



state of new jersey

Acting Governor Richard J. Codey

# PROPERTY TAX CONVENTION TASK FORCE



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1 STATE OF NEW JERSEY

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3 NEW JERSEY PROPERTY :  
4 TRANSCRIPT  
5 TAX CONVENTION TASK FORCE : OF  
6 HEARING  
7 -----

6

7 Date: December 10, 2004

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9 TRANSCRIPT ORDERED BY:

10 JACK DONNELLY, State of New Jersey, Office of  
11 the Governor, The Statehouse, PO Box 001,  
12 Trenton, New Jersey 08625

12

13 PANEL PARTICIPANTS:

14 (Not introduced/identified for the record)

- 15 SENATOR JOHN H. ADLER
- 16 MICHAEL R. COLE, VICE CHAIRMAN
- 17 SHERRYL GORDON
- 18 SENATOR LEONARD LANCE
- 19 ASSEMBLYMAN KEVIN O'TOOLE
- 20 MAYOR GARY PASSANANTE
- 21 ERNEST C. REOCK, JR., Ph.D.
- 22 MAYOR JO-ANNE B. SCHUBERT
- 23 CARL E. VAN HORN, Ph.D., CHAIRMAN

20

21

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1 (Tape 1, Side A)

2 MR. VAN HORN: -- begin with -- the

3 agenda is in front of you at your seat, I'll just

4 walk you through that quickly.

5 We're going to begin with revisiting

6 the question of certification. If you recall on

7 Wednesday, Senator Adler referenced a memo from the

8 Office of Legislative Service and Peter Kelly, and

9 he's going to -- that's in front of you, and then

10 he's going to summarize that for us.

11 Then we're going to revisit the seven

12 questions that were not clearly resolved from our

13 meetings in late November and on the 3rd of

14 December.

15 Then we're going to have staff walk us

16 through an analysis of the costs of conducting the

17 pre-convention, convention, and post-convention

18 elections -- and the post-convention election, and

19 that's our work for today.

20 So let me -- yes, Dr. Cole.

21 DR. COLE: Mr. Chairman, if I might, I

22 wonder if we couldn't find a few minutes on the

23 agenda today to revisit the issue of scope. I have

24 a question that I would just like to pose for

25 consideration.

3

1 MR. VAN HORN: Sure. Sure,

2 absolutely. Why don't we take that up under new

3 business.

4 DR. COLE: Fine. Thank you.

5 MR. VAN HORN: I'm sure we'll have

6 time to do that.

7 Any other comments before we -- any

8 other additions to the agenda?

9 Okay. Peter, would you proceed just

10 to give us the bottom line on your memo, if you

11 would, please.

12 MR. KELLY: Oh, sure.

13 MR. VAN HORN: Thank you.

14 MR. KELLY: This is a legal opinion

15 that my office prepared for Senator Adler in May of

16 2002. Part of the opinion is now obsolete. The

17 bill at that time -- at that time, there was no

18 temporary constitutional amendment to authorize

19 statutory changes; the bill simply authorized it.

20 And our advise was that we believed that that could

21 not be done. And it was after this opinion that I

22 believe we came up with the idea of the temporary

23 constitutional amendment to authorize the convention

24 to propose statutory changes.

25 I think what's significant about the

4

1 opinion, the reason I brought it up with Senator  
2 Adler at the last meeting, was because the bill at  
3 that time also provided that the Chief Justice would  
4 certify the convention's proposal to determine that  
5 they had not exceeded their mandate prior to the  
6 proposal being placed on the ballot. And our advise  
7 was that we believed that was in conflict with the  
8 state constitution, that we could not direct the  
9 Chief Justice to render what was, in effect, an  
10 advisory opinion on that issue.

