsen. And we have some questions here.

I don't know any witness who has not been questioned by Commissioner DeLuca or myself. (laughter) So we don't want to break that string.

Commissioner DeLuca.

MR. DeLUCA: Thank you, Mr. Chairman.

Thank you for your presentation.

MS. MATSEN: You're welcome.

MR. DeLUCA: I do have a few questions.

I'd like to explore a little bit more on the decoupling idea, because the candidates that came to us sort of looked at this whole effort as a team effort. And I understand the notion, if you do this in the primaries, it's quite real that you might have different people running as a team after the primary. But do you see-- According to your suggestion, there could be a scenario in which two Assembly candidates -- one decides to run Clean and one doesn't. And how would you-- How would that work? Because it seems to me that the nonparticipating Assembly person could spend buckets of money -- "Vote Democrat. Vote Republican. Vote line-this. Vote line-that" -- and the Clean candidate would get the benefit of that.

MS. MATSEN: I don't have a good answer. I think it is definitely a problem. If you want to say that-- The issue is that, "I'm running in the same party and, therefore, if you're saying vote the line, then the Clean candidate is getting all the benefit of that." So you could probably convince me the other way. Somebody else, who thinks faster on their feet and has thought through this more carefully, may have a better answer.

MR. DeLUCA: Well, it's come up a couple of times -- same recommendation -- that they be decoupled. And we've explored with other presenters to us on this question.

MS. MATSEN: So you're suggesting a recommendation would be that, basically, everyone would be -- would choose to run or not choose to run in the primary independently. But then after that point, both parties would--

MR. DeLUCA: I think the nature of politics -- although I was a bit surprised at the last team of candidates who came and spoke to us. They both seemed to have separate bank accounts and knew little about the other. But that was where there was a primary, and who knows what. That was in the 13th District.

But there may be a way in which we could decouple on the primary side, and do something different.

MS. MATSEN: I mean, I think you have to decouple on the primary side. If my vision is right, I hope I'm not going to see anymore, you know, two candidates running in the primary.

MR. DeLUCA: Right.

MS. MATSEN: I mean, I think then you have to think real seriously about-- I don't know what you do. "You have to decide to run Clean, but we're not going to give you any money." Well, you need some money. I mean, even if there's no one-- If, as a registered Republican, I have no one else to vote for, I don't need to have a stack four inches thick of literature and stuff. But I expect to get something. So, I mean, you need to do some campaigning in the primary, even if you're not opposed. So, I mean, I think that's another whole wrinkle in how you start addressing the

primary with -- particularly if you don't have a competitive primary -- with how much money people give.

MR. DeLUCA: Let me move to another recommendation in the qualifying contribution process. You talked about one level of contribution, \$5.

MS. MATSEN: Well, the League is--

MR. DeLUCA: You didn't say that \$5. But let's say-- Right now it's \$5 and \$30. Let's assume that we were working at \$5. Part of the problem and the complaints we were getting this time is that if someone gave \$5 and filled out all the paperwork, that worked -- that was okay. If someone gave a check for \$6, they got kicked out. Would you say there's a minimum contribution, or one level of contribution, and it can be no more than whatever that number is? And it counts. Let's just use the argument that it's \$5.

MS. MATSEN: Right.

MR. DeLUCA: And I write you a check for \$25 to the Clean Election Fund. You put that in. It still counts as \$5, and you only get credit for \$5, but we accept that check, as opposed to kicking it out.

MS. MATSEN: I would say yes. I mean, ideally I would hope people are not only supporting their candidate, they're supporting the system. So the fact that I was willing to write a \$25 check to help you with your number of qualifying contributions -- but that I was willing to put some money into the system--

MR. DeLUCA: Well, that's altruistic. I think people just write checks.

MS. MATSEN: I mean, I don't think you'll get a lot that. But I don't think you should kick it out.

MR. DeLUCA: I mean, that's the problem we were having. The checks were being kicked out, because they were over \$5 or--

MS. MATSEN: I mean, as long as it meets whatever that dollar requirement is, the rest of it is just gratis to the program, I would argue. I don't think you should kick out the check.

MR. DeLUCA: On the public education, you talk about the need for it, and we've certainly heard that and read about the need for it. Would you-- Do you have any suggestions as who would be the best vehicle to do that public education?

MS. MATSEN: No, I really don't. I mean, it is really hard to do, and it takes some money. So when you're looking at the nonprofits -- and particularly when you're not looking at a statewide program -- you don't have much to go to somebody and say, "We've got a great-- This is a great system, and we want to educate people on it." So when you're only looking at legislative districts-- The League doesn't do a great job on public-- I mean, we do great public education, but we don't reach enough people. And I think it takes some money that does some radio ads, or some other things that is more than most nonprofits or interested groups can do on their own.

MR. DeLUCA: My last question-- You recommend rolling this out to all 40 legislative districts. And I think there are others who have suggested that, too.

Tell me a good argument why we ought to use public funds in a district which is overwhelmingly one party or another for the general

election. Let's assume that there was some funding in a primary election. But I'm in the 27th District. And you can certainly have a Democratic primary fight in that district. But, frankly, it's not very competitive in the general election.

So what would be the argument as to why -- and anybody else who hears this, who wants to come up later, can make this argument, too. What would be an argument that we could use to convince the public that even though it's a lopsided district, one way or the other, that there is still some utility to spend the public money in that district?

MS. MATSEN: I think it allows-- Even in a lopsided district, it allows the other viewpoint to be heard, more so than if they are working with equivalent financial resources to get their message out. And I would hope that in the long-term, you would see some third party candidates that would make it, so that citizens would start hearing alternative viewpoints. Do I expect that, in the lopsided districts, all of a sudden the other party is going to start getting elected? Probably not. I think that's, perhaps, a little naïve. But I really think-- And I think, of course, only time will tell whether you start seeing some movement and actual voter turnout. Because you're hearing some various viewpoints -- that they're required to do some debates, that if you happen to put additional requirements on Clean candidates. And I'm sort of sorry about using that title, because it implies that those who don't participate are somehow not clean.

Money is an important piece of getting your voice heard. And I think it would allow other voices to be heard. And, hopefully, people will listen and see both sides of some of these issues that are not so easy to solve.

MR. DeLUCA: That raised one other question for me. You suggest a thousand qualifying contributions. It has been suggested to us that we might have a floor and a ceiling, that you could say 800 and you qualify. If you get 900 you get more money. And if you get a thousand, you get even more money. That takes away, sort of, the equal -- the notion of an equal playing field that you're -- both sets are -- how many sets qualify are going to have the same amount of money to spend.

Do you have any -- sort of the tier approach?

MS. MATSEN: I guess I would say simple is better. It certainly wouldn't be something that we would oppose. But I do think we need to keep the level where it -- people are showing some real grassroots support. If the level is tied to the amount of money you get, so that you only get 80 percent if you do 800 instead of a thousand, then at least you solved some of the problem of -- incumbents should always be able to reach this threshold more quickly and more easily than non-incumbents.

MR. DeLUCA: Thank you very much for your testimony.

Thank you, Mr. Chairman.

SENATOR SCHLUTER: Thank you.

Picking up on some of the questions of Mr. DeLuca, do you think that in a noncompetitive district -- he mentioned the 27th. And, certainly, there are a number of noncompetitive districts on both sides of the political aisle. Do you think that the candidates there might say, "Well, we're going to win anyway, so why should I go through the exercise of getting a thousand contributions? I won't even try to qualify as a Clean candidate because we're going to win. And I don't want to have to spend

all that time going out and doing this retail community support kind of thing.” Do you think that would be a factor?

MS. MATSEN: I certainly think it’s a factor in the early stages of a program, and particularly when we’re only looking at, perhaps, some of the districts. I would-- Maybe, again, it’s naïve, but I think that sort of Good Housekeeping seal of approval is going to have some value as we move down the line in the process. And it’s not just people like me that will say, “Well, look at this person. Can’t be bothered going out to try to speak to the voters and develop some support.” Even I, many times, vote for not very good reasons related just to, “How dare they?” But I think it’s real.

SENATOR SCHLUTER: I was going to get to the next question, which is, do you think that certain inducements, certain encouragements, certain Good Housekeeping labels of approval could be developed so that there is a tremendous stigma attached to those who do not run Clean, so that people would think twice before they say, “Well, I’m going to go for the big money, with the support of special bosses, because, really, it’s going to be a losing thing for me”? Do you think that you could develop enough incentives for people to really, really want to run Clean?

MS. MATSEN: I believe so. But, again, I don’t believe it’s something you’re going to get done in one cycle. I mean, I think some are out there. I can’t name them. Perhaps some of the people following me can talk about some of those incentives. I don’t think it’s a quick and easy solution.

SENATOR SCHLUTER: Jumping to another issue-- And we’re going to get some testimony today, I understand, from Citizen Action, on the process that’s being developed in Connecticut. And it seems to me

that they are going for Clean Elections, and they are putting in other stipulations, which will reduce the contribution level, which will prohibit contributions from lobbyists, which will do a number of other reforms. And it would be across the board.

You mentioned the business of providing, by law, that there should be a cutoff date, maybe 15 days before an election, of contributions, so that the last minute flurry would have less effect. Do you think that this Commission should look into some of these things to make them part and parcel of qualifying for a -- as a Clean candidate? For example-- And it might mean looking at the cosmic picture, saying no more corporate contributions to anybody. Or maybe we cut down the contribution limit for candidates for the Legislature from \$2,600 per contributor to \$300 in the Assembly and \$500 in the Senate, or something like that. Do you think that has any role in what we're doing right now?

MS. MATSEN: You speak to all these campaign finance reform issues I would love to see addressed. I think it's important that the Commission keep their recommendations fairly closely tied to the Fair and Clean Election model. The League is not philosophically only tied to that model, but this is where we have the first step. And I'm afraid if we start going out trying to solve some of the other problems in your recommendations, that we're going to lose the momentum to move Fair and Clean Elections into four, six, eight districts in 2007 -- whatever -- who's going to be the final political number. I mean, I'd love for it to be 40. I don't expect it to be 40.

So I guess I would say, except for those recommendations that really tie to moving the Fair and Clean model forward, they should be left for another day.

SENATOR SCHLUTER: That's the kind of response I was trying to elicit.

You mentioned that a date certain should be established for all 40 districts, which I think is a good idea. And you mentioned 2011. Was that picked because it is a non-gubernatorial year and would then get the attention of more of the voters in the State of New Jersey?

MS. MATSEN: I wish I could say that, but no, I just typed in a number. (laughter)

Yes, Senator Schluter, that's exactly why I picked that.

SENATOR SCHLUTER: I'll raise another thing. You say that you think the seed money should be increased so that people, I presume, could get out mailings for qualifying contributions to a greater number of people.

I happened to go over some of the campaign finance reports of some of the candidates involved. And without being personal on this, or being specific as to any one individual, there was one situation where tens of thousands of dollars in the past six months had been paid to a consultant from out-of-state who does consulting on political campaigns, and so on.

Now, when that person signs a letter of intent, they become Clean. But what is to prevent that consultant from just going in and volunteering to provide consulting service to that candidate during the course of the election, until that person became qualified and then could get some more funds?

MS. MATSEN: I guess I do think -- and I'm not prepared to say what it should be -- that we need-- The Commission needs to look at, sort of, the in-kind contribution piece, which, as I read the law, basically refers you back to current, existing law, or-- And so it's not necessarily so clear, or perhaps I was too lazy to work my way through it. I have no way of knowing. I mean, I looked at those numbers also. And those consultants were paid out of the allocation, not out of the seed money.

I don't doubt that you will have some work being done before one actually qualifies. And the check for the work probably does not-- The bill for the work -- the voucher -- doesn't come until after one's received their allotment of money.

SENATOR SCHLUTER: But what you're saying is, sometimes incumbency, or sometimes the support of a very strong and well-financed political organization can count for something. Whether the in-kind is identifiable or not, it could be there.

MS. MATSEN: Yes.

SENATOR SCHLUTER: Ms. Matsen, you said that 1,000 qualifying contributions--

And I think, Mr. DeLuca, we're sort of zeroing in on that number.

But as Mr. DeLuca said, and as you said, if you had a limit to the amount that they could contribute -- because you don't want people saying, "I'm going to give that person \$300, and the first \$10 are going to count for it." Because then they're using their money to help them qualify, but the person knows that they're getting another \$290. It might be a little bit indirect.

But say a \$20 -- anything up to \$20. And it has to be \$10,000 received, and it has to be a thousand contributors. So if a person wants to contribute \$5, that counts toward the \$10,000 limit, and it counts towards the number of contributors. Do you see that point? In other words, have that range. Would that be acceptable? It's somewhat like, I think, Mr. DeLuca said.

MS. MATSEN: I have always been of the opinion -- and people have said I'm wrong -- that when we get past this stage to the Legislature, that there is sort of a set number of dollars that they're looking for to go into the fund. And when we got our \$5 and \$30 limits for this for the first year, it was sort of worked backwards to get to that number they were looking for.

I don't know. Again, I think it's probably-- I mean, I understand what you're saying. As I had said, let them give \$300. It will go into the Clean Election Fund. It only counts as a \$5 donation. You still have to get 999 more of them. I guess there is a point at which that would provide influence that we're trying to stop.

So I don't know that I answered your question.

SENATOR SCHLUTER: It was a rhetorical question, if you will.

Do we have somebody here from the Election Law Enforcement Commission? (affirmative response)

I'm going to ask this question of her before we go on.

Did the Election Law--

I'll respond either yes or no to what she says, so you can get it on your transcription.

Did the Election Law Enforcement check the signatures to validate the signatures on the contributions with the signatures in the voter registration?

UNIDENTIFIED SPEAKER FROM AUDIENCE: We have a list of people--

MR. PARISI: Amy, you need to come up to the microphone.

SENATOR SCHLUTER: The smaller one.

Identify yourself, if you will. I'm sorry to--

A M Y D A V I S: Sure, no problem.

Amy Davis, Director of Public Financing at the Election Law Enforcement Commission.

We would have a list of people who were registered voters, but we wouldn't have their actual signature.

SENATOR SCHLUTER: So you did not check their signatures.

MS. DAVIS: We would require that there be a signature, but we wouldn't, in fact, know if that was actually their signature.

SENATOR SCHLUTER: Okay. Then that answered the next question I had. I don't think a verification of signatures is necessary. But you do have their signatures if something ever became challenged. And that could be used as proof of the validity of the contribution.

MS. DAVIS: Yes.

SENATOR SCHLUTER: A suggestion, Ms. Matsen, has been made that if a person wants to contribute to two candidates, that they use one form, not two forms, and they just have two columns on that form to fill in. Do you have any problem with that?

MS. MATSEN: I have no problem with that.

SENATOR SCHLUTER: And they would designate -- as I think Mr. DeLuca said -- if the requirement is \$10, but they want to give \$20. They could give \$10 to each, and they could designate that on the form.

MS. MATSEN: Right. And I think anything that simplifies what both the contributor is doing and what the candidates must do within the confines of the model is a good recommendation.

SENATOR SCHLUTER: In your testimony, did you say that you think you don't believe employer, employer's address is necessary?

MS. MATSEN: Yes, I did.

SENATOR SCHLUTER: You did.

MS. MATSEN: As long as we're talking about-- I don't assume that you're going to be suggesting the contributions go up to \$300. So as long as we're talking \$5, \$10 contributions, I do not think that's necessary.

SENATOR SCHLUTER: Ms. Matsen -- and I'm going to ask this of other people who testify today -- will you -- you or a representative of the League of Women Voters be present at our work sessions so that you can advise us? You will know what's going on, on an ongoing basis. Can we have the list out there to give your input at the end of any subsequent work sessions?

MS. MATSEN: Yes, I will be at them.

SENATOR SCHLUTER: And that would be very helpful, because we have a tight time schedule.

Mr. DeLuca, do you have any more for--

MR. DeLUCA: No. I have a question for Amy, actually.

MS. DAVIS: Sure.

SENATOR SCHLUTER: Thank you, Ms. Matsen.

MS. MATSEN: Thank you.

MR. DeLUCA: You said you didn't check signatures. But we had testimony in Collingswood last week, that Assemblyman Greenwald's check was kicked back because his signature wasn't valid.

MS. DAVIS: Well, that's the difference.

For instance-- I'll give you an example. I don't know that particular incident. But if you have a joint checking account -- for example, myself and my spouse. The spouse might actually sign the check. But the campaign may say the contributor is actually Amy Davis. So we need the contributor's signature. So in that instance, if my spouse signed the check, and I didn't provide any additional documentation with my signature on it, indicating I was making the contribution, that would be rejected.

MR. DeLUCA: Well, in that--

Let's just play that, and maybe--

MS. DAVIS: So, clearly, if the check clearly showed that it was the other spouse's signature, and not the actual contributor that was listed--

MR. DeLUCA: Suppose my wife and I wanted to give contribution to the Assembly candidates in my district, and it was \$5, and we could do the one check for \$5 each -- and we wanted to do \$5 from me to each of them, and \$5 from her to each of them. Could we write a check for \$20, as long as we both sign the check?

MS. DAVIS: Sure, you could both sign the check.

MR. DeLUCA: Does that seem as simple as you're talking about?

MS. MATSEN: Well, it solves-- It's one more thing people have to make sure that candidates explain, then. If you wanted, you could sign one check for your contributions, and your wife could sign one check.

MR. DeLUCA: Right.

MS. MATSEN: If you have to remember that you both have to put your signatures on that check so it doesn't get kicked out of ELEC, it's one more thing a candidate has to explain. I mean, it's doable, but--

MR. DeLUCA: Thank you.

SENATOR SCHLUTER: I can think of there being a lot of spouses that don't want to give up that right, just like when you have your deduction on your Federal income tax for the public financing. You have both people sign, but do both people check it off, or does one person check it off?

Anyway, thank you very much.

I'll have a quick announcement on a couple of items before we go to the next person who testifies. And that is that Senator Scutari has resigned from our Commission. And we have not gotten a replacement for him yet.

The Election Law Enforcement Commission did give to our Secretary, who passed along to us, wording that can be used with respect to cash contributions, where -- if this Commission recommends that cash contributions be acceptable, there would be certain wording and stipulations to verify that this is given by the person without collusion, and

as a personal contribution, and so on. So we have that now. We have to work on it.

And, finally, we are in the process, from the Election Law Enforcement Commission, of getting an analysis of the recent Assembly races in New Jersey for 2005, with respect to how much was spent on various candidates in the various districts, and who were the winners and who were not the winners, so we can get an idea. And then we can combine that with the election results of percentage of majority in the vote, to see, really, where the money was spent, and how that relates to winners and losers, and give us a better idea of what districts are competitive and what districts are not competitive.

With that, we have David Donnelly.

If you could, come forward. And we appreciate your participation. Identify yourself, and give us your testimony.

MR. DeLUCA: Mr. Chairman.

SENATOR SCHLUTER: Yes.

MR. DeLUCA: Could you explain the videotapers videotaping? And maybe just let everybody know what's going on.

SENATOR SCHLUTER: This is--

I forgot Amy's last name, excuse me.

Amy Parks is a specialist in filmmaking and is doing this as a project with -- that can be used to document reform, and can be used to document the election problems that are not only present in New Jersey, but might be present elsewhere, and what certain states are doing. And we did pass a resolution at our last hearing that, as far as this Commission is concerned, they could go ahead and do that.

Thank you.

DAVID DONNELLY: Thank you.

My name is David Donnelly. I'm the National Campaigns Director for Public Campaign Action Fund. We're a national, nonprofit organization based in Washington, D.C., that works on reforming our nation's campaign finance laws. Specifically, we work on passing public financing laws, largely at the state level, sometimes at the municipal level, to work towards real reform of our Federal campaign finance laws.

We're at a critical juncture in New Jersey. I don't think I need to remind the Commission of that, with the pilot program this year, in the need to make recommendations moving forward. We've just been through the State's most expensive gubernatorial race, which turned many voters off because of the tone and tenor of that race. The national scandals involving money in politics dominate newspapers, in headlines all over the country. Members of the Congress are going to jail for bribery. Other members are under indictment and under investigation for campaign finance violations.

And just yesterday, the state of Connecticut adopted a historic bill. For the first time, a legislature has adopted a far-reaching public financing bill to apply to all of its members, as well as to statewide candidates. The Governor is expected to sign that bill -- Republican Governor Jodi Rell is expected to sign that bill in the next few days.

I'm here today to talk a little bit about the provisions of that bill, because I think they're instructive; but also to answer, I think, many of the questions that were asked of the previous speaker.

