



state of new jersey

Acting Governor Richard J. Codey

PROPERTY TAX CONVENTION TASK FORCE



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- > [task force members](#)
- > [view bill establishing task force](#)
- > [convention related press releases](#)
- > [task force background](#)
- > [task force transcripts](#)
- > [task force final report](#)
- > [hearing audio](#)

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1

1 STATE OF NEW JERSEY

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4 TAX CONVENTION TASK FORCE : OF

5 - - - - - HEARING

6

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8

9 TRANSCRIPT ORDERED BY:

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the Governor, The Statehouse, PO Box 001,
11 Trenton, New Jersey 08625

12

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- ASSEMBLYMAN KEVIN O'TOOLE
- 17 ERNEST C. REOCK, JR., Ph.D.
- ASSEMBLYMAN JOSEPH ROBERTS
- 18 MAYOR JO-ANNE B. SCHUBERT
- CY THANNIKARY
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1 (Tape 1, Side A)

2 MR. VAN HORN: -- members of the press

3 and other members of the audience here today, this

4 is the seventh meeting of the New Jersey Property

5 Tax Convention task force, my name is Carl Van Horn,

6 I'm the chair of the task force; and, there being a

7 quorum here, we're going to begin.

8 I'd like to ask the members of the

9 task force just to introduce themselves briefly, so

10 that everyone knows who is here on the panel today.

11 I'll begin with the vice chairman.

12 MR. COLE: Good morning, Mr. Chairman,

13 I'm Michael Cole, I'm the vice chair, and I'm a

14 practicing attorney.

15 MR. REOCK: I'm Ernest Reock, I'm

16 retired from the Rutgers University faculty.

17 ASSEMBLYMAN ROBERTS: Hi, I'm

18 Assemblyman Joe Roberts, the Assembly Majority

19 Leader.

20 MAYOR SCHUBERT: Jo-Anne Schubert,

21 Mayor of South Bound Brook, and President of the New

22 Jersey State League of Municipalities.

23 MR. THANNIKARY: Cy Thannikary,

24 Chairman, Citizens for Property Tax Reform, which is

25 a nonpartisan organization with over 500,000

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1 homeowners.

2 DR. COLE: Susan Cole, President of

3 Montclair State University.

4 SENATOR LANCE: Leonard (inaudible -

5 not recorded).

6 MR. MALLOY: Terrence Malloy, City of

7 Bayonne, Business Administrator and CFO.

8 ASSEMBLYMAN O'TOOLE: Kevin O'Toole,

9 State Assembly member.

10 MR. VAN HORN: Welcome to our panel.

11 We are going to proceed with this panel right away.

12 Again, I welcome all of you, I thank

13 you for spending time with us today. We encourage

14 you to summarize your remarks in five minutes or

15 less; special benefits for those who speak less than

16 five minutes, because we want to have time to ask

17 questions.

18 And we will obviously encourage you to

19 submit additional written testimony to us. We have

20 statements that most of you, I think, have produced,

21 are in front of the task force members now. You're

22 certainly welcome to supplement your remarks after

23 today's meeting.

24 As you know, our report is not due to

25 the Legislature until the end of 2004, and certainly

4

1 we will not be finishing that work until the middle
2 of December, I'm sure. So you're welcome to submit
3 additional information to us subsequently.

4 Today's first panel begins with the --

5 I'm going to begin from my right to my left -- the
6 New Jersey Education Association's President Edith
7 Fulton, followed by School Board Association's
8 Deputy Director Chris Kniesler, then the Garden
9 State Coalition of Schools's Executive Director
10 Lynne Strickland, and the Education Law Center's
11 Executive Director David Sciarra.

12 Ms. Fulton.

13 MS. FULTON: Yes. Thank you very

14 much, Mr. Chairman. And I want to thank the members
15 of the task force.

16 I'm speaking today, not only on behalf
17 of our 188,000 members of NJEA, but also on behalf
18 of the members of the education community, who will
19 not have an opportunity to testify today: Our
20 colleagues from the principals and supervisors, and
21 school administrators and school business officials'
22 associations.

23 I must begin my remarks by expressing

24 our deep disappointment that this task force

25 includes no representation from the K-through-12

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1 education community; and, yet, New Jersey's

2 excellent public education system has the most at

3 stake in this deliberation.

4 Our public schools have achieved a

5 level of success that is the envy of the nation.

6 The fact sheet attached to my written statement

7 speaks for itself.

8 And even more impressive is that New

9 Jersey has reached the highest level of statewide

10 public school achievement while, at the same time,

11 closing the opportunity gap that has existed for

12 decades in our urban schools.

13 There was once another state that was

14 held up as a model for the nation for its statewide

15 public school achievement and its urban school

16 reforms; that state was California. But, today, all

17 you hear about California's public schools is that

18 they cannot attract enough teachers, class sizes are

19 soaring, facilities are crumbling, and test scores

20 are declining.

21 California's public education heyday

22 was in the 1980s, before the adoption of Proposition

23 13. That ballot initiative, much like the proposal

24 that could be placed before New Jersey's voters

25 through this process, severely capped local school

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1 expenditures across the state. It tied the hands of
2 public schools faced with huge enrollment increases,
3 aging facilities, and intense competition for new
4 teachers. Proposition 13 destroyed one of the
5 finest public education systems in our nation, and
6 we cannot allow that to happen in New Jersey.
7 Proposition 13 was borne out of
8 ignorance, lack of foresight, and oversimplification
9 of a complex issue. The high-stakes reform of New
10 Jersey's tax structure cannot be left in the hands
11 of people who may make the same mistakes. It must
12 be addressed by our Governor and Legislature.
13 The Governor and Legislature had the
14 courage to enact the first increase to the state
15 income tax in fourteen years as a first step toward
16 property tax relief. They are best able to finish
17 the job and adopt permanent tax relief in a way that
18 will not endanger our excellent public schools.
19 Make no mistake that NJEA agrees there is a problem,
20 but a constitutional convention is the riskiest way
21 to address it.
22 Already we have seen numerous opinion
23 leaders attempt to use school spending as a stalking
24 horse for property --
25 (Tape malfunction)

7

1 (End of Tape No. 1, Side A)

2 (Beginning of Tape No. 2, Side B)

3 MS. FULTON: -- school expenditures

4 are not the problem. The problem is New Jersey's

5 over-reliance of property taxes to fund out schools.

6 And we must address the imbalance of revenue for

7 public education.

8 Many organizations, including NJEA,

9 have been studying a way to address this imbalance

10 by capping local property taxes at a percentage of

11 household income. For example, if property taxes

12 were limited to four percent of household income,

13 about seven in ten homeowners would see their

14 property taxes decline. This rollback in property

15 taxes could be paid for with the revenue from

16 current rebates and with further graduation of the

17 state income tax at the higher income levels.

18 There is absolutely no reason the

19 Legislature and the acting Governor cannot adopt

20 such a plan. That course of action would produce

21 meaningful, permanent property tax relief now, not

22 in 2007, when the impact of a constitutional

23 convention would take effect.

24 A constitutional convention is risky,

25 unnecessary, and far too slow. However, if the task

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1 force pursues this avenue, we urge you to protect

2 our public schools by including the following

3 conditions in your recommendations:

4 Number one, to make T and E off

5 limits. Don't sacrifice the opportunity for our

6 urban children in the name of tax reform.

7 Number two, stipulate that the

8 constitutional convention can address only revenue.

9 Our state and local elected officials must retain

10 the authority to budget for public needs.

11 And, number three, require that any

12 tax reform plan put forth be revenue-neutral.

13 Address the imbalance of revenue for public schools.

14 Don't allow New Jersey to become the next

15 California.

16 And, number four, create a process for

17 selecting delegates that ensures representation from

18 the education community.

19 I would thank -- I thank you very

20 much, and I would be happy to take any questions.

21 MR. VAN HORN: Thank you, Ms. Fulton.

22 We're going to proceed with the rest of the panel,

23 and then we'll come back and ask questions to all of

24 you together.

25 Mr. Kniesler. And, members, we have

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1 Mr. Kniesler's statement in front of you, I think.

2 MR. KNIESLER: Good morning. I'm

3 Chris Kniesler, I'm the Director of Government

4 Relations for the New Jersey School Boards

5 Association, and we are a nonpartisan federation of

6 all the state's local boards of education. And I'm

7 here today to express our association's opposition

8 to a constitutional convention. The New Jersey

9 School Boards Association has long recognized the

10 problem of rising property taxes in New Jersey and

11 our state's over-reliance upon property taxes to

12 fund public education.

13 The NJSB welcomes an open and serious

14 discussion on property tax reform. New Jerseyans

15 pay the highest per capital property taxes in the

16 nation, while receiving among the lowest proportion

17 of state aid for education. Currently, the state

18 provides only about thirty-nine percent of education

19 funding, well below the national average of fifty

20 percent. Local property taxes account for fifty-

21 eight percent, with federal funds making up the

22 balance.

23 Nonetheless, the association does not

24 believe that a constitutional convention is the

25 proper forum for resolving this problem. We believe

10

1 that a special session of the Legislature is the

2 appropriate method to deal with this issue.

3 Article VII, Section 4 of the state

4 constitution clearly assigns the responsibility for

5 the maintenance and support of a thorough education
6 with the Legislature. The state constitution also
7 grants the authority to impose taxes with the
8 Legislature. We, therefore, believe that the
9 Legislature should exercise the responsibility given
10 to it by the constitution, rather than abdicating to
11 a convention.

12 If the state government is serious
13 about providing property tax reform quickly, then a
14 constitutional convention is not the answer. Even
15 under the best scenarios, the convention would not
16 provide any substantive change until at least 2006,
17 2007. The Legislature, however, could do it now.
18 The NJSB also has concerns about the
19 structure of a convention. The citizen delegates
20 that we hear about will most likely not have the
21 knowledge of the school finance to make sound,
22 responsible decisions. The risk of jeopardizing one
23 of the best public education systems in the country
24 is great.

25 Moreover, we share the concerns of the

11

1 other education organizations about the scope of a
2 convention. We cannot endorse a process that may
3 change the definition and components of a thorough
4 and efficient education, reduce Abbot funding, or
5 change the scope of labor negotiations.

6 The convention, therefore, should not
7 address school expenditures. The projected schedule
8 will not provide adequate time to effectively
9 examine the intricacies of school spending, nor do
10 we believe that a constitutional convention
11 delegation will have the expertise to effect
12 regional change in that area.
13 The New Jersey School Boards
14 Association appreciates this opportunity to express
15 its views on how our state should address an issue
16 that goes to the core of its quality of life. We
17 urge you to recommend that this critical issue be
18 addressed by the Legislature, in keeping with the
19 intent of the Constitution of the State of New
20 Jersey. Thank you.

21 MR. VAN HORN: Thank you, sir.

22 Now we'll hear from Lynne Strickland
23 of the Garden State Coalition of Schools.

24 MS. STRICKLAND: (Inaudible - not
25 recorded) -- suburban -- thank you. I said, thank

12

1 you for inviting me, and that we're a grassroots
2 organization of a 120 school districts or so,
3 primarily suburban --

4 (Tape Malfunction)

5 (End of Tape No. 1, Side B)

6 (Beginning of Tape No. 2, Side A)

7 MS. STRICKLAND: -- members and school
8 administrators. Our volunteer advocates come from
9 communities across New Jersey, and are motivated by
10 a common denominator: Quality education. Together,
11 GSCS represents approximately 350,000 children now
12 through it's 120 member districts.
13 Importantly, the most important point
14 is the Garden State, like the other organizations
15 you're hearing from, would prefer that the
16 Legislature, not a constitutional convention, tackle
17 the difficult issue of property tax reform. Here's
18 why, and we separate it into a couple groupings:
19 Ability in staffing. Contrary to
20 stated opinion, the Legislature can orchestrate a
21 special session to produce successful property tax
22 reform, and I talk about several important
23 legislative issues legislator -- Legislature had
24 addressed in the past years.
25 Most significantly, we go on to say,

13

1 the current Legislature has mustered the political
2 will to enact the half-millionaires income tax in
3 June, no longer holding its breath and crossing its
4 fingers when the words "income" and "tax" were
5 strung together.
6 In addition, the Legislature itself is
7 salaried and is staffed by experts. Duplication of

8 an already existing framework is expensive.

9 And the time frame matter. The

10 Legislature can tackle reform sooner than later.

11 The constitutional convention has a probable time

12 frame of three years or so before real reform could

13 be implemented. We understand there's talk of

14 speeding up the time frame by putting out a multi-

15 purpose vote to the public in November, one where

16 the question is asked as to whether the public is in

17 favor of the convention; the other would ask the

18 public to actually vote on the delegates at the same

19 time.

20 Genuine concern over how to streamline

21 the time frame has resulted in this, what we

22 consider a bad process idea, where special interest

23 influence would be enabled. Likely delegates would

24 wind up being those whom special interests, backed

25 by ready cash, already are percolating in their

14

1 pipeline.

2 Focus, date, and scope. If the task

3 force were to recommend holding a convention, GSCS

4 believes that any convention should keep its

5 discussion revenue-neutral, and should keep

6 education off the table all together. School

7 funding is extremely complicated, and a convention

8 is not the appropriate vehicle to address that

9 issue.

10 Since policy-makers -- excuse me --

11 call the shots on how state revenues are spent, to

12 what end would a convention serve the public good by

13 expanding its scope outside its task to induce --

14 introduce tax reform? It's in the best interest of

15 both children and communities for a convention not

16 to be lured into tackling school spending at the

17 same time, as how to raise revenues more fairly for

18 New Jersey citizens is asked.

19 And then we have a section, "For Your

20 Information, Schools Aren't the Culprit." Schools

21 continue to ask Trenton to help them by providing

22 them with tools that can help contain costs over

23 which they have little or no control, and we cite

24 some examples.

25 We go on to say, in the end, the

15

1 Legislature has a responsibility for fiscal impact

2 that will impact local taxpayers as much as tax

3 reform. For instance, today more than 250 districts

4 do not even receive one dollar of basic state aid

5 for regular education. Ten years ago, that list

6 numbered about 140. That list is really decided by

7 state policy.

8 Most districts in the state receive

9 proportionately less aid today than ten years ago;

10 and, actually in '98/'99, there was a split with the
11 core protected districts and the other districts at
12 50/50, and today that has gone to a ten percent
13 variance. What we're saying here is that's a policy
14 decision. The court protection is something that
15 we've always endorsed, and we continue to endorse.
16 Nearly -- the fact that nearly half
17 the regulating -- regular operating school districts
18 in Jersey do not receive state support for regular
19 education, that state aid is on a downward decline
20 for the overwhelming majority of school districts,
21 clearly shows a shift from state support to the
22 local taxpayer. The list of what districts receive
23 basic aid and how much of that aid continues -- can
24 continue to grow in the face of tax reform or not,
25 depending on state policy.

16

1 By the nature of its body, the
2 Legislature is the branch of government that has to
3 fix this imbalance of over-reliance on property
4 taxes, as well as the imbalance in the state of how
5 our schools are funded. It is time to shift the
6 contention of the issue -- from the contention of
7 the issue, accept the reality, and applaud the
8 success of New Jersey's overall success in providing
9 education adequacy for all its children, seeking to
10 do so, and to structure fiscal stability and balance

11 for all districts. Thank you.

12 MR. VAN HORN: Thank you very much.

13 Thank you very much, ma'am.

14 David Sciarra of the Education Law

15 Center.

16 MR. SCIARRA: Chair and Vice Chair,

17 and members of the task force, I want to thank you

18 for the invitation to present the position of

19 Education Law Center on the proposal for a

20 constitutional convention on property taxes.

21 For over thirty years, Education Law

22 Center has advocated on behalf of poor and minority

23 students and special -- and students with special

24 needs for an equal and adequate education under our

25 state constitution. I appear today on their behalf,

17

1 and on behalf of the 350,000 preschool to grade

2 twelve children who had the privilege and honor of

3 representing in the Abbot v. -- the landmark Abbot

4 v. Burke case. As you know, ELC represents these

5 children.

6 Changing our constitution, whether by

7 ballot amendment or by convention, is an extreme

8 step, one that only should be taken to address a

9 fundamental flaw in the constitution itself, or --

10 and only as a last resort.