11 And it was after that opinion that I  
12 believe the bill was, thereafter, altered to have  
13 the Chief Justice, instead, make appointments of  
14 three retired judges or justices to a panel that  
15 would certify the convention's proposal.  
16 Let's see. At one point, we mention  
17 in the opinion that -- there's an example of this,  
18 that the Chief Justice makes an appointment to the  
19 State Commission of Investigation. That statute,  
20 just to elaborate on that point a bit, actually  
21 provides that the Governor will appoint two members  
22 to the commission, and the Senate President and  
23 Assembly Speaker will each appoint one, but that if  
24 they fail to act, the Chief Justice is directed to  
25 make an appointment to the State Commission of

5

1 Investigation. So there is an example of it.  
2 There's a couple other examples, but -  
3 - of the Chief Justice making appointments, but  
4 those are constitutional, and that would be the  
5 Reapportionment Commission and the Counsel on Local  
6 Mandates has one member appointed by the Chief  
7 Justice. But, again, that's provided for in the  
8 constitution, not by statute.  
9 So -- but the bottom line is we think  
10 that it -- and, after consulting with Professor  
11 Williams, we think that it probably would be okay to  
12 direct the Chief Justice to appoint a three -- a  
13 three-member panel to make this determination.  
14 If there's any doubt about it, I guess  
15 the legislation could have it as an alternative;  
16 that, if the Chief Justice fails to act or declines  
17 to act, that the appointment could be made, instead,  
18 by the Governor, after consultation with legislative  
19 leadership.

20 MR. VAN HORN: Thank you, Peter.

21 Michael, Vice Chairman.

22 MR. COLE: Peter, has the Chief

23 Justice ever exercise the appointment power to the  
24 SCI?

25 MR. KELLY: I don't believe so, but I

6

1 haven't had time to check that. I've never heard

2 that that occurred.

3 MR. VAN HORN: Other questions? Yes,

4 Mr. Vice Chairman.

5 MR. COLE: Just one, one more comment.

6 I know -- it was actually an extra meeting, because

7 it was at the conclusion of the last meeting when we

8 were talking about the prospect, I think, of a

9 litigant coming in at the last moment and possibly

10 gumming up a submission to the voters of a proposal

11 coming out of the convention. And I think Professor

12 Williams, maybe Peter and some others, we were

13 talking.

14 I suggested that one way you might

15 deal with that is to put some kind of estoppel

16 period in the statute, as well, that would require

17 that if a challenge were to be brought; for example,

18 a scope challenge, that it had to be brought within

19 fifteen times, similar to estoppel periods that

20 exist in public financing contexts, which would go a

21 long way towards preventing the filing of an

22 election eve challenge. Just something to be

23 considered.

24 MR. VAN HORN: Sounds like a wise

25 idea.

7

1 Other questions? Yes, Dr. Reock.

2 DR. REOCK: Just a question on, if we

3 were to decide that it was a desirable thing to have

4 the review of the convention's proposals done by the

5 Supreme Court or by the Chief Justice, would it be  
6 possible for that authority to be granted or  
7 assigned in the -- we already are talking about a  
8 constitutional amendment to give the convention  
9 statutory enactment power. Couldn't, at the same  
10 time, a constitutional amendment provide that the  
11 Chief Justice should -- or the Supreme Court should  
12 exercise this power to review the results of the  
13 convention to determine whether it's within the  
14 scope? I don't know whether that could be done in  
15 the same constitutional amendment, probably not, but  
16 it --

17 MR. KELLY: Well, I don't think we've  
18 had time to consider that. I guess the -- you know,  
19 there's a couple of other things that we've proposed  
20 should be put in the temporary constitutional  
21 amendment, in order to eliminate any doubt.  
22 I guess the question would be whether  
23 that's consistent with the separate vote requirement  
24 of the constitution, and if these things are  
25 sufficiently related to each other as to be allowed

8

1 to be in one constitutional amendment. I mean, I  
2 guess the argument would be that this is a temporary  
3 constitutional amendment, concerning a  
4 constitutional convention and how it would be  
5 conducted, so that, you know, probably it would be  
6 okay --

7 DR. REOCK: So it might be possible to

8 wrap it all up into one package.