The Connecticut bill was adopted through the Senate on Tuesday by a 27 to 8 vote; and in the wee hours of Thursday morning, by a

82 to 65 vote through the House. And that will, like I said previously, will go to the Governor's desk. She has pledged to sign it. And she claims it does about 85 to 90 percent of what she thinks was worth doing on these campaign finance laws.

When you think about a state like Connecticut, that has its former governor in jail, a couple of big city mayors in jail, and a state senator who, in the midst of the debate on the campaign finance legislation, was being convicted for campaign finance and bribery charges, you can get a sense of the public pressure that was on that legislative body to act. And they did. And they enacted the strongest law, I believe, in the nation, when it comes to campaign finance reform.

They did a number of what are called *private side* reforms, dealing with the private flow of money into candidate coffers; as well as political action committees, caucus committees, and parties -- that are also avenues that are available for candidates, when they continue to run for office, if they decide not to take the public money. They closed down a loophole in ad books previously in Connecticut. Candidates could sell ad space in booklets to corporations and to other sources of funds in amounts that exceeded campaign finance limits. They all but banned lobbyists' contributions. The only way a lobbyist can make a contribution to a legislative candidate is if they can vote for that legislative candidate when it comes to election time.

The same principle applied to contractors -- state contractor contributions, the pay-to-play type scandals that we see in so many states. Unfortunately, here in New Jersey, the root cause of many of those are

campaign contributions from State contractors. And those contributions are closed off in Connecticut.

They created a Citizens' Election Fund that was paid for by uncovered property -- property that the state maintained that no one had claimed. And they're setting aside \$16 million per year into a fund to help pay for this very comprehensive system.

Candidates who run under this system for governor raise \$250,000 in private contributions, of contributions that can be no more than \$100. Those are the small contributions as qualifying contributions. The state legislature and the governor in Connecticut decided not to put a certain number of contributions that needed to be the threshold for -- was the threshold for qualifying for public financing, but rather decided they would leave it up to the candidate, how quickly the candidate would raise those contributions, and in what amounts, but only up to \$100.

When a candidate for governor would qualify for public financing, he or she would receive \$1.25 million to run for a statewide primary race in Connecticut. If they're outspent -- they could receive an additional \$1.25 million if an opponent outspent them. If an independent expenditure was made against them, they could receive an additional \$1.25 million, up to a possibility of receiving \$3.75 million in a primary, if they were faced with high-spending opponents. That, with the \$250,000 in qualifying contributions, could mean that they would have \$4 million to speak to the public and get their message out.

In the general election, should a candidate win, they would qualify for \$3 million for governor. Again, the same principles apply. They

would receive matching funds if outspent by high-spending opponents not participating in the system.

For other statewide races, the numbers are somewhat lower. There are five other statewide offices in Connecticut. I won't go through those numbers. I can provide this information. And perhaps it has already been provided to the Commission.

For state Senate and state House races, there are also provisions that track along the same principle. Candidates raise at least \$15,000 for a state Senate race and at least \$5,000 for a state House race, in contributions of a hundred dollars or less.

This is where the Connecticut law, I think, has some instructions for some of the questions that have been raised. Connecticut, like virtually every other state in this nation, has legislative districts that are safe districts for a candidate of one party or another. There are districts that are drawn through the redistricting process, reapportionment process, that is a political process that benefits, largely, in many states, the status quo, or in some cases it benefits one party or the other.

Candidates in districts where there is a dominant party can receive additional funds in the primary to run their race. The idea being that the deciding factor in who is going to win the general election is not who is the better candidate necessarily in the general election, but also who wins the primary election in the Democratic party or the Republican party, based on whether that district is a dominant district for one party or the other. This is something that the legislative leaders in Connecticut decided to do -- to put forth -- to address some of the competitive issues, when it comes to primary races in dominant-party districts.

MR. DeLUCA: Mr. Chairman.

SENATOR SCHLUTER: Yes.

MR. DeLUCA: Usually, I don't interrupt the witness, but could you go over that again, because I don't want to lose this point? If you could, explain it again.

SENATOR SCHLUTER: Thank you, Mr. DeLuca.

I was writing as fast as I could, and I couldn't keep up.
(laughter)

MR. DONNELLY: Let me give you an example with the real numbers from the bill.

Let's say the district is a dominant-- And, frankly, let me just acknowledge this bill is 119 pages long. It was drafted over last weekend with input from the reform community, and with input from the governor and the leadership staff; was released on Tuesday; and voted on Wednesday. Many of these provisions were ones that legislators were very familiar with, because they were -- they had been debating this for eight months. Some legislators had been working on this issue for 10 years.

This is a new provision to many of us. And so I haven't had the opportunity to review this in detail. But the summary that I have describes a situation in which -- in a House district -- if there's a dominant party in that House district. For sake of argument, let's say it's the Republican party. And it's a contested primary. Two Republican candidates raise the \$5,000 qualifying contributions. Under a normal situation, where it's not a party dominant situation, they would get \$10,000 in their primary, and the winner would get \$25,000 in the general election. In a dominant party situation, the candidate having raised \$5,000 in qualifying contributions

and in a competitive district -- a competitive primary -- would receive \$25,000 -- not \$10,000, but \$25,000 -- the allotment he or she would receive in the general election.

So these are-- They basically frontloaded the money. Because a dominant party district is defined by the number of registered voters in a party for that district. And, again, I don't know what percentage they're using, or what ratio they're using, from Republican to Democrat, or Democrat to Republican, to determine what is dominant and what is not. But it's a provision that helps competitiveness in primaries when the primary is the big race.

SENATOR SCHLUTER: I--

MR. DONNELLY: Mr. Chairman.

SENATOR SCHLUTER: Are you through?

MR. DeLUCA: I just had one question.

SENATOR SCHLUTER: Go ahead.

MR. DeLUCA: So they switch it so the 25 is given in the primary. What's given in the general? Is it still 25, or would it go to 10?

MR. DONNELLY: It's still 25 in the general. And, again, the principle here being some level playing field, because the person who is running in the other party primary--

MR. DeLUCA: Other party is going to have that.

MR. DONNELLY: --also has to have a level playing field in the general.

MR. DeLUCA: Got it.

SENATOR SCHLUTER: My question-- And excuse us for interrupting, but this is an interesting point we haven't heard before. And

that is, how you determine a dominant party. Now, you said party registration. We've got districts in New Jersey where the party registration is heavily dominant in one direction or another direction, but the voter performance in the last election is much more competitive.

Does this have to be by voter registration? Could it be by voter preference at the last election as to which are dominant? In other words, if over the last three legislative elections party A -- maybe the Democrat party wins by -- with no less than 65 percent, that would be a dominant party. And I think that would be a lot more critical in determining dominance rather than the registered voters.

Is that like--

MR. DONNELLY: I believe Connecticut used party registration numbers.

SENATOR SCHLUTER: Yes.

MR. DONNELLY: I don't know whether-- And I believe they used a ratio. Whether the Republicans had a three to one, or a four to one advantage over the Democrats -- that being the ratio. I'm not sure what the detail is. And I can find out for you.

I think when we get into performance, you rely very heavily upon the quality of the candidate. Not just their ability to raise money, but how they -- and the quality of their service in office, frankly. And so I think it's a little bit more of a difficult barometer to use to determine the dominance of the party. You can use it for dominance or lack of dominance of an individual, but not necessarily of a party.

And I think-- Again, the feature is, the money is frontloaded to the primary, because there are more voters to speak to. There largely would

be-- The opportunity to communicate with voters in the primary -- you really have to be very targeted in your approach to reach out to the members of your own party and, sometimes, independents, if you can get them to cross over. But if there are a large number of voters, you may need more money, frankly.

SENATOR SCHLUTER: Thank you.

And another interruption--

Ms. Murphy, we're happy to see you.

ASSEMBLYWOMAN MURPHY: Thank you. I'm happy to get here.

SENATOR SCHLUTER: And we've had testimony from the League of Women Voters, which was quite extensive. But you have a copy of the testimony. And this is David Donnelly, of Public Campaign, a Washington, D.C. organization. And he is testifying about their view of what has happened in New Jersey, their view of what is happening in other states. And he is now giving us a rundown of what Connecticut is doing.

Welcome.

ASSEMBLYWOMAN MURPHY: Thank you very much, Chairman.

MR. DONNELLY: I mentioned that there are spending limits with this. Although the spending limits for each of these -- each of the candidates in the applicable race -- would be the public money that they receive, plus the private contributions they raised as qualifying contributions.

So, unlike Maine, for example-- Maine has a qualifying process where candidates receive checks for \$5 or money orders made out to the

Clean Elections Fund. In Connecticut, the candidates raise private contributions and keep them. But they have to identify-- They have to show that they've raised a certain amount of private contributions in order to qualify for the public money. But they keep them and can spend them. In essence--

And I know that the situation here in New Jersey is that the checks are made out to -- or the money is given to the Fund. In essence, the process of having candidates solicit contributions on their own, for the qualifying process for their own candidacies, condenses the seed period -- seed money period -- where the candidates raise money in order to do the qualifying process, and the qualifying process itself -- it condenses those two periods together. That's, in effect, what the impact of it is. I think both ways are appropriate. I think both ways are fine.

In Massachusetts, where I was involved in drafting legislation there that passed on the ballot, but the legislature had refused to implement it by not funding it, the seed process was also one very similar to this in Connecticut. The seed and qualifying process was condensed into one period, where candidates raised \$5 to \$100 qualifying contributions but kept that money.

The timing of matching funds: Clearly, at the end of a campaign, one worries about what your opponent will do in spending money in the last weekend, whether it's on a mailer, or a TV ad, or any other kinds of expenditures to deliver a message that you're not able to respond to. And if you're tied with spending limits, and you have to worry about triggering some kind of matching funds, how quickly can those

matching funds come to a candidate over the last weekend before Election Day?

In Connecticut, they've done something -- and I believe there's a similar provision in Maine, although I will leave that to Mr. Wayne to clarify. In Connecticut, they will-- As soon as a nonparticipating candidate receives up to -- spends up to 90 percent of the spending limit that a participating candidate has agreed to--

Let's use some real numbers. A candidate in a general election for a House race has spent -- has \$25,000 he or she can spend as a participant. As soon as the -- these numbers aren't going to work out roundly because I picked the wrong race. As soon as the nonparticipating candidate spends \$23,000 or \$24,000 -- \$23,000, that will trigger the matching funds into the participating candidates account. The candidate cannot spend that money until the nonparticipating candidate has exceeded the 100 percent of the spending limit. But the money will already be there. There will be a hold on those funds, but the money will be forwarded. The candidate who is participating will not be able to spend those additional matching funds. But they have the assurance, as they've made the contract with the state. "We're going to limit our spending. We're not going to go out and raise other private money. We'll stay with these limits." And the state's end of the deal is, "We'll provide you matching funds if you get outspent." The state is actually going to make good on that deal in Connecticut. It's a way to make sure that the last minute efforts in campaigns by those who are raising money as furiously as they can to deliver their message -- as most candidates do -- don't undermine the ability of candidates who are participating to respond.

I heard testimony earlier that another way to address that is to have a window at the end of the campaign during which those who are not participating would have to stop fundraising. They would have to-- There would be a date certain by which fundraising ended. I think that's-- If it could be done in a constitutionally sound way, I think that's another way to address this issue to provide for a level playing field at the end of a campaign.

In that kind of circumstance, however, the matching funds would have to be triggered by amount of money raised, not just spent. Because you still don't know how the money is spent in the last little while of a -- last few days of a campaign.

In Connecticut, they also added additional reporting requirements which are, again, required to protect the integrity of the system. They are to make sure that candidates are abiding by the contract they've agreed to with the state, as well as those who are raising money privately -- reporting in a regular manner -- how they're fundraising and spending.

In Connecticut, there's also a new provision that limits the number of caucus and leadership political action committees. Right now, there are unlimited numbers of caucus PACs in Connecticut for House and senate Democrats, and House and Senate Republicans. This limits those caucus PACs to three per party, per chamber. It's down to, basically, House Democrats have three, House Republicans have three, and so on.

But what it provides is the ability--

One other point. It also limits the source of funds for those. Those PACs have to operate under the same rules candidates do in not

raising lobbyists' contributions, state contractor contributions. And lobbyists cannot be involved -- directly involved in fund-raising for those caucus PACs.

But -- and this is a concern of ours and something that we'll have to look at as this develops over time -- there is no limit on how much caucus PACs can provide as in-kind support to candidates.

ASSEMBLYWOMAN MURPHY: May I ask a question? Do you have--

If you'll forgive me, Mr. Chairman.

Do you have party or district bosses, so to speak, in Connecticut, of either party?

MR. DONNELLY: There are certainly town committees. They don't have the reputation that they have in other states, like here in New Jersey. The caucus PACs -- neither do the caucus PACs. They do not have that reputation either. The worry is that they could develop into that type of feature, which would--

ASSEMBLYWOMAN MURPHY: The concern that I have with all those is the wheeling aspect. The money is raised here, and then sent to -- and then distributed so that the balance-- You can't keep track of it.

MR. DONNELLY: I mean, we have to be realistic. Money flows to the tightest races, as well. And so with reapportionment happening, decade after decade there seem to be fewer and fewer contestable races, competitive races. And so we could predict that many of these in-kind -- much of this in-kind support would go into those very tight

races, those five to eight tight races in the Senate, and maybe 15 in the House of Representatives in Connecticut. But we feel--

Because this has never been used in this manner, I think there will be a learning curve on it. I think it will-- Clearly, legislative leaders helped draft this. So I think they know what they're doing. But I think-- Closing off the lobbyist money for this, closing off the state contractor money, the easiest sources of funds, closing off PAC-to-PAC transfers for these caucus PACs -- that will help make it -- limit the overall amount of money that these caucus PACs -- at least at the outset -- will be able to raise.

So I don't want to be sanguine about it. But we are -- we certainly think that this bill that Connecticut passed is historic. We think it gets 85 to 95 -- 85 to 90 percent of the way there, in terms of a very strong piece of legislation that plugs as many of the loopholes as possible. In Connecticut, we felt like the entire campaign finance system was a loophole. So now we may have one little narrow one that could be developed over time. But we want to watch it. And there are members of the legislature that want to watch it with us. So we are-- So on balance, we are encouraged.

ASSEMBLYWOMAN MURPHY: Thank you.

MR. DONNELLY: You're welcome.

Now, there was a question earlier. I don't remember who asked it.

SENATOR SCHLUTER: If you could sort of concentrate on some of the more specific issues that we have in New Jersey, such as the--

MR. DONNELLY: This is one.

SENATOR SCHLUTER: --numbers, and the reporting, and the time to raise the money, and how that squares with other states.

MR. DONNELLY: The numbers-- Clearly, the numbers here -- the 1,500 qualifying contributions is too high. I don't think I'm making any news by saying that. I think the period of time also needs to be much longer. The period of time in many other states begins typically on January 1 of an election year, because it also covers the primary election, and goes for three or four months with smaller numbers of qualifying contributions to raise. And it's important to keep that process in the election year, because voters want to know that the election cycle isn't two years -- that candidates are running for office all the time -- but that it's an election year. Then you can start doing these kinds of activities. So it's important to have the activity kept in the election year.

I think the issue of running as a team -- that was raised before -- whether both members of a team need to participate to get any benefits. This is a very thorny policy issue to draft, and it's certainly a very thorny political issue to resolve. I've only come across it in one other circumstance. It was when we drafted a provision to address gubernatorial and lieutenant governor candidates in Massachusetts, who run as a team after the primary. They're elected separate in the primary, and they run as a team afterwards.

It's easy when both candidates decide to participate. They both participate, they get the money in the primary, they win their respective primaries, they both get the money they qualify for in their general. It's easy when neither of them participate. The law doesn't apply to them. When one of them or the other decides to participate, and they both are running as a team, that's when it gets rather thorny. And I think what -- if I

recall correctly -- the provision that we drafted in the Massachusetts law was that we applied the spending limit for the purpose of matching funds to the nonparticipating candidate.

This is one of those issues that it takes a number of examples and scenarios to really describe fully. So I would be willing to do that with you now, or I'd be willing to provide that as a written description. Should I--

SENATOR SCHLUTER: If you could provide it as a written description, I think it would be--

MR. DONNELLY: Okay. It is a very difficult scenario to describe, so I'd be glad to do that.

SENATOR SCHLUTER: Are you--

MR. DONNELLY: I am all set. If you have additional questions--

SENATOR SCHLUTER: Thank you very much. And thank you for your interest and your involvement.

Mr. DeLuca.

MR. DeLUCA: Thank you, Mr. Chairman.

Mr. Donnelly, could you talk about this issue of cash contributions? What would you recommend to us? We've heard no-- We've actually heard from one of the Assembly candidates, who tried and failed, that there should be no cash. We've heard other suggestions that there's ways to sign it off. We have documents from ELEC that say that anything below \$200 in cash can be accepted, but it has to be -- other than the Clean Elections and non-Clean campaign -- if you do cash, you have to

have occupation, and all that -- address, and everything. What would you recommend to us, as far as cash?

MR. DONNELLY: As long as the amounts of money are small, as long as it's a qualifying contribution of \$10 -- \$5 or \$10 -- I think cash with a signed statement that this money was given, and has not been reimbursed, and was not coerced is the appropriate way to go.

We want to encourage participation in our system. We don't want to close off voters from wanting to support the candidates. We don't want to penalize those candidates who are working hard to qualify for public financing. And on the other hand, you also don't want to open it up to lots of fraud.

And these-- I'd also recommend that if the Commission goes along with recommending cash contributions that are small -- again with some kind of verification that it wasn't coerced or reimbursed -- that the Commission recommend that there be a random spot check, a random survey of some of those cash contributions to ensure the integrity of that process.

MR. DeLUCA: I don't want to put words in your mouth, but I thought when you started you said that you thought that this was successful in New Jersey. At least we got that far. Would you agree with that, even though it didn't work, it was a success in getting it off the ground?

MR. DONNELLY: I think that there's a potential for success here.

MR. DeLUCA: Okay.

MR. DONNELLY: I think the work of this Commission is critical to carry that through. I think it's-- I certainly was excited when the

Legislature itself adopted this pilot program. I think that's a very, very important step. Until this week-- It was the first time that a legislative body had actually passed something for itself in any shape or form that included a comprehensive public financing law. So that's to be applauded.

I think there are serious issues. Let's not sugarcoat it. There are serious issues with the way the law is drafted now, but they're largely bureaucratic. They're largely about scale. They're not about the general principle of how public financing, or how a system like this, can work. It's a very elegant system to describe, if you don't have to talk about getting someone to fill out a form with an employer/occupation line on it. Candidates who agree to a spending limit can qualify for a set amount of public money if they show public support. I mean, that's--

And I've been-- I've seen some of the results of the public opinion poll and that voters here didn't know about this. I think that's looking at it the wrong way. Voters will support this, whether they know what it's called, whether they were actively involved in the campaigns, whether they gave a qualifying contribution and knew that they were doing that. I think that's the wrong question. Do they want it, is the right question. I think when you ask voters the question, "Do you want a system that has candidates agreeing to spending limit, provide them public financing, and qualify for the public financing by showing that they have public support in that district?" Voters go for it, overwhelmingly. Seventy percent they go for it.

MR. DeLUCA: It's been recommended to us by one of the candidates in the 13th District that, before 2007 -- that in 2006, this be put to a referendum in New Jersey. In other words, there be some correction,

some proposed changes, and that this be put out as a referendum to the people of New Jersey to either endorse or not. What would you say?

MR. DONNELLY: Well, members of the Commission may not realize, but I've run two ballot questions to pass these laws. I ran the ballot question in Maine that adopted that system. I ran the Massachusetts ballot question. And I've advised on several others, including one that passed this year in the city of Albuquerque by a 69 to 31 percent vote.

Even with that experience, I am not a fan of the initiative process. It is an imperfect way to make public policy. It is a -- it should be used only as a last resort, not to get the sense of the people. I believe it's important that there be a study debate on these issues. There are dozens of experts in Trenton on campaign finance laws. There are dozens of interested parties trying to shape this. And I think the legislative process should be allowed to work.

I've seen proposals this year on the ballot, in Ohio and California, that are very solid public policy proposals about removing the redistricting process from the political process. And those ballot questions -- one proposed by Republicans in California, one proposed by Democrats in Ohio -- went down to defeat because they became a pitch battle about -- it was a partisan thing. I would hate to see something like this law, which is about the citizens of this state, be made into a media battle between Democrats and Republicans, or any other interest group that said, "We know what's right." And it would be a media battle with extensive Philadelphia and New York television battling it out, without citizens understanding that it was what they wanted, what they were thinking of for the state.