11 I think you're all familiar with

12 Article XIII, Section 4 of the constitution that
13 guarantees a thorough and efficient education to all
14 children in this state between the ages of five and
15 eighteen years. Our current system of funding and
16 delivering public education is driven by this T and
17 E clause.

18 Regrettably, there is considerable
19 rhetoric, unsupported by facts, that our system of T
20 and E is so flawed that a constitutional convention
21 should be authorized to change it. But consider the
22 following evidence:

23 First, New Jersey schools, unlike the
24 rest of the nation, are, for the most part, funded
25 at a -- funded at a level adequate to provide high

18

1 quality education to its students. In 2003/2004,
2 New Jersey spent on average \$9,849 per pupil, on
3 average, only \$500 per pupil below what we spend in
4 our most educationally successful districts; the
5 District Factor Group I and J Districts.

6 And by almost every measure of
7 performance, as you've heard here from my
8 colleagues, we have one of the best overall public
9 school systems in the United States, so we know this
10 investment is yielding great dividends to the
11 economic and civil vitality of our state. In other
12 words, New Jersey does not spend too much on

13 education, despite what you may hear.

14 Second, New Jersey is only -- is one

15 of only a very small group of states that adequately

16 and equitably fund the education for its poor and

17 minority students. A recent report by Education

18 Trust, which I urge you all to read, shows that the

19 funding gap between the highest and lowest poverty

20 school districts and between the highest and lowest

21 minority districts has been eliminated in New

22 Jersey.

23 We are also signaled out, along with

24 Massachusetts and Minnesota, as providing extra

25 dollars to districts serving very high

19

1 concentrations of poor students, who obviously have

2 greater needs. In contrast, states such as

3 Pennsylvania, New York, California, and Connecticut

4 all under-fund their high-poverty and high-minority

5 schools, with the gaps in our neighbors Pennsylvania

6 and New York among the worst in the nation.

7 New Jersey is now a leader among the

8 states in assuring that all children, regardless of

9 community wealth, family income, or race, have

10 adequate resources to support a high-quality

11 education. We should take pride that unequal school

12 funding, a scourge on the national landscape, is no

13 longer tolerated in our state.

14 Third, New Jersey is one of the few
15 states now providing substantial state support for
16 K-12 facilities construction. In response to the
17 Abbot V ruling in 1998, the Legislature wisely
18 implemented a statewide program, delivering billions
19 of state aid to support local capital projects, even
20 in the most affluent communities; and, by the way,
21 providing real property tax relief for homeowners
22 throughout the state.

23 Finally, our current method of school
24 financing does place too much reliance on the
25 property tax to pay for education, but not in all

20

1 communities. On average, suburban and middle -- on
2 average, suburban and middle-income districts have
3 school tax rates in excess of the equalized state
4 average because state aid to these districts has
5 been flat for many years; the percentage of state
6 aid in their education budgets has dropped.

7 However, there's good news. As a
8 result of the Abbot rulings, most of New Jersey's
9 poorest communities now have strong state support in
10 their education budgets, providing some relief from
11 the crushing municipal burden on the property tax in
12 those communities.

13 And there's more good news. Clearly,
14 the problem of property tax over-reliance in some of

15 our communities is not of constitutional dimension.

16 In fact, the Legislature had an opportunity to fix

17 this problem last June. We wouldn't be here today

18 talking about a convention if the Legislature had

19 allocated the \$800 million generated by the

20 millionaires tax to increase the state's share of

21 school budgets in those districts with excessive

22 school tax rates. Instead, they gave it away in

23 rebates, which, as we all know, do nothing to

24 structurally lower property tax rates.

25 So, if this were California, where a

21

1 constitutional amendment, Proposition 13, literally

2 -- has literally destroyed one of our nation's

3 premier public school systems, then I think we

4 should have a convention. But this is New Jersey,

5 and thankfully our constitution has led us in the

6 opposite direction. While California's public

7 schools are now among the worst, especially for poor

8 and minority students, our schools overall are

9 arguably the best, with real, substantial effort

10 underway to improve education in urban schools,

11 serving our poorest, most vulnerable students.

12 I, in fact, would actually urge you

13 all to read the Ledger this morning, the Star Ledger

14 this morning, on the rising -- the continued

15 mounting evidence of rising test scores in our Abbot

16 districts since 1999; it's a real eye-opener that I
17 urge you to read, in terms of the improvements we're
18 making.

19 And let me make a final threat about
20 the threat of a convention to the remedial measures
21 ordered by the Supreme Court in the Abbot case.

22 Frankly, it's hard to fathom why anyone would
23 advocate -- openly advocate this position.

24 As good as New Jersey's public schools
25 are, they remain deeply segregated by race and

22

1 economics. As was true forty years ago, most black,
2 latino, and poor students attend schools in a small
3 number of districts, predominately those covered by
4 the Abbot rulings. Our public schools remain one of
5 the most segregated in the United States, despite
6 the fact that the 1949 Constitution added a
7 provision expressly outlawing racial segregation in
8 the schools; yet, for decades now, we've done
9 nothing, nothing to increase the racial and economic
10 diversity in our schools.

11 The vindication of the Abbot students'
12 rights to a thorough and efficient education under
13 our constitution must be seen against this stark
14 backdrop. While state policies consign minority and
15 poor students to separate, mostly urban schools, the
16 Abbot remedies represent an unprecedented effort to

17 ensure those students at least receive, at least
18 receive an education comparable to that provided in
19 our most successful schools. And there is mounting
20 evidence, again, of progress and improvement in our
21 Abbot schools. This is why Abbot is widely
22 recognized as the most important education court
23 ruling since Brown v. Board of Education fifty years
24 ago.

25 So a constitutional convention

23

1 threatens more than just T and E. It's a threat to
2 the most basic civil right guaranteed in our
3 constitution: A right to all -- the right of all
4 children to an education, a right deemed fundamental
5 by our Supreme Court. That right is even more
6 precious since, as we all know, there is no right to
7 an education under the United States Constitution.
8 And a convention threatens more than
9 this fundamental right. It threatens an historic
10 effort started over thirty years ago to enforce that
11 right and to make it real for minority and poor
12 children, those citizens -- those citizens of our
13 state who, lacking political power, face no
14 alternative but to seek recourse in our courts.
15 In 1997, the Supreme Court described
16 what the T and E clause means. I think it's worth a
17 reflection on that definition. The Court said:

18 Our constitution requires that public
19 school children be given the
20 opportunity to receive a thorough and
21 efficient education. That
22 constitutional vision irrefutably
23 presumes that every child is
24 potentially capable of attaining his
25 or her place as a contributing member

24

1 of society, with the ability to
2 compete effectively with other
3 citizens and to succeed in the
4 economy. The wisdom giving rise to
5 that vision is that both the child and
6 society benefit immeasurably when that
7 potential is realized.
8 Members of the task force, the future
9 of our children; indeed, our state, depends on us
10 sustaining and strengthening, not changing or
11 weakening, this constitutional vision. And I thank
12 you for the time.

13 MR. VAN HORN: Thank you very much,
14 sir.

15 Now we'll turn to questions. Who
16 would like to begin that process? Dr. Reock.

17 DR. REOCK: A question for Lynne
18 Strickland.

19 You went rather quickly over your
20 suggestions, in terms of delegate selection, in
21 terms of holding -- when the election should be
22 held. And I'm not sure I -- I got just what your
23 point was. Would you elaborate on that a little,
24 please?

25 MS. STRICKLAND: Certainly. What I

25

1 was saying was we've been hearing talk of combining
2 not only the vote on whether to have a
3 constitutional convention or not, but also electing
4 the delegates at the very same time. That seems to
5 us to be asking too much of the process that you'd
6 have to develop and get delegates to that place,
7 where they could be elected at the same time that
8 the people are being asked, do they even want to
9 have a convention. It's confusing to those who are
10 voting because the focus is split.
11 But, also, the concern is that, if it
12 streamlines into kind of a steamroll, that those who
13 are already more or less being considered by
14 specific interest groups to be electable, who they
15 may want to put forth and hopefully get some
16 representation, those that are ready, those that are
17 already "pipelined," if you will, will be the ones
18 that will surface, will have cash and campaign
19 organizations behind them, and we might not get the

20 most equitable, nonpartisan pick of the bunch if

21 it's --

22 DR. REOCK: So you would support a

23 separate election of delegates.

24 MS. STRICKLAND: Yes, we would.

25 DR. REOCK: Thank you. Thank you.

26

1 MR. VAN HORN: Does anyone else want

2 to comment on that point? Assemblyman Roberts --

3 let me have Assemblyman O'Toole -- I'll recognize

4 him, and then I'll go to you, sir.

5 (Participants speaking simultaneously)

6 MR. VAN HORN: Do you want to follow

7 up on this point?

8 ASSEMBLYMAN ROBERTS: Yes.

9 ASSEMBLYMAN O'TOOLE: Sure.

10 MR. VAN HORN: Go ahead.

11 ASSEMBLYMAN ROBERTS: The -- I guess

12 to Lynne Strickland. I share your concern that we

13 need to give diverse access to the process, in terms

14 of being able to be considered as delegates.

15 There's a little bit of a disconnect

16 in the testimony that you've offered and that some

17 others have offered, that we're not moving quickly

18 enough to address this issue; yet, suggesting that

19 we not address it in November by electing the

20 delegates, but have an additional election beyond

21 that.

22 One of the things I've wrestled with

23 is, if we truly want to have -- want to provide

24 citizens with every single opportunity to be

25 considered as delegates, an attempt to hold in check

27

1 the ability of a variety of interest groups to

2 dominate the process, it occurs to me that we would

3 want the delegate selection to be an at election

4 where we have the broadest possible participation.

5 It would occur to me that that would tend to be the

6 November election, rather than a special election,

7 where the turnout might generally be more limited,

8 where there might be the ability of a variety of

9 groups to mobilize their members and dominate the

10 process. I wonder if you -- if you have a reaction

11 to that.

12 MS. STRICKLAND: I think that it's

13 almost either way. The special interest groups that

14 are motivated, that are organized, that are

15 structured, that have funding could impose their

16 candidates or move their candidates quicker, if you

17 will.

18 But when you have it combined with a

19 general election, it's almost like some of the

20 concerns schools have about electing school board

21 members in November, is that the -- the intent and

22 the meaning and the need for real consideration can
23 get lost in the overall mix of a broad November
24 election.

25 If you had a separate election, you

28

1 will have focus. This is something that's clearly
2 important to the citizens of the state, and they'd
3 have a chance to really get their two cents in, in
4 terms of thinking and reacting, as well.

5 Also, let me -- when you mention

6 "disconnect," there's another disconnect that you

7 obviously can discern from our testimony here. In

8 writing this testimony, it was very difficult

9 because we don't want the constitutional convention;

10 we want a special session of the Legislature. So,

11 in talking about delegate selection, please don't

12 think that that implies that we have given up on

13 that.

14 MS. FULTON: If I could comment on

15 this delegate situation.

16 MR. VAN HORN: Sure.

17 MS. FULTON: If your plan would be to

18 old it in next November's election, both the

19 recommendation for the public to vote on whether to

20 have a convention, or whether -- and to elect the

21 delegates at the same time, there is -- you know,

22 the Legislature, I mean, at least the Assembly is up

23 in November, we're going to be electing a Governor.

24 The New Jersey citizens that we have

25 focused on; and we've done several focus groups,

29

1 have no idea what a constitutional convention is

2 about, nor what its breadth or depth might be. They

3 simply have no clue. And we find that true even

4 among our members, and you know how good we are at

5 getting out issues and opinions to our membership.

6 Confused and interjected with several people, I'm

7 assuming, in this room, who will be running for the

8 Legislature and a governor's race, I just think that

9 that would be an incredible -- an incredibly

10 difficult achievement to do that at the same time.

11 And I would also agree with Lynne. We

12 really don't -- we really think -- and, as a matter

13 of fact, in our focus groups, the Legislature came

14 across quite positively as the body that should be

15 making this decision. People said, we elect our

16 Legislature and our Governor to do this kind of

17 work, and we think you have the expertise or they

18 have the expertise to do it, and that the public

19 would be at a great deal of loss by electing people

20 who may or may not have any expertise in tax reform.

21 ASSEMBLYMAN O'TOOLE: Thank you,

22 Chair.

23 Just one point I want to make before I

24 go into my questions. Ms. Fulton talks about the

25 unfamiliarity with the constitutional convention. I

30

1 mean, we haven't had one in over four -- I mean five

2 decades. So I imagine most of the public we're

3 talking about have never experienced or gone through

4 a constitutional convention. I assume, if we're

5 talking about it for the next couple of months and

6 we have a process, and we have some publicity, I

7 think people will get familiar. I've got great

8 faith in the people, in the voters of New Jersey,

9 that they, when the issues are brought to the front,

10 that they will understand it.

11 You know, and there's a common thread

12 with the four speakers, that they're all against the

13 constitutional convention idea. And you rightly

14 conclude that it's the province of the Legislature

15 that should be handling this. But evidenced by this

16 task force, that has not occurred. It doesn't

17 appear there's any prospect that that will occur.

18 So now we have to deal with the issue of, we would

19 all agree, soaring property taxes. We have to

20 tackle it.

21 Your perspective is education.

22 Respect it, understand your dedication, and your

23 commitment to your perspective. But there is a

24 broader perspective, other than education. And I

25 don't allow myself to buy into that, if we have a

31

1 constitutional task force, it will lead to an

2 apocalyptic collapse of the public school system. I

3 just don't believe that.

4 And, Mrs. Fulton, you said that the

5 people can't be trusted, that this idea can't be

6 trusted in the hands of the people. And I'm just

7 trying to understand, if we can't trust it in the

8 hands of the people, this concept of the

9 constitutional task force, who do we trust it in?

10 Whose hands do we leave it in?

11 MS. FULTON: Well, I think you are --

12 I think you are one of the people who was elected to

13 do that kind of work. The last constitutional

14 convention, I think, dealt with a myriad of issues;

15 I believe they really rewrote quite a lot of the

16 constitution at that time. And this one would

17 certainly be narrowed, we would hope, to property

18 tax reform.

19 Nobody -- I thought it was interesting

20 for Lynne to say that, you know, to string the two

21 words "income tax" together and be able to do what

22 was done last year probably was a miracle, because

23 taxes, nobody wants to pay higher taxes.

24 And I would think that, if certain

25 groups, including the NJEA, could come up with a

32

1 plan that the Legislature might embrace as a way to
2 do it, because we think we do have a plan in the
3 making that would do that. We just haven't had an
4 opportunity to present it, and we have to get over
5 this hurdle perhaps before that is possible.

6 ASSEMBLYMAN O'TOOLE: In your
7 testimony, you talked about rolling back property
8 taxes, I think limiting to four percent. Was that
9 your proposal?

10 MS. FULTON: We have been doing
11 research for the past several years on perhaps a
12 plan, and we're now rolling it out to different
13 entities. We've met with several groups in the
14 state. We haven't refined it enough yet, I believe,
15 to put it out directly; and we, frankly, don't have
16 to be the sole keepers or presenters of the plan.
17 As you know, the rebates, no -- as far
18 as we know, taxpayers do not equate the rebate with
19 property tax reform. They get their rebate in
20 September and October; and, come the spring, that's
21 all forgotten. There's never been a link that the
22 rebate -- so the rebates probably are a group of
23 money that could be better used to lower property
24 tax realistically, rather than in a forum where
25 people don't recognize it as tax relief.

33

1 ASSEMBLYMAN O'TOOLE: And, Mrs.

2 Fulton, you advocated higher tax rates for certain
3 income levels. Can you develop that thought?

4 MS. FULTON: Well, I really would

5 rather share the plan with you when it's refined,

6 and we'd be happy to do that. I don't know that

7 this is the forum that would be the most productive

8 to do that.

9 ASSEMBLYMAN O'TOOLE: And my last --

10 MS. FULTON: You already have tax

11 increases for the 500,000 and above, and this plan

12 probably would benefit eighty percent of property

13 owners in the state.

14 ASSEMBLYMAN O'TOOLE: And you also

15 indicated that it should be revenue-neutral, no

16 spending should be looked at, and I'm just trying to

17 understand. We've heard testimony from Governor

18 Brendan Byrne and Governor Florio, who both

19 indicated that we should be looking at, not only

20 revenue, but spending, as well.