9 MR. KELLY: I think that it would

10 likely -- that would likely be the case. I don't

11 know if Professor Williams has anything he'd like to

12 add.

13 PROFESSOR WILLIAMS: I would just say,

14 it's -- but it's arguable. That's the problem. And

15 it gives rise to litigation possibilities on what is

16 a single vote on a single amendment, number one.

17 Number two, it would require the same

18 three-fifths vote --

19 MR. KELLY: Right.

20 PROFESSOR WILLIAMS: -- of the

21 Legislature, so you're adding in another issue now

22 that the Legislature would have to pass by a three-

23 fifths vote, and adding to the complexity of all

24 these things. So --

25 DR. REOCK: So it's a matter of how --

9

1 how strongly we might feel about it.

2 PROFESSOR WILLIAMS: Exactly. And a

3 lot -- what happens with a lot of these things is

4 there's a problem that's identified, and the

5 question is: Does the proposed solution to the

6 problem -- is the cure worse than the disease in

7 some ways? And I'm not sure that's true with this

8 one, but it may -- it might be.

9 UNIDENTIFIED: Well, I'll chime in, as

10 well. I'm sorry, Peter.

11 MR. KELLY: Okay.

12 UNIDENTIFIED: An additional

13 consideration, I think, is that, if you have the

14 Chief Justice as the gatekeeper, then what happens

15 when there is litigation and the case goes to the

16 Supreme Court? Do you have the Chief Justice having

17 to recuse herself or, you know, how does that -- how

18 does that play into the -- what everybody seems to -

19 - you know, everybody rightly acknowledges may well

20 be the final word on this, anyway, if someone

21 chooses to litigate would be the New Jersey Supreme

22 Court. So I think, regardless of how it may be done

23 from a balloting standpoint, you'd have that problem

24 that you'd need to confront.

25 MR. KELLY: Yeah. It might be far

10

1 less intensive from that point of view, too. If you

2 were, in the temporary constitutional amendment, to

3 have the Chief Justice making the appointments,

4 rather than having the Chief Justice decide whether

5 the convention had complied with its mandate or not.

6 I mean, to do that may be putting the Court in an

7 untenable position, should it have to hear an

8 appeal.

9 DR. REOCK: I don't think that held

10 the Court back on the most recent apportionment

11 case, where the Chief Justice appointed the eleventh  
12 member of the commission, whose -- and the result  
13 was challenged, and it did go to a Supreme Court  
14 decision. I don't -- did the Chief Justice recuse  
15 herself?

16 PROFESSOR WILLIAMS: I don't think so.

17 DR. REOCK: I don't think so.

18 MR. KELLY: No -- yeah, no, I was  
19 saying --

20 (Participants confer)

21 DR. REOCK: She did.

22 UNIDENTIFIED: I believe she did.

23 MR. KELLY: In the case of  
24 appointment, it may be less of a problem.

25 MR. VAN HORN: Okay. Thank you.

11

1 Thank you for your opinions.

2 I want to move on now to some of the  
3 issues that were marked as unresolved from our last  
4 discussion, beginning with the issue of the number  
5 of delegates, and link that with the question of  
6 whether there should be extra delegates. We've  
7 banned the word "super-delegates" from the lexicon.

8 Let me summarize where I think -- I  
9 went back and read the transcripts, and also asked  
10 the staff to give me their notes, as well. And at  
11 the end of the discussion, it -- what I see is that  
12 there were -- more people preferred two per

13 district, but there was no a solid majority, and  
14 certainly not a consensus on that.  
15 Those who introduced the idea of three  
16 per district based the argument primarily on the  
17 issue of a way of increasing diversity, which I  
18 think all members of the task force have expressed  
19 some concerns about. And then it was argued by some  
20 that the extra delegate process was a way to address  
21 the diversity question.