So I am not a fan of the ballot question process, although I have run ballot questions and succeeded through that avenue. I would not necessarily say it's the best way to make public policy. And I respect the views of candidates or others who think we need to have more public education about this. If that's the goal, more public education and more public buy-in, there are many other ways to do it, many other ways that are -- that wouldn't lead us into an expensive ballot procedure that wouldn't illuminate the voters.

MR. DeLUCA: Just a couple other questions.

I liked your comment about keeping the fund-raising within the election year, and not having it all the time, which we tend to have in this state. We had some discussion in previous meetings about Clean Election candidates running Clean until the day after the election, and then starting to go back out and raising money from wherever they can, and whatever amount they can. In your experience, has this been different anywhere? And what would you recommend to us?

MR. DONNELLY: Certainly, in Maine, races are not so expensive that if a candidate for House or Senate decided to participate in one cycle, and then the next cycle decided not to -- although I think that's a very small number of individuals -- that they would have to start fund-raising right away. And we're not talking huge amounts of money.

In Massachusetts, candidates were concerned -- or legislators were concerned that we would close off that fund-raising in the non-election year for those who wanted to participate, because they use their campaign funds for sending constituent letters. They send -- they reply to constituents. They didn't have enough money allocated in their state

budget to provide for more than a half-time staff person, for example. They didn't have district offices. So they supplemented their public functions with campaign money.

Now, some also sponsored Little League teams and did a variety of those kinds of things with their campaign funds. So the concern was not so much, "I want to go out and build a war chest to get ready for my next election, after having just run Clean." It was, "I need to do my job." And so we were trying to work with the legislature -- those who were interested in moving forward with it -- to come up with a proposal to address that. But the political circumstances there, where the speaker just said no-- So we never got to develop a full proposal on how to address that for that state.

I think these are the types of things that take local expertise, state expertise on what happens here, what's an appropriate amount of fund-raising in a non-election year, and for what purpose. And if the purpose is to buy a table at the benefit for someone who is retiring after 30 years at the local library, I don't think that's a necessarily corrupting influence. If the purpose is to raise money in order to give it to municipal candidates to buy their allegiance, to have them be volunteers and workers during your next election, then perhaps that's much more of a concern.

I'm not aware of what the need for campaign money is in the non-election year here. So I will leave that to others to help you decide.

MR. DeLUCA: Just in my last question, I just want to go over, again, the -- your description of the money that goes to a Clean candidate when they're up against a nonparticipating candidate. You said that the

Clean candidate -- once the other party spent 90 percent, then they would get that money deposited in their account.

MR. DONNELLY: Right.

MR. DeLUCA: And then they would not be able to spend that until it was over a hundred.

MR. DONNELLY: Reported, right.

MR. DeLUCA: So your numbers were close. If you had \$25,000, \$22,500 would be 90 percent. So you're saying, if someone reported they spent \$22,500, then that money would go -- 25 would go to that other candidate?

MR. DONNELLY: The matching funds would go into the-- Yes. And I don't know whether it's all of the matching funds, or a portion of the matching funds. But it's a sufficient amount to at least be able to begin to respond if they were to exceed the \$25,000.

MR. DeLUCA: And in this state, which has an 11-day pre-election report, we could use that as a trigger.

MR. DONNELLY: That's one recommendation I would make to you -- is use whatever existing dates that are familiar for reporting deadlines and don't add additional ones for these processes. You need to have enough reporting to capture the spending at the right time. But I wouldn't recommend adding a tremendous number of new reporting deadlines that are off the-- That's an aside.

MR. DeLUCA: Thank you.

MR. DONNELLY: You're welcome.

SENATOR SCHLUTER: Before I ask--

Continuing on that issue, we have a 29-day preelection report, and an 11-day election report. So if at 29 days before the election the nonparticipating candidate has spent \$22,500--

MR. DONNELLY: Right.

SENATOR SCHLUTER: --and the money gets put into the participating candidates fund, how does the participating candidate know? Because there's roughly--

MR. DONNELLY: Eighteen days.

SENATOR SCHLUTER: --18 days between the next report. How does he know-- That person might just then spend all of that money, and go way, way over that, and just dump tons of it. And they won't know until 11 days. How do you ride herd on that kind of--

MR. DONNELLY: I think it's important to build the reporting deadline around existing dates, but not exclusively. I think it's important to have some reporting dates triggered by behavior, not triggered by a day on the calendar.

SENATOR SCHLUTER: If they go over the 25, then they've got to report.

MR. DONNELLY: Then they have to start reporting. And maybe that schedule gets a little bit more frequent.

SENATOR SCHLUTER: Okay.

MR. DONNELLY: But it's based on their behavior.

But I wouldn't recommend having, for example, another whole series of reporting deadlines that you would add in, just because you're running against a participating candidate.

SENATOR SCHLUTER: Ms. Murphy.

ASSEMBLYWOMAN MURPHY: This has been very--

Coming in at the end -- though I've been catching the end parts of -- and forgive me if that's where I focus.

Reporting is an expensive process, both those who are the candidates, because they have to hire someone to prepare. And then it is expensive for the State to have people who can look at these reports on an almost daily basis, and get in touch with people, and this whole thing. So we're adding another layer of bureaucracy, if you will -- bureaucratic paperwork to the process, which isn't to say it's bad. But I think we have to think about better ways to do it that somehow don't end up costing the candidate so much they have to come up and raise more money to pay the person who is going to take care of it for them.

The other piece is, we have an election year every year, in a state with almost 600 local elections and 21 county elections. And we always have an election year. So when you say you can't fund-raise in an election year, the big question is, whose election year can't who receive money in? If a member of the House or Senate retires or dies, you will have an election the next year. And, consequently, you have fund-raisers and that sort of thing. So I think there has to be a lot of-- I know other states don't have this many tiers of local elections. And I could sometimes wish we didn't, but that's the way it goes.

But I would primarily like you to talk about how to educate the public. In this process, even the press was not involved in this in the beginning. It took a whole lot of phone calls, and visiting around by our Chairman, and talking about things before the press began to pay any attention to something that, in theory, they had known about from the get-

go. They published articles about the Legislature passing this, and then seemed to think it was -- had gone to nirvana.

I'm wondering how you can educate people. We don't have a television programming of the public sort -- and I shouldn't say *public*, the commercial sort -- really, in the State of New Jersey. Consequently, as you said, our television coverage comes from Philadelphia or New York.

Is there some other way, some other means? That television exposure is extraordinarily expensive. Is there some other means, some other way you would suggest, if we don't want to go to referendum-- And I agree with you, I'm not fond of the initiative process. But I do think there's got to be a better way to educate the public. I'm always appalled at the cynicism with which elections are regarded in many states. And it seems to me, quite often, here particularly. But the apathy -- maybe that isn't even the word -- the sort of, "Oh, well, if I have time, and I think of it, I'll do it. If I don't, it's all right."

How do you say to people, "If you want a publicly funded campaign, this is your money." And even if they don't put the \$1, or \$5, or \$10 in, it's still their money. That's the only money we have in this state -- is people's money.

MR. DONNELLY: That's a very good question. I think the state that has, perhaps, done the most on this is Arizona. Not simply the state agency, the commission that's been set up to oversee the implementation and the oversight of the Clean Elections system there, but also the advocates that have also done a fair amount of work educating people around one of the funding mechanisms, which is the checkoff on the tax forms. There's a checkoff way to pay for this on the tax forms, where, if

an individual checks off \$5, they get a rebate on their taxes. So they get money back. So it's a-- There's a benefit to checking off and participating. It's a financial benefit.

The organization there has convinced John McCain -- Senator John McCain to do public service announcements -- taped a television ad -- and gotten television stations to run them for free right around tax time to encourage people to check off. But it's also a way to encourage people to know a little more about the system.

The state agency has created a character named "Five Dollar Bill." The qualifying contribution is \$5 there. And this little character is on all their brochures. I think in even some of the earlier years they did some billboards. The agency itself sent out information to newspaper editorial writers and to reporters to encourage them to talk about the qualifying process in their editorials; to organizations, like organizations here in New Jersey; set up qualifying parties, a big effort to bring a lot of people together, and newspapers were partners in Arizona to help bring people to those parties. It would have been nice to have newspapers be a little bit more of a partner, although I know some did encourage qualifying.

ASSEMBLYWOMAN MURPHY: They got into it more as it went along.

MR. DONNELLY: Eventually.

So I think there are some examples of what organizations have done.

But I will tell you this. Even polling today, in some of the states that have passed this by initiative, don't necessarily show a huge amount of public knowledge that there is a "public financing system," or a

Clean Elections-- They know Clean Elections, but they can't tell you a lot about it.

So if you ask a voter in New Jersey to talk about transportation policy, they'd talk about the problem of transportation. They wouldn't talk about the solution. And there is-- Certainly, as a new resident here in New Jersey, I know about the problems. And I learned about them in a few minutes. (laughter) But the--

So I don't know-- This is one of those areas where I feel the public clearly identifies the problem and the scope of the problem. They want a solution as big as the problem. Give it to them. That's what the Legislature should do. They should give it to them. I know there's a few other steps in between. But I think there are ways to increase public awareness of this. But I'm not so sure that's the silver bullet to have this gain acceptance.

In Maine -- and I hope Jonathan Wayne talks about this in a few minutes -- the number of candidates that are now participating in this system make up more than half of the Legislature combined -- probably much more than half combined. And that was a gradual process. It has gradually gotten there. And it's vastly accepted. The qualifying process is not one that is onerous. They've streamlined it a little bit.

ASSEMBLYWOMAN MURPHY: May I ask--

Well, I should ask Jon, I guess. How many women are elected -- have been elected in this process in the states or areas that you've worked?

MR. DONNELLY: I don't have the raw numbers, but it's a larger number now who are running than before.

ASSEMBLYWOMAN MURPHY: That's a very personal interest question.

SENATOR SCHLUTER: You can ask that of Jon Wayne, when he--

ASSEMBLYWOMAN MURPHY: I intend to, too.

SENATOR SCHLUTER: Good.

ASSEMBLYWOMAN MURPHY: But it is a very personal interest question.

SENATOR SCHLUTER: Oh, it's an important question.

ASSEMBLYWOMAN MURPHY: I'm not abashed by that at all.

MR. DONNELLY: I can also provide you and other Commission members with information about that. We've done some research on that.

ASSEMBLYWOMAN MURPHY: Thank you very much.

MR. DONNELLY: My pleasure.

SENATOR SCHLUTER: A couple of real quick questions, because we want to leave enough time for Mr. Wayne.

You said that \$16 million a year in Connecticut has been set aside from unclaimed bank accounts, or whatever it is, for the purpose of this. Was that in any way constitutionally dedicated? What is to prevent a future legislature from not appropriating that?

MR. DONNELLY: It is out of the budget process. It's not part of the general fund. They could--

SENATOR SCHLUTER: Could they do like Massachusetts, and withhold the money?

MR. DONNELLY: They cannot withhold the money. Massachusetts required an appropriation out of the fund before the agency could send it to candidates. This has been appropriated. This is-- The legislature is now appropriating that. It will be an automatic transfer to this fund, automatic appropriation to this fund. So it will be--

SENATOR SCHLUTER: Don't they have to do that each year?

MR. DONNELLY: They will not have to do it each year. I listened to the debate the other night at 2:30 in the morning. So that's probably why my memory is not as good. It's a little Web cam. But I will try to help you answer that.

SENATOR SCHLUTER: If you could give us a little written text on that -- because that's one thing we have to be sure, in financing and in--

MR. DONNELLY: I completely agree.

SENATOR SCHLUTER: We have talked, but not so much today, about tiered giving. And I would just like to have your general observation, not in any detail. But there's been some talk about-- Okay, if, say, there's a 1,200 -- the number of contributions has to be 1,200. And say this is in three stages -- say 500, 800, and 1,200, or something like that. If they get 500, they can only use it in the primary or something like that. Then they have to be Clean candidates. They can't go back on it. But they get an equivalent amount of the amount that they would get in Clean money, proportionate to the 1,200. And they get that at that time. And then this would apply, of course, to third party candidates who might not be able to raise as many contributions as the other. But if they got 500,

they knew they would get that percentage. And then if they get 800, they get the next increment. And then if they get the 1,200, they get the final increment. Is that-- Do you see any basic problems with that?

MR. DONNELLY: As long as the first threshold is at least half of the qualifying contributions that they would eventually have to raise, or the full amount, I don't see a huge downside. It may attract additional participants. But I think that first threshold has to be significant, because we are still dealing with public money, whether we're dealing with half the public money or all the public money. We're still dealing with the public trust when you give out public money. So you want those candidates to have some basic level of support.

SENATOR SCHLUTER: And I want to be sure the record shows that you said that officeholders have to have subsistence money to pay for tickets to the local American Legion, and a little advertising, and to do other things.

MR. DONNELLY: In Massachusetts that was the argument that officeholders certainly made. And it seemed legitimate. A fair amount of it was legitimate. Some of it was not.

SENATOR SCHLUTER: And there are at least two candidates up here who would agree that that is a certain -- there is a certain demand for that. But there are those who -- and I want you to repeat this -- there are those that go way beyond that subsistence. And they get big, big war chests. And they use that to multiply their political power by giving it out to other candidates for the Legislature, other candidates for local office, the state committees, and things like that. And do you think that should be prescribed in a Clean Election situation?

MR. DONNELLY: The language we tried to develop in Massachusetts was that those contributions, in a non-election year, were to be spent on items that were directly related to the public function of the office. The definition that exists now, and existed at that time, was that any expenditure could be made to further the political career of the officeholder. So we did try to prescribe it there. And, absolutely, it would have to be in order to make this a legitimate area of expenditure. And I would also think it should be limited to a certain amount.

SENATOR SCHLUTER: We thank you very much.

And before we turn this over to questions from the new arrival, Assemblywoman Greenstein -- who has 16 questions to ask.

ASSEMBLYWOMAN GREENSTEIN: They're all ready and waiting. (laughter)

SENATOR SCHLUTER: Thank you for being here.

I know you can't make all the meetings, as Ms. Matsen will make meetings, to give us input as we go along. But if we could get the transcripts to you of these meetings, with what other people say -- and particularly our work meetings -- if you could, we would really appreciate any comment you give us in our work session, as "This might not be a good idea," or "This is what happened in Massachusetts," "This is what happened someplace else." We would appreciate it.

MR. DONNELLY: Okay.

SENATOR SCHLUTER: Thank you very much.

MR. DONNELLY: Thank you.

SENATOR SCHLUTER: Mr. Wayne, could you defer for two minutes? Because we have somebody who said she will limit her talk to two minutes.

And if she will come forward, identify herself, and give us her testimony. And I use that two minutes loosely.

But we do have this person from Maine who has a tight schedule after this -- his presentation here.

JULIE NERSESIAN: Well, I'm looking forward to hearing it, as well.

Thank you, Chairman.

My name is Julie Nersesian. I'm Chair for the Committee for an Independent New Jersey. And we're a grassroots organization. We're concerned about ballot access, reform, open debates, increasing democracy in general here at home. And in that extent, I'd like to thank the Commission for their work. I do believe that Clean Elections is very important for putting democracy back in the hands of the people.

As independent voters, there's a couple of concerns that we have. Nearly 60 percent of New Jersey voters are undeclared. We've chosen to not align ourselves with either the Democrats or the Republicans. And we're a majority of the voters, but we're afforded second-class status in the Clean Elections pilot program for a couple of reasons.

I think, as has already been mentioned, the qualifying standards are unrealistic and has proven impossible for the majority of candidates. Even the candidates from the major parties-- In District 6, only two of the eight candidates were able to qualify. And they were the team that included the incumbent. So the qualifying standards, basically,

require collecting funds from 1 percent of the roughly 105,000 registered voters each Assembly member represents.

For independent candidates who don't have entrenched party machines working for them, collecting the small donations from 1,500 voters is almost a near impossibility. But the real -- kind of the real kicker for the independent voters is, even if they do reach that goal, they're only eligible for half of the funds that are made available for the Democrats and Republicans. So we look at this as being required to meet almost a very difficult standard, and then being -- only receiving half the money is, to us, a sign of clear-cut discrimination.

So what we're looking for here is the democracy in campaigning for Clean Elections. So I just ask the Commission to consider the independent voters and the independent party candidates when they're running, and consider full funding for them.

That will be all.

SENATOR SCHLUTER: Thank you.

And I think I can say that all the testimony we've heard so far with respect to the amount of money that independent candidates get -- should be the same. We haven't heard anything to the contrary.

Have we, Mr. DeLuca?

MR. DeLUCA: No.

SENATOR SCHLUTER: And I can't say what the Commission is going to do, but we also recognize -- and we'll take into consideration your concern about the difficulty for independent candidates. And I can speak from personal experience, that I know whereof you speak. (laughter)

Thank you very much.

MS. NERSESIAN: Thank you very much.

SENATOR SCHLUTER: Now, Mr. Wayne, from Maine.

(laughter)

And we really appreciate your coming down today. And you're going to stay overnight. But you have another commitment later this afternoon. So the floor is yours. You can take as much time as you want. You now have the full attention of four Commission members, because Assemblywoman Greenstein has joined us. And with our Secretary up here, Mr. Parisi--

ASSEMBLYWOMAN GREENSTEIN: Chairman.

SENATOR SCHLUTER: Yes.

ASSEMBLYWOMAN GREENSTEIN: Can I ask Mr. Wayne, are you one of the people that we met when we came up on the visit to Maine? You were in the--

JONATHAN WAYNE: Yes, I am.

ASSEMBLYWOMAN GREENSTEIN: I thought you were. It's nice to see you again.

MR. DeLUCA: You were in the same suit with a yellow tie.

(laughter)

ASSEMBLYWOMAN GREENSTEIN: I wasn't sure if it was you, but I remember the position.

SENATOR SCHLUTER: She thought it was another John Wayne.

ASSEMBLYWOMAN GREENSTEIN: That's right.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Should we turn the lights off, or is that brilliant enough for you?

MR. WAYNE: Can the Commission members see the screen okay? I'll start it up and--

SENATOR SCHLUTER: If we could turn the lights down.

MR. DeLUCA: Put a slide up.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I'd be happy to.

SENATOR SCHLUTER: How about the filmers? Okay for you? (affirmative response)

And your transcribers are going to be able to pick this up all right?

HEARING REPORTER: Yes.

SENATOR SCHLUTER: Thank you.

MR. DeLUCA: It's your chance to take a nap. (laughter)

MR. WAYNE: I want to thank you very much for your courtesy in inviting me down. It's a pleasure to be back in this part of the country, where I lived for 10 years. I actually moved to Maine only two years ago, and have been with the Ethics Commission of Maine just for one election cycle. So I missed the first two rounds of the Maine Clean Election Act in action.

SENATOR SCHLUTER: Excuse me. Can we follow this on the handout that we have at each place?

MR. WAYNE: Absolutely.

SENATOR SCHLUTER: So all of the Commissioners have a copy of his presentation. If you want to follow it as it's on the screen, please do so.

MR. WAYNE: And just to let you know about another aspect of my background, I probably obtained my position because I was a staff attorney at the New York City Campaign Finance Board, which runs a system of partial public financing for candidates running for mayor and city council.

So I very much, I guess you could say, have the agency point of view to offer you, not so much the advocates point of you. And I agree with a lot of the comments of the advocates. But, occasionally, I might have a difference of opinion.

Most of my slides at the beginning give you a little bit of an overview of the Maine Clean Election Act. And I see that you have some very particular concerns about qualifying for the public financing, and possible public financing for the primary election. So if you'll permit me, I'll go through my first slides, which are sort of context, quickly. And then I'll get to some of the meaty issues that you're dealing with. And I'd encourage you to interrupt me at absolutely any point. I'd welcome that. I think it would make for a much more interesting presentation.

(begin PowerPoint presentation)

My Commission is the campaign finance disclosure agency for the state of Maine. And we also do lobbyist disclosure and legislative ethics, as well. And the agency preexisted the Maine Clean Election Act. We have just seven people on our staff. And since I haven't heard any discussion of staffing, I know, with all of your considerable experience in government, you'll be very sensitive to the staffing needs of ELEC or whatever agency administers this statewide. But I'd encourage you to listen very closely to the Executive Director of ELEC, as he outlines for you what

his staffing needs would be if this went to 40 districts, and to keep in mind that many agency directors like myself tend to underestimate what we need when we're going before the legislature. And if Mr. Herrmann says he needs two auditors, he may, in fact, need three auditors. So just to put that pitch in for my national colleague, Mr. Herrmann.