21 I'm just curious how your interest

22 group has indicated we should not look at spending

23 at any level; state, federal, county, municipal.

24 MS. FULTON: Well, I was part of a

25 task force recently, as was Lynne, I believe, that

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1 looked at, in the education scene, perhaps where we
2 could level down on spending. And, you know, a lot
3 of the things we have to do are federally mandated,
4 at least in the education scene. And at the state
5 level, we haven't had the money come through for No
6 Child Left Behind, so municipalities and districts
7 have to pick up the slack. So, consequently,
8 spending is an issue, but I don't think it should be
9 part of this deliberation.

10 ASSEMBLYMAN O'TOOLE: Chairman, one
11 follow-up question to David Sciarra.

12 David, does -- your testimony is we're
13 not spending too much for education, and I guess
14 there's a common theory or thought that we are
15 spending too much. Do you think we're not spending
16 enough for education currently?

17 MR. SCIARRA: Well, let me -- people
18 say that we're spending too much. And my response -
19 - my response to that is: Compared to what?
20 If we're going to compare ourselves to
21 other states, that's not a fair -- I mean, let's
22 have that comparison because most states; frankly,
23 virtually all states, as I've pointed out in my
24 testimony, under-fund their schools. And it's
25 clear, in terms of the product.

35

1 If you look at spending, and I know

2 Dr. Reock has, if you look at spending on public --
3 given that we're a high-cost state, and given what
4 we produce throughout -- overall, throughout the
5 state, I would argue that we do not spend too much,
6 and that we, frankly, largely adequately fund our
7 schools now, in large part, also because the Abbot
8 rulings have brought up the bottom -- the bottom
9 quarter, basically, of our schools, up to an
10 adequate level.

11 So when people say we spend too much,
12 my answer to that is, well, you know, what's the
13 comparison. Show me a state that provides better
14 public education to all of its children, even those
15 who live in low-wealth, high-poverty communities, be
16 they urban or rural, around the country, at a lower
17 cost. There isn't one. So I think you have to put
18 it in context of the data. I don't know if that --
19 you know --

20 ASSEMBLYMAN O'TOOLE: Well --

21 MR. SCIARRA: And -- oh, let me just
22 say, on terms of, there are some -- if you look at
23 the data, if you get behind the rhetoric -- there's
24 all this rhetoric; none of it -- none of it is
25 unsupported by any information (sic).

36

1 If you look at the data that Dr. Reock
2 has produced and others, what you see is the levels

3 of spending in our state now, today, are fairly --
4 within a fairly narrow band. You have the suburban
5 district spending a little over \$10,000 last year;
6 the Abbot districts are spending at that level, in
7 terms of regular education; the middle-income
8 districts are about, you know, four or \$500 behind.
9 There are other poor districts, a small group of
10 other poor districts that are not covered by the
11 Abbot decree, that need more help; they're about a
12 thousand or more behind.
13 So my point is, is that it's a
14 discreet problem that we have, in terms of funding
15 adequacy, where some communities now, because of
16 flat state aid over the last, you know, several
17 years, do need a little bit more, in terms of
18 adequacy. But, by and large, I think we can take a
19 lot of pride. We don't have a problem.
20 ASSEMBLYMAN O'TOOLE: But, David, the
21 last part of that is that I'm not -- I don't buy
22 into that more money equals better results or
23 performance, necessarily.
24 MR. SCIARRA: I didn't -- I did not
25 say that.

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1 ASSEMBLYMAN O'TOOLE: No, no. I know
2 you didn't say it. I'm saying, this is what I say.
3 I'm not ascribing your, you know, motivation or your

4 thought; this is mine. You know, and there's some
5 that would say -- and I'm a big supporter of some of
6 the charter schools in Newark; the Robert Treat
7 Academy (phonetic), those were the highest
8 performances, and they're getting less money than
9 some of the Abbots. I'm trying to understand --

10 MR. SCIARRA: That's not true.

11 ASSEMBLYMAN O'TOOLE: Well, in --

12 well, I think -- you can --

13 MR. SCIARRA: Look at -- look at

14 charter schools. Most of the charter schools --

15 ASSEMBLYMAN O'TOOLE: I said the

16 Robert Treat Academy. I didn't say all charter

17 schools.

18 MR. SCIARRA: And then look at the

19 results --

20 ASSEMBLYMAN O'TOOLE: Some of them --

21 some of them are good.

22 MR. SCIARRA: -- at some of our

23 traditional public schools.

24 ASSEMBLYMAN O'TOOLE: And I'm just

25 trying to understand that -- do you think that a

38

1 higher level of funding will mean a higher level of

2 performance in those Abbot schools, in particular.

3 MR. SCIARRA: It's -- look --

4 ASSEMBLYMAN O'TOOLE: And -- because

5 you point to the results, which I read today, and
6 I'm trying to understand. Is there a correlation
7 with the money that's been spent from the mid-
8 nineties to present day, to equate that to higher
9 results in the last five or six years?

10 MR. SCIARRA: Look, we've -- everyone
11 knows that money alone, as the Supreme Court has
12 said, is not going to, in and of itself, improve
13 academic performance. And if you look at the Abbot
14 rulings, the Abbot rulings are -- and we insisted on
15 this, on behalf of the kids, because we wanted to
16 make sure that we just didn't get adequate
17 resources. Because it's not just higher; it's
18 adequate. And we've reached a level of funding
19 adequacy in our Abbot districts now.

20 But the Court has also put into place
21 at our insistence an intense focus on improving
22 curriculum and instruction in these schools,
23 recognizing, as we all do, that simply money alone
24 isn't the answer. It doesn't matter whether it's a
25 charter school, a suburban school, a middle income

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1 school; you got to have a variety of efforts going
2 on, including adequate resources.

3 So the question as you posed it,
4 frankly, I don't accept, which is, you know -- and
5 no one -- and no one does, frankly, and the Court

6 doesn't. So if you look at what's happening in the
7 Abbot districts, and you look at the results that
8 we're getting, mounting now over time, it's the
9 combination of adequate resources; not excessive
10 resources, but adequate resources, combined with an
11 intense focus over time on improved curriculum and
12 instruction and reform. And, you know, frankly,
13 it's yielding results.

14 ASSEMBLYMAN O'TOOLE: Thank you,
15 Chair.

16 MR. VAN HORN: Mayor Schubert.

17 MAYOR SCHUBERT: Thank you, Mr.
18 Chairman.

19 It's obvious, I think, that this group
20 of panelists has basically said you do not support a
21 constitutional convention. We've all said, and
22 we've heard from others, that it would be a speedier
23 process and handled much more quickly and possibly
24 more efficiently if the Legislature were to take it
25 on. However, we're obviously aware that it hasn't

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1 happened, as Assemblyman O'Toole said, it just
2 hasn't happened.

3 What do think is the answer? If

4 you're saying no constitutional convention, if we
5 have not had the Legislature respond to it, a
6 special session? I mean, they need to call that,

7 the Governor needs to call that. We cannot, the
8 people cannot do that. What do you think the answer
9 is then?

10 MR. SCIARRA: Can I say something
11 about this?

12 I think it's a complete myth that the
13 Legislature is incapable of acting, in terms of
14 property taxes. They've acted. I mean, I just -- I
15 don't understand this argument. In June, they
16 passed a tax increase, an income tax increase.

17 MAYOR SCHUBERT: But they have not
18 responded to the excessive property tax --

19 MR. SCIARRA: What did they do with
20 it? They gave it away in rebates. All they need to
21 do is call a special session, and say, you know,
22 what we want to see is an alternative -- that was
23 billed as property tax relief. So the notion that
24 they are somehow gridlocked and can't act is just --
25 it's a myth. They acted. They did the wrong thing.

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1 If they took the \$800 million, the
2 eight -- if we had it back today and called a
3 special session and said, instead of giving it out
4 in rebates, let's take school taxes, as opposed to
5 municipal taxes. If we take that \$800 million, as
6 Ms. Fulton suggested, and we -- and we had a debate
7 about taking those districts, communities with

8 excessive school tax rates --

9 And I want to emphasize, the notion

10 that every community in New Jersey has high school

11 tax rates is another myth. We have, frankly, some

12 communities, as Dr. Reock knows, who don't, frankly,

13 pay enough off the property tax to support their

14 schools.

15 So the notion -- all we need to do,

16 it's very simple, and they can do it -- they can do

17 it now -- is convene a special session, have a

18 debate over the use of that money, and force --

19 force them to deliver that money in a way which

20 lowers, structurally lowers the school tax rates in

21 those communities that have excessive school tax

22 rates. And you know what? We're done.

23 MAYOR SCHUBERT: Okay. And I

24 understand that, but that hasn't answered the

25 question. If they -- we can't force them to do

42

1 that; that's something the Legislature or the

2 Governor has to have happen, if they don't do it and

3 we don't do the constitutional convention, what is

4 the answer? Do we just leave things as they are?

5 MR. SCIARRA: Vote them out of office.

6 MAYOR SCHUBERT: Well -- and I

7 understand what you're saying.

8 MR. SCIARRA: Vote them out of -- vote

9 them out of office.

10 MAYOR SCHUBERT: Well, but there's

11 some -- there has been some comment that, you know,

12 the people in New Jersey don't take that seriously,

13 they don't take -- they're not educated enough --

14 and I agree with Assemblyman O'Toole, that I think -

15 - I mean, personally, I feel as though I have a lot

16 of faith in the voters in the state, and all over

17 the country. I think that they do what's best and

18 what they feel is best. So, I mean, I think that to

19 allow them to make those decisions is very

20 important. So --

21 MS. STRICKLAND: I'd like to step in

22 here.

23 MR. SCIARRA: Well, them vote them --

24 let them vote them out -- let them -- I place my

25 faith in them, too. At some point, they're going to

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1 vote the legislators out of office --

2 MAYOR SCHUBERT: And if that doesn't

3 happen, we should just let it go as it is? Is that

4 the answer?

5 MR. SCIARRA: We don't -- I think what

6 you're hearing here is we don't have a problem, we

7 don't have a constitutional convention because we --

8 on the school side, because we don't have a major

9 problem.

10 MAYOR SCHUBERT: So you feel as though
11 property taxes are not a problem in New Jersey? Is
12 that what you're saying?
13 MR. SCIARRA: No. I'm saying that, if
14 you look at -- I'm here talking about school taxes.
15 MAYOR SCHUBERT: School taxes are not
16 a problem in New Jersey.
17 MR. SCIARRA: And school spending.
18 MAYOR SCHUBERT: Okay.
19 MR. SCIARRA: School spending is not a
20 problem.
21 We do have, as I've said, too much
22 reliance on the property tax for schools; now I'm
23 not talking municipal, for schools. In some
24 communities; not all, in some, we need to do an
25 analysis of that and figure out an approach to how

44

1 to provide -- lower the school -- increase state aid
2 in those communities with excessive school tax
3 rates. That's all.

4 MAYOR SCHUBERT: And then it's up to
5 the Legislature --

6 MR. SCIARRA: Yeah.

7 MAYOR SCHUBERT: -- to find out where
8 the money comes from, that's what the answer is.

9 MR. SCIARRA: Sure.

10 MAYOR SCHUBERT: Okay.

11 MR. VAN HORN: Ms. Strickland.

12 MS. STRICKLAND: Thank you.

13 I think one of the difficulties of

14 this discussion is the focus is split. We're trying

15 to maybe hit too many multiple burns with one stone,

16 in terms of the convention. So definition as to

17 what a convention would address or a special session

18 of the Legislature is the tantamount thing to kind

19 of narrow down and figure out.

20 From our experience in schools, if

21 you're talking about schools, that's one thing; if

22 you're talking about property tax, then they're --

23 they cross-walk, obviously, but they're not the same

24 thing, in terms of tax reform.

25 Schools in the suburbs are severely

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1 pressed, school communities, by rising property

2 taxes. I can't deny that. That's out there, and

3 that's a lot why you're here, and the Legislature

4 hasn't dealt with that.

5 Now let me say, on the one hand, the

6 Legislature has dealt with property taxes by

7 omission, and I would say it's time for commission.

8 The expense of schools through the

9 '90s into 2000, 2004, combined with a faulty

10 economy, a failing economy, and very tight budget

11 years, the Legislature chose to -- it was a choice;

12 perhaps they saw it as benign, to let the property
13 taxpayer pick up the slack. And that slack has been
14 large, as you know, and the taxpayer has been stuck
15 with it.

16 There's been growing enrollments at
17 the same time, there's been cost increases over
18 which schools have no control. And the finger of
19 blame, therefore, seems to be get pointed at schools
20 and school spending. It's much more complex than
21 simply let's figure out a way to deal with property
22 taxes, and that will cut school spending, or we'll
23 do it at the same time.

24 We feel that, to put school spending
25 in the same place as property tax reform would

46

1 really be placing the citizens in a most difficult
2 position, to try to decide a school funding formula,
3 which is essentially what you'd be asking them to do
4 in the end.

5 Whether the task force recommends a
6 constitutional convention, I would seriously, you
7 know, put out there again: Please narrow your focus
8 and think about tax reform. Because, in the end,
9 the Legislature anyway, as it goes on, is going to
10 decide how that money is distributed. And we would
11 say, right now, it's very uneven, and the brunt has
12 been felt by the local property taxpayer. Thank

13 you.

14 MR. VAN HORN: Any other questions

15 from task force members? Oh, Ms. Fulton, you wanted

16 to say something.

17 MS. FULTON: Well, accompanying our

18 more extensive piece here is a page that talks about

19 school spending; it just gives you some facts that

20 you may not be aware of, and I would hope that you

21 would look at that page, too.

22 MR. SCIARRA: Chairman, if I can --

23 MR. VAN HORN: I would just like to

24 ask one question. You must be aware that there is

25 legislation that has been discussed that limits the

47

1 scope of the convention; and then, of course,

2 there's legislation that has been discussed that

3 does not, and, you know, specifically with respect

4 to thorough and efficient.

5 So I'd like to get you on record as to

6 where the four of you stand on those pieces of

7 legislation that have already been discussed. I --

8 obviously, I think I know what some of you think,

9 but I want to understand precisely what your view

10 is, if there was a restriction put in legislation on

11 thorough and efficient.

12 MS. FULTON: It absolutely should not

13 touch thorough and efficient. I've been an educator

14 for thirty-eight years, and in 1976/'77, when T and
15 E came in, into focus. And I will tell you frankly,
16 my school at the time had no art teacher, no music
17 teacher, no phys. ed. teacher. And maybe you don't
18 think those are necessary, but they build a well
19 rounded student. And T and E discussion at that
20 time is what prompted our -- my little district to
21 bring their educational quality up to what it is and
22 has been for the past -- for these past years.
23 So the legislation should definitely
24 limit the scope to a tax-neutral -- I mean revenue-
25 neutral, without touching T and E.

48

1 MR. VAN HORN: Mr. Kniesler.

2 MR. KNIESLER: The School Boards

3 Association is also adamant that you should not

4 touch T and E, and that it should also be revenue-

5 neutral.

6 MS. STRICKLAND: Ditto.

7 MR. VAN HORN: Ms. Strickland. Pardon

8 me?

9 MS. STRICKLAND: Ditto --

10 MR. VAN HORN: Ditto.

11 MS. STRICKLAND: -- from the Garden

12 State Coalition of Schools.

13 MR. VAN HORN: Mr. Sciarra.

14 MR. SCIARRA: Well, I just want to

15 emphasize the point that I've tried to make is that
16 there -- that T and E has worked exceedingly well,
17 and there's simply no justification, other than to
18 create the opportunity to roll the clock back.

19 I do want to emphasize my point, which
20 is that the T and E clause, as it's been interpreted
21 by the Supreme Court, has been the only recourse
22 that poor and minority students have had in our
23 state to obtaining a thorough and efficient
24 education. I don't -- and it's contributed to the
25 overall improvement of education in our state. It's

49

1 worked exceedingly well; not just the T and E
2 clause, but the Supreme Court's interpretations of
3 that clause. And, frankly, we should be very firm
4 and clear that we don't want any constitutional
5 convention that's going to tamper with that.