22 So I guess I would state as a possible  
23 -- at least to begin the conversation, the idea of  
24 electing two per district with extra delegates to  
25 begin with, and then, of course, we would -- if we

12

1 have extra delegates, we'd need to talk about the  
2 method of selecting those extra delegates.

3 There are -- there are a couple of

4 ideas that were suggested at the meeting:

5 One was the -- using the Florio --

6 we'll call it the "Governor Florio concept," which

7 was having legislative leadership agree on a slate

8 of ten extra delegates; that's one method.

9 The other would be to assign

10 appointments to, let's say the legislative

11 leadership, each getting to appoint two or more

12 individuals, and then the Governor having the same

13 right to do that. So there are a couple of

14 different methodologies for doing that.

15 But, anyway, that's where -- that's

16 where I heard the discussion, and I think what we  
17 want to try to do today is see if we can come to  
18 some resolution on this issue, or at least give some  
19 direction to the staff, so they can start writing  
20 that section of the report.

21 Senator Adler.

22 SENATOR ADLER: Chairman, thank you.

23 And good morning, ladies and gentlemen.

24 Having thought about this for a couple  
25 of years, and having thought about it in this

13

1 process with the task force for a couple of months,  
2 I think I share the conclusion that you stated, Mr.  
3 Chairman. I think the idea of two elected delegates  
4 with some appointment power by some body -- and I'm  
5 now inclined to think that it should be the Governor  
6 and each legislative leader from each party and each  
7 house having two each.

8 I am concerned that the democratic  
9 process sometimes tends to exclude minorities. If  
10 we look at the composition of our own Legislature,  
11 there aren't enough women, there aren't enough  
12 Latinos, there aren't enough Asian-Americans, and  
13 probably some other groups in society. And I think  
14 the elective process, by and large, is a magnificent  
15 thing, but sometimes it has glaring omissions.

16 And so I think, if we have ten, I

17 think that seems like a reasonable number of extra  
18 delegates, we could probably right an imbalance that  
19 the elective process of two per legislative district  
20 is likely to yield. I think that would be a way to  
21 make sure that our delegate representation reflects  
22 the diversity of our state, in terms of gender and  
23 race and ethnicity.

24 Perhaps woe to those legislative  
25 leaders and governor that wouldn't recognize the

14

1 need to create diversity with the two appointments  
2 they might each get, but I think that's the best way  
3 to do it.

4 I know there was some discussion of  
5 having the extra delegates, the unelected delegates  
6 be appointed based on expertise, and I don't -- I  
7 think the people have enough expertise, if given the  
8 tools. We do it with democracy at every level, and  
9 it generally seems to work pretty well.

10 So I guess I would come down very  
11 emphatically in support of your notion of having  
12 eighty delegates elected from around the state; two  
13 per legislative district, as the districts are  
14 currently configured, and ten extra delegates  
15 appointed with a specific eye towards diversity  
16 needs for the delegation overall.

17 MR. VAN HORN: Dr. Cole.

18 DR. COLE: I'm in favor of the eighty-

19 delegate notion.

20 In regard to the ten extra delegates,

21 it would seem to me that, if we are going to have

22 ten extra delegates, then the purpose of them should

23 be clearly set forth. And, if the purpose is for

24 ethnic or gender diversity, then that ought to be

25 specified. If it's not specified, then there's no

15

1 defined purpose for the extra delegates, and I think

2 there needs to be a defined purpose.

3 If the purpose is expertise; for

4 example, expertise in constitutional law, then if we

5 think that's necessary, then we should suggest

6 people to appointment them who have the expertise to

7 discern who has ability in constitutional law. But

8 if it's ethnic and gender diversity, then that ought

9 to be written in.

10 MR. VAN HORN: Yeah, I would agree

11 with that. Yeah. And I think that reflected much

12 of the discussion at the last meeting.