The Maine Clean Election Act was enacted by voters in 1996, thanks to Mr. Donnelly's and many other people's efforts. And it's been in effect for three elections. In 2000, it was only a legislative election year, and then in 2002, we had our first gubernatorial election year. And the question came up, when would be the right year to go statewide on this? And I'd recommend not doing it in a gubernatorial year, because it's-- I think having a gubernatorial election year adds a lot of complexity and makes it a much more high-profile, high-stakes sort of situation. And it might be better to time it when it's only for legislative races. That's just a thought for your consideration.

It has grown very quickly in Maine. And it is now going through some growing pains. But I would say it is getting settled in, in its toddler years, in Maine and becoming an accepted part of the political landscape.

As you can see from the screens, in the first year we had 33 percent of the candidates choosing to opt into the public financing. That jumped to 62 percent in 2002. And last year, which was my first year with the Commission, 78 percent of the candidates in the general election participated.

MR. DeLUCA: Do you have a sense as to why those 85 candidates did not participate?

MR. WAYNE: I think that there's a range of bases for that. I think that there is a core group of candidates who just don't want to rely on public financing. Philosophically, they just don't think the state should be in the business of financing political campaigns. I think some -- a smaller number, who are in highly competitive races, decided that they could do better with private fund-raising in the open market, if you will, than by living in the constraints of public financing.

SENATOR SCHLUTER: John, you have different numbers for number of candidates in general election. Now, I don't presume that there have been more districts. But does that mean that that includes third party candidates?

MR. WAYNE: That does include third party candidates.

SENATOR SCHLUTER: And is that why there is a growth in the number of candidates?

MR. WAYNE: We are so busy at the Commission, because of our small staff, that there's a lot of analysis that I'm hoping we're going to do and publish in a report that we're required to publish by the end of January. So I hope to be able to answer that question better.

SENATOR SCHLUTER: How many senators are elected, and how many House members are elected?

MR. WAYNE: We have 151 districts in our House of Representatives, and 35 in our state Senate.

SENATOR SCHLUTER: So you have a total of 186 legislators.

MR. WAYNE: Correct.

I would say that there's sort of a-- As you can see, there's been a modest increase in the overall number of candidates who make it to the

general election. I don't think that's due to third party candidates and non-enrolled candidates. I think that's just sort of a general-- Well, I think it's probably overall -- among the parties, there's been a steady increase.

SENATOR SCHLUTER: Real quickly, 372 would be two candidates running in each district. But are we to assume that there might be some districts where there are -- nobody files, and nobody runs? It's just one candidate--

MR. WAYNE: Correct.

SENATOR SCHLUTER: --running for an office.

MR. WAYNE: Yes.

SENATOR SCHLUTER: Thank you.

ASSEMBLYWOMAN MURPHY: I forgot what it was, because I got interested in the question.

MR. DeLUCA: Mr. Chair, one other--

Your Assembly districts are different than your Senate districts?

MR. WAYNE: Right. I'm not sure if this is the right word, but they're not contiguous. They don't conform to the same district--

SENATOR SCHLUTER: Coterminous.

MR. WAYNE: Yes, thank you.

MR. DeLUCA: Because you have different requirements for Senate qualifying, and House qualifiers.

MR. WAYNE: Correct.

MR. DeLUCA: In our case, our districts are the same. We have 40 districts. And the district has one Senator and two Assembly members. So I might come back at you later and ask about qualifying in that instance, versus what you're--

You can think about it. You don't have to answer now.
(laughter)

MR. WAYNE: I appreciate that opportunity, because the geography is so different that I'm not sure what my thoughts are. But I will try to develop some quickly.

MR. DeLUCA: Okay.

MR. WAYNE: To give you an idea of the rate of participation in the different legislative caucuses, it's fairly popular to run as a Clean Election candidate in both parties. In the Senate, it's been even. Democrats and Republicans have both been participating at a similar rate. In the state House of Representatives, Democrats participate at a higher rate, but still 69 percent of the House Republicans chose to participate.

ASSEMBLYWOMAN MURPHY: Do people seem to fail or win based on whether or not they're in the Clean Elections program?

MR. WAYNE: I don't-- I only have anecdotal evidence. But I don't believe that's the case.

ASSEMBLYWOMAN MURPHY: Thank you.

MR. WAYNE: And as you might expect, in our current legislature, 78 percent of the elected members did participate in the Maine Clean Election Act.

Where do we get the money to fund this? And we actually are in a little bit of a funding battle now, because there is a special revenue account set up from which to pay candidates. And in response to Mr. Schluter's concern, the legislature did transfer money out of that during a fiscal crisis in 2002. They actually depleted about 75 percent of the surplus that had built up in that special account. That was before my time. But I

think they were just so desperate for money, they were looking everywhere they could. And we've been, sort of, on defense ever since then. But I've been going to the legislature, hat in hand, in the last two legislative sessions. And I've been listened to, and they've responded by putting money back into this fund. So I think that's a good sign. But because of the tight fiscal shape that Maine is in, and is going to be in, in the near future, there will be some funding battles ahead.

Just to give you a sense of how small things are in Maine, relative to other -- to the mid-Atlantic states -- I thought it might be instructive just to see-- These are the 10 largest towns and cities. So our districts are very small. Many House districts are comprised of maybe just three towns, with just a couple thousand people in them. That's sort of my general impression.

The campaigns in Maine -- and when we get to the dollars amounts, you'll see they tend to be very small. They're much more informal, I suspect, than the New Jersey campaigns. Often, the campaign finance reports are just filled out by the candidate, or the candidate's spouse, or a volunteer. And it's just-- I hope you'll understand, it's just very small compared to what you would be facing if you did a statewide program.

We have three political parties in Maine. The Green Independent party has been relying heavily on this. And I would like to echo the comments of Ms. Nersesian, Ms. Matsen, that I think third party and Independent candidates should receive the same amount of money as party candidates. And I think if you were to do otherwise, you would get into some equality issues and equal treatment issues. I'm not a

constitutional expert, but it strikes me as surprising if the State were to choose, on a wide level, to have a difference in how they give money. And you might be opening yourself up to constitutional litigation if you were to go that route.

ASSEMBLYWOMAN GREENSTEIN: Mr. Wayne, do you have the same number of people in each district?

MR. WAYNE: Yes.

ASSEMBLYWOMAN GREENSTEIN: How many in each district?

MR. WAYNE: Oh, I left that number on my folder on my chair.

ASSEMBLYWOMAN GREENSTEIN: Just approximately.

MR. WAYNE: Well, I think the Senate districts have about 20,000 people in them.

ASSEMBLYWOMAN GREENSTEIN: And then the House districts?

MR. WAYNE: I hate to give a number, because it's something that I don't come into contact with very much. And I believe it's about 5,000.

This is the total cost of the program in Maine. And even last year, when 78 percent of the candidates were participating, the legislative races had a net cost of \$2.765 million. In a gubernatorial year, which we're coming up with next year, the cost goes up.

SENATOR SCHLUTER: Excuse me.

MR. WAYNE: Yes.

SENATOR SCHLUTER: That's quite a ways off, that 20,002
-- but no--

MR. WAYNE: I apologize. That's the only typo in this
presentation. (laughter)

SENATOR SCHLUTER: Sorry. That shows we're paying
attention.

But is the gubernatorial under Clean Election -- Clean funding?

MR. WAYNE: Yes, it is.

SENATOR SCHLUTER: It is.

MR. WAYNE: And I wasn't sure that would interest you.

SENATOR SCHLUTER: Just so -- it is under--

MR. WAYNE: It is.

SENATOR SCHLUTER: Have the gubernatorial candidates
accepted it?

MR. WAYNE: We've only had that one year, 2002. And the
Green Independent candidate participated. But neither of the major party
candidates participated this year.

SENATOR SCHLUTER: 2006.

MR. WAYNE: In 2006. I'm already thinking ahead. In 2006,
two of the three Republican candidates, who are serious, have chosen to opt
into the program. So we might very well have a situation where the
incumbent governor, who is a Democrat, will be privately financed. But the
Republican nominee will be participating in the Maine Clean Election Act.
And we'll have to see.

ASSEMBLYWOMAN MURPHY: If you take our most recent gubernatorial election, would your state be prepared to finance either candidate to the tune of what they both spent?

MR. DeLUCA: Seventy-five million dollars. (laughter) That might be bigger than the state budget in Maine.

MR. WAYNE: Well, Maine has a very small budget, relative to New Jersey. And Maine would never be prepared to fund that kind of a race.

ASSEMBLYWOMAN MURPHY: And while I recognize that, what I think I'm saying is, if you have someone who wants to be governor, \$75 million or even half of that, what would you do if they said, "I'm not going to get into the funding thing. I'm just going out, and I'm going to buy all the things I need to make the election work well."

MR. WAYNE: As a privately financed candidate?

ASSEMBLYWOMAN MURPHY: Yes. How do you help the non-privately financed person?

MR. WAYNE: We have a system of matching funds, which is similar to the Connecticut system that was just passed. In Maine-- Take for example, next year. The Republican nominee-- If the Republican nominee turns out to be publicly financed through the Clean Election Act, that nominee will get an initial \$400,000. And I know that sounds like awfully small money. We only have 1.3 million people in the entire state. That nominee could be eligible to receive an additional \$800,000, for a grand total of \$1.2 million, that that nominee would get for the general election. That's perceived to be enough money to run an effective gubernatorial campaign.

Maine is not an affluent state, but if someone with a great deal of means were running against a Clean Election Act candidate, there would be a disparity. But hopefully the money that would be enough -- would run--

ASSEMBLYWOMAN MURPHY: Would be enough, depending on the qualifications the candidate -- is what you're saying, too.

MR. WAYNE: Yes.

ASSEMBLYWOMAN MURPHY: Thank you.

MR. WAYNE: Thank you.

This goes to the -- when candidates qualify, and do they get money for the primary election.

The way it works in Maine, there is a qualifying period for candidates who are in the political parties, and it ends on April 15. For legislative candidates, it runs from January 1 to April 18. That's the period of time in which the legislative candidates go out and collect their \$5 checks to qualify for the public financing. They turn them in. It's actually April 18 next year, but it's usually -- because of -- it's usually April 15. But because -- next year, because of the way the weekends work, it's going to be the 18th. But it really is April 15, tax day.

So it is known, as of April 15, of the candidates who are in a political party, who has qualified and who has not. Once they've qualified, they immediately receive a certain amount of money for the primary election. And they are in the Maine Clean Election Act, and they cannot opt out. And this addresses Ms. Matsen's point, that -- on whether you should be able to opt out or not. You either go one way or the other,

privately financed or Maine Clean Election Act. And once you've made your choice, you're stuck with it.

Candidates who are in the primary election and have an opponent get more money. And I did not have a slide on this, because I didn't think -- I didn't know it would be of such interest to you. But it doesn't matter whether the district is viewed as a single-party district or not. Any candidate, no matter how competitive the district is-- If a candidate has an opponent in the primary election, they're going to get a lot more money. They're probably going to get three times the amount of money that they would get if they don't have an opponent.

ASSEMBLYWOMAN MURPHY: Now, in a primary election, you could have five candidates for each seat, in theory. Would they all get the same if they all file for that?

MR. WAYNE: Yes. Is the question, would they receive different amounts of money, for the purposes of the primary election?

ASSEMBLYWOMAN MURPHY: No. It's just that this has been my difficulty with primaries. I have run against seven people for one seat. And if you funded us all to the same amount of money, what a lot of money that would be for the State to be putting into an election. I don't know, I have to think about that.

MR. WAYNE: So every candidate who is in a party will get an initial distribution for the primary election, which happens as soon as they qualify for the public funds. And in the Maine Clean Election Act, we are required to evaluate the request for public funds within three business days of when we get it. And we have to make a decision on that. And I do not mean to put ELEC in a difficult position, but Ms. Matsen raised the

concern that maybe payments would not be timely. And you want to make sure ELEC has enough staff to make timely payments. But you also might want to put some time pressure on the administrative agency to make sure they get the payments out within a certain amount of time.

SENATOR SCHLUTER: Jon, in a primary, you have districts which are dominated by one party. But you also have some crazy things happen in a primary.

Now, if Assemblywoman Greenstein was running in a primary in her district, and she went out and got the number of signatures by April 15; and Joe Blow, who was just a nothing, just a person who was out on an ego trip, wanted to file against her, and he didn't get the qualifying number of signatures, but he filed in the primary, she would get more money. Is that correct? Because she would, technically, have primary opposition.

MR. WAYNE: That's correct. The law does not distinguish--

SENATOR SCHLUTER: Quantify.

MR. WAYNE: --between candidates who are perceived to be strong candidates, versus candidates who were perceived to be weak candidates or long-shot candidates.

SENATOR SCHLUTER: Well, if Assemblywoman Greenstein were a little bit clever, she might inspire somebody to run against her so she would get more money, and the person would not win. And she'd have a lot more money.

MR. WAYNE: You may be giving her some ideas. (laughter)

We've received that question a lot. We really have not seen that until one case last year -- that I'm currently investigating -- where I think that might have happened.

SENATOR SCHLUTER: Well, in New Jersey, a lot of these things happen. (laughter)

MR. WAYNE: It is a concern. And I don't-- It's a difficult thing to police. And the administrative agency that administers this has to be on the lookout for that kind of thing. But if you're in a contested primary, you absolutely need more money than if you're -- if you don't have an opponent. And there's just no way, to my way of thinking, around that. And that will, inevitably, raise that concern that you mentioned. And I think the State has to be on guard against that.

So, anyway, going back to Maine being somewhat of a small money state, this is the amount that we will actually be giving out next year. This is what the typical party candidate would receive -- meaning someone who is enrolled in a political party. If they're running for the House, they'll get \$512. That will happen on -- right around April 15, usually. And then right after our June primary, they'll receive a little more than \$4,000. So their grand total on these initial distributions would be \$4,874. They may also qualify for the matching funds if they are running against a high-spending opponent, or if a lot of third party expenditures by PACs, and political action committees, and parties are made on behalf of their opponent -- then they could get the additional funds. But this is what they are guaranteed to get. This is the basic amount that they all get.

MR. DeLUCA: This is-- Every candidate gets the same amount of money?

MR. WAYNE: The only factor is if they have an opponent or if they don't have an opponent.

MR. DeLUCA: It doesn't matter the district?

MR. WAYNE: That's correct. And that's really been so ingrained in my thinking, it's hard for me to imagine that you'd want to go to a tiered system, where, depending on how many qualifying contributions you've raised, you'd get different amounts of money. I'm so used to thinking that everyone gets the same amount, it's just-- But I encourage you to think creatively about all these issues.

ASSEMBLYWOMAN MURPHY: Do you have a party line and an open primary in your state, in the varying districts, or are they all party line, or are they all open?

MR. WAYNE: Only voters who are enrolled in that political party can vote in the primary election. Is that the question?

ASSEMBLYWOMAN MURPHY: No. I'm looking at who controls the candidates that are put on the ballot.

MR. WAYNE: I think it's not nearly as controlled as some other states. I'm somewhat new to the state. I've only been there for two years. So I think town committees, county committees have a lot of influence. But I don't think that there are the kinds of bosses that exists in some states.

ASSEMBLYWOMAN MURPHY: Thank you.

MR. WAYNE: And that's a reference to bosses that came up earlier in this hearing. (laughter)

ASSEMBLYWOMAN MURPHY: But I'm just trying to really firm that up, because it's a big difference between the party line and an open.

MR. WAYNE: My general impression is that the town committees and the county committees do exert some pressure. I've heard,

anecdotally, that they don't want to have opposed primaries. And I think that happens in a lot of places. But I think that's sort of the full extent of party--

ASSEMBLYWOMAN MURPHY: Influence.

MR. WAYNE: Yes. I don't think it really goes much beyond that.

Now, here's the, I gather -- your big issue. How do they qualify? Candidates collect \$5 checks or money orders payable to the Maine Clean Election Fund. And those are the minimum numbers that they must collect. House candidates must collect at least 50, Senate candidates at least 150, and gubernatorial candidates must collect 2,500. And, obviously, those are very low amounts relative to your pilot project amounts.

If I can just offer some comments on what I've heard so far, I think that the 1,500 number seems awfully high. And even if 1,000 voters only represents 4 percent of Republican, or 4 percent of Democrats -- Democratic voters in a district, as I heard Ms. Matsen say -- that seems like a high number to me. And you really want to make the system accessible, while still make sure that you don't have frivolous candidates getting lots of money.

ASSEMBLYWOMAN GREENSTEIN: Do you have a sense, anecdotally or whatever, about how your people are getting these contributions? Are they literally getting them door-to-door? Because we had testimony that that was very difficult for people. Or are they doing house parties, or are they having others help to collect it for them?

MR. WAYNE: I think they are going door-to-door. And I think most of the legislative candidates have a small number of people who are loyal to them. And in some cases, in the Senate campaigns, maybe one or two people supplied by the legislative caucuses were helping them. I'm actually not as in tuned on that. They don't tend to disclose to me how they're going about doing this. (laughter) But I think it's a fairly small effort, and I think it's very grassroots. Yes.

SENATOR SCHLUTER: But if the legislative caucus gives them people to go out and collect those moneys, of course, they do it on their own time. They don't do it on the state taxpayers' time, obviously.

MR. WAYNE: Oh, absolutely. (laughter) I meant that sincerely. I think in Maine the people that work as legislative staffers tend to abide by those requirements.

SENATOR SCHLUTER: Yes, okay. But then there is no consideration for an in-kind expense by that? In other words, that isn't tallied up as an expense, say, collecting signatures, collecting contributions by the candidate?

MR. WAYNE: It hasn't come up as an issue. It's not really viewed as an in-kind contribution. And one of the -- to the extent that you're making detailed statutory recommendations next year, I think one of the things, if I could, that you suggest that you might want to look at is, what are the exceptions or exemptions to what constitutes a contribution. Every state--

SENATOR SCHLUTER: Good.

MR. WAYNE: --has certain kinds of goods and services that parties can supply to candidates that are not considered a contribution.

And it's a thorny question, but you might want to figure out what you want to propose on that.

MR. DeLUCA: Just on this, you're saying a house member gets \$4,874?

MR. WAYNE: Correct.

MR. DeLUCA: And they have to raise \$250 in order to get that. Is that correct?

MR. WAYNE: Correct.

MR. DeLUCA: So it's about \$20 for every dollar they raise -- close?

MR. WAYNE: Yes.

MR. DeLUCA: And is that the same ratio for the senate? I didn't figure that out. (laughter) No, it's a little different, actually. It's 650/22, so it's going to be a little different. So that might be something that we can look at, is ratios in other states. Because we're giving \$60,000, so that's almost 10 times as much as you're giving a house member. We're giving an Assembly member \$60,000.

ASSEMBLYWOMAN MURPHY: Do you think if we gave them a whole lot less they would ever bother with us?

MR. DeLUCA: No.

ASSEMBLYWOMAN MURPHY: Yes, I don't either.

MR. DeLUCA: But I think it goes to the question of what they have to raise. Because if they're getting 5,000 and having to raise 50 checks of 250, totaling 250, maybe our thousand is too much. But it should be in relation to what we're giving them. If we're giving them 60,000, then

maybe they need to be 500, 700 checks that they have to raise -- or contributions.

MR. WAYNE: If I were in your seats, I would be thinking in terms of what is achievable for candidates, what would make this program attractive and achieve the goal of taking private money, or lessening the role of private money in elections, while still making sure that candidates have enough community support to really have earned the public funds that they're getting. And I'd encourage experienced campaign people who are open to public financing -- a lot of political consultants that I deal with don't really like what I do, because they've built their careers on private fund-raising, and so forth, and not all of them look at public financing. But if you can have some of them who have a lot of grassroots experience and are open to public financing, they might be good people for you to hear from.

Just a few other comments. I do think the two-month period to gather these qualifications is very short. And I think \$3,000 in seed money, in order to raise 1,500 qualifying contributions, is not nearly enough in seed money. I also agree with the earlier commenters that for \$5 checks I don't really see what the value is in having the employment information -- have to be disclosed to the candidate. A lot of contributors don't want to give their employment information to a candidate, especially if they're only giving \$5. For a lot of potential contributors, it just doesn't make sense. "Why should I have to tell you who I work for, if I'm just giving you \$5?"