6 And I do want to emphasize my point.

7 This is a basic civil rights issue, T and E. It is
8 the only civil -- it's the basic civil right that's
9 not protected and not -- also, there's no analog in
10 the United States Constitution; it's left to us in
11 the states. We have a strong T and E clause, it's
12 worked well over the last thirty to forty years in a
13 system that, as I pointed out, is deeply segregated
14 on both class and race lines. Why in the world, why
15 in the world would we even be talking about touching

16 that?

17 MR. VAN HORN: Senator Van Wagner.

18 And welcome, Senator Van Wagner. I'm glad you're

19 here. And I also -- before you begin, I want to

20 recognize that Senator Adler is here, and welcome to

21 you. And go ahead, Senator.

22 SENATOR VAN WAGNER: I'm sorry for

23 being late.

24 MR. VAN HORN: That's all right.

25 SENATOR VAN WAGNER: It's been

50

1 interesting listening to the groups. The other day

2 we had business and industry and chamber of commerce

3 and AFL-CIO, and they had their view.

4 You know, this has become a situation

5 about whose ox is being gored, you know. You know,

6 some people say, don't touch spending. I have faith

7 in the people of this state and the voters, but

8 let's not have a constitutional convention, so

9 there's no that much faith.

10 But what I wanted to ask you really,

11 and it was a comment more than anything else, after

12 being away from the Legislature, which I was happy

13 to serve in for eighteen years. You talk about T

14 and E, and everybody, for the most part, that's

15 testified so far has talked about leaving that

16 alone, don't touch that, don't go near Abbot. Yet,

17 I read in the paper and, you know, now I'm a
18 bystander, I see legislators, candidates for the
19 Legislature, people saying, well, the problem with
20 the formula is the distribution to the Abbot
21 districts, that's what's mitigating against the
22 proper distribution of the money to the suburban
23 districts, who don't get what they should get, and
24 that's why taxes are going up there, and so on and
25 so forth.

51

1 What's your feeling about that?

2 Because you seem to be pretty passionate about
3 preserving that piece of money that goes to those
4 districts.

5 MR. SCIARRA: I hear that -- you know,

6 I hear that argument all the time, which is, well,

7 if you look at the state aid of public schools now

8 in the last, well, really since '97, '98, that

9 there's -- the state share for the urban districts

10 has grown, and then the state share for everybody

11 else has not. That's true. But what conclusion do

12 you draw from that? And here's the conclusion that

13 I draw, and I think the evidence bears it out.

14 It's not because of Abbot that any

15 other district in this state isn't -- those

16 districts -- let me be precise about this. Those

17 districts -- they're not all -- but those districts

18 that are not getting enough state aid to support
19 their budget today, it's not because of the court
20 rulings in Abbot. All those rulings have done is --
21 is remediate a disparity -- a thirty-year-old
22 disparity between the level of resources made
23 available, overall level of resources made available
24 to what I've described as "intensely poor and
25 minority schools;" seventy, eighty, ninety percent

52

1 low income in these schools, great needs. So what
2 Abbot has done is it's gotten the Legislature to
3 come up with the money to create an adequate level,
4 which is tied to what is spent in our successful
5 school districts.

6 The fact that other districts in the
7 last six or seven years aren't getting sufficient
8 state aid and are having to rely more on the
9 property tax, building up more of a local property
10 tax burden, or at least -- at least exceeding what
11 experts would consider to be an excessive -- a
12 reasonable rate, which is not all districts, is not
13 because of Abbot; it's because the Legislature
14 simply hasn't done its job.

15 It hasn't appropriated sufficient
16 state aid in those districts that have excessive
17 school tax rates, to make sure that the state is
18 picking up a fair share of their school burden.

19 It's as simple as that.

20 And I'm back to my point. If we had

21 the eight-hundred-million-dollar millionaires tax

22 today, we could solve this problem, if it weren't

23 given out in rebates. But, instead, we're targeted

24 to those communities, of the type Lynne represents

25 and others, that have -- that have -- and I think it

53

1 has to be done carefully -- excessive school tax

2 rates.

3 How is a constitutional convention --

4 here's the other point. How is a constitutional

5 convention going to make these kinds of distinctions

6 between what is adequate, in terms of education and

7 spending, for all kids? Which communities deserve

8 property tax relief for schools; which do not?

9 These are complex questions.

10 SENATOR VAN WAGNER: Well -- well --

11 well --

12 MR. SCIARRA: And, frankly, what will

13 happen is a political --

14 SENATOR VAN WAGNER: -- let me answer

15 your question with a comment that, you just pointed

16 out that you didn't think the Legislature did a very

17 good job of it. And how much worse of a job could

18 the delegates to a constitutional convention do?

19 Let me say this. That is our decision

20 to make, based on the scope of the inquiry that we

21 make --

22 MR. SCIARRA: Uh-huh.

23 SENATOR VAN WAGNER: -- in our

24 recommendation to the Legislature. So, you know, we

25 haven't really determined whether or not that

54

1 decision --

2 MR. SCIARRA: Right.

3 SENATOR VAN WAGNER: -- is going to be

4 in the hands of the delegates --

5 MR. SCIARRA: I think --

6 SENATOR VAN WAGNER: -- or whether

7 we're going to recommend that.

8 And the Legislature, after it gets

9 this, may decide that they don't very much like our

10 recommendation.

11 MR. SCIARRA: I mean, I think, if you

12 have to recommend a constitutional convention, I

13 think what you're hearing here today is that

14 education spending isn't a problem. We're doing a

15 good job. We should be taking pride in what we're

16 doing, A.

17 And, B, keep T and E off limits

18 because it's the one thing that has provided a

19 safeguard for -- for those students who lack -- who

20 have --

21 (End of Tape No. 2, Side A)

22 (Beginning of Tape No. 2, Side B)

23 MR. SCIARRA: -- to get into the

24 questions of thorough and efficient, questions of

25 educational spending. If you want to have them look

55

1 at -- recommend that that be off limits; and, if

2 they want to, they could look at the issue of local

3 property tax support for schools in a revenue-

4 neutral way, and maybe they could get at the

5 question of getting some more state aid into budgets

6 of suburban and middle-income districts that the

7 Legislature has neglected.

8 MR. VAN HORN: Okay. I think we need

9 to move on. I thank the panelists very much for

10 visiting with us today. We have your testimony. If

11 you have other material, please submit it to us.

12 Thank you very much.

13 I'd like to then call the next panel:

14 Marilyn Askin, President of AARP, and so on and so

15 forth. I think you know who's --

16 (Participants confer)

17 MS. ASKIN: Hello, I'm Marilyn Askin

18 (inaudible - not recorded.)

19 (Participants confer)

20 MR. VAN HORN: Okay, ladies and

21 gentlemen. We're going to begin, so we can stay on

22 schedule. I want to welcome this panel. We have
23 Mayor Peter Cantu, representing the New Jersey
24 League of Municipalities; and then Marilyn Askin,
25 who's the President of AARP; Keith Jones, the

56

1 President of the NAACP of New Jersey; and Gregg
2 Edwards, the Founding President of the Center for
3 Policy Research of New Jersey.

4 And welcome to you all. I think we'll

5 go again in order. Mayor Cantu, please begin.

6 MAYOR CANTU: (Inaudible - not

7 adequately recorded.) Good morning, Chairman Van

8 Horn, and Vice Chair Cole, and members of the

9 Property Tax Reform Convention Task Force. I'm

10 Peter Cantu, I'm the Mayor of Plainsboro Township,

11 right here in Middlesex County, and I'm also the

12 (recorded) First Vice President of the League of

13 Municipalities.

14 Thank you for giving me and the League

15 another opportunity to testify on the important

16 matters you must decide, and thank you on behalf of

17 all of the people of New Jersey for the time you've

18 given, for the expertise you've brought, and for the

19 energy you've already expended on this crucial

20 issue. I know you still have a lot of work to do,

21 and I hope that my testimony might make it just a

22 little bit easier.

23 It might help to remind you that, as
24 you proceed to consider the specific questions
25 related to the special property tax convention, you

57

1 don't have to start from scratch. We would
2 respectfully suggest that you can begin your
3 deliberations with legislation that has already been
4 passed -- that has already passed the Assembly and
5 cleared the Senate Judiciary Committee. You are
6 not, and should not be bound to the provisions of
7 those bills, but they would, we believe, be a useful
8 -- be useful for focusing your deliberations. Both
9 bills are based on a study of New Jersey's 1947 and
10 1966 conventions, and both have already withstood
11 some intense legislative scrutiny.

12 Senator Adler's bill in Sections 1
13 through 4 sets forth a time and place for the
14 convention, the convention's first meeting. It
15 imposes limits on what the convention could do, it
16 sets a date for the completion of the convention's
17 business, and it provides for the submission of the
18 convention question to the people of the State of
19 New Jersey. You will need to change the dates in
20 those sections, obviously, to reflect a 2005/2006
21 time frame. With those changes, we support those
22 provisions.

23 Next, Sections 6 through 16 of

24 Assemblyman Roberts's bills provides for the

25 election of delegates. They assume a special

58

1 election in March with two winning candidates from

2 each legislative district. Aside from removing the

3 age requirement, the qualifications for candidates

4 at the convention would mirror those for a member of

5 the General Assembly.

6 Nominations would be by petition of

7 500 legal signatures, those provisions specify

8 petition and campaign finance requirements; they

9 provide direction to the Attorney General for

10 certification of candidates, and to the county

11 clerks for preparation of ballots. The order in

12 which names are placed on the ballot would be random

13 and rotated in each election district.

14 Again, the dates in these sections

15 need to be changed to reflect the 2005/2006 time

16 frame; and, again, these provisions assume a special

17 election in March of 2006.

18 If you decide to put the candidates on

19 the ballot, along with the convention question in

20 November of 2005, there will need to be further

21 refinements. And while Assemblyman Roberts's bill

22 excludes a listing of party affiliation, Senator

23 Adler's versions requires politically affiliated

24 candidates to include that information. On this

25 issue, we prefer the assembly provision of explicit

59

1 nonpartisanship, but we will support the task force

2 whichever way you decide.

3 We would respectfully recommend -- we

4 would respectfully oppose Governor Florio's

5 recommendation that the candidates be nominated by

6 unanimous consent of the committee, consisting of

7 the Governor and the legislative leadership. The

8 people of New Jersey have two great a stake in the

9 outcome of this convention to be relegated to a

10 don't advise, just consent role in the selection of

11 delegates. Our citizens need and deserve to have an

12 active role -- as active a role as possible in the

13 selection of their representatives to their

14 convention.

15 We would prefer candidate election to

16 occur at the same -- at the same election as the

17 convention question; that is, November 8th, 2005.

18 This would ensure the maximum number of voters, and

19 it is akin to the method of selection for Charter

20 Study Commission at the municipal level. It would

21 further permit the convention to begin work sooner,

22 if the task force sees four ments (sic) as

23 insufficient.

24 That is our position. But we also

25 realize that a November election would dilute voter

60

1 interest in the attention to the special convention
2 delegate candidates, while also politicizing
3 potentially the process. We will support the task
4 force recommendations on either position.
5 This brings us to a key substantive
6 difference between the assembly and senate bills.
7 The senate bill has only eighty delegates elected by
8 the legislative districts, serving as voting members
9 as the convention. The assembly bill supplements
10 them with ten super-delegates, selected by a
11 committee composed of the Chief Justice and four
12 members of the New Jersey President's Council.
13 We support senate version, which
14 strongly honors the principle of one person, one
15 vote. We recognize, however, that the task force
16 might see in a super-delegate process a mechanism to
17 ensure that the diversity of New Jersey interests
18 with a stake in the outcome get a second chance for
19 a seat at the table, should they, for any reason,
20 miss out on the election. Again, given our faith in
21 the people, we prefer the senate option. But if you
22 decide to include ten or fewer super-delegates,
23 Governor Florio's proposal -- proposed selection
24 method might be worth considering for these.
25 Senator Adler's bill, at Sections 24

61

1 and 25, provides the staffing for the convention,
2 the compensation of delegates for the preparation of
3 background materials. We support almost all of
4 these provisions; however, we respectfully fear that
5 the lack of compensation other than expenses may
6 limit the pool of prospective delegates. We have
7 suggested the delegates be compensated at the daily
8 average rate received by state employees, and that
9 they be entitled to similar reimbursements.
10 We'd like to qualify that to preclude
11 the possibility of any double-dipping. If the
12 delegate continues to receive either another public
13 or private sector salary while serving at the
14 convention, that delegate should only be entitled to
15 reimbursement for actual expenses.
16 Assemblyman Robert's bill in Section
17 18 provides for the opening of the organization of a
18 convention, and we support those provisions.
19 Senator Adler's bill at Section 18
20 provides for the filing of -- filling of vacancies,
21 and we also support those provisions.
22 In Sections 20 through 24, Assemblyman
23 Roberts's bill specifies the method of convention
24 action. It specifies the form and content of the
25 presentations of the convention's recommendations to

62

1 voters, it provides a safeguard against the
2 convention exceeding its mandate, and it provides
3 for the expression of the will of the voters on the
4 convention's recommendations. We generally support
5 all of these. The language could easily be read to
6 imply a single question going to the voters for
7 their approval, as we said before, with a single
8 caveat: We believe that the convention delegation
9 should be able to decide whether to submit a single
10 recommendation or multiple recommendations to the
11 voters.

12 Our one qualification is based on our
13 core commitment to reform New Jersey's over-reliance
14 on the property tax. No matter how much you think
15 government should spend, no matter -- no matter
16 where you think money is needed or money is wasted,
17 no matter what the appropriate level of revenue we
18 need to meet our responsibilities to the people that
19 elected us, the simple fact of the matter is that
20 there has been a far -- there has to be a fairer way
21 of raising it. That needs to be the primary focus
22 of a convention dedicated to property tax reform.
23 That is my goal, and the central aim of the League
24 of Municipalities and all other early advocates of
25 this approach, and that is the crying need for the

63

1 property taxpayers -- and that is the crying need

2 for the property taxpayers of our state.
3 Accordingly, we agree that the
4 convention can have the opportunity to look at
5 certain spending, but whatever spending
6 recommendations may emerge, they need to go to the
7 voters separate from the revenue recommendations.
8 If we tie the two together, we increase the risk
9 that this historic opportunity will become an
10 exercise in futility. But if we keep the questions
11 separate, we increase the likelihood that the
12 process will yield a fairer revenue-raising system
13 for the future of the families of this state.
14 Beyond the requirements that the
15 revenue recommendations be presented to the voters
16 separate from spending recommendations, we believe
17 that the convention should be permitted to decide
18 for itself whether each should be framed as one or
19 more than one question. Not knowing what the
20 recommendations would be, we shouldn't prejudge how
21 they should be framed for the electorate.
22 The only revenue option that we've
23 raised, that we've asked to be taken off the table
24 is a statewide equalized property tax to fund
25 education. The solution to our over-dependence on

64

1 property tax is not another property tax, especially
2 one that could increase the property tax burden on a

3 widow living on a fixed income, in a relatively low
4 property tax jurisdiction, while potentially
5 decreasing the burden borne by a couple with two
6 good and growing incomes, who happen to live in a
7 relatively high property tax town.

8 In Sections 28 and 29, Senator Adler's
9 bill makes certain that any special election costs
10 would not be an unfunded mandate on the counties,
11 and it provides for the Statehouse Commission to
12 anticipate and prepare for any convention needs. We
13 support those provisions.

14 Next, we will need to provide the
15 convention with the constitutional power to propose,
16 and the people with the constitutional power to
17 approve necessary statutory changes. As a starting
18 point, we respectfully suggest that you look to
19 Senator Adler's Resolution No. 19. With the
20 necessary date changes, we think that resolution is
21 ready for the legislative consideration.

22 We support the separation of the
23 constitutional issue from the convention question
24 itself. A simple majority in the Legislature should
25 be sufficient to give the people a say in property

65

1 tax reform, while a super-majority in one year or a
2 simple majority in two successive years
3 appropriately guards against frivolous

4 constitutional manipulation.