13 Ms. Gordon.

14 MS. GORDON: Yes, I agree with the two

15 previous speakers, but refresh my memory. How did

16 we get to ten? I heard us talk about two elected

17 leaders appointing --

18 MR. VAN HORN: There's no -- there's

19 no magic number at all on that point. The ten comes

20 from, I guess, two points:

21 One is this is an idea that is  
22 embodied, the number ten, in some of the existing  
23 statutes that have worked their way through parts of  
24 the Legislature.

25 And the other is to have a

16

1 significant, but small number, so as not to imply in  
2 any way that the extra delegates are overwhelming  
3 those that were elected. But it is certainly not a  
4 -- from written in stone.

5 Mayor Passanante.

6 MAYOR PASSANANTE: Thank you, Mr.

7 Chair. I am in agreement with the eighty-delegate

8 process and the additional extra delegates.

9 I guess the clarification I'd like to

10 bring to the table is, I was under the impression,

11 or at least the thought process that, not only were

12 we looking to address minority situations, but we

13 were also looking to address certain groups that

14 might want to make sure that they have

15 representation in the election process.

16 And so, you know, can we legally --

17 can we establish -- and maybe ten is not enough to

18 cover this. But is there, you know, certain

19 categories or classifications that we can say that

20 each one of these delegates that are going to be

21 appointed need to fit into, so that we can go beyond

22 just, you know, the minority situation, where we can

23 look at group representations in that makeup, as

24 well?

25 MR. VAN HORN: Well, just to answer

17

1 your question, we can do whatever we want. But the

2 -- I went back and looked at the analysis -- and you

3 may not all have it in front of you -- actually, I

4 think Senator Lance asked for this analysis -- of

5 composition of delegates. And when you look at the

6 number of states that have preceded us in this

7 experiment, two points:

8 One is that extra delegates is not the

9 prevailing pattern, but it is common. In other

10 words, there are a number of other states that have

11 had extra delegates.

12 And, two, they tend to be a -- I'd say

13 a laundry list of groups. You know, so, for

14 example, I don't remember which state it was, but

15 there were states that mentioned educators,

16 businesspeople, union leaders, you know, a long

17 list; and then there were others that had shorter

18 lists.

19 But I guess the point is that we could

20 -- as I think Dr. Cole points out, we should

21 recommend, if we adopt this idea, the purpose of

22 doing it. I think that the prevailing view seems to

23 be, we're not suggesting that this is the

24 opportunity to appoint philosopher kings, but rather

25 to -- or philosopher kings and queens, but this is

18

1 the opportunity to address a couple of issues that

2 we're concerned about, one of which is certainly

3 diversity; and, you know, there may be other issues,

4 as well.

5 Mr. Vice Chairman Cole, and then we'll

6 get to you, Assemblyman.

7 MR. COLE: I originally ascribed to

8 the view of elected -- some elected and some

9 appointed. The more I've thought about it -- and I

10 also said earlier that I could go with three per

11 district as a way to enhance the convention's

12 ability to meet the various diversity and

13 representational targets.

14 The more I've thought about it, I'm no

15 longer of the view that appointed delegates are a

16 good thing. I think having two classes of delegates

17 is not necessarily a recipe to have a robust

18 convention. So I would prefer to have three

19 delegates; I don't think 120 is too many, I think

20 it's manageable. So I am not in favor of appointed

21 delegates.

22 MR. VAN HORN: Assemblyman O'Toole,

23 and then Dr. Reock.

24 ASSEMBLYMAN O'TOOLE: Thank you,

25 Chair. I would wholeheartedly agree with the Vice

19

1 Chair. And we're talking about the need for  
2 diversity, and I agree, and we've all agreed that we  
3 need gender diversity and racial and ethnic  
4 diversity.

5 But I also think we need to talk about  
6 political diversity. And I think, when we talk  
7 about having three per district, my idea, I think  
8 three meetings ago, was to talk about forty  
9 districts, one Republican, one Democrat, one  
10 Independent being allowed to -- that would be  
11 elected in each district, to make sure that all  
12 segments would be, in fact, represented; and that,  
13 given the political winds of the time, it wouldn't  
14 be stacked with too many Democrats, too many  
15 Republican. I think we'd have a nice balance. And  
16 I suggested that we should have this political  
17 diversity, as well.