One thing that I might differ with on some of the testimony you heard from the advocates is that I think if you do open it up to cash, allowing people to give \$5 in cash, you will have a small amount of fraud in

the system, potentially. Because some less scrupulous candidates will turn to other sources to raise money, and they will say that they raised these \$5 contributions. But, in fact, they came from other sources. I think it's a lot easier to get a thousand people to sign some form than it is to get a thousand people to write out a check, or go online and use pay-pal or whatever system you have to make an electronic contribution.

That's not to say cash is a bad idea. I'm just saying that the State will then have to be on guard against a little bit of fraud. But it might be worth it to make the system attractive and workable for the vast number of candidates. As an agency person who has done enforcement, fraud exists. Fraud is a concern.

SENATOR SCHLUTER: Excuse me? You did hear about the idea and what we have received from ELEC, with respect to an affirmation form, and the written signatures saying that "Under penalty of violating the law" -- such and such -- "I attest that this money was not given from somebody else or it was not given under coercion." Then you could have a little statement underneath that saying that a certain percentage of these forms will be audited by the State. And if, as soon as you collect -- and you audit them and you find a couple of violators, it will cut down tremendously on those people who would--

MR. WAYNE: I think those safeguards would provide a lot of help. But you know, there will still be some people who are just desperate to qualify for those public funds, who will go to a break room at their workplace, or union hall, or community group, and will get -- there will be people who will sign that form who will not read what the language is at the

top of the form. They'll view it as signing a petition to get somebody onto the ballot, and they won't realize that they're part of a fraudulent scheme.

SENATOR SCHLUTER: But there's some people that say that gravestones vote in Hudson County, and we have to live with it.

MR. WAYNE: I know. And just please understand, I am a huge advocate of public financing and a huge advocate of making it easy to qualify for these funds. I'm also someone who grew up on the south side of Chicago, who worked in New York as an enforcement attorney for a campaign finance agency. So it's just something to keep in the back of your mind.

MR. DeLUCA: Mr. Chairman, I think if those gravestones can make that \$5 contribution, they ought to be counted. (laughter)

ASSEMBLYWOMAN MURPHY: They probably have and undoubtedly will. (laughter)

MR. WAYNE: Just to go over our qualifying period again. If you're in a political party and you're running for the legislature, you have to collect those qualifying contributions between January 1 and April 15. If you're not in a political party, you have a longer period of time. You have until June 2.

We, currently, do have-- I don't know what you've been doing in your pilot project -- and I'm sorry I'm not as educated as I could be -- but in Maine, the \$5 contributors do have to sign a form. And the candidate then takes that form to the municipal clerk, and the municipal clerk verifies -- I'm afraid the bottom of the form has been cut off -- but the municipal clerk verifies that these are, in fact, registered voters in the towns. And

then, fortunately for us, we don't have to -- we rely on what the municipal clerks say. We don't have to--

ASSEMBLYWOMAN MURPHY: Go through it again.

MR. WAYNE: Yes. Yes. And this has language that is similar to, I gather, what ELEC has suggested: "By signing this receipt, each contributor affirms that he has contributed \$5 from their personal funds, and has received nothing of value in exchange for his or her signature and contribution. All names must" -- oh, well. So-- And I think that's a huge safeguard against fraud. But under our current system, we have to have \$5 checks or \$5 money orders. And that's pretty hard for a candidate to fake.

SENATOR SCHLUTER: Can I ask Amy Davis -- is Amy Davis still here?

MS. DAVIS: (speaking from audience) Yes, I'm here.

SENATOR SCHLUTER: She's behind the -- oh, there she is. Does ELEC, when you get your contributions in, is there any way that ELEC checks to verify the residence of the donor being in the district?

MS. DAVIS: Yes, we have the voter registration list that identifies all the registered voters within a district, and that's what we'd be looking at.

SENATOR SCHLUTER: So you do check to be sure that that is a registered voter in that district?

MS. DAVIS: Correct.

SENATOR SCHLUTER: Thank you.

MR. WAYNE: I also want to say how fortunate you are to have such a good campaign finance agency in your State, that has such a

good staff. Public financing is very hard to administer, but it's made a lot easier if you have such good people working for your agency.

Seed money contributions -- candidates are allowed to accept a little bit of private money up front in order to go out and collect those \$5 checks. It's up to \$100, just from individuals. Those individuals can live anywhere, they can be of any party. And those seed money contributions can be used for any purpose. They are not restricted to just going out and collecting the \$5 contributions. And there are relatively low maximum amounts of seed money that can be collected. But most candidates think these numbers are adequate.

SENATOR SCHLUTER: Can that be any residency, any place in the state, or any place in the United States?

MR. WAYNE: Any place in the United States.

SENATOR SCHLUTER: So, presumably, you could have a right-to-life or a pro-gun or a pro-choice contingency from out of state trying to get candidates on the ballot in Maine?

MR. WAYNE: That's correct. They could use those, sort of, political views to get seed money from folks out of state. We have a gentleman trying to qualify for the public financing for governor who is seeking to get a Veterans party started in Maine, along with a lot of Veterans parties, or hopeful Veterans parties around the country. And I suppose he could reach out to his brethren and hope to collect seed money that way.

MR. DeLUCA: Can I ask you just one question on this? There's been some debate in our hearings about the in-kind, like if someone throws a party at their house or at the bar, and it cost them 50 bucks in

order to have that party, and it was for the benefit of either collecting seed money or qualifying contributions. How do you deal with that?

MR. WAYNE: Well, that's why that goes to my recommendation earlier that you think about what are the exceptions in your law for what does not constitute a contribution. And we actually have what we call a *house party exception*, which says that anyone can spend up to \$100, in the course of volunteering for a candidate, for specific costs, such as food or invitations. And a lot of people take advantage of that and hold house parties. And each volunteer at that house party could kick in as much as \$100, and it's not considered a contribution.

MR. DeLUCA: Each person who attends the party?

MR. WAYNE: Who volunteers.

MR. DeLUCA: To sponsor it?

MR. WAYNE: I think, typically, really, it's just the host, and maybe the host's spouse, each kick in up to \$100 worth of-- But in theory, all the volunteers could also pick up costs as well.

ASSEMBLYWOMAN MURPHY: But those are the costs associated with having the event? They're not profit above and beyond that, in theory?

MR. WAYNE: Correct, yes. It's just the cost of goods and services bought for the purposes of the event. It's not cash to be given directly to the campaign.

SENATOR SCHLUTER: And it does not count against your seed money?

MR. WAYNE: Correct. It's just considered to be not even a contribution. It's sort of, like, off the books -- didn't even happen.

MR. DeLUCA: Don't use that in this State -- off the books.

(laughter)

ASSEMBLYWOMAN MURPHY: Yes, please.

MR. WAYNE: Yes. I can barely say that as a regulator.

ASSEMBLYWOMAN MURPHY: Thank you.

MR. WAYNE: Yes, sure.

I don't know whether you really want to go into the matching funds, because I don't know if you're considering adopting something similar to what Maine has, but just a bare bones description is: If a candidate is participating in the Maine Clean Election Act and they're facing a high-spending opponent, or if the amount raised by the opponent that's privately financed goes above the amount that the Maine Clean Election Act candidate got initially, then the Maine Clean Election Act candidate starts to receive matching funds. And this goes to your question about--

ASSEMBLYWOMAN MURPHY: Up to?

MR. WAYNE: Up to twice the amount that the candidate got. So if I could maybe use an example, if that would be all right? If I was a candidate running for the Maine House of Representatives last year, I got \$4,000, just to round off, for the general election. I was running against somebody who was privately financed. As soon as my opponent's receipts for the general election went above \$4,000, the Ethics Commission would give me equalizing amounts of money, in theory to keep me at the same level as my opponent. But the maximum that I could ever receive in that scenario, in matching funds, would be 8,000. So the maximum I would ever get for the general election would be 12,000.

SENATOR SCHLUTER: And how do you do this? Do you do this on how much the opponent who is not a Clean candidate receives in contributions, or how much they expend?

MR. WAYNE: The way the law reads, it's how much they received or how much they spend, whichever is greater. But what that means in practice is, whatever they received.

SENATOR SCHLUTER: And is it -- are they required to report the minute they go above that?

MR. WAYNE: They are.

SENATOR SCHLUTER: Does the law require that they report?

MR. WAYNE: Forty-eight hours of them going over that \$4,000 amount, they have to file a special report with us. And in addition, we have three summary reports where they just -- the privately financed candidates, who have a Maine Clean Election Act opponent, just have to give us two numbers, in addition to the regular itemized reporting that all candidates do. Forty-two days before the general election, 21 days before the general election, and 12 days before the general election, they tell us what are their total receipts for the general election, and what are their total expenditures. And that's, sort of, an additional way for us to keep tabs on the spending in that race to see if the Maine Clean Election Act candidate is entitled to any matching funds.

The privately financed candidates with a Clean Election Act opponent really hate to provide that extra disclosure to us. They feel it's burdensome on them. They hate that their opponents might be getting the

extra money, but that's the way the system was designed by the advocates. And to my way of thinking, it works pretty well.

SENATOR SCHLUTER: Well, percentage wise, the winners of the election pretty much mirror the percentage that get Clean money, that are the Clean candidates. It's approximately the same percentage.

MR. WAYNE: Yes.

The other thing about the matching funds -- and I don't know whether there's any aspect of this built into the pilot programs or you're ever giving any consideration to this -- but we also take into consideration the amounts spent by third parties, such as PACs and party committees. And as a Clean Election Act candidate, if my party spends money in my favor, it, in effect, hurts me in my ability to get matching funds. And that's somewhat of a controversial aspect of the system.

MR. DeLUCA: Have you ever had an instance in which someone declared a Clean Election candidate, but was unable to make the qualifying contributions?

MR. WAYNE: Yes. We have a few of those every year. But our thresholds are so low that most people who want to qualify, end up qualifying.

MR. DeLUCA: Could you give us some advice on this: We had two instances where candidates declared that they wanted to run as Clean candidates, and both raised somewhere in the vicinity of 75 percent of the threshold.

ASSEMBLYWOMAN MURPHY: Right.

MR. DeLUCA: In one instance, because the other set of candidates qualified, they were able to receive the money of the two

candidates, even though they reached the 75 percent, that were not able to qualify. How would we deal with that? Because there seems to be some advantage given to the Clean candidate, even though the other team wanted to run as a Clean candidate and just wasn't able to do that. I guess, maybe I could put words in your mouth and go back to your answer of, "make the program what's achievable and gets people into the program."

MR. WAYNE: Yes. I'm not sure how to answer that question. It does seem unfair for the people who really did want to qualify, who really tried, to see those extra moneys going to that other candidate. On the other hand, they now have the opportunity, as privately financed candidates, to raise, I imagine, so much more than the publicly financed candidate. You may still want to give that publicly financed candidate those additional moneys. I'm not sure.

SENATOR SCHLUTER: We have a provision in our pilot program that if a candidate is a participating candidate and has qualified, but near the end of the election wants to get out of being a qualified candidate -- our first question is, does Maine have a similar provision, and if so, how do they do it? Because here, the law would require that our Commission -- us -- would have to approve their exiting the program.

MR. WAYNE: So, if towards the end of the election, the Clean Election Act candidate wanted to go private--

SENATOR SCHLUTER: Go private, because maybe the other side, which didn't qualify, didn't even try to qualify, is getting so much -- buckets of money -- that they figure that the only way to save themselves is to get out.

MR. WAYNE: I think I'm so conditioned by my experience in New York and my experience in Maine, which is that once you're in, you're in.

ASSEMBLYWOMAN MURPHY: If you're going to take the risk, you take it.

MR. WAYNE: Yes. That's just part of the calculation. I mean, if the goal is to cut off or reduce the role of money in people's campaigns, it just seems like they should be compelled to go publicly financed through the whole way. And also, it just seems to open the door to a lot of games playing to me, where-- And it also puts you, or ELEC, in a very difficult situation of making those kinds of judgments.

I wanted to just touch on leadership PACs, because I know that's an issue for you. That's one of the thorny issues in Maine, but it's a much smaller scale than here in New Jersey. Maine Clean Election Act candidates who want to run for leadership can form PACs. They're allowed to, as long as they don't use those private funds that they raise to advance their own elections. And a lot of commenters feel that that's hypocritical. That if you're publicly financed, you ought to be that way -- that's the way it ought to go for the whole election cycle and for your term in office.

And in addition to leadership PACs, those who actually have attained leadership positions have PACs, legislative caucus PACS, and that's also permitted. And it's just a thorny issue that Maine has not adopted.

ASSEMBLYWOMAN GREENSTEIN: What are they using the money for?

MR. WAYNE: Well--

ASSEMBLYWOMAN GREENSTEIN: And how much are they allowed to have in those PACs?

MR. WAYNE: There's no limits. There's no -- we have no limits on what can be donated to a PAC, or how much PACs can spend.

ASSEMBLYWOMAN GREENSTEIN: But if you've got everybody doing these Clean Elections just about, what happens to that money that's in those PACs? What is it used for?

MR. WAYNE: It's really small amounts relative to, probably, what your incumbents get, and sort of fund raised after the election is over. I think it's spent on traveling, because Maine is a big state. Driving to the northern end of the state to talk to people, to encourage them to vote for you for speaker, that can be a five-hour drive, and you probably want a hotel room. If donations are made to privately financed candidates, although that's becoming rarer and rarer, and I think that's primarily--

SENATOR SCHLUTER: Basically, these are funds that are used to become leaders, to help persuade their colleagues to vote for them--

MR. WAYNE: Correct.

SENATOR SCHLUTER: --by going to them and seeing them, by having a cocktail reception in Augusta--

MR. WAYNE: Yes.

SENATOR SCHLUTER: --or whatever, to -- vote for me for speaker," or "vote for me for majority leader," or whatever it might be.

MR. WAYNE: That's right.

I guess what I would recommend is, sort of, similar to Mr. Donnelly's advice for you, which is: It's hard for me to, as an outsider to New Jersey, to offer any kind of recommendations. It seems to me that if

your perception is that these candidates are collecting a lot of money after the election -- and maybe not as much war chest for themselves, but to donate to municipal candidates and to further their political careers -- I think it would be corrosive on a public financing system to allow people to be publicly financed and then to go out and collect gobs of money to use for those kinds of purposes.

If, on the other hand, you're talking about small amounts of money that are used to go to pancake dinners and keep up community relations and to use for constituent services, I think that that's not as contradictory, as contrary to a publicly financed system. So it might be appropriate for you to suggest some limitations on what a publicly financed candidate can raise after the election for certain purposes.

ASSEMBLYWOMAN GREENSTEIN: This actually is an issue we've been talking about. It's once you're finished with the election, it isn't really just people who are going for leadership who need this kind of money, it's any legislator who needs money to go to the dinner and the pancake dinner. So for us, it wouldn't be a leadership PAC.

MR. WAYNE: Right.

ASSEMBLYWOMAN GREENSTEIN: It would just be a PAC that could be used in the nonelection period.

MR. WAYNE: It seems to me if you leave it unregulated and -- it's just going to seem hypocritical, it's just going to seem contradictory to what is trying to be achieved with the public finance. And it seems to me that some sort of limitations are in order. But again, you still want to make the public financing attractive enough for people to join. If they feel that their hands are so tied after the election that they can't meet their core

needs as elected officials, they're just not going to participate in the program.

ASSEMBLYWOMAN MURPHY: Not only that, if it costs you more to be an elected person than you're earning as an elected person -- if I'm making any kind of sense -- your family suffers from this. And believe me, you are expected to take ads and buy the tickets, and all the rest of this kind of thing, for anyone who is elected or any noble cause. In our county, 37 municipalities, and they all had something every week, (laughter) and you were expected to be there. And you weren't expected to walk in free, which meant that if you have a lot of money, you can be a candidate. But if you're an ordinary person, it's very hard to be around this. You can't stand outside the door and treat everybody as they go into the pancake breakfast, and not go in yourself. A pancake breakfast is a small thing. It's the mayor's ball or the-- As you said, the person is retiring, and there's always somebody. I never went to so many parties in my life. (laughter)

SENATOR SCHLUTER: Assemblywoman, before you arrived, Mr. Donnelly of Citizen Action, or whatever -- Public Campaign -- said that they had certain standards. And I think he was going to -- wasn't he going to send some language on that to us, which defined exactly what you're saying, exactly what Mrs. Murphy is saying, with respect to reasonable and understandable and acceptable contributions, and spending versus politically inspired stuff for power and other things?

MR. WAYNE: Anyway, that really covers the issues that I was going to talk to you about. And I'd be happy to answer any other questions that you have.

(end of PowerPoint presentation)

I had some other issues, but I think they're so -- I don't know that they would come up in your pilot program.

ASSEMBLYWOMAN GREENSTEIN: I think they might.

MR. WAYNE: They might?

ASSEMBLYWOMAN GREENSTEIN: Well, I don't know about in the pilot, but the issue ads--

SENATOR SCHLUTER: Why don't we get the lights on and--
That was an excellent, excellent presentation, Mr. Wayne.

ASSEMBLYWOMAN MURPHY: Thank you for the slides.

SENATOR SCHLUTER: We are very indebted to you for this.

Now--

ASSEMBLYWOMAN GREENSTEIN: Have you had that? I'm interested. Have you had that come up -- issue ads and problems that come up that way?

MR. WAYNE: Well, that's because we have a matching fund system, where we have PACs and parties. A lot of the private money in Maine that is available for political campaigns are no longer being given to candidates. They're being donated to PACs and party committees. And then PACs and party committees are turning around and spending the money independently of candidates to help the candidates. And that triggers matching funds.

So what has happened is, if I'm a party committee, or a PAC, and I want to help Bill Schluter, I will find creative ways to spend money to help Bill Schluter that doesn't cause matching funds to go to Bill Schluter's opponent. And what I'll try to do is, I'll run issue ads saying, "Bill Schluter is a great guy," but won't say, "Elect Bill Schluter." And I'll spend my

money at the last minute so that Bill Schluter's opponent doesn't get the matching funds. And if you end up trying to match third party expenditures, we've been trying to solve those problems, but they're very difficult.

SENATOR SCHLUTER: Would you say that this is still a problem in Maine, that you just described, that you're not satisfied with the--

MR. WAYNE: The issue on the issue ads -- we actually now have a presumption in place where any ad, within 21 days before the election, or any campaign literature that mentions a candidate is presumed to be an independent expenditure. And I think it's, sort of, analogous to what McCain-Feingold tried to do on the Federal level. And I think that's been a big help. The last-minute spending, though, is very hard to combat.

SENATOR SCHLUTER: Now, let's start in our regular row, our regular order. Mr. DeLuca, do you have questions?

MR. DeLUCA: Just one that I wanted to ask. Do you have the other requirements similar to ours, about -- the candidates have to participate in debates, and things like that?

MR. WAYNE: We don't. And that may be because the districts are so small, and there are a lot of -- community groups sponsor these, and there's not perceived to be a need.

MR. DeLUCA: That's all. I'm not going to ask any more. You were quite good. Thank you.

MR. WAYNE: Thanks.

SENATOR SCHLUTER: Assemblywoman.

ASSEMBLYWOMAN GREENSTEIN: I'm interested in the history of your legislature, in terms of what happened before you started this program. In other words, did you have a lot of people who were elected over and over again? Did you always tend to have a lot of new people? And have you found, as a result of the Clean Elections, that your -- you know how we say that this should attract maybe more women and minorities, and people who are nontraditional candidates. Do you have any sense at all, even if anecdotal, that has happened, and have you found, sort of, a different type of person running, people who you would describe differently, different groups of people, looking to run now, now that you have Clean Elections? Has it really made a difference?

MR. WAYNE: I think it, undoubtedly, has made a difference in encouraging new people to run for office. And we hope to address those kinds of issues in this report that we're writing that we never have time to really do.

ASSEMBLYWOMAN GREENSTEIN: The reason I'm asking, I'm trying to figure out, do you have, sort of, an entrenched political system where people would come up through the party and get elected over and over. Not maybe a boss system as they say, but something like that, where people were coming through the party, while here it's just ordinary, independent people who decide to run.

MR. WAYNE: It's hard to know what success is attributable to the Maine Clean Election Act, because Maine also adopted term limits. So now, legislators can only serve for eight years. And so--

ASSEMBLYWOMAN GREENSTEIN: When was that adopted?

MR. WAYNE: It was before my time.

ASSEMBLYWOMAN MURPHY: That has to be about seven years ago.

ASSEMBLYWOMAN GREENSTEIN: About seven years?

MR. WAYNE: Yes.