5 Finally, there are those of us who

6 believe that the Legislature and the Legislature

7 alone should have the right to accomplish

8 significant and lasting property tax reform. Even

9 though that hasn't happened yet, we would welcome

10 that, and the introduction of legislative action on

11 your special property tax convention bill will do

12 nothing to preclude that possibility.

13 All of the actions on our convention -

14 - all the actions on our convention will do is to

15 set a time limit. The Legislature now has until

16 Election Day of 2005 to convince the people of New

17 Jersey they do not need a special convention to get

18 true property tax reform. If they can do that, then

19 there will be no special convention, but if they

20 cannot, there needs to be one.

21 As our mayor, Gary Passanante, who has

22 represented the League on property tax reform in the

23 past, has said, the property tax crisis is a burning

24 fire, the Legislature is the fire department,

25 they've repeatedly been notified of the situation,

66

1 but they haven't showed up yet. Finally, we can

2 wait no longer. If they are not going to put the

3 fire out, then we should at least let the people of

4 New Jersey borrow the truck.

5 Thank you for your time and attention.

6 I'd be happy to answer any questions. Thank you.

7 MR. VAN HORN: Thank you, Mayor.

8 Marilyn Askin.

9 MS. ASKIN: (Inaudible - not

10 adequately recorded.) I was going to say good

11 morning. Good late morning.

12 Mr. Chairman and distinguished members

13 of the task force, there are 1.35 million members of

14 AARP in New Jersey. There are more than 100 AARP

15 New Jersey chapters. (Recorded) There are tens of

16 thousands of AARP chapter members in New Jersey, and

17 thousands of AARP New Jersey volunteers. On their

18 behalf, we thank you for your work on the issue of

19 property tax reform and how it could be done.

20 I've heard testimony to the effect

21 that a convention is a foregone conclusion. We're

22 not supporting that right now. We believe that the

23 Legislature should do its job, what you were elected

24 to do.

25 I did see testimony in the paper by

67

1 Governors Florio and Governor --

2 UNIDENTIFIED: Byrne.

3 MS. ASKIN: -- Byrne, yes, saying,

4 we've got to have a constitutional convention

5 because the Legislature won't do its job. Indeed,

6 when we mentioned it to Governor McGreevey, he said,
7 Marilyn, the Holy Ghost can come down, and the
8 Legislature won't do it. We don't believe that.
9 In fact, Senator Adler, you have co-
10 sponsored a bill to have a joint session of the
11 House -- of the Assembly and the Senate to come up
12 with some kind of resolution. We think that there
13 can be sufficient legislation proposed before the
14 House, and before the Senate, for the Senate and the
15 House to do their job on this issue.
16 However, while we're not -- we haven't
17 publicly opposed the calling of a constitutional
18 convention for property tax reform, we believe the
19 Legislature ought to bite the bullet and implement
20 reforms itself. Nevertheless, we welcome this
21 opportunity to testify on the issues for your
22 consideration.
23 The scope of the convention. AARP
24 calls upon you to report to the Governor and the
25 Legislature that the purpose of the convention and

68

1 the issues to be discussed should deal only with
2 reforms to the system of taxation. Restrictions on
3 possible remedies ought to be few, but one such
4 restriction should protect education quality and
5 funding in the classroom.
6 One of the reasons that we're

7 concerned, if you recall history, the 1947
8 convention was supposed to be a very limited
9 convention; and, lo and behold, we had a new
10 constitution, a very wonderful constitution that New
11 Jersey citizens want to protect.
12 We are concerned that a convention
13 will open up a Pandora's Box; and, unless it is so
14 narrowly drawn and so limited, we're concerned that
15 many of the progressive measures in New Jersey right
16 now might be tinkered with and tampered with and
17 eliminated.
18 We want reform to be structural.
19 Relief is necessary, but we're -- relief without
20 reform is unacceptable because it will not solve the
21 structural problem in New Jersey.
22 And I'm referring to that, I thought
23 there was going to be a generational war when Dave
24 from the Education Law Center talked about, maybe we
25 shouldn't have given away the \$800 million. That

69

1 was needed at the time.
2 We represented a constituency, half of
3 which is on fixed incomes. These are people who
4 have seen rising health costs, rising drug costs,
5 rising Medicare premiums, rising utility bills.
6 They needed that money, which is not to say -- but
7 we recognize that that was just relief, and not

8 reform. So we want you -- no more relief. We do
9 want reform.
10 But we want reform measures to be
11 relatively revenue-neutral, in order to ensure the
12 shift of the tax burden does not result in a
13 significant overall tax increase. We want reform to
14 be progressive, and eliminate the inequities of the
15 current system, which puts too much of the overall
16 tax burden on homeowners and renters, regardless of
17 the ability to pay. Reform should reduce the
18 property tax burden on primary residences, owned or
19 rented. And any kind of reform must be sustainable
20 in the foreseeable future.
21 If you do go ahead with the
22 constitutional convention, the other problem is it
23 will just delay implementation of any kind of
24 reform. But if you should go ahead with it, we
25 believe that the election, the process of election

70

1 of delegates to a constitutional convention is a
2 critical issue.
3 AARP New Jersey recommends that,
4 should the state decide to move forward with a
5 constitutional convention on property taxes, it
6 should then create a clean election system that can
7 be used by candidates running to serve as convention
8 delegates. A clean money system allows qualified

9 candidates to run for election to the constitutional
10 convention, using public funds exclusively, no
11 private interest money. This kind of system has
12 used -- has been used and has worked extremely well
13 in a number of states throughout the country.
14 In fact, here in New Jersey, a clean
15 elections pilot project was signed into law earlier
16 this year, thanks to the leadership of Assembly
17 Majority Leader Joe Roberts, and Assemblywoman Linda
18 Greenstein. This will allow candidates running for
19 certain legislative seats to run viable campaigns,
20 without having to spend countless hours raising big
21 money from interest groups.
22 Just as legislators should be free
23 from the influence of big campaign contributors, so,
24 too, should delegates to a constitutional
25 convention. A clean elections process for electing

71

1 delegates opens the constitutional convention to the
2 concerns of ordinary citizens. This is absolutely
3 critical.
4 We do not think it would be good
5 public policy for our state to move forward with a
6 constitutional convention, in which ordinary
7 citizens feel left out. Clean elections can ensure
8 that average New Jerseyans are engaged in the
9 process, and that delegates can serve the public

10 interest.

11 I want to be absolutely clear. If

12 this task force does not recommend a clean elections

13 system for electing delegates, then AARP may have no

14 alternative but to actively oppose the convening of

15 such a constitutional convention.

16 Again, thank you all for your work and

17 for your time and dedication to this very, very

18 important issue.

19 MR. VAN HORN: Thank you, Ms. Askin.

20 Mr. Jones.

21 MR. JONES: Thank you. Mr. Chairman,

22 Dr. Van Horn, Vice Chair, and members of this task

23 force, good morning, and thank you for the

24 invitation to return to talk to you about this most

25 important issue.

72

1 I am the New Jersey State NAACP

2 President. I also preside over our largest chapter,

3 the Newark Chapter, and there are thirty-eight units

4 of the NAACP in New Jersey.

5 Let me begin by first indicating that,

6 at our state convention held in Cherry Hill on the

7 weekend of September 24th, 2004, the delegates

8 assembled passed a resolution against the

9 constitutional convention that is being proposed.

10 This NAACP resolution of opposition was unanimous

11 and passionate.

12 The NAACP always wants the voice of

13 the people to be heard, but we are apprehensive

14 about what is motivating those people so adamant

15 about revising our history and our future with this

16 constitutional convention. The New Jersey NAACP's

17 feelings of disappointment, if not betrayal, are

18 unique, so let me explain.

19 This constitutional convention, which

20 promises to relieve the property tax burden in New

21 Jersey by reducing our financial commitment to

22 public education is being proposed during the

23 fiftieth anniversary commemoration of Brown v. Board

24 of Education.

25 In 1954, the NAACP won this -- won --

73

1 I lost my place. I'm sorry.

2 In 1954, the NAACP won this landmark

3 Supreme Court decision, which not only outlawed

4 racial segregation in public education, but it

5 entrenched in the fabric of American society the

6 concept of equality in education. The victory of

7 Brown and the equity ethic that it created also tore

8 down barriers throughout the public sector for women

9 and all cultural and ethnic groups.

10 At Brown commemorations throughout the

11 United States, the New Jersey NAACP has been so very

12 proud to discuss, not just the legacy of Brown, but
13 the future of Abbot v. Burke.
14 New Jersey has been the role model in
15 this nation's question for equal opportunity in
16 education. Abbot is perhaps the oldest, and clearly
17 the most successful school funding equity mandate in
18 the country. The implementation of Abbot speaks to
19 the reliable social consciousness of the great State
20 of New Jersey. Abandoning Abbot's promise of
21 educational equity for all of our children gives our
22 progressive state Mississippi-type image problems.
23 In the words of one of New Jersey's great gospel
24 singers, "We're too close to turn around."
25 Implementation of Abbot says to the

74

1 world that thorough and efficient education is a
2 birthright for children in New Jersey.
3 As the National Education Association
4 and the Education Law Center, who you heard from
5 earlier today, clearly reminds us, New Jersey
6 actually ranks forty-fifth in the nation in regards
7 to direct state funding of education. Indeed, we
8 all agree that local property taxes are overburdened
9 with this responsibility. Many have called one
10 approach to property tax relief a reverse-Robin
11 Hood, because it appears to take from the poor and
12 give to the rich.

13 More profoundly, this position may
14 take away from our children's future to give to
15 yesterday and today. There must be ways that
16 increase direct state funding of education, can
17 alleviate the pressure on property taxes.
18 Fellow citizens, as a veteran
19 administrator in New Jersey's criminal justice
20 system, I ask you to see the wisdom of paying for
21 the hopefulness of education. We pay now or we pay
22 later. We pay for a thorough and efficient
23 education, or we pay for a thoroughly depressing and
24 sporadically efficient prison system. The choice is
25 ours. We pay now or we pay later.

75

1 There is enormous political temptation
2 in catering to the demands of those who would see
3 our state government retreat from its commitment to
4 provide what the State Supreme Court has ruled in
5 upholding the thorough and efficient requirement in
6 public education. The resourcefulness and diligent
7 legislators of this great state must find another
8 solution to this problem of high property taxes. We
9 cannot breach the contract that we have had for
10 generations with New Jersey's children, guaranteeing
11 them a thorough and efficient education. Therefore,
12 the New Jersey NAACP could not support any property
13 tax constitutional convention that did not make the

14 thorough and efficient clause nonnegotiable.

15 Now I would add to that, that, in

16 addition to thorough and efficient, quite frankly,

17 being off the table, we should be guided by the

18 court's interpretation of thorough and efficient,

19 and that education spending for Abbot must be off

20 the table.

21 I would add in closing, as a general

22 rule, the National NAACP opposes constitutional

23 convention for any purpose.

24 I want to thank the members of the

25 task force for the opportunity to speak for the

76

1 second time, and I look forward to responding to any

2 questions or concerns that may be directed to me.

3 Thank you much.

4 MR. VAN HORN: Thank you, Mr. Jones.

5 Mr. Edwards.

6 MR. EDWARDS: (Inaudible - not

7 adequately recorded.) Let me first apologize to

8 Professor Van Horn for subjecting him one more time

9 to my incoherent thinking. He will not be surprised

10 to learn that my testimony arrived late, and lacks

11 appropriate footnotes.

12 I also want to thank the task force

13 for inviting me this morning, and the Governor's

14 Office for a call. You can imagine I don't often

15 get phone calls from the Governor's Office to
16 testify at things. But I am very pleased to be here
17 this morning.
18 You are all forgiven if you don't know
19 about the Center for Policy Research. Let me, for
20 your purposes, describe its mission this way. I
21 think I'm here this morning to basically rebut
22 everything you've heard prior to my testifying.
23 (Laughter)

24 MR. EDWARDS: To maximize the
25 constitutional convention's (recorded) opportunity

77

1 for success in addressing New Jersey's reliance on
2 the local property tax, CPR strongly urges this task
3 force to recommend, first, that the convention
4 should not be limited in its examination of New
5 Jersey's fiscal policies. Tax policies should not
6 be considered in a vacuum; rather, it should be
7 considered in a broader context, and one that
8 includes spending policies.
9 Second, the convention delegates
10 should be elected in the November election. The
11 best way to ensure that New Jersey residents are
12 broadly represented in the convention is to elect
13 delegates when voter participation is at its highest
14 level. A November election also will add to the
15 convention's legitimacy.

16 To put it bluntly, there is no
17 intellectually honest reason for restricting
18 delegates to consider only how revenues are raised
19 to support local government. Tax policy is driven
20 almost exclusively by the need to accommodate the
21 spending plans devised by our elected officials.
22 New Jersey has high property taxes in
23 large part because local governments, particularly
24 school districts, spend a lot. Now that's not to
25 say they spend too much; it's just to say they spend

78

1 a lot, and we ought to be examining why it is they
2 spend that much, and whether or not that spending is
3 legitimate.
4 Equally important, history tells us
5 that dealing with revenues alone will not solve the
6 problem. The income tax was created to reduce
7 reliance on the property tax. After its enactment,
8 it was not long before property taxpayers were again
9 complaining about the size of their tax bills.
10 State lawmakers responded by creating a series of
11 new or expanded rebate programs. This sorry tale is
12 a consequence of the fact that lawmakers gave little
13 attention to the spending that determines property
14 tax levels.
15 In New Jersey, "tax reform" really
16 means raising taxes over and over and over again.

17 And why should we -- why should we expect that
18 raising taxes one more time would achieve a better
19 result? If the convention cannot consider spending
20 practices, then we can predict today its
21 recommendations, and that would be one big, whopping
22 tax increase.

23 Let me also observe that the previous
24 panel, you heard from four groups, all of whom said,
25 spending considerations should not be considered by

79

1 the convention, and all of whom in some way, shape,
2 or form support tax increases. I would submit to
3 you that their position is really borne of the fact
4 that they represent organizations who benefit from a
5 lot of public spending, and need the tax money to
6 continue that spending.

7 Now I don't mind someone telling me
8 that their -- that his or her priority, when it
9 comes to public spending, is more important than
10 mine. But I do deeply resent the notion that, not
11 only do I have to accept that, but I can't even have
12 a debate or discussion about it. And that just
13 seems to me to be antithetical to what our democracy
14 is all about. People don't get the right to say,
15 well, this is mine, and we can't ever talk about it.

16 Let me now turn to the second issue
17 that I raise, which is the manner in which delegates

18 are selected. They -- as I said before, I believe
19 they ought to be elected in the November general
20 election.
21 It is interesting to me to note that
22 the state constitution requires that proposed
23 constitutional amendments be submitted to the people
24 at the general election. There is no valid reason
25 why delegates should not be selected in the same

80

1 way. The most effective way to suppress voter
2 turnout is to hold an election on any day, any day
3 other than a general election. Electing public
4 officials when hardly anyone votes is unhealthy for
5 republican government.
6 As a twice-elected -- twice-successful
7 school board candidate, I know firsthand the
8 negative qualities of those elections. Small
9 cliques dominate them, no election result truly
10 reflects voter sentiment, victories are strictly
11 personal; a winner can never discern a mandate. And
12 school board members, in my opinion, are generally
13 not reflective of the communities-at-large which
14 they represent.
15 Arguments over whether delegates
16 should be selected in a partisan election should not
17 prevent the use of the general election. I am
18 suspicious, frankly, that this argument is really a

19 Trojan Horse for moving the election to a time when
20 turnout is minuscule, and special interests can
21 exert inordinate influence. Selecting delegates at
22 the general election could be done in a partisan
23 fashion, but it does not have to be done that way.
24 Because the gathering of delegates
25 will be a situation where most are unfamiliar with

81

1 one another, it's not really like, you know,
2 convening of a new Legislature, where there are
3 members who are returning, they have relationships.
4 The organization of legislative bodies under those
5 circumstances are relatively easy to achieve. And I
6 would concede that, when you bring together a large
7 number of people for the first time, organizing the
8 convention might be difficult.
9 And I thought about that for a little
10 while, and I suggest a way to get at that problem.
11 And I would point you to, as a model for a solution,
12 the way in which the tie-breaking member of the
13 Congressional Redistricting Commission is selected,
14 and I would suggest a variation of that.
15 In order to provide for the
16 appointment; not the election, but the appointment
17 of a presiding officer, who may or may not be an
18 official delegate -- that, I think, is a minor
19 matter, but one could be worked out. There might be

20 an argument for making that person an elected
21 member, if you're going to have an even number in
22 the convention body.