18 And I agree with Michael that it's --  
19 part of the problem over the years has been this  
20 legislative logjam. And if we are now going to turn  
21 to the legislative leadership, both Republican and  
22 Democrat, and say, we now want you to, you know,  
23 appoint unelected delegates, I'm not so sure that's  
24 part of the solution. It may be a continuing part  
25 of the problem.

20

1 So I would agree that there should not  
2 be appointed delegates; rather, have 120 elected  
3 with the parameters that I have set out, and I agree  
4 with Mr. Cole.

5 MR. VAN HORN: Dr. Reock.

6 DR. REOCK: My view is pretty much the  
7 same as Mr. Cole's. I'm uneasy about having extra  
8 delegates.

9 If the purpose is to provide for  
10 representation, that means that the appointment of  
11 the extra delegates would take place after the  
12 election, at least I would think that would be the  
13 case. You would have to see whether the election  
14 produced a representative body.

15 And then the -- is the impression that  
16 is given that, well, we don't like who the people  
17 elected, so we'll add some to that.

18 And then there's the additional  
19 consideration that, do these extra people who have  
20 been added to provide representativeness, do they  
21 really represent that group. They haven't been  
22 selected by the group to be represented.

23 If the purpose is to provide  
24 expertise, my observation over the years has been  
25 that, if you take an expert and make them a member

21

1 of the body, you water down their expertise. They  
2 don't get the same respect as an expert when they're

3 a member of the group as they do when they're a  
4 consultant, when they come from outside. This  
5 sounds counter-intuitive, but, still, I think that  
6 is what happens.

7 I would be inclined to go with three  
8 delegates from each legislative district, with no  
9 additional.

10 MR. VAN HORN: Yeah, Mayor Schubert.

11 MAYOR SCHUBERT: Thank you. Again,  
12 all these questions are so hard, and I think it's so  
13 hard for us to get our hands around them. And one  
14 of the interesting things, I think, that's involved,  
15 and I've been telling people this, is that, for  
16 myself anyway, I thought I came in with some really  
17 clear ideas about what I thought about where we  
18 should be going. But listening to all the debate  
19 and the experts, you do sort of, I think, change  
20 your mind sometimes. And I feel the same way as the  
21 Vice Chair. I started out thinking we should have  
22 some appointed. But those are -- I think those are  
23 some very good points that have been made.  
24 I also think that, although we want to  
25 make sure that we have a representation, I give

22

1 credit to the delegates that become elected  
2 delegates that, although you maybe are not a male or  
3 a female or a minority, or a representative by the  
4 color of your skin for a certain group, I think that

5 those people will make good choices based on the

6 right thing for the State of New Jersey.

7 So I think that, with that being said,

8 I -- I also agree that, when you have an appointed

9 slate, versus a slate that was voted in, it sort of

10 does create two classes of delegates. So I believe

11 that the better thing to do is to allow three per

12 district, and let the people speak, and put faith in

13 those delegates.

14 MR. VAN HORN: Okay. Does any other

15 member want to weigh in? Yes, Mr. Malloy.

16 MR. MALLOY: I think, during the

17 process, I've also kind of changed my mind on this,

18 and I would be supportive of the three delegates per

19 district.

20 MR. VAN HORN: And do you have any

21 comment on the extra delegate concept?

22 MR. MALLOY: I don't think we should

23 have the extra delegates.

24 MR. VAN HORN: Okay. Yes, Dr. Cole.

25 DR. COLE: I just want to clarify my

23

1 position a little bit. I am -- I am favorable to

2 eighty delegates. I would be okay with 120, as

3 well. I think the smaller group may be more

4 efficient, but 120 is all right.