But to answer your question then, and also a question Ms. Murphy raised earlier, it makes a difference in terms of bringing new people in. A lot of candidates have responded to surveys. And we conducted our own survey that said, "I would never have run if it weren't for Clean Elections. I just wouldn't have done it." And a lot of women, in particular, have responded that they would never have embarked on a legislative race had it not been for public financing. So I think it's definitely bringing new candidates into the process. But I don't know that it has translated into more women in the legislature. But it definitely has gotten new faces into the political system. And there's an effect, I think, in terms of how candidates who were elected feel, in terms of their independence from the lobby. And this really is -- I only have, really, anecdotal evidence to offer you.

ASSEMBLYWOMAN GREENSTEIN: It would be very interesting to know this when you do the study. What about ordinary citizens? Do they feel differently about their government now? Do they feel that they're getting better representatives, different representatives?

MR. WAYNE: I don't know. It's very hard-- There hasn't really been a lot of study done on how people perceive it, that the Clean Elections system has changed the electoral process. But a lot of legislators will come up to me in the hallway and say, "I love Clean Elections, because

I don't have to turn to the lobby for private financing. If a lobbyist comes up to me and wants something, if I turn them down, I don't feel beholden to them." And I think that it's hard to quantify that in a report, unfortunately, but I hear that a lot.

ASSEMBLYWOMAN GREENSTEIN: Thank you.

SENATOR SCHLUTER: More questions?

Ms. Murphy?

ASSEMBLYWOMAN MURPHY: No. I think my questions have been pretty well answered as we went along.

Thank you very much, Mr. Chairman.

SENATOR SCHLUTER: I think this is very helpful. And incidentally, for members of the Commission, Mr. Wayne is going to be in Boston next week. I'm going to go up to Boston for the COGEL conference. So if between now and Monday you have more questions, feed them to me and I will ask him when I see him in Boston next week.

A couple of questions. Under the Clean Elections in Maine, do you send out a voter guide?

MR. WAYNE: We don't.

SENATOR SCHLUTER: You don't. Do you have a, as somebody here before, I think Ms. Matsen, talked about, a Good Housekeeping seal of approval? Do you have any kind of stamp or, somebody said, \$5 bill or something? Do you have anything saying, "This is a Clean candidate."

MR. WAYNE: No. In fact, that's actually a very big issue in Maine -- is that privately financed candidates very much resent the

perception that they are less clean because they have not opted into the system.

ASSEMBLYWOMAN MURPHY: I can understand that.
(laughter)

MR. WAYNE: So, the premise of all my work is, it's a voluntary system. Candidates are no better if they run Clean Elections Act than if they're privately financed. I never -- it's strictly, from my point of view, a personal choice up to the candidate. And I think a lot of voters don't have any idea who's a Clean Elections Act candidate and who's a privately financed candidate, except in a few cases where I think some candidates really do try to play it up. And they'll say, "I'm a Clean candidate," but that doesn't happen very much.

MR. DeLUCA: Well, I think if you have everyone running--

MR. WAYNE: Right.

MR. DeLUCA: --it neutralizes it.

MR. WAYNE: Yes, right.

MR. DeLUCA: You have no advantage.

SENATOR SCHLUTER: You made a point before about the different profile of each house of the legislature -- because of Clean Elections more women and, you said, more independents. Do you think that the legislature, because of this and because of the type of people that are being elected, is more willing to pay attention to the true public policy issues before the state, as opposed to just the political issues of getting reelected and not offending people, and are they more willing to take the tough stands on things?

MR. WAYNE: That's a kind of political judgment that -- I'm really not sure that I'm in a position to make that kind of judgment. I know that they feel that it makes a tremendous difference in their campaigning. That when they get the fund-raising out of the way, they can communicate a lot more with voters and have a lot more substance in their campaigns, and a lot more contact with candidates (*sic*). And that actually, from the candidate's point of view, is a tremendous difference. But once they're in office, whether it's changed the way the legislature works, or the legislation that's produced, it's hard for me to make that kind of judgment.

SENATOR SCHLUTER: Well, I think we've had a great experience here with Mr. Wayne. And if the Commissioners would agree, I would ask if Mrs. Reed, or Ms. Matsen, or Mr. Ma, or anybody here, or Marilyn, has any questions that they would like to ask of Mr. Wayne? We're all in this together. And if you have questions that you like that we haven't covered, come on up and ask them.

Ingrid, are you going to present testimony today, Ingrid?

MR. DeLUCA: It's \$5 a question, and you have to put your employer down on the form. (laughter)

ASSEMBLYWOMAN MURPHY: That's right.

MR. DeLUCA: Right. It has to be a check, no cash. (laughter)

I N G R I D W. R E E D: Let me add-- My name is Ingrid Reed. I direct the New Jersey Project at the Eagleton Institute of Politics. Let me add my thanks to the Commission's for coming here and leaving us with a copy of your PowerPoint, so I can take it back and use it. Maybe I will ask you if I could get a -- if you would send me a document, and I'd like to post

it on the Eagleton Web site so we can encourage people to look at it there. I know you will put it up, probably, on your Commission's site at *nj.leg*.

I would just like to hear a little bit more about raising money in order to qualify for the Clean Elections -- to be a qualifying candidate. How does that exactly work? You had a slide up here about-- I think that's really very important, because it's part of the participation effort. Where do you get the 3,000 that we have? Is that the right amount, or are we encouraging raising it the right way? Could you just explain that again?

MR. WAYNE: Sure. And let me just repeat my observation, which probably a lot of other people agree with, which is that \$3,000 is really not enough seed money to go out and collect 1,000 \$5 checks. It just-- I don't think it is. If candidates can collect up to \$100 in seed money contributions just from individuals, and in many cases they turn to families and members and friends, and if a candidate is running for the House, the maximum in seed money that they can raise is \$500. If they're running for Senate, it's 1,500. And they can spend that seed money on whatever they like, and a lot of it is spent on palm cards, and transportation and fuel, and everything that they need to go around their district to collect the \$5 checks.

MS. REED: And are there any restrictions in how they can raise that or in what amounts?

MR. WAYNE: Just that it has to be from individuals, and the maximum, per contributor, is \$100.

MS. REED: Maximum?

MR. WAYNE: Yes.

MS. REED: I have to think about that. I thought it was interesting to go through this ratio issue, in terms of dollars raised, dollars received, and--

Could you tell us something about the ongoing interest of the media in this program? I was surprised that you said that the candidates didn't -- well, there seems to be a sense that all candidates are the same, that being a Clean Elections candidate is not a distinction. How does the media deal with the Clean Elections program, and do they see it that way, or do they make a distinction in covering the candidates?

MR. WAYNE: It doesn't come up too much. There is some speculation this year about which gubernatorial candidates want to run as a publicly financed candidate and which do not. But on the legislative level, it's rarely mentioned in news reports how their campaigns are financed. It's just not that big of a deal.

MS. REED: I ask that question, in part, because I think the Commission is aware of the survey that Eagleton and Fairleigh Dickinson did. And Tim Vercellotti and Peter Woolley are looking more closely at the responses. And one of the more detailed items that they noticed is that those people who were aware of Clean Elections corresponded to those people who got information about the campaigns from the newspapers. And I thought that was interesting because in watching this, as kind of informed viewers or readers of the paper, I think we were struck by the amount of coverage that the *Asbury Park Press* and *The Courier-News* gave to the campaigns. And it looks like that there really is a correlation, in this particular instance, where there was some controversy. We are currently coding the clipping that we did of campaign coverage. And so we will know

how much more coverage the *Asbury Park Press* and the *Courier-Post* did than other newspapers that were not covering a Clean Elections district. And so we will have some sense of the interest that the media takes in legislative races in general, which I think is part of the problem that candidates have in being known to the public. Because our previous studies show that the newspapers simply don't cover the Assembly races. And when they do, they cover them in ways that just -- it's impossible to read the stories. I mean, you really have to be a wonk to go to the eighth page and read dense copy and never see a photograph. And so we will be looking at the, sort of, comparative coverage; and it would be interesting to know if Maine newspapers make that distinction. But I guess maybe once you're an established program, you don't make the distinction. This is so new. And there was some controversy that probably served the program well.

ASSEMBLYWOMAN MURPHY: And anecdotally, I will tell you I spoke with some newspapers in our part of the state which did not have one of those districts.

MS. REED: Yes.

ASSEMBLYWOMAN MURPHY: And everyone said, "Oh, fine, when it gets here."

MS. REED: Right.

ASSEMBLYWOMAN MURPHY: And it was kind of distressing to discover that after the fact they're ready to talk about it. They weren't interested in exploring the concepts. I don't know -- just kind of interesting.

MS. REED: I'm going to think more about what you've presented to us today. I think it's a very rich set of ideas that we've gotten, and I look forward to sticking with it.

ASSEMBLYWOMAN GREENSTEIN: Actually, of all the things I've heard, the thing that most -- somewhat made me have a sense of why it's the way it is in Maine is the fact that you have term limits. You said you've had the term limits about seven years, and how long have you had the Clean Elections?

MR. WAYNE: Well, the first election was 2000.

ASSEMBLYWOMAN GREENSTEIN: So a similar amount of time. And it seems to me that, in a sense, by having people not serve very long, that might lead to some of the results up there. That people are not paying that much attention to who's Clean Elections and who isn't. You don't have situations, like you have here, with people who are in for 20-something years, who strive for leadership positions over a period of many years. It's almost like a -- there are real personalities involved here. There are people who have been in for a really long time. A lot of people know that and they come to know them, even in other parts of the state. It's very different when people are term limited, I think.

MR. WAYNE: Can I mention one other reform that comes into play with all this, which is -- this goes to a question that Mr. Schluter asked Ms. Matsen, on contribution limitations. When the voters passed the Maine Clean Elections Act, they also passed very low contribution limits of \$500 per election for governor, and \$250 per election for legislator. So that makes Clean Elections look a lot more attractive, if privately financed candidates are so hampered in their ability. So I don't know

whether you want to embark on all sorts of contribution limits and whether that's within your mandate, but that would be key to whether the public financing is going to be attractive -- is what's the alternative.

SENATOR SCHLUTER: Does Maine allow corporations to contribute?

MR. WAYNE: We do.

SENATOR SCHLUTER: You do allow corporations?

MR. WAYNE: Yes.

SENATOR SCHLUTER: You're one of the nine states that do.

MR. WAYNE: I guess so. (laughter)

SENATOR SCHLUTER: I have another question of you, which is a loaded question. Does Clean Elections apply to anything but the legislature and governor in Maine?

MR. WAYNE: No. But we don't have other statewide elected offices. The governor is the only one.

SENATOR SCHLUTER: Okay. But legislators are elected by district?

MR. WAYNE: Right.

SENATOR SCHLUTER: So they're not statewide?

MR. WAYNE: Right, yes.

SENATOR SCHLUTER: Okay. Now, do you have dual-office holding in Maine? (laughter)

MS. REED: You've managed to get that question in, in every session. (laughter)

ASSEMBLYWOMAN MURPHY: Good for you, too.

MR. WAYNE: There are some.

SENATOR SCHLUTER: There are some.

MR. WAYNE: Yes.

SENATOR SCHLUTER: Who are mayors--

MR. WAYNE: Yes.

SENATOR SCHLUTER: --and also senators or House members?

MR. WAYNE: I think it's more common for town councilors or--

SENATOR SCHLUTER: Town councilors.

MR. WAYNE: Yes.

SENATOR SCHLUTER: I mean, we've got a situation, without naming names, where a State senator is also a mayor of his town, and in a very, very uncompetitive district, in the absence of any schools superintendent, and he's got a war chest of over \$500,000. And of course, if he gets into the Clean Elections, he can say, "Well, that money isn't for the Senate. That money is to help me get reelected as mayor." So -- and it's the same constituency that's voting for him as mayor that's voting for him as State senator. Do you think there's any inherent conflict in that? (laughter)

MS. REED: He's putting you on the spot here, you realize?

MR. WAYNE: No. I guess there's some history behind this question. I happen to think that there is some -- a conflict there. And I think it would be very reasonable to, as a precondition for accepting public financing for your legislative race, to have to undergo some limits for your municipal race or--

MR. DeLUCA: Without naming names, could you name the city? (laughter) We're trying to figure it out.

ASSEMBLYWOMAN MURPHY: I don't think so.

SENATOR SCHLUTER: Well, thank you very much.

Steve Ma, identify yourself, and then you're going to testify also here, but let him finish and let others finish with him first before you go into your--

S T E V E M A: Steve Ma, from AARP.

Again, I thank you, Mr. Wayne, for coming down to our wonderful state.

I just had a couple questions for you. One is, we're trying to figure out this contribution limit, a qualifying contribution number. The Maine model is to have a very low number and to encourage more people to join. And I'm wondering what your experiences, in terms of the, sort of, not very popular, not very qualified, kind of -- I don't know what the word is -- *yahoo* candidate qualifying. No one is voting for them, and yet you're spending public dollars on them. How often does that happen? Is that a big concern?

MR. WAYNE: It's hard for me to know, because I don't-- I know about yahoo candidates if they come to my attention in an enforcement situation. But I don't tend to know who are the yahoo candidates just based on a name and a piece of paper on a campaign finance report. I don't think it happens that much. I think that most candidates are serious. I think they don't get a lot of money. You don't see a lot of candidates trying to advance their own personal political agenda of some far-out issue on the public financing dime. Most candidates are recruited

by the major parties. They want to win. They get a limited amount of money to do it, and it's money that's well spent. So I don't see a lot of that.

MR. MA: Okay. Well, that's just good to know.

And I'm also-- I don't know if you've got anecdotal evidence about the concern of, "Well, we're spending public dollars on these candidates that don't have the support of the public," you know what I mean?

MR. WAYNE: Yes.

MR. MA: Are you getting people complaining about the public (indiscernible)?

MR. WAYNE: Well, I anticipate getting that complaint a lot next session with regard to the gubernatorial candidates. On a legislative level, that doesn't come up very much. But we have a number of candidates who are not regarded as serious who have declared an interest in qualifying for public financing for governor. And each one of them, if they were to qualify, would get \$1.2 million, which is a lot of money in Maine for a campaign.

MR. MA: Right.

MR. WAYNE: And I'm worried about the perception of the public financing situation that--

MR. MA: Right.

MR. WAYNE: That's more of a prospective worry and that really hasn't come up that much.

MR. MA: Okay.

I just had a couple of other questions. I was just thinking about the term limits. If the term limits are eight years and they were passed seven years ago, then they wouldn't really have taken effect, unless they're retroactive. Am I correct? When it passed, did it say eight years from now, people who have been in for-- Or are there people who have been term limited out already?

MR. WAYNE: No, there are. I think it might be somewhat older than Ms. Murphy might have suggested. I think--

ASSEMBLYWOMAN MURPHY: The first person I can remember, that I knew, was Carol Brower (phonetic spelling), and she was--

MR. WAYNE: She was term limited out, you're saying?

ASSEMBLYWOMAN MURPHY: Yes. She was the Chair of the House, and she was term limited out of that position. She went to the Senate, and she was there for one term, and then she was not elected again. But she was term limited out of the House, and she was the leader.

MR. MA: It's not that important, but I was just kind of curious that if the term limits are fairly new, then they wouldn't really have taken effect.

And one other question I had -- I don't know if this is a typo, but--

MR. WAYNE: That is a typo. I apologize.

MR. MA: Okay.

MR. WAYNE: Candidates running for governor can collect only \$50,000 in seed money for governor, and I inadvertently added an extra zero there, and it says \$500,000. (laughter) I really do appreciate you bringing it to the attention, too.

MR. MA: Okay. Because if the governor was getting \$400,000, I didn't think \$500,000 would seem--

MR. WAYNE: No. That was a typo, and I apologize for that.

SENATOR SCHLUTER: How long is the residency requirement for a person to run for governor in the state of Maine?
(laughter)

ASSEMBLYWOMAN MURPHY: You move in. (laughter)

MR. WAYNE: I'm not sure.

SENATOR SCHLUTER: I mean, we have -- Weed Man might want to move up to-- (laughter)

MR. MA: That's right.

Well, that's all I had. I don't know if anybody else had--

SENATOR SCHLUTER: Sandy, do you have any questions?
(declines)

Marilyn? (declines)

Well, thank you so much, Jon.

Do you have anything else to--

MR. WAYNE: I just want to thank you, because, number one, for making me feel like I'm an expert when I just inherited this program, and I'm trying to make it work. And if I can help out in any way, as you think about these issues, I'd be very pleased to. And I also want to commend you for the excellent work you're doing, because every state should be so lucky as to have a number of people who take time out of their private life to worry about the issue of money and politics, and to build a successful public financing system. It's very hard, I've found, to get people's attention in Maine to think about how to build a better mousetrap. And

you're obviously spending a lot of your personal time doing this, and I really commend you for it.

Thank you.

ASSEMBLYWOMAN GREENSTEIN: Thank you.

SENATOR SCHLUTER: Can you stay for a few more minutes before you have to be delivered?

MR. WAYNE: Absolutely. I'm in no hurry.

SENATOR SCHLUTER: Oh, okay. All right.

Thank you.

Mr. Ma, why don't you stay and deliver your testimony. We've heard from you before, and we are anxious to hear what you can add.

MR. MA: I'm back, and thanks again for -- I want to echo a lot of what Mr. Wayne was saying at the end. Your commitment to moving this process forward, moving these proposals forward, and hopefully-- I was saying to some of my colleagues that, hopefully, we'll be testifying in a few years in other states, with these great numbers of active participation in New Jersey in Clean Elections.

I wanted to just address a number of things that were brought up today. First, I think Assemblywoman Greenstein asked, does the citizenry feel different in Maine? I'm not going to address that directly, but I have talked to my AARP colleagues in Maine and Arizona and asked, is your life different as an advocate who doesn't make political contributions, who doesn't endorse candidates, but only is trying to influence the political process through lobbying and public support? And their answers to me, in terms of how it changed their lives, is absolutely. And it is much easier for them to advocate on behalf of the public when they know that the

candidates, the sitting legislators ran without having to take private dollars. And that, again, is anecdotal evidence, but they very unequivocally told me that it's made a difference in their lives, as lobbyists.

I also wanted to just, for the good of the order, just kind of provide some of my experience doing grassroots organizing, to maybe get closer to what the qualifying contribution number should be. And I'm not really offering a specific number, but I want to give you a sense of my experience and what a thousand contributions means. And I'll tell you both from a -- I've done petition drives, where it's just a signature, no dollar, and I've done door-to-door campaigning for New Jersey PIRG, and I've run a number of campaign offices.

New Jersey PIRG goes door-to-door, talks to people about environmental issues, consumer issues, health issues, and asks people to give a contribution at the door. And they accept cash. They're usually asking for membership, large contributions, but will take anything from a \$1 to \$100, \$1,000. On a typical night, a canvasser will go out--

SENATOR SCHLUTER: Could you explain that -- you are mentioning about New Jersey PIRG. You used to--

MR. MA: I used to work as a--

SENATOR SCHLUTER: --work for New Jersey PIRG. You are now--

MR. MA: I now work for AARP.

SENATOR SCHLUTER: --on the staff of AARP, right. But you're talking about your experience--

MR. MA: Right. I'm giving just sort of my experience--

SENATOR SCHLUTER: --as New Jersey PIRG.

MR. MA: --of how long-- Going door-to-door, what it takes to get contributions. And maybe it will be instructive when we're trying to figure out what that perfect number should be. So, in my past experience working at New Jersey PIRG, as a door-to-door canvasser, and as a director of canvas offices trying to train canvassers to go out, these are some, sort of, typical numbers. One canvasser will go out typically from 4:00 to 9:00, so five hours or 4.5 hours -- 4:30 to 9:00. That canvasser will generally knock on about 70 doors. This is New Jersey numbers -- 70 doors. In that time, usually about 40 people will actually answer the door, you'll actually have a conversation with a person. And it could be just a door slammed in their face, but somebody is home. And out of those 40 people who they speak to, depending on how good the canvasser is, anywhere from 5 to 10 -- let's just say, on average, seven people will actually make a contribution. So somewhere around 20 percent of the people you actually speak to will give.

Now, again, this is for environmental issues. Usually, there is 90 percent support for the actual issue, but not everyone obviously gives you money. And of course, New Jersey PIRG canvassers are asking for more than just \$5, so they're not exactly translatable. But if you think about it this way, if somebody was to run for office, knocking on doors by themselves using these numbers, they would need to go out for 142 nights to get 1,000 contributions. That's obviously a long time.