23 But what I propose is that the
24 partisan legislative leadership would separately
25 submit to the Supreme Court a list of four names.

82

1 If the same names appear -- if the same name appears
2 on both lists, then that person automatically
3 becomes the presiding officer of the convention. If
4 there is no agreement, then by a majority vote of
5 the full court, it would select amongst one of the
6 eight individuals.

7 After writing the testimony, I thought
8 about this a bit, a little, because I have to say
9 that I was kind of ambivalent on the question of
10 whether or not the convention call should appear on
11 the ballot at the same time as the election of
12 delegates.

13 We know, for example, that local
14 charter studies, it's often the case that the
15 question to study the charter appears on the ballot
16 at the same time the election of the charter study
17 members -- the members actually occur, and I don't
18 think that's necessarily a problem.

19 I do think, though, that when you're
20 talking about organizing a state convention with as

21 many people involved and with as much effort you
22 have to put in to get a lot of information together,
23 there might be a strong argument for having the
24 convention call occur at one November's election,
25 and then electing the delegates at the other.

83

1 An advantage of selecting a presiding
2 officer if the convention -- right after the
3 convention call is approved, is that you then give
4 that individual maybe a year to put in place the
5 infrastructure to have the convention be able to hit
6 the ground running; select where you're going to
7 meet, work out issues of staffing, amass all the
8 research you need. I'm not suggesting you stack the
9 deck, but I think that having someone watching all
10 those issues before the delegates are selected might
11 be a good thing to do.

12 Let me also address the issue of who
13 ought to be delegates. Some -- on one hand, I think
14 that -- I generally don't think that restrictions in
15 this regard is a good idea. I have heard some
16 compelling arguments as to why maybe legislators
17 should not be delegates.

18 I do think this, though. If we're
19 going to say that legislators, as a class, ought not
20 be delegates, then I think that ought to apply to
21 any elected official, period. And I further think

22 that it should be extended to include anybody who is
23 a full-time employee of the State of New Jersey or
24 any of its instrumentalities.

25 If we're worried about conflicts of

84

1 interest, then we ought to deal with that problem in
2 a comprehensive way. I know some people might be
3 afraid that that depletes the talent pool, well, we
4 won't have people of expertise. I would suggest
5 that I think that, if we have an election and
6 delegates run, you'll probably see quite a number of
7 former elected officials and former public employees
8 running for delegate positions. So I don't think
9 we'll have a problem with expertise in this area.
10 Finally, I want to invite the task
11 force to exceed its own charge and consider
12 recommending to the Legislature as part of its
13 report that the Legislature present to the voters a
14 constitutional amendment requiring that the voters
15 be asked periodically whether or not they want to
16 convene a constitutional convention. New York's
17 Constitution contains a requirement like this one.
18 It has, in my opinion, two major benefits:
19 First, it would gently pressure the
20 Legislature to do its work on a regular basis.
21 Failure to heed public opinion could mean that
22 voters would take the opportunity from time to time

23 to bypass the Legislature and convene a

24 constitutional convention.

25 Second, it would take the mystery and

85

1 anxiety out of the convention process. All this

2 discussion you've been hearing since you started

3 this, you're treading new ground, or relatively new

4 ground here. People seem very -- some people seem

5 quite worried and fearful about this process.

6 And I think if we started to make

7 constitutional conventions -- I hesitate to say

8 "part of the routine," but if we had them on the

9 books as something that would happen on a regular

10 basis, we might be able to construct a process, so

11 they're not worried every time someone suggest that

12 we try to -- we try to do this.

13 Thank you again, Mr. Chairman, and I

14 look forward to your questions.

15 MR. VAN HORN: Thank you very much.

16 Questions for the -- anyone on the

17 panel.

18 MR. COLE: Mr. Edwards? I think one

19 of your suggestions that you could stretch this out

20 for three years, I think. You would not think it

21 would be unduly long to have the question go to the

22 voters, say November '05, then spend a year

23 researching, getting all the research together,

24 getting the convention organized, having the

25 delegates elected November '06, and then the actual

86

1 questions that come out of the convention in

2 November '07. Is that right?

3 MR. EDWARDS: That's right. And,

4 Michael, my response to that is that we've been

5 talking about this property tax issue for a long

6 time; so three years, to me, is not a -- is not a

7 big deal, if we actually get it right.

8 MR. COLE: In that regard, you may not

9 know this, but Cliff Goldman suggested that he

10 thought it would be difficult to complete the

11 necessary research in a three or four-month period;

12 he thought more time might be needed.

13 MR. EDWARDS: Well, I think that's

14 another argument for maybe having the questions done

15 at two different times. As I said, I was originally

16 kind of ambivalent on it. The more I think about

17 it, the more I think it makes some sense.

18 MR. COLE: Thank you.

19 MR. VAN HORN: Dr. Reock.

20 DR. REOCK: For Ms. Askin. You argued

21 that reform must be structural. Will you elaborate

22 on just what you mean by "structural."

23 MS. ASKIN: It should be uniform. It

24 should effect reform, and not just provide relief,

25 which is what we've been having until now.

87

1 DR. REOCK: What -- how do you

2 distinguish between reform and relief?

3 MS. ASKIN: Well, relief is a

4 temporary measure; reform is long-range. And that's

5 the way, if this convention does come up with

6 something, it should be a long-range.

7 For example, capping, putting some

8 kind of cap on the amount a person does pay for

9 property taxes, based on income, and not on equity

10 in the home.

11 DR. REOCK: Would you consider that

12 reform would be done through the constitution, and

13 relief through statutes, then?

14 MS. ASKIN: No. We believe reform can

15 also be done through statutes, as well.

16 DR. REOCK: But that could be --

17 MS. ASKIN: Such as -- I mean, right

18 now, there is something called a "smart bill" that

19 the Legislature is looking at. While AARP has not

20 endorsed the smart bill, we like certain provisions

21 in the smart bill. And it's generally a bill that

22 says -- that is a progressive kind of bill. It's

23 not as regressive as the property tax is.

24 We have people on fixed incomes, who

25 pay up to twenty-five percent of their incomes in

88

1 property tax. We would like to see it based,
2 really, on the ability to pay, rather than on, you
3 know, the equity in the home, because they can't
4 convert the equity in the home to cash, to keep up
5 their home.

6 Remember, if a senior or someone
7 living in a home does not have cash to generate
8 repairs, to paint the house, to fix the roof, it
9 brings down the whole housing stock in the
10 neighborhood, as well. It's not just for the
11 individual person, but it's for the neighbors and
12 it's for the community, as well.

13 So we'd like it to be a progressive
14 kind of tax, rather than the regressive one that we
15 have right now.

16 DR. REOCK: But any statutes which the
17 convention proposes, and which the people accept can
18 be subsequently changed by a future Legislature,
19 can't they?

20 MS. ASKIN: That is true, yeah. But
21 we also have some political power to vote them out
22 of office or to reelect them, depending on what they
23 do.

24 MR. VAN HORN: Senator Van Wagner.

25 SENATOR VAN WAGNER: I just want to

89

1 pursue "structural," versus I guess what you

2 consider "relief," rather than "reform."

3 Would you -- for example, you know,

4 Mr. Edwards just made a point. If you begin to cap

5 property taxes at a percentage of income, then

6 obviously, if you're going to follow the

7 recommendation of many of the people that have

8 appeared and not look at spending, then the money

9 that's no longer raised from that cap has to be

10 raised somewhere. And where would --

11 MS. ASKIN: That is correct.

12 SENATOR VAN WAGNER: Where would you -

13 - where would you propose raising that money?

14 MS. ASKIN: Well, if it's based on

15 income, rather than on the property tax, the money -

16 - we are the highest income state in the nation.

17 That money would, you know, flow back into the tax

18 coffers and become revenue for the state.

19 SENATOR VAN WAGNER: But you would

20 have to, either raise the income tax, or eliminate

21 rebates, in order to pay for that gap.

22 MS. ASKIN: We believe that, if there

23 is true property tax reform, there will be no reason

24 for a governor to sign his name to a rebate check a

25 month before election. Yes, we would -- we would

90

1 think that, if there was genuine reform, there would
2 be no need for rebates.

3 SENATOR VAN WAGNER: What -- would you
4 -- again, following on Dr. Reock's question.

5 Wouldn't it be better, in your view, if that was
6 recommended as a constitutional change, rather than
7 a statutory change?

8 MS. ASKIN: Well, again, we think that
9 the -- the Legislature can do its job, can have
10 flexibility. Again, we are concerned that a
11 constitutional convention -- particularly, here
12 you've heard so many versions of how delegates
13 should be elected, that special interests do not
14 control the election and put their own private
15 agenda in force. We're very much concerned that it
16 will open a Pandora's Box, and that issues in our
17 constitution right now, which some communities may
18 not want, will be tinkered with. And we have
19 confidence in the Legislature to perform its job and
20 to do what has to be done.

21 MR. VAN HORN: Any other questions for
22 this panel?

23 (Mr. Cole not identified for the record)

24 MR. COLE: Mayor Cantu, I just have
25 one question. I know you've referred us to Senator

91

1 Adler's bill, but in your recommendations, I didn't

2 see a recommendation as to scope, other than that

3 you had a revenue option off the table --

4 MS. ASKIN: Yeah.

5 MR. COLE: And that was statewide

6 property tax for education. Were you recommending

7 any limitations on the scope of the convention?

8 MS. ASKIN: No, we haven't --

9 (Participants speaking simultaneously)

10 MS. ASKIN: Oh.

11 MR. VAN HORN: That was for Mayor

12 Cantu.

13 MS. ASKIN: Oh, I'm sorry. You were

14 looking at me.

15 (Laughter)

16 MR. VAN HORN: Mayor Cantu.

17 MAYOR CANTU: Sorry.

18 I think that the recommendations we

19 made were that there be a limitation on a

20 protection, basically, for the educational

21 component, and I think that's the sole

22 recommendation that we made, as far as limitations

23 are concerned.

24 I believe that that is a concern, I

25 think, that's been expressed here by others, and I

92

1 think it's one that we share. So I think that was

2 essentially the point that we made in our

3 recommendations.

4 MR. COLE: Thank you.

5 MR. VAN HORN: Mr. Jones, do you have

6 any comments to make on delegate selection, and how

7 we would ensure adequate diversity in representation

8 --

9 (End of Tape No. 2, Side B)

10 (Beginning of Tape No. 3, Side A)

11 MR. JONES: -- believe that there is

12 great opportunity for the elected officials, the

13 Legislature, to do its job.

14 However, if we should move toward a

15 constitutional convention, that should be the

16 recommendation, and that should be the road we go

17 down, then we will want to be particular about who

18 serves and acts as delegates, and how individuals

19 get to be delegates.

20 Part of the NAACP concern about the

21 issue and about the constitutional convention is

22 that there is a privilege based on color of skin.

23 New Jersey is, yes, the wealthiest, and also one of

24 the most segregated states in the nation. So we

25 would be concerned that people of color would

93

1 somehow now make it to those who would end up being

2 elected, and then craft this document.

3 MS. ASKIN: May I add something to

4 that?

5 MR. VAN HORN: You may.

6 MS. ASKIN: We share your concern

7 about the fact that delegates should represent the

8 demographics of this state. We look at the -- and

9 that's why we're supporting clean elections.

10 We look at the Legislature of this

11 state; and, as far as representation of women is

12 concerned, we are, I believe, below Mississippi, in

13 that women (tape malfunction) or maybe even less

14 right now.

15 We think that a clean elections

16 project will -- which keeps big money out of the

17 picture, will help choose delegates representative

18 of the demographics of this state because I think,

19 under the pilot that we have, a person wanting to

20 run will get \$5 from 1,000 people. Is that right?

21 And then \$50 from about 100 people. And that's it,

22 that's the cap on the amount of money that they will

23 spend on that. And we think that there will be more

24 representation of ordinary citizens on that

25 convention.

94

1 MAYOR CANTU: If I might add, as well,

2 I think one of the points that we made in our

3 testimony was that there should be consideration of

4 some level of compensation, because I think that

5 also has a tendency to perhaps preclude involvement
6 of individuals. To expect that people will serve --
7 this, I think, if, in fact, you go forward with a
8 constitutional convention, those delegates, I think,
9 will have a tremendously difficult job and a time-
10 consuming job. And I don't think we should look at
11 lavish compensation; but I think, if we do not look
12 at some level of compensation, it will act to
13 exclude individuals from the participation in the
14 process.

15 MR. VAN HORN: Yes. Assemblyman

16 O'Toole.

17 ASSEMBLYMAN O'TOOLE: I think that the

18 delegation should represent the population of New

19 Jersey. And it's a sad truth that there is an

20 under-representation of women, African-Americans,

21 hispanics, Asian, minorities in general.

22 And my question is: How do we get

23 that reflection in the delegation process? How is

24 it we can guarantee that people will vote for a

25 population that will, in fact, reflect the

95

1 population-at-large in New Jersey?

2 MS. ASKIN: Well, because special

3 interests will not put money into the election of a

4 delegate to represent their interests. Here, it

5 will be up to the individual running from a

6 constituency to go ahead and show that they have
7 popular support, and they have to reach, let's say,
8 1,000 people, who are willing to put up \$5 or \$10,
9 you know, to put their money where their mouth is,
10 and support these kinds of people. They won't be
11 chosen behind closed doors. It will be out in the
12 public, and people, you know, will be able to do it.
13 And that -- it -- you know, I spoke to
14 one of the assemblypersons, and she said, you know
15 something, it's easier for me to get a contribution
16 from one person than to go to 1,000 people and get
17 such kinds of contributions. We would like to
18 burden the delegates with that, of getting some kind
19 of popular support for their candidacy.
20 MR. JONES: If I could add, this, for
21 me, is why this issue about the constitutional
22 convention is such a vexing problem, that I think
23 we, all around the table, could see those from the
24 latino community and those from the African-American
25 community, in terms of being able to do exactly what

96

1 Marilyn suggested would be the course of action, to
2 end up winning as a delegate.
3 See, the issue is not to be in the
4 pool to be considered, but how you could control the
5 outcome of who, at the end of the day would be
6 elected. And that's one of the inherent problems of

7 this constitutional convention, that I would dare
8 say, you more than likely would end up with not
9 appropriate minority representation.
10 Now how you get to that, I don't
11 think, quite frankly, we know, particularly for a
12 state like New Jersey that has the segregation
13 patterns that we have. And if you end up at the end
14 of the day with a majority white delegate pool, just
15 like you have ended up with a task force that's
16 majority white and suburban, then you've got a
17 problem about who speaks for who and who is left out
18 and who does not have a voice.

19 MR. VAN HORN: Any other questions?

20 Let me thank you, panelists, very much
21 for being with us today. And is Justice Stein here,
22 did he arrive yet, Jack?

23 (Participants confer)

24 MR. VAN HORN: Well, we're
25 anticipating Justice Stein's arrival.

97

1 Let me go out of order then from what
2 I was intending to do, and go to the proposed -- I
3 want to go to the proposed budget for the task
4 force. I'm going to distribute that now, and I'll
5 walk you members through it.
6 I'll give you a chance to glance at
7 that for a minute.

8 (Participants confer)

9 MR. VAN HORN: Okay. As you know, the
10 Legislature appropriated \$250,000 for us to conduct
11 our work, and so I asked the staff to put together
12 this proposed budget, according to the different
13 categories that I anticipate we'll be spending money
14 on, and I'll just walk you through this quickly.

15 Printing and communications is
16 essentially Xeroxing and printing, as the final
17 report that we make, and there's some costs for
18 maintaining the website.

19 Transcription is just I think self-
20 evident. This is for the hearing costs, which are a
21 transcription service to put that together.

22 The audio equipment rental, which has
23 occurred at -- not in this room, but in some other
24 venues, where we've had to pay for that.

25 Use of facilities and refreshments.

98

1 Likewise, we're not paying for -- Rutgers is
2 donating this facility, and so on, but some of the
3 other venues, we are -- we're going to have to pay
4 for that.