Now, if you had some volunteers -- let's say you had five volunteers that are doing it. All five volunteers would have to go out for 28 nights or so. So literally, every day for a month with five different people. So 1,000 is a fairly significant number, and it is a challenge. I'm not saying it's easy or hard, but it is definitely a challenge to get that many people to

give you a financial contribution. Now, \$5 is not that much. So maybe the numbers are a little bit easier to achieve.

Now, let me also just give you my experience doing petition drives. And I've done a number of petition drives where we're just trying to show public support and not ask for money. And generally, petition drives are not done door-to-door, but they're done in public settings in a mall, on campuses, and where there's high traffic, and you're just stopping a person for a little while. Generally-- I did a petition drive in Indiana when I was in grad school, and we got over 2,000 signatures on a petition, and I organized for about three or four weeks beforehand and got about 70 volunteers to help me achieve that 2,000 petition number.

The general experience is, a fairly new petitioner will get about five to 10 signatures an hour. A really, really well-trained petition signature collector can get 20, 30 signatures in an hour. So I'm just kind of throwing that out there as numbers that you can think about when you're trying to determine what the right number is for qualifying, through some previous grassroots experience.

Let me also just address the whole -- connecting the dollar amount that you receive in public financing with the dollar amount you raised when you're trying to qualify. And I'm reluctant, and maybe this is just a philosophical reluctance, but I'm reluctant to connect those two. Because I don't believe we should be creating campaign laws that essentially determine that you're qualified because you are able to raise money. To me, in a democracy, being a qualified candidate does not mean you can raise money.

And in New Jersey, with our gubernatorial system, you qualify for public funds when you raise X dollars. And I think that's a backwards system. And I've gone around and I've talked to many people, and I've said, "Does anybody know what you have to do when you're running for governor to qualify for public funds?" And when I asked that question to a general audience, they usually say, "I don't know. Petition signatures or is it polling? How do you demonstrate you're qualified?" And when I say you have to actually show that you can raise X number of dollars, people are always taken aback, because it doesn't make inherent sense for a candidate to demonstrate they're qualified by raising lots of money. It just -- they should be disconnected things. To me, qualified candidates are candidates that have popular support, that have good policy ideas, that can represent, and lead. Not people who can raise money.

So connecting the dollar amount that you raised through qualifying to the dollar amount you get later, I just think, philosophically, is not the right way to go. And I think the Maine model of \$5 is really not about the money, but it's about the people. If you can demonstrate that people actually support you, then you qualify for public funds. And as I said, I've done a lot of petitioning. Oftentimes, somebody really will just sign a petition just to get you out of their way. But if you want to get them to demonstrate real support, just even putting a small dollar amount, \$5, ensures that the people signing the petition really do support you.

In Maine, I think, and Arizona, the model of Clean Elections, it's really about getting real people to support you. Not raising money. I don't think the qualifying contribution should be about raising money. It should be about demonstrating public support.

One of the concerns from Connecticut was this loophole -- it's a little bit of a loophole and potentially could end up being a pretty big loophole -- that allows leadership PACs to make contributions to Clean candidates and call them *in-kind*, and they can make unlimited contributions to Clean candidates. And my initial reaction to that is that seems like a giant loophole that now muddies up the Clean process. That is not the situation in Maine, that's not the situation in Arizona, that's not the situation in the pilot in New Jersey. And I would implore the Commission, as you write your report, to ensure that whatever passes, in terms of an expanded version in New Jersey, that we do not allow for a loophole that allows leadership PACs, or any PACs really, to make unlimited contributions to a Clean candidate and not count that against their Clean funds. This is clearly something we have to protect against to keep the system pure.

Another thing I want to say is, dollars that are spent essentially electioneering, whether it be from an outside organization, whether it be from a political party, or whether it be from a running mate, need to be counted. And Mr. DeLuca had brought up the scenario of, if you decouple the candidates -- and I believe you should decouple the candidates, because they are elected separately. And in Assemblywoman Greenstein's case, clearly it's a split district, people voted for the individual, not for the party. And so we need to provide public funding to the individuals, not to the parties.

What happens when one candidate runs Clean and one candidate from the same party is running--

SENATOR SCHLUTER: Dirty.

MR. MA: --not dirty -- but privately funded? If they are using their private dollars, and let's say their opponents are running Clean, if the one privately funded candidate is spending money on him or herself, fine. But if that candidate is saying, "Vote for me and my running mate," then those dollars are now essentially being used to help this one candidate. And what would happen -- what should happen, in my mind, is the amount of money that the opponents get to spend will increase. Similarly, in Maine, you have a publicly funded limit. But if there's a privately funded individual spending money on behalf of an opponent, your limit increases -- it matches dollar for dollar, up to a certain point. So, in that case, we should ensure that the publicly funded candidates are compensated for any private money being spent to help their opponent or to hurt their candidacy.

And I also think, in terms of simplicity, we need to make a very clear language in our future legislation that basically says, "any money being spent" -- in my mind, really, in New Jersey, the election period, I think, is longer than in Maine, where they basically have a rule -- "within 21 days of an election"; but here I think it's more appropriate to have "within two months of an election day." If you're sending out any mailings, spending any money, doing anything communicating with the public with the candidate's name, or face, or appearance, or likeness, then that it should be considered electionary expenses, and we should put that into the Clean Elections system. If I'm running Clean, and somebody else is spending money with my face on it, then that needs to be taken into account with our system.

I don't think there needs to be a seal of approval, per se, but I think it does make sense, just very simply on the ballot, if you ran Clean, it will just say, "Clean Elections candidate." It doesn't have to say "Seal of Approval, the State of New Jersey really thinks this person is great," but you're just explaining to the voter that that candidate ran Clean on the ballot. And it's a simple thing to do.

In terms of how much money should be spent per candidate, Mr. DeLuca was worried about, "Well, what happens if you're in an uncontested race, and all of a sudden this person now qualifies for Clean money. They're getting all kinds of extra money, even though they're not even running against anybody." Again, I think the Maine model and the Arizona model have provisions where if it is uncontested -- there's no one else running -- you get less public money. You still need some money to run a race, to get your name recognition out, but you get less. And I think that makes perfect sense.

But it should be a significant amount of money, because I think we've all heard the story of the 17-year-old, write-in candidate who ran for, one, the mayoral seat. I think it was in Ohio. So if you're running uncontested, of course, there is some concerns of write-ins and crazy things happening. The candidates who qualify should still get some money, but I don't think it needs to be as much.

And I also think the limit should be based on how much we spent previously. In our current New Jersey pilot, I believe the way it works is, the amount of public funding you get is based on how much was spent in the previous two elections, multiplied by 0.75. So if we do that in the future, there are a lot of very Democratic districts, or very Republican

districts, where the incumbents spend very little money, because they didn't have to try that hard. They won their primary and then their general election. There wasn't a lot of money spent. In that case, with the Clean Elections in the future, there would still not be a very large Clean Elections allocation, because we are using that formula. So I think we solve the problem of just pouring money unnecessarily into races.

Now, there are, of course, races that are very expensive in New Jersey. And I think it would make sense to have a limit that's higher in those districts, so that candidates who wanted to succeed in those districts would have at least a competitive chance at it.

Regarding making extra donations to the fund, I absolutely think that, voluntarily, if somebody wants to write out a check to the New Jersey Clean Elections Fund, let's let them do it. We need a stable source of funding. We need to make sure that the fund is strong and that candidates really can run Clean. And I know that if I had the opportunity to write a check to the Clean Elections Fund, I would do it, just like I donate to the organizations I support. I would absolutely support Clean Elections. I think we should allow an opportunity for people to support Clean Elections in that way. And maybe do a license plate, figure out different ways to fund to provide extra money towards that fund.

Regarding one of the things Ms. Matsen said was, there should be a certain date to expand to 40. And I've said it before, I think the sooner we get to 40 the better. And if we don't, if whatever is passed, hopefully, whatever expanded version of Clean Elections we have, if it's not all 40 districts in 2007, then I think the law should explicitly say it will be 40 districts in 2009 or 2011, and here's the money for it, and here are the

rules for it, and we are setting it in stone. What we currently have in our pilot is, we did it for these two districts this year, and there's sort of a recommendation that it be expanded to four. But it's not enforceable sort of just to -- a nice loose language. I think we have a golden opportunity here, upcoming in 2006, to pass an expanded Clean Elections program. I would not want to see that opportunity be lost. Nor would I want to see, we go through a pilot for two more years and then that opportunity be lost in four years or in six years. So, if we do pass an expanded Clean Elections, let's create a law that gets to 40 districts eventually, and it's in the law. I think this is a very, very good program. It needs to be supported, and we need to do everything we can to foster this program's growth. And if it can't happen soon, we should at least ensure that it will happen in the future, with very specific dates and with a very specific mandate through legislation.

In terms of seed money, I think again we should just use the Maine model, which is -- the contribution limit to seed money is \$100. I think our current pilot says \$200, but 100 is much more achievable for the average people. And again, as a former New Jersey PIRG canvasser, I can tell you, even in the richest communities, how hard it is to get even a \$100 contribution from any one individual. The average person can afford 20, 25, 5, 10 -- those kinds of contributions -- but when we start getting above \$100, it becomes a fairly inaccessible avenue for average people when you start having to go to the affluent to get those kinds of dollar amounts. So I think \$100 seed money limit is a more appropriate one, and I agree with, I think, almost everyone in that \$3,000 is too low for the aggregate amount of money you can spend.

I do want to say, there was mentioned before that: has this been a success in New Jersey, has it not, did we fail, did this pilot work or not? I absolutely, for somebody who walked around New Jersey for six months trying to get Clean Elections in New Jersey, I absolutely feel that this is a success. The fact that there are two sitting legislators in New Jersey that have run Clean and won is a tremendous success for New Jersey, and I think all of -- especially Assemblywoman Greenstein, who helped sponsor this bill through the Legislature -- but the entire Commission should be very, very proud of the fact that this, despite all the obstacles, despite all the, kind of, clunkiness, and despite the fact that this was a pilot that just sort of started and people didn't really know about it -- the fact that we have candidates who ran Clean and won, is to me a wonderful success.

And I do want to mention, too, there's sort of this funny, how come we couldn't educate people more, why wasn't there more fanfare about this law? And I remember when the law was passed. I was obviously very committed to it. There was a number of reform groups who were very committed to it. And we were working with Governor McGreevey at the time, and were saying, "When are you going to sign this bill? Give us good, ample warning, and we will turn people out, we'll do lots of fanfare, we'll do a huge news conference. I mean, this is a great celebration that this law is going to be passed." He called us a few days before the actual bill signing and said, "We're going to do a small bill signing in the outer office, not a lot of fanfare, don't contact the media, we'll do it for you," and there was sort of this very weird thing. We went there, not a lot of fanfare, not a lot of media attention, and, of course, we know the very next day he resigned or he announced that he was stepping down from the governorship.

So the very passage of the bill lost a lot of the momentum because McGreevey was thinking about other things at the time. And I think some of the challenges we had this year are very unique to the fact that it was the very first time we were trying it. When the bill passed, there was very little fanfare. And I think as we move into the future there's going to be much more public knowledge about the law.

I also want to quickly just mention that I think online reporting can really help solve a lot of the short-term problems, in terms of figuring out when the matching contributions will kick in. The Internet can create a whole number of conveniences that can allow us to require almost instant reporting of spending and campaign contributions, and we should definitely look into creating some sort of online reporting requirements. I've actually sat through ELEC looking through the paper reports, and it's just a disaster. And if we can get some of these things online immediately, starting from when the candidates get the money, to when it's reported to ELEC, it's going to make it much easier for the citizens, much easier for the candidates, and it will allow for much quicker turnaround. And I do think we should clearly fund ELEC to the appropriate level so that they can create such a system.

I have a note here that just says, "education checkoff," and I think what I'm trying to tell myself is, we should probably have a checkoff on tax forms that allow citizens to contribute to the fund. So we cannot only fund the fund, but also fund education.

And this is a minor note. I'm not a constitutional law expert by any means. I'm not even a constitutional law novice, but I think there should be -- and I would turn to some of the experts in front of me -- but

there should be language about severability. If any piece of this legislation is unconstitutional, if there's one thing that we're trying, we obviously don't want to throw the baby out with the bath water and have the whole thing unconstitutional. So we should have some severability clause so that the whole thing is not thrown out. And you're nodding your head, Assemblywoman. So I hope you know what I'm talking about.

ASSEMBLYWOMAN GREENSTEIN: I know what you're talking anyway.

MR. MA: Okay, good.

And then the last thing I want to say is, I think, and I don't exactly know how to do this, but I think it's so important to have a very stable source of funding for this program. There is a number of reasons I can think of where certain politicians might not want to fully fund this program. Whatever we can do to ensure that this program not only exists, but is fully funded, we need to do.

And I think Massachusetts is the clear example. It's a little different what happened in Massachusetts. They passed the law on the ballot, but the legislature ultimately was responsible for authorizing the funds for it, and they never did it. But we clearly need to ensure that whatever funding mechanisms exist for the Clean Elections Fund, that they're very stable. I don't know if we tie it to the lottery or the casino fund, I don't know, but clearly we have to make sure that this is a priority.

And that's all I have again. I appreciate you inviting me back up to speak, and I'd be happy to take whatever questions.

ASSEMBLYWOMAN GREENSTEIN: Mr. Chairman, I'm actually being told by our OLS gentleman that -- by Frank -- severability is already built into these.

MR. MA: Well, whatever we expend-- My understanding is, whatever law passes in the future is a brand new law, and whatever has already passed, sort of, can be a model. But anything could happen for the future, so I'm saying whenever we pass a thing in the future, we should take the good lessons we've already learned and make sure they're still in there.

ASSEMBLYWOMAN MURPHY: Frank, excuse me, but could any legislature at any point in time amend the law?

MR. PARISI: Are you referring to the current law?

ASSEMBLYWOMAN MURPHY: I'm referring to any law that is passed?

MR. PARISI: Absolutely. Unless there is something specific in the Constitution which says that you can or cannot do something. Any law that comes along has greater precedent over anything that is previous to it.

ASSEMBLYWOMAN MURPHY: And can this Legislature bind future Legislatures to a dollar sum for commitment to this program?

MR. PARISI: No. Absolutely not. The only way you could do that is by a constitutionally dedicated fund.

ASSEMBLYWOMAN MURPHY: Right, okay.

Thank you.

SENATOR SCHLUTER: Mr. DeLuca, questions of Mr. Ma?

MR. DeLUCA: No, sir.

ASSEMBLYWOMAN GREENSTEIN: Nothing, thanks.

SENATOR SCHLUTER: Assemblywoman, when you were nodding, you were nodding in agreement, not nodding--

ASSEMBLYWOMAN GREENSTEIN: Well, when I nodded before, I was just nodding that I knew what he was talking about. (laughter) Then Mr. Parisi filled me in on the facts.

SENATOR SCHLUTER: All right.

Ms. Murphy?

ASSEMBLYWOMAN MURPHY: I do want to ask -- cannot contributions be made to ELEC in the name of the Clean Elections campaign at this point in time?

MR. PARISI: The law provides, in the section which sets up the Clean Elections -- Fair and Clean Elections Fund -- Section B, Paragraph 3, says, "voluntary donations made directly to the fund." So someone can make a contribution if they want.

ASSEMBLYWOMAN MURPHY: Yes, you can. They'd be happy to receive it, I know.

MR. MA: Yes. And I'm sort of echoing the whole idea of, if it's a \$6 contribution, it gets kicked back. We should obviously change that so that any additional money made out through the Clean Elections Fund will just go to the fund. But that will just still count as one qualifying contribution.

SENATOR SCHLUTER: I have a couple of questions.

Again, the first question is going to be the last question I asked Ms. Matsen, is I hope you're going to attend these meetings, because your input, just like her input, with all of your experience is very, very helpful to us. It gives us another resource to examine this whole process.

MR. MA: I'd be happy to. Thank you.

SENATOR SCHLUTER: Okay, thank you.

Now, one thing that you talked about, the Clean Elections amount of funding that each Clean candidate will get. And in this go-round, my understanding is that they took the election reports for the last two years and they totaled up the total amount. But if they had a candidate who spent a lot of money wheeling some of those funds to other districts, that was counted as an election expense. So, I think, yes -- it's part of your election disbursements.

MR. MA: Right.

SENATOR SCHLUTER: And don't you agree that it should be the clear campaign expenses, not transfers to other candidates and things like that?

MR. MA: At first blush, it seems to make sense that we would be focused on what they're spending to run for office in that district.

SENATOR SCHLUTER: To run for office?

MR. MA: Yes.

SENATOR SCHLUTER: All right.

Now, you talked about the seed money -- \$200 being too much, but the seed money, according to the law, actually says up to \$200.

MR. MA: Right.

SENATOR SCHLUTER: So in New Jersey, instead of 15 \$200 checks, you can get 30 \$100 checks.

MR. MA: Right.

SENATOR SCHLUTER: So that there's no problem there.

MR. MA: Well, I'm just saying, I would set the limit at 100, up to 100.

SENATOR SCHLUTER: Limit at 100, sure.

Now, when you talked about your experience, which has been very good and I'm familiar with it, and you talked about petitioning and you talked about going door-to-door for PIRG, and you can make 40 contacts. I'm sure if you ask Ms. Murphy and Assemblywoman Greenstein, when they go door-to-door, they're lucky to go to 10 a night, because the people will grab them and say, "What are you going to do about my taxes and the garbage and everything else?"

MR. MA: Right, right.

SENATOR SCHLUTER: So the number that you can contact and try and sell is even less than under your model.

MR. MA: This is -- and it is a model. PIRG has learned how to canvass. And you really could spend 20 minutes with each person and go through all these different issues. But the model for the PIRG is to have a very short, what they call, a *wrap* or a *script*. That you stay for about 45 seconds, and every response that the person is giving you, you're getting back to the point that you're there to raise money, get membership, whatever it may be. So well-trained canvassers are taught how to do this. But yes, it easily could be much harder to raise these \$5 contributions than what I'm putting out.

SENATOR SCHLUTER: I think, and on that point, I think we ought to research this. And I think Peter Kelly, an associate of Mr. Parisi, has some information. I think the labeling on the ballot of Clean candidate, or other kinds of designations, has come under legal challenge in different

jurisdictions and should be checked out. Because I happen to agree with you that it might be a good thing. But I think there's some legal problems there.

MR. MA: Clearly, if there's constitutional issues--

MR. PARISI: Actually, if you want me to speak about that, I can just a little bit. Actually that was a question I had from Mr. Wayne and asked him, in fact, what the situation is in Maine. And the situation in Maine is, in fact, that there are no designations on the ballot. As he said in his testimony, his feeling was that there would be a lot of opposition from people who were not Clean Elections candidates, because they would feel that they were being unfairly characterized as dirty candidates. And I think that that raises an issue that, what the general perception would be, because the ballot-- There is no problem, I think, if you have any campaign literature that identifies you as a Clean Elections candidate. But if you have the State identifying you specifically as one kind of a candidate or another, the State is, number one, giving you a certain kind of a imprimatur, and number two, it is making a distinction, which may cast unfavorably upon an individual. And therefore, there may be an equal protection problem.

Now, there's no case, on point, on this. The only issue that's come up is in Colorado in regard to term limits, when there was an initiative to put term limits on the ballot, and say that certain candidates rejected term limits. That was thrown out by the United States Supreme Court, and it was found that you could not put somebody who was in favor of term limits or not. And therefore, by analogy, it may be a court could find the same thing for Clean Elections.

SENATOR SCHLUTER: That is what comes to mind, Mr. Parisi -- that it was a term limit thing that was put on there, and there has been case law on that. So we'll have to--

ASSEMBLYWOMAN GREENSTEIN: Mr. Chairman, I do have a question. Right now, under the election law, you're allowed to put slogans, aren't you?

MR. PARISI: That's correct.

ASSEMBLYWOMAN GREENSTEIN: Now, what if somebody had a slogan -- Mr. Clean Election, or something like that? (laughter)

MR. MA: But I guess the person who's running with private dollars could also use that slogan.

ASSEMBLYWOMAN GREENSTEIN: Mr. Private Money. (laughter)

SENATOR SCHLUTER: You're not allowed to have slogans on the general election ballot, only on the primary ballot.

ASSEMBLYWOMAN GREENSTEIN: Oh, okay.

ASSEMBLYWOMAN MURPHY: Right. And everyone on the primary ballot could say, "I'm a Clean Elections person."