5 The staff costs are very limited to
6 the -- I guess this is overtime and additional
7 payment we had to make to NJDOT employees, the
8 hearing staff. Is that right, Ed?

9 MR. MC BAIN: No, it's not overtime.

10 The DOT folks who hold these public hearings

11 (inaudible) --

12 MR. VAN HORN: Okay.

13 MR. MC BAIN: -- (inaudible) in

14 connection with the highway project (inaudible).

15 MR. VAN HORN: So, therefore, we had

16 to subvert that with state money, as opposed to

17 federal dollars. Is that right?

18 MR. MC BAIN: Right.

19 MR. VAN HORN: Expert witnesses --

20 UNIDENTIFIED: (Inaudible.)

21 MR. VAN HORN: Ed, do you want to

22 explain that?

23 MR. MC BAIN: Yeah. At the public

24 hearing center, we had folks outside who were

25 handling the intake of the people, signing people

99

1 up, talking to the witnesses, letting people know

2 where they were going.

3 UNIDENTIFIED: (Inaudible.)

4 MR. VAN HORN: Yes.

5 MR. MC BAIN: They were employees of

6 DOT, who run public hearings for people.

7 MR. VAN HORN: Yeah. We basically

8 borrowed their hearing officer capacity for those

9 hearings. And as I think Mr. McBride explained,

10 they're covered by federal funds; and so, therefore,
11 we had to -- we can't put them on federal projects,
12 obviously.

13 Expert witnesses, this is an estimate
14 for the witnesses yet to come. We've not paid for
15 anyone up to this point.

16 And the same with respect to advisors.

17 We have retained the assistance of the
18 Constitutional Law Center folks at Camden to help
19 us, and we may also need others.

20 And, as you can see, I've -- the
21 contingency line, 130,000, is meant -- anticipated
22 to be returned to the Treasury, although, you know,
23 we may need to spend more on staff assistance, and
24 so on. So that's essentially what I propose.

25 Now, of course, I would also point out

100

1 that a full accounting of the specific expenditures
2 is being kept, and will be made to the Legislature
3 when we're finished our work, which will, of course,
4 be at the end of December.

5 So I'm happy to answer any questions.

6 UNIDENTIFIED: (Inaudible - not
7 recorded.)

8 MR. VAN HORN: I'm sorry, Senator. I
9 didn't hear what you said.

10 UNIDENTIFIED: (Inaudible - not

11 recorded.)

12 MR. VAN HORN: Okay. It's out of our

13 own time, I guess.

14 UNIDENTIFIED: (Inaudible - not

15 recorded.)

16 MR. VAN HORN: Yup, that's -- yes,

17 Assemblyman.

18 (Assemblyman O'Toole not identified for the record)

19 ASSEMBLYMAN O'TOOLE: In terms of

20 costs going forward of expert witnesses and expert

21 advisors, I assume that we will be discussing those

22 individuals and disbursements before they occur, as

23 to how and when we're going to spend for research

24 and opinions?

25 MR. VAN HORN: Yes.

101

1 ASSEMBLYMAN O'TOOLE: I think this

2 group should really get together and make a decision

3 before we spend dollar-one on any of those items.

4 MR. VAN HORN: Yes, absolutely, I'm

5 happy to do that.

6 I believe that we are going to have to

7 pay the travel of some of the witnesses that are

8 coming in November, and that list was distributed to

9 you, so I am assuming you have no objection to that.

10 Other than that, I don't think there's anybody else

11 scheduled at the moment in this category.

12 (Mr. Cole not identified for the record)

13 MR. COLE: Mr. Chairman, I think you

14 probably need a motion on this.

15 MR. VAN HORN: Yes, I would certainly

16 entertain a motion.

17 MR. COLE: So I would move that we

18 adopt the budget as proposed.

19 UNIDENTIFIED: Second.

20 MR. VAN HORN: Okay. All those in

21 favor, signify.

22 (Vote taken. Motion carried)

23 MR. VAN HORN: Okay. Thank you very

24 much. We'll go ahead and, as I said, make a full

25 accounting. And if there are any additional

102

1 expenditures, as with respect to specific

2 individuals, we'll certainly report that first to

3 the task force before moving ahead.

4 I also want to talk a bit about the

5 schedule, clarify. We have canceled the meetings

6 for next week for two reasons: One is because

7 members have other things on their mind and other

8 obligations they need to take care of, which are

9 obviously very important. But more practically

10 speaking, we didn't have people that were able to

11 visit with us on those specific days that were on

12 our list. So we're not going to meet next week.

13 We are scheduled to meet on the 9th

14 and the 12th, I think, if memory serves. Is that

15 right?

16 MR. MC BRIDE: Yes.

17 MR. VAN HORN: Here in this room. And

18 that will be for purposes of hearing from the expert

19 witnesses that were previously announced, and

20 including Justice Handler.

21 And, also, Senator Schluter has

22 graciously agreed to adjourn his presentation until

23 then because we want to make sure that we have a

24 fulsome discussion with him about his views, because

25 of his vast experience in this subject. So, rather

103

1 than, shall we say "squeeze" his remarks into a

2 tighter time frame, I felt it advisable to give him

3 more opportunity to speak to us at a subsequent

4 date, and he agreed to do that.

5 In addition to that, we are, right

6 now, beginning to pull together dates for November

7 and December, which will be distributed to you for

8 your review very shortly. Obviously, we'll need to

9 have a number of deliberative sessions in the month

10 of November and December, so that we can meet our

11 deadline, so very shortly you'll be getting those

12 dates. And we'll do our best to find a time when

13 the maximum number of members are here for those

14 discussions.

15 Yes, Mayor.

16 MAYOR SCHUBERT: Mr. Chairman, I would

17 just request, when you're putting those dates

18 together, to keep in mind that the 15th through the

19 19th is the League Conference, which most of the

20 elected officials at all levels will be attending,

21 so just keep that in mind.

22 MR. VAN HORN: Yes, I'm aware of that.

23 Yeah.

24 MAYOR SCHUBERT: Thank you.

25 MR. VAN HORN: That may be a research

104

1 period for us.

2 Okay. I --

3 (Senator Van Wagner not identified for the record)

4 SENATOR VAN WAGNER: Mr. Chairman.

5 MR. VAN HORN: Yes. Yes, Senator.

6 SENATOR VAN WAGNER: These

7 deliberative sessions that we're going to have, I

8 assume that, as we deliberate, we're going to

9 discuss exactly what our recommendations may or may

10 not be to the Legislature. Is that correct?

11 MR. VAN HORN: That's right.

12 SENATOR VAN WAGNER: Okay.

13 MR. VAN HORN: Yes, what -- I'm sorry.

14 Go ahead.

15 SENATOR VAN WAGNER: And, as you
16 pointed out to me the other day, they're going to be
17 in public. Is that correct?

18 MR. VAN HORN: Yes.

19 SENATOR VAN WAGNER: Okay. Are we
20 going to, during those deliberative sessions, allow
21 public commentary to be included in our
22 deliberations, or will that be just an opportunity
23 for the public to simply observe our deliberations.

24 MR. VAN HORN: I was, again, guided by
25 the task force's reaction. But my intent was to run

105

1 this as one mark-up session, where those speaking at
2 this meeting are the members of the task force;
3 however, it's open to the public for their -- and
4 the press for their observation, but not to
5 entertain comments during those meetings.

6 SENATOR VAN WAGNER: Good. Thank you.

7 MR. VAN HORN: Did you want to make a
8 comment?

9 (Assemblyman O'Toole not identified for the record)

10 ASSEMBLYMAN O'TOOLE: I just want to
11 follow up on what Jo-Anne had said. Is it your --
12 is it your plan to have a meeting on the 9th and the
13 12th? And it appears to many of us that, between
14 the 12th and the 19th, there's not going to be --
15 I'm not going to be personally available; I know a

16 lot of the local officials won't be available. So
17 if we can just use that for a research period, that
18 would be very helpful to me, as well, Chairman.
19 MR. VAN HORN: Yeah. I think,
20 practically speaking, we're likely to do that.
21 The -- one other thing I wanted to
22 mention. One witness that we had previously --
23 we're looking forward to hearing from, Professor
24 Howard from Virginia, had to withdraw because they
25 have got the constitutional convention bug in

106

1 Virginia, also, and he has been summoned to the call
2 of his own state, to the commonwealth, I guess I
3 should say, right? To work on their constitutional
4 convention. So he is not going to be available to
5 us, unfortunately.

6 We are waiting for Justice Stein to
7 come. He's a few minutes away?

8 (Participants confer)

9 MR. VAN HORN: Oh, yes, right. One
10 other issue I do want to bring up. There are a
11 number of other groups, individuals who have
12 expressed a desire for us to hold additional
13 meetings. It is my recommendation that we not have
14 additional meetings; that, instead, that we -- I
15 mean, other than those already scheduled, and that
16 we, instead, use the balance of the time we have,

17 which will occur, of course, in -- I guess after

18 November 19th, most likely, to have our deliberative

19 sessions.

20 I mean, again, I know there are many

21 people that, I'm sure we could benefit from hearing

22 from, but, again, I think the practical realities

23 are such that we need to get on with the business of

24 crafting our report.

25 Assemblyman?

107

1 (Assemblyman O'Toole not identified for the record)

2 ASSEMBLYMAN O'TOOLE: Chairman, I

3 understand that there will be a time that we have to

4 just, you know, go into our work sessions, but I

5 also think that there's a compelling group out there

6 that we have not seen, thought about. Perhaps we

7 allow an opportunity for those groups that have not

8 been heard, let them submit their opinions in

9 writing; and, if there's any compelling testimony

10 necessary, perhaps we can vote to hear them.

11 MR. VAN HORN: Yeah.

12 ASSEMBLYMAN O'TOOLE: But if perhaps

13 we can just hear their testimony or see it in

14 writing; and, frankly, if that would suffice, that

15 would be fine. But if there's a compelling reason

16 beyond that, I'd be open to having another public

17 hearing.

18 MR. VAN HORN: Sure. And I will

19 definitely -- we are encouraging that, and we'll

20 certainly make that available to the members of the

21 task force on a timely basis, so that we can

22 obviously reconsider, you know, that point of view,

23 if we chose to do so.

24 Okay. My suggestion is that we take a

25 personal break for five or ten minutes; and I

108

1 assume, by then, that the justice will be here, and

2 then we'll reconvene as soon as he does and hear

3 this remarks.

4 (Recess taken)

5 (Proceedings resume)

6 MR. VAN HORN: Justice Stein, Thank

7 you very much for joining us this morning, or

8 actually it's now afternoon. We look forward to

9 hearing your comments to help us guide our work, and

10 we all just want to acknowledge your distinguished

11 service to the State of New Jersey, and we

12 appreciate your continuing to led your advice to us.

13 JUSTICE STEIN: (Inaudible) specific

14 that you want me to discuss, or do you want general

15 reactions, or what would -- what would you like to

16 hear?

17 MR. VAN HORN: Well, I think that the

18 staff advised me that you had some thoughts about

19 how we structure the scope of the convention, in
20 order to go forward and make progress. And I
21 believe that I would certainly be, and I think other
22 members, very interested in any comments you would
23 have with respect to that.

24 JUSTICE STEIN: Well, I read all the
25 background material, and I think I'm struck by the

109

1 challenge and the opportunity that this assignment
2 presents for the task force. And so my instinct is
3 that you want to structure the charge for the
4 convention in a way that affords the convention the
5 -- and I may be repeating observations others have
6 made, but in a way that affords the convention the
7 maximum flexibility to do this job and to do it
8 right.

9 And while there are some very
10 sensitive subjects that perhaps it would be wiser to
11 exclude from the charge to the convention, my
12 instinct is that the exclusions ought to be limited,
13 and that the task force, when it makes its
14 recommendations, ought to recognize fully the
15 enormous opportunity this is to build a consensus
16 for property tax reform that will succeed.
17 And so, to do that in structuring
18 delegate selection, the power of the convention
19 delegates and all of the attendant issues that are

20 discussed in the background paper, I think you have
21 to proceed with an enormous amount of foresight
22 because what you want to do is create an atmosphere
23 similar to the atmosphere that flourished during the
24 '47 convention, which was probably the most
25 remarkable public policy initiative perhaps in the

110

1 state's entire history. And, there, we truly had
2 the best minds in the state, the leadership in the
3 state representing every cross-section of interest
4 group and nationality and perspective come together
5 and produce a remarkable constitution. And I think
6 what you want to do is try as best you can to
7 replicate that experience.

8 So I think I would advise and counsel
9 the task force to err on the side of flexibility, to
10 try for a recommendation for a convention that's
11 broad-based, that isn't dominated by any interest
12 group.

13 I've thought a little bit about
14 legislative membership; that's obviously an
15 important constituency. It occurred to me that,
16 perhaps if you -- and I'm really talking off the top
17 of my head; I haven't thought carefully about it.
18 But if you selected delegates by district, perhaps
19 it might be prudent to attempt to limit the number
20 of legislative representatives. I don't know if

21 that's ever been done before.

22 But I don't think you want -- you

23 don't want a convention that's dominated by anybody,

24 by any group, by any interest group in the state. I

25 thought the idea of some super-delegates was

111

1 attractive; hard to structure, but attractive

2 because how good it would be if we had some of our

3 able former governors who could participate in a

4 convention process.

5 I was struck by the recommendation in

6 one of the background papers dealing with

7 authorizing the delegates to recommend statutory

8 changes, because I think the nature of the subject

9 that you have -- that you're considering is such

10 that it would be prudent to consider going through

11 the necessary steps to authorize the delegates, to

12 propose not only constitutional amendments, but

13 statutory changes for approval by the electorate.

14 So I -- I've thought a little bit

15 about -- I've thought a little bit about the

16 thorough and efficient clause, and I certainly --

17 from a policy perspective and even considering the

18 subject matter before the convention, the state has

19 expended such energy and effort over the last thirty

20 years to attempt to mitigate the effects of

21 property, wealth disparities in the urban districts,

22 that I think there is ample justification to exclude
23 from consideration any change in the thorough and
24 efficient clause, just because we have invested so
25 much public capital, so to speak, in our effort to

112

1 even the playing field.

2 So those are some -- those are some

3 preliminary thoughts, and I'll be happy to respond

4 to any questions. But I would say this. My

5 experience in Governor Kean's administration, when I

6 was in the executive branch, suggested to me time

7 and time again the importance of building consensus

8 to support changes in state policy. And, on

9 occasion, I was directly involved in efforts that

10 worked out well, but only after an enormous amount

11 of effort was spent in putting together the

12 components of consensus-building. And that's your

13 job.

14 Your job is to design a framework

15 that's going to permit the best, most able people in

16 the State of New Jersey to come together to address

17 this topic. And so I think that your goal is a

18 convention that will work, and work well, and will

19 attain broad public acceptance, and eventually voter

20 approval. Those are my instincts, Mr. Chairman.

21 MR. VAN HORN: Thank you. I

22 appreciate your willingness to answer some

23 questions.

24 JUSTICE STEIN: Sure.

25 MR. VAN HORN: Let me begin with the

113

1 vice chairman.

2 MR. COLE: Justice Stein, in terms of

3 your remarks about the thorough and efficient clause

4 and the thirty years that you noted the state has

5 invested in it, and your conclusion that it should

6 not be the subject of discussion at the convention,

7 does your remarks extend to the funding formula that

8 implements thorough and efficient; the so-called

9 "Abbot funding formula"?

10 JUSTICE STEIN: Well, there really --

11 there really isn't a funding formula, except for the

12 New Jersey Supreme Court's decision in Abbot 2, that

13 required spending parity --

14 MR. COLE: Right.

15 JUSTICE STEIN: -- between the poorest

16 urban districts and the wealthiest districts. I

17 haven't thought carefully about that subject.

18 My remark -- my remarks -- and I --

19 I'm not reaching any conclusions. You might -- you

20 might describe what I said on that issue as perhaps

21 a recommendation to the task force. The

22 recommendation to keep the thorough and efficient

23 clause out of the debate is based on the belief that

24 the thorough and efficient clause was the basis for

25 Chief Justice Weintraub's opinion in Robinson v.

114

1 Cahill 1.

2 If you recall at the time, the United

3 States Supreme Court had held in the San Antonio

4 case that the equal protection clause of the federal

5 constitution didn't require equal resources for

6 urban and suburban school districts. And so, when

7 Robinson 1 came to the New Jersey Supreme Court, it

8 followed Judge Bodder's decision (phonetic) in the

9 Law Division; and Judge Bodder, as I recall, had

10 held that it was a matter of federal constitutional

11 mandate that there be equal resources.

12 The New Jersey Supreme Court modified

13 Judge Bodder's decision and held that it was the

14 thorough and efficient clause of the state

15 constitution that guaranteed equal opportunity.

16 But, of course, it took the New Jersey Supreme Court

17 probably from 1972, if my memory serves me, about

18 twenty years before it defined what it meant by

19 equal resources. And the reason for that was that

20 it took so long for the executive and the

21 legislative branches of government to respond to the

22 Court's broad determination in Robinson 1 that there

23 had to be equality of resources.

24 And so, twenty years later, after the

25 Legislature had passed an income tax and dedicated

115

1 money to education reform, and that statute was held

2 unconstitutional in Abbot; after twenty years, in a

3 unanimous opinion by Chief Justice Wilentz said,

4 well, we have got to define what we mean by "equal

5 resources." And relying on Chief Justice

6 Weintraub's opinion in Robinson 1, the Court said,

7 at a minimum -- because the opinion identified the

8 enormous gap between urban and suburban school

9 resources, the Court said, at a minimum, there have

10 to be equal resources per pupil; and, in addition,

11 there need to be supplemental programs to make up

12 for the vast disparity in background that the

13 children attending the urban schools have, in

14 comparison to their counterparts in suburban

15 schools.

16 So I guess, if the question is, Vice

17 Chairman Cole, if the question is, might there be

18 another formula to achieve equality, I suppose there

19 might be.

20 MR. COLE: So you might, Justice, draw

21 a distinction between the constitutional obligation

22 and the mechanism to achieve it.

23 JUSTICE STEIN: Well, I might. I'm

24 concerned, of course, because of the experience I

25 had over eighteen years with the issue. It's a very

116

1 -- it's a very troublesome issue. And the time lag
2 between a court's pronouncement or a legislature's
3 pronouncement and the implementation of it, and the
4 money finally getting to the children is such a --
5 is such a frustration.

6 For example, it was not until Abbot 6
7 that we ordered preschool to be implemented in the
8 urban schools, and it took five years to get there.
9 And while I think they've -- they're now up around
10 seventy-five, eighty percent of the eligible kids,
11 they're still not done because facilities aren't
12 ready.

13 So I want to think a little bit more
14 about the mechanism. But certainly there is a
15 distinction, and I just want to think more carefully
16 about whether it would be productive or unproductive
17 to put the mechanism for achieving equality on the
18 table.

19 As I said when I started, if this
20 convention is going to work, I think the fewer the
21 subjects that are off the table, the better, in
22 general. I think this is a very special one because
23 the state has gone through thirty years of intensive
24 litigation in an effort to rectify a disparity that,
25 in my judgment, has existed for over fifty years.

117

1 And so, so much has been invested; so much money, so

2 much time, so much effort, and the equalizing

3 process is, frankly, so young, that I would exercise

4 great caution as a member of the task force in

5 opening up the mechanism that determines equal

6 funding. But there is a distinction.

7 I'm sorry for the long answer, but

8 it's a subject that's near and dear to my heart.

9 MR. VAN HORN: No, no. It's a very

10 important subject, and we appreciate your views on

11 it.

12 Cy, did you want to --

13 MR. THANNIKARY: Justice Stein, my

14 name is Cy Thannikary. I'm delighted to meet you, I

15 heard a lot about you, and this is the first time

16 I'm meeting you. I'm delighted to see you and

17 delighted to meet you.

18 My question is that a lot of

19 discussion about the inequities in the

20 administration, the implementation of Abbot in many

21 of the districts, there are a lot of articles

22 written by Reynolds Jackson (phonetic), who's the

23 (indiscernible) director of the Black Minister's

24 Caucus, and also a lot of other people wrote about

25 it.

118

1 So my question is that, suppose that
2 we recommend the convention discuss, not the funding
3 part of it, but establish an accountability, the
4 output measurements for Abbots for the money we
5 invested. Would you -- would you comment on that?
6 JUSTICE STEIN: Well, I would. In
7 many of the courts' decisions, we recognize that, in
8 authorizing and directing that more money be spent
9 on urban education, accountability was critical.
10 And we frequently have mandated that the
11 Commissioner and the Department of Education make
12 sure that the money is well spent.
13 My quick reaction, and I haven't
14 thought about it; my quick reaction is that it would
15 be a distraction for the convention to be concerned
16 about a subject as narrow as accountability in the
17 urban school districts. It's obviously an important
18 issue, but I think it's reasonably far removed from
19 the central thrust of what the convention is being
20 called to consider, and it's a very complicated
21 subject.
22 Some districts do it well. Some
23 districts are very careful with the way they spend
24 money. Other districts are not. And the
25 commissioners of education and their staff have had

119

1 tremendous difficulty in making sure that the money

2 is well spent.

3 The disclosure within the past year

4 about mismanagement of the -- some of the preschool

5 money was heartbreaking to me because so much effort

6 went into the development of that program, and so

7 much faith is invested in the belief that that

8 program will, in fact, have a remarkable impact on

9 urban public school children.

10 But I would be careful about putting

11 issues on the table that are, A, complex and

12 administrative in nature; and, B, far removed from

13 the central subject of property tax reform. That

14 subject, in and of itself, could properly require

15 delegates to consider lots of things: Revenue,

16 expenses, debt limitation, which is a subject I

17 didn't mention in my opening remarks, but it's a

18 subject I'm familiar with, and a wide variety of

19 expenditure items that could sabotage property tax

20 reform because they could impose enormous demands on

21 the state's general revenues. So my quick reaction

22 is that that subject would be a distraction.

23 MR. THANNIKARY: Thank you.

24 MR. VAN HORN: Dr. Reock.

25 DR. REOCK: Justice Stein, another

120

1 issue which in some of the proposed legislation is

2 excluded from the scope of the convention is

3 affordable housing. Can you see any way in which a
4 constitutional convention devoted to property tax
5 reform would be a threat to the state's obligation
6 on affordable housing?

7 JUSTICE STEIN: You know, I don't see
8 it, frankly, thinking about it instinctively, and I
9 haven't studied it, and I haven't gone back to read
10 Mount Laurel 2. My quick reaction is that I don't
11 see much of a connection. Put differently, while
12 the mandate for affordable housing has an obvious
13 impact on the assessed value of housing in some
14 communities because market price housing is going to
15 be assessed higher and bring in more revenue than
16 low-income housing, I don't see an enormous
17 connection, Professor Reock.

18 So I've heard that some of the bills
19 exclude that subject simply because it's a very
20 sensitive subject. But I must say that, without
21 devoting a little bit more time and study to it, I
22 don't see a connection if legislators are more
23 comfortable instructing the delegates not to
24 consider the Mount Laurel obligation. My quick
25 reaction is, I don't think that would either impede

121

1 or assist the work of the convention. I don't see,
2 instinctively, any direct relevance. However, if
3 somebody could point it out to me, I'd be happy to

4 reconsider it, and I haven't really thought it

5 through.

6 DR. REOCK: Thank you, Chair.

7 MR. VAN HORN: Dr. Cole.

8 DR. COLE: Thank you.

9 Justice Stein, I want to take you, if

10 I might, back to a more preliminary question. A

11 number of people we have heard from have raised the

12 general proposition that the issue of tax reform

13 isn't really a constitutional problem at all, but a

14 statutory one, if you will, and that we shouldn't be

15 going to a constitutional convention or to the

16 constitution itself to address this problem. Do you

17 have a view about that?

18 JUSTICE STEIN: Well, I suppose it's

19 possible to address property tax reform without

20 amending the constitution. I've seen one proposal

21 in an editorial in the Star Ledger that did

22 implicate the constitution. My recollection is that

23 the Star Ledger had recommended increasing other

24 revenue sources, and using the pool of money that

25 was generated to finance a rebate to residential

122

1 property owners, and not to commercial property

2 owners. And my quick reaction when I read it was

3 that that implicated the uniformity clause of the

4 constitution; and, therefore, would require

5 attention to that provision of the constitution,

6 perhaps among others.

7 So I don't know the answer to that,

8 Professor Cole, except that -- except that it would

9 not surprise me if the reforms enacted did implicate

10 the constitution. At the same time, I suppose it's

11 possible to design a reform that increased other

12 revenues and imposed limits on property tax --

13 property tax impositions that did not implicate the

14 constitution.

15 But at least prospectively, I think

16 that there's a decent possibility that

17 constitutional revision might be required to

18 implement some proposals. And that's why I said in

19 my preliminary remarks that I thought that the

20 delegates -- and I think it was a research paper

21 prepared by Professor Tarr that addressed it. I

22 thought that the delegates ought to be authorized,

23 not only to recommend constitutional revisions, but

24 statutory revisions, as well, and that would require

25 some attention to the clause in the constitution

123

1 that limits the legislative power to the

2 Legislature. Because it's obvious that statutory

3 changes are going to be part of the package.

4 So I'm new to the subject; I just got

5 the background papers the other day, and I've

6 thought about it a little bit in the last forty-
7 eight hours. But my quick reaction is that, because
8 this subject has eluded legislative action for so
9 long, and because the share of property tax revenue
10 as a proportion of total state revenue seems to be
11 disproportionate in New Jersey and has been for some
12 time, I don't know a much better way to get at this
13 subject than a constitutional convention.
14 I suppose, if you -- if you locked a
15 half a dozen wise men in a room and left them there
16 for three months and said, come out with a
17 recommendation, that might produce some good ideas.
18 But the nature of this subject being as volatile as
19 it is just might benefit from the combined efforts
20 of citizens of good will, representing all walks of
21 life. So I can't argue against it.
22 And if you do it, if you do it, the
23 critical thing is that you succeed. Because it
24 would be a bitter disappointment if all of the
25 efforts and talent and expenditures and energy that

124

1 would be required to undertake such a convention
2 would fail.

3 MR. VAN HORN: Vice Chairman Cole.

4 MR. COLE: Justice Stein, I only have

5 two subjects I'd like to talk to you about, one,

6 picking up on what you just said about how best to

7 do it.

8 One of the problems that we face is

9 how to guarantee that the convention, the delegate -

10 - the face of the delegates look like the fact of

11 New Jersey, and have diversity and represent all

12 interests, so people believe that they're being

13 dealt with fairly and equitably. And it's difficult

14 to do in any kind of elective process.

15 Someone suggested to me that perhaps

16 you'd be better off using an approach that sort of

17 mirrored what was just done at the federal level,

18 which was the 9/11 Commission, choosing a diverse

19 body that was essentially bipartisan or nonpartisan

20 --

21 (End of Tape No. 3, Side A)

22 (Beginning of Tape No. 3, Side B)

23 JUSTICE STEIN: -- I think, if there

24 were no other constraints, and the question was,

25 what's the best way to figure out changes in our

125

1 constitution and statutes that would achieve

2 property tax reform, I think I would probably

3 respond that something like that would be the most

4 efficient way to do it.

5 You would empanel a task force that

6 consisted of people who were nonpartisan, who were

7 respected, who enjoy the confidence of their -- of

8 the broadest segments of the community, and ask them

9 to come back and make a recommendation.

10 The -- I guess the argument that would

11 be advanced the other way is that, as a matter of

12 constitutional process, the experience of the other

13 states in the country is that constitutions are

14 amended in one of two ways: Either by amendment or

15 by convention. And the distinction that's been made

16 in some of the case law that I've looked at seems to

17 be that housekeeping amendments are put differently,

18 so-called "modest amendments" or even significant

19 amendments that were isolated in their impact on the

20 entire constitution could be made by the amendatory

21 process.

22 For example, I think the Legislature

23 could amend the debt limitation clause of the

24 constitution; an isolated issue, taking into account

25 the fact that realistically there is no debt

126

1 limitation clause anymore because the decision of

2 the New Jersey Supreme Court has indicated that

3 authority debt is excluded from the debt limitation

4 clause; and, therefore, there is no incentive for

5 future state legislators and governors to use

6 general obligation debt and go through the

7 referendum process, so a legislature could fix that.

8 But if you were going to fix something

9 that is fundamental to the constitution as, for
10 example, the uniformity clause that affects property
11 taxation, the implications of that fix and the
12 things that are collateral to it typically in other
13 states have been done by constitutional convention.
14 Now I suppose what you could consider
15 is an intermediate set. You could empanel this
16 bipartisan group of informed citizens, ask them to
17 make recommendations; and, when they were done, the
18 Legislature could call a constitutional convention
19 to consider them and to, you know, take the steps
20 recommended. And whether that process would enjoy
21 the same degree of public support as proposals that
22 came out of a constitutional convention, I suspect
23 depends on how well the job was done.

24 It's certainly not -- it's not
25 illogical, and it's not -- it's not anything -- it's

127

1 not a process that I would regard as fundamentally
2 flawed. It's just a little off the chart, in the
3 sense of comparing it to the traditional methods of
4 changing constitutions.

5 But you're right. The process of
6 electing delegates and ensuring that you've got --
7 that you've got delegates that represent the
8 required interest groups is difficult. A
9 nonpartisan election would perhaps help, public

10 funding might help. I think you could take for
11 granted that some of the large interest groups, the
12 NJEA, some of the other unions, would make sure they
13 got a delegate or two that understood their
14 perspective.

15 But it's hard because democracy, as we
16 know, is imperfect. So I don't think there's a way
17 to guarantee it, except by the sheer weight of
18 numbers. Put differently, if you had a convention
19 with eighty to a hundred delegates or 120 delegates,
20 if you were mirroring the size of the two houses of
21 the Legislature, would probably ensure a fairly
22 broad-based body; hard to work with, and a body that
23 would require very strong and effective leadership,
24 but I think you'd probably wind up with a reasonably
25 representative body. In terms of efficiency, you

128

1 might do better with the kind of a process that you
2 just suggested.

3 MR. COLE: Thank you.

4 MR. VAN HORN: Yes. Mr. Malloy.

5 MR. MALLOY: Justice Stein, given the
6 enormity of the task that would be in front of a
7 convention, should they be given a tight time limit
8 of perhaps three, four months, or should it be more
9 open-ended, to ensure that all the issues are fully
10 looked at?

11 JUSTICE STEIN: You know, I don't have
12 a strong view. What I read suggests that it's
13 common to provide a time limit. I suppose you could
14 -- you could authorize the delegates to extend the
15 time limit for a period not to exceed one-half of
16 the time limit that you give them. I mean,
17 obviously, the goal would be that you get the job
18 done in ninety or 120 days.
19 One of the things that I remember
20 about the '47 convention is that the recommendations
21 in the end enjoyed such broad support among the
22 delegates. Put differently, when they finally got
23 done, there was a sense that there was broad
24 agreement on the essential components of that
25 constitution, and that's because so much spade work

129

1 was done in preparing for it.
2 So, yeah, I think a time limit is
3 appropriate. You don't want to cut off the
4 discussion prematurely. But I think a time limit is
5 appropriate, with maybe some built-in mechanism to
6 extend it if it was necessary.

7 MR. VAN HORN: Well, Justice Stein, I
8 want to thank you for visiting with us today and
9 sharing our views. It's very helpful to us, as we
10 think about the task before us.

11 And I want to adjourn the meeting now

12 until November 9th. And we'll reconvene here at
13 that time, in the afternoon, I believe, of that day,
14 in the same building.

15 Thank you very much, sir.

16 JUSTICE STEIN: My pleasure.

17 (Proceedings concluded)

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130

1 C E R T I F I C A T I O N

2

3 I, Coleen Rand, do hereby certify that

4 the foregoing transcript of proceedings by the New

5 Jersey Property Tax Relief Task Force, recorded on

6 audiotape on October 29, 2004, is a true and

7 accurate non-compressed transcript of the

8 proceedings to the best of my knowledge and ability.

9

10

11

12 Coleen Rand AD/T 419 Date

13 For Guy J. Renzi & Associates

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