MR. MA: Well, I think this is worth exploring. And I'm not sure, but I think that either the Arizona law or some municipalities have passed Clean Elections as well. I think there is some law somewhere in this country that allows for the Clean Elections candidate on the ballot to say, "Clean Elections." So maybe there will be, if there's not already a suit, a suit soon that we can look at. But something to explore.

I know -- I just thought of another thing I wanted to-- I know you've been wanting -- you've been asking, is it worth connecting other

campaign reforms along with this Clean Elections? And I think there's some value to that. There's also some concern that I have that it's going to distract from the bigger picture, which is, let's make Clean Elections happen. But I do want to say, at the very least, we shouldn't connect achieving Clean Elections with weakening other parts of the law. And I think that's an important point to state, because in the McCain-Feingold law, for instance, when that passed, one of the compromises was to raise the individual contribution limits. The same thing in Connecticut, although they've done many, many wonderful positive steps forward, one thing they did was raise the individual contribution limits for governor. And I don't think there's any reason why, if we're moving this Clean Elections bill forward, there's any reason to weaken any regular election financing rules in any way.

SENATOR SCHLUTER: Good point.

ASSEMBLYWOMAN MURPHY: I just have one question. One of the things you spoke about was the fly-by-night candidate or something like that. Who determines whether I am really a candidate or in someone's eyes I'm not? Who determines but the voters?

MR. MA: Right. And the point I was trying to make is, how do we really set that qualified candidate limit correctly? And I think clearly, if the number is: "You need to get one contribution of \$5," you might get fly-by-night candidates. But if there is a reasonable, sort of, level to reach where you have to have some bit of real public support, then we can provide them public financing. I was just sort of playing it out. I was wondering if the case in Maine was the voters kind of feel like there's all these people -- because it's only 50 contributions -- there's all these people

who have no real public support. They get 1 percent of the vote or less, but they're all qualifying for Clean Elections. And the sense was that that wasn't happening.

I think that is a concern in Arizona, though, that there are these candidates who are qualifying for Clean Elections, have very little real public support, are running for office, and there's complaints that we're wasting tax dollars and these people have no real shot at winning, their poll numbers are extremely low, what can we do about that? So I do think that there's a balance and we do need to have a reasonable threshold. And what that exact number is, I'm not sure. But I think the consensus is 1,000 \$500 (*sic*) is probably too much.

SENATOR SCHLUTER: One thousand \$5 contributors.

ASSEMBLYWOMAN MURPHY: And from the fact that in only one half of one district, so to speak -- one party, in one district, qualified this year. And we had a lot of good candidates.

MR. MA: Right, right. I agree.

ASSEMBLYWOMAN MURPHY: How do you decide they were qualified candidates? We shouldn't have given them the money, we knew they were going to lose. We knew, theoretically, that in a Republican district the Democrats would lose--

MR. MA: Right.

ASSEMBLYWOMAN MURPHY: --and in a Democrat district, the Republicans would lose; and the Green Party, who's never had anyone elected, probably would lose. So we shouldn't have given them any money to begin with, perhaps. But they took the risk and we did too. And they worked hard and pinned a lot of hopes on the effort they put forth.

MR. MA: Right, right.

ASSEMBLYWOMAN MURPHY: Basing it on the fact that the public would be so excited, so enthusiastic about the fact that they were willing to commit themselves to this and take the loss, that they did it.

MR. MA: Right.

ASSEMBLYWOMAN MURPHY: So I don't know how you can say, in theory, they probably weren't -- they weren't qualified because they didn't win.

MR. MA: Well, I think you make a very good point, and I don't -- *qualified* is obviously a very subjective term.

ASSEMBLYWOMAN MURPHY: Yes.

MR. MA: But I do think in this case, in this year, there were very qualified candidates who did not meet the threshold, which is why we're saying, I think unanimously, that 1,000 \$500 as the threshold is too high. If there are that many who seem to be very qualified candidates not being able to reach the threshold, then the threshold is probably too high. So it's definitely worth exploring, and I think it's a point well taken, what you're saying.

ASSEMBLYWOMAN MURPHY: And I'd like you to think about the primary.

MR. MA: Yes.

ASSEMBLYWOMAN MURPHY: Because to me, in many instances, a lot of people who might not decide to run in the general, or might not ordinarily run in the general, do run in an open primary.

MR. MA: Right.

ASSEMBLYWOMAN MURPHY: And if you are going to fund primaries, you could spend a lot of money on candidates who will run for primary maybe two or three years in a row with no hope of winning.

MR. MA: Right, right.

ASSEMBLYWOMAN MURPHY: I don't know how to explain it, but primaries-- I guess, because I come from an open primary county and we have huge primaries, everybody who ever thought of doing anything, quite often, under some higher offices is a candidate.

MR. DeLUCA: But they would have to qualify.

MR. MA: They would have to qualify.

ASSEMBLYWOMAN MURPHY: But how do you qualify?

MR. DeLUCA: By raising the money.

MR. MA: A thousand signatures.

ASSEMBLYWOMAN MURPHY: Well, most of them probably could, if they are of the primary party.

MR. MA: Well, I don't know.

MR. DeLUCA: I don't know.

ASSEMBLYWOMAN MURPHY: I don't know. It'd be interesting to find out.

MR. MA: And that's why you've got to get to that right number where, if you're just like, "Oh, I'm just going to run, throw my hat in, just for fun." You're not going to do it for fun if you've got to go get a thousand contributions. But if it's 20, maybe you would. So we've got to figure out that right number. And I testified earlier, on a previous date, saying we absolutely need to include primaries. And this is, in many cases, where a lot of the races are won. But we need to set a threshold to prevent

anybody from throwing their hat in the ring, but also keeping the process open so that the people who really have public support can run for office and win. And that number, I think, is sort of elusive. A thousand might be where we're settling, and I don't think we'd be opposed if it was 1,000 or so, learning from this. But we need to set a threshold that allows for real candidates, who have real public support, an opportunity to run Clean.

SENATOR SCHLUTER: There's another measure of qualifying as a candidate which we haven't mentioned, and that is a number of petition signers.

MR. MA: Right.

SENATOR SCHLUTER: And I would venture that Assemblywoman Greenstein, and former Assemblywoman and former Freeholder Murphy will tell you that 100 signatures to qualify for the ballot for the Legislature in New Jersey is a pittance, that's small. That's small potatoes. And this is another subject, but it's the whole thing of qualifying, and that is, maybe the number of petition signers. I know there was another effort on this business of a convention with delegates, to have 500 petition signers. They wouldn't be raising money, but it is a measure of their ability to get support. And that is something that-- Maybe we can't consider that in this thing, but--

ASSEMBLYWOMAN MURPHY: And at the same time, I'd like to say, maybe every county should have an open primary.

SENATOR SCHLUTER: Yes.

ASSEMBLYWOMAN MURPHY: And it removes the authority of a chairman--

SENATOR SCHLUTER: Sure.

ASSEMBLYWOMAN MURPHY: --to make the primary ballot and knock other people off.

SENATOR SCHLUTER: Try to get that through the Legislature. (laughter)

ASSEMBLYWOMAN MURPHY: Oh, you're kidding. That's why I retired.

MR. MA: Now we're tackling some other -- some thorny issues.

ASSEMBLYWOMAN MURPHY: But one does lead to the other. You're correct. You can't look at any one of them singly, because they all fall on the other one, in some manner.

MR. MA: Right. A lot of these things are connected. But there's no reason why you even have to have a \$5 contribution. You could just say to qualify for Clean Elections you need to get 1,000 signatures from eligible voters. I'm not recommending that, but--

ASSEMBLYWOMAN GREENSTEIN: I'm not sure the signatures on the petition -- although most people will only sign if they support the candidate. It doesn't really say that. And so people can sign when they're -- maybe they like your party, or whatever, maybe they don't know much about you, but they may sign anyway. They're not really committing themselves to anything. I think when you give money, that is more of a commitment.

ASSEMBLYWOMAN MURPHY: Right.

MR. DeLUCA: There's a lot of peer pressure on petitions, too. People go -- families and--

ASSEMBLYWOMAN MURPHY: You do have a cocktail party and you look people right in the eye.

MR. DeLUCA: Yes. Senior centers.

ASSEMBLYWOMAN GREENSTEIN: It doesn't say that they're going to vote for the person.

MR. MA: And that's what I think the Maine model does perfectly well. It puts that dollar amount on there to make the contribution a little more real, but it doesn't put it so high that it keeps anybody, who ultimately wants to participate, out. And I think it makes a lot of sense.

I also wanted to just quickly address -- I thought of the whole front-loading model, which I believe is the model in Arizona and what they just passed in Connecticut, which is in districts where it's heavily Democratic or heavily Republican and the primary is the more significant election. They front-load the money there, and I think that makes a lot of sense, in the future, for us.

SENATOR SCHLUTER: Well, let me tell you, what Ms. Murphy has said about an open primary in her Republican Party, in Morris County, works. And it works very, very well. And it is something that they have a very strong feeling on and they treat it as a religion. I don't think that we're going to come to advocate that across the state, but it's something that, in reform, should be recognized.

MR. MA: I think that is a very big issue. To me, any reforms that are going to open up the process to a more democratic process, where real people have a say, is a good thing. If one chairman is deciding who is running for office and who is not, it doesn't sound very, and small *d*, democratic to me.

SENATOR SCHLUTER: Even some who are not chairman decide. (laughter)

ASSEMBLYWOMAN MURPHY: Well, that is true, too.
Sorry.

SENATOR SCHLUTER: Any more questions. (no response)
Thank you very much, Mr. Ma, and we will see you at future
events.

MR. MA: All right. Thank you.

SENATOR SCHLUTER: Marilyn, have you made your point
with Mr. Parisi about wanting to testify on the 9th?

MARILYN CARPINTEYRO: No, I haven't.

SENATOR SCHLUTER: Do you want to come up here? And
I have a question of you.

Indicate who you are and--

MS. CARPINTEYRO: My name's Marilyn Carpinteyro, and
I'm an organizer for New Jersey Citizen Action. Do you have a question for
me?

SENATOR SCHLUTER: Well, would you'd like to testify?

MS. CARPINTEYRO: Oh, yes. We'd like to present our
detailed recommendations to the Commission on the Friday, December 9
hearing.

SENATOR SCHLUTER: And would you like to do that in the
2:00 to 2:30 block of time?

MS. CARPINTEYRO: Yes, 2:00 to 2:30 would be perfect. We
can definitely do that. And we'll stay the whole time of the sessions.

SENATOR SCHLUTER: Sure. And we would like you to, as
you always have -- yes.

Do you have anything to add?

MS. CARPINTEYRO: No. I don't have anything to add. We've been in communication with Public Campaign in Maine and Arizona and Oregon. So we've been reaching out to all our affiliates and allies -- reaching into them, asking them for specific details and recommendations. So we'll provide that.

SENATOR SCHLUTER: Thank you.

I have a question. Because when Mr. Ma talked about soliciting for membership for PIRG, I can remember Ms. Salowe-Kaye, in Monmouth County, where she was talking about people who were hired by Citizen Action, or people who were members of Citizen Action, were being paid to go around and to get membership.

MS. CARPINTEYRO: We have a canvass -- we have a paid canvass--

SENATOR SCHLUTER: A paid canvass?

MS. CARPINTEYRO: --that go out, just like PIRG, to talk about the issues.

SENATOR SCHLUTER: Talk about issues?

MS. CARPINTEYRO: Yes. To--

SENATOR SCHLUTER: Okay. Was that paid canvass used at all by Citizen Action to get people to contribute to the Clean Elections?

MS. CARPINTEYRO: No. Oh, you're asking that. Did we use paid canvassers to ask for donations for the candidates? No.

SENATOR SCHLUTER: Yes, okay. Because that would have been a--

MS. CARPINTEYRO: That would have been an in-kind contribution.

SENATOR SCHLUTER: --in-kind, yes.

MS. CARPINTEYRO: What we did was relay the fact of all the candidates who were running Clean and how to make contributions, and we did education, strictly independent of what our canvass was doing with membership. So our stuff was strictly nonpartisan, nonprofit, and we made all information about all candidates accessible to everyone. And we drafted materials to educate everyone on it.

ASSEMBLYWOMAN MURPHY: Do you have any sense of how many of your members made contributions?

MS. CARPINTEYRO: No, because we did not--

ASSEMBLYWOMAN MURPHY: No. I'm just curious, because I wondered -- the organizations that were espousing this so strongly, like AARP and some of the others, I wondered if any of their members gave any money?

MS. CARPINTEYRO: Well, we actually reached out to the candidates in all the districts, when we started this, to get their information. Because obviously, we didn't know where to send anything--

ASSEMBLYWOMAN MURPHY: Right. That's right.

MS. CARPINTEYRO: --or even how to get in contact.

ASSEMBLYWOMAN MURPHY: No. I just wondered if you had a feel from it.

MS. CARPINTEYRO: So we've heard that they have gotten information from some of our members, because when we asked, "Well, who should this go directly to?" because some of them have P.O. boxes, and some of this. So they've all addressed to us that, thanks to our education, they've received contributions.

ASSEMBLYWOMAN MURPHY: Good.

MS. CARPINTEYRO: So, I mean, again, I could probably go to all the candidates and see how many.

ASSEMBLYWOMAN MURPHY: No. I just wondered if they had been (indiscernible).

MR. MA: Can I address that too? We did a similar -- working with Citizen Action -- similar mailings in a very nonpartisan way, encouraging our members to make contributions to any candidate or all candidates who are running Clean. I know one person in District 13 got at least 20 of her friends to make contributions. I know one AARP Chapter, the president made an announcement and almost everyone in the Chapter participated in some way.

ASSEMBLYWOMAN MURPHY: That's wonderful.

MR. MA: But it was very difficult in terms of just the paperwork. We did a mailing saying, "Make contributions to the candidates you support, or all of them," but we gave four copies of the contribution form -- were showing all these different addresses. It was a very clunky--

ASSEMBLYWOMAN MURPHY: Yes.

MR. MA: And for one individual to make multiple contributions, or writing different checks, writing different -- filling out different forms. So hopefully, whatever new version of our election laws will simplify the process for citizens.

ASSEMBLYWOMAN MURPHY: Yes. You know, you're right. It was very cumbersome for anyone who had a good heart and poor eyesight.

MR. MA: Yes, right.

MS. CARPINTEYRO: And just find out what we, as organizations, can do without acting as in-kind contributions. Because our understanding of the law when we spoke to ELEC and the AARP, initially when it started, was different.

MR. MA: Right.

MS. CARPINTEYRO: Until the process started getting along.

ASSEMBLYWOMAN MURPHY: Well, that's what a pilot program is, a really difficult time.

MR. MA: I think we need to, I don't know how, but create the right language that allows for grassroots, nonpartisan groups to participate in sort of an in-kind way that doesn't put us in jeopardy. What we were trying to do is help the system succeed. And there was a lot of times where our hands were, sort of, tied behind our backs. We didn't even know if we could literally list the candidate's name with their address on it, even if we were listing all of them.

And one concern is, if there are candidates that are running Clean and candidates who weren't running Clean, could we describe to the individuals how to make a Clean contribution to the Clean candidates. That scenario didn't happen, because ultimately everybody ran Clean. But if everybody didn't run Clean, I think we would actually have difficulty in terms of educating people about who the Clean candidates are, because it might seem as an endorsement.

ASSEMBLYWOMAN MURPHY: Yes.

MR. MA: Just some things to think about. But we do want to encourage, I think, the grassrootsy, real politics, democratic way of running

for office. We want to encourage that and make sure we allow for some leeway in those kinds of in-kind contributions.

ASSEMBLYWOMAN MURPHY: Thank you.

SENATOR SCHLUTER: I think you're not talking about what we could do in the law if you want to encourage Clean candidates, or encourage contributions to those who run Clean, where they have people who are not running Clean. That's a matter of Federal law.

MR. MA: No. I think there's some State--

SENATOR SCHLUTER: Your 501 C-3 status.

MR. MA: Well, we're a 501 C-4.

SENATOR SCHLUTER: Well, C-4, yes.

MR. MA: But there is some language, I think, we can put in our State law that sort of defines what in-kind means. Like Citizen Action, for instance, did do trainings to the candidates of how to -- Citizen Action, obviously, knocks on lots of door and has good experience in succeeding in that. And they did a training for volunteers and offered suggestions on how to knock on doors effectively. One could argue that that is professional advice from consultants worth \$300, and they're giving it for free, and now that's an in-kind contribution that goes against the seed money, or whatever it may be. Those kinds of things, I think, need to be encouraged, as opposed to counting against seed money.

SENATOR SCHLUTER: Can we ask our staff to check with counsel on that issue, Mr. Parisi? Did you get that?

MR. PARISI: No. What exactly is it?

SENATOR SCHLUTER: That is that -- let's see if I can--

MR. MA: Yes. How do you define *in-kind*?

SENATOR SCHLUTER: See if the proposed legislation have a provision which says that any civic organization, any public interest organization, can give instructions to those candidates who are running, who have signed a letter of intent who choose to run Clean. And then if they give it to those, that's simple enough. But does that mean that they are favoring candidates who have opponents who don't run clean?

MR. MA: Right. It's sort of, what can organizations, who are acting in a nonpartisan way, do to help the process succeed? And my thought is, if you're doing it in a nonpartisan way and you're just trying to encourage the Clean Elections process, it shouldn't count against seed money, it should count as independent expenditures. We are not advocating for one candidate to win over another, but we did want to help the system succeed.

ASSEMBLYWOMAN MURPHY: But you are in a sense, if you're training candidates. You are advocating for those candidates to win by giving them knowledge that you're not giving to candidates who are not running under the Clean Elections banner.

MS. CARPINTEYRO: We're not necessarily training candidates. I think you meant in volunteers -- of people who want to help the process.

ASSEMBLYWOMAN MURPHY: Oh, okay.

MS. CARPINTEYRO: Who want to help the process. Like, we received a lot of phone calls at Citizen Action asking, "How do we go about making contributions?" So if you go out and do an education presentation, is what we did, in the community, we weren't telling to make contributions to the candidates in specific districts.

ASSEMBLYWOMAN MURPHY: I thought you were going to train the candidates.

MS. CARPINTEYRO: No.

ASSEMBLYWOMAN MURPHY: I would think that you could go into communities and make speeches about anyone who wanted to volunteer. But I think you'd have to do that on a nonpartisan basis and go to all the partisan clubs and give them the same information -- like the Democrat Party Club, or the Republican Club, or whatever.

MR. MA: Right, right.

MS. CARPINTEYRO: That's exactly what we did.

MR. MA: Well, that's essentially what happened is, Citizen Action said, "Republicans, Democrats, whoever wants to help their candidates qualify, come to our training." It doesn't matter what party.

ASSEMBLYWOMAN MURPHY: That's wonderful.

MS. CARPINTEYRO: And we actually went into other organizations, community centers, churches, local Lions Clubs, anyone who would be-- Because we do other outreach and education, so we went out to groups and initiated the conversation in telling people that this is what's going on in your district, this is what you can do, this is how you can get involved. If they ask us how-- And we had all the materials. And every material had all the contact information for all the candidates in all the districts, to make sure that it was all just one piece of literature that everyone had -- and not favor one district over another.

MR. DeLUCA: But the rub comes, suppose you have a district in which candidates are not participating. Then any information you give about the qualifier, those who want to qualify, is inherently a benefit to

them. And you're making a statement that somehow you're providing information on those folks, as opposed to the ones who aren't participating.

SENATOR SCHLUTER: But if they did it before the people who might not want to sign a letter of intent still had a chance to sign that letter of intent, they would be doing it openly.

MR. DeLUCA: Yes.

MS. CARPINTEYRO: Exactly. So what initially had happened is that we knew that all the major party candidates -- both Democrats and Republicans in the 6th District, and the Democrats and Republicans in the 13th District -- said they were going to run Clean. There was no indication of the Green Party, at all, running at all. Literally, the minute we found that out, we changed all our materials and made corrections to everything to incorporate everything. And even the Green Party candidate did not inform the Commission about that.

ASSEMBLYWOMAN MURPHY: Wow. (laughter)

MR. DeLUCA: The Chairman ran out of the room and said take over. So I'm going to take over and say, does anyone else want to speak. Because if not, then we will adjourn the meeting and go home. It's been a long afternoon.

SENATOR SCHLUTER: You are a successful leader.

MR. DeLUCA: Yes, sir.

You should have seen me when I was the mayor -- boom, everything got through.

SENATOR SCHLUTER: Thank you, all.

MR. DeLUCA: Thank you everyone.

(MEETING CONCLUDED)