5 And I am not a proponent of extra

6 delegates; I am a proponent of the fact that, if we

7 have them, it should be for a defined purpose. And  
8 if we believe that such a purpose is necessary, then  
9 that is another matter, and I think we would need to  
10 consider that.

11 MR. VAN HORN: Any other comments on  
12 this?

13 Well, I'm sure the staff has noted  
14 that we are continuing to be deeply divided, but not  
15 with any prejudice towards one another on the  
16 subject. So I guess I would ask you to draft this  
17 section and basically articulate -- articulate these  
18 two points of view. Because I really think that's  
19 really what you have here. And as is maybe the case  
20 with a number of -- where we have a pretty even  
21 split, I think that's our -- the best we can do to  
22 advise the Legislature as to the considerations of  
23 the task force.

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

25 ASSEMBLYMAN O'TOOLE: Chair.

24

1 MR. VAN HORN: Yes, Assemblyman. Uh-  
2 huh.

3 ASSEMBLYMAN O'TOOLE: I assume that  
4 there will be a number of areas that there may be  
5 some disagreement. Are we going to -- you know, I  
6 understand it's your goal to try to arrive at some  
7 consensus in terms of the global issues here, but  
8 are we at some point going to take formal votes, if

9 there is a distinction, if there is differences,  
10 whether it be number of delegates, whether it be  
11 scope, whether it be other issues?  
12 MR. VAN HORN: Yeah. My intention,  
13 Assemblyman, as I articulated earlier, was to have  
14 us review the report, and then would -- members  
15 would have the opportunity to dissent from  
16 particular points, if they care to. So if you want  
17 to be recorded as dissenting on any part of the  
18 report, then we would, of course, make that part of  
19 the record.

20 Senator Lance.

21 SENATOR LANCE: Thank you. Kevin  
22 raised the interesting point, which hadn't occurred  
23 to me before. If we have three delegates per  
24 district, are we going to limit them in any way to  
25 political party? Kevin had suggested one

25

1 Republican, one Democrat, and one who I presume is  
2 registered in neither of the two largest parties as  
3 delegates.

4 And I don't have an opinion on that.

5 I think it's an interesting idea. And at some  
6 point, are we going to discuss that, as well,  
7 Chairman?

8 MR. VAN HORN: Well, why don't we  
9 discuss it now, Senator. Because -- the reason I  
10 say that is that, in our previous discussions, we

11 had talked about the elections being nonpartisan and

12 --

13 SENATOR LANCE: A matter I favored.

14 MR. VAN HORN: Yeah.

15 SENATOR LANCE: I've always favored

16 nonpartisan, without party identification label of

17 any kind. The Assemblyman's suggestion is different

18 from that --

19 MR. VAN HORN: Yes, of course.

20 SENATOR LANCE: -- but certainly

21 worthy of consideration.

22 MR. VAN HORN: Yeah. So by my

23 suggestion, since I -- I guess I regarded that as a

24 settled issue, but I have no problem with it being

25 discussed again, you know. So why don't we discuss

26

1 it now, and see if there's any movement on that

2 point. Because, otherwise, I think the consensus of

3 the group at the last meeting was -- at the time we

4 discussed this, was to have nonpartisan elections.

5 Senator Adler.

6 SENATOR ADLER: Thank you. I have

7 great regard for Assemblyman O'Toole and for the

8 wisdom of many of his suggestions. I think the idea

9 of going to different districts and finding somebody

10 of the opposite party of the majority party of that

11 district is shockingly anti-democratic. So separate

12 from the issue we just discussed a moment ago of

13 whether this should be nonpartisan or partisan, the  
14 idea of going to Kevin's district and finding a  
15 token Democrat in what is traditionally a Republican  
16 district, his legislative district, and then finding  
17 a token non-Democrat/non-Republican seems such a  
18 strained effort to try to find political diversity,  
19 when I think there are other diversity needs that  
20 probably are greater.

21 There are certain districts that just,  
22 for whatever reason, tend to support one party, tend  
23 to philosophically, or by culture or by tradition go  
24 with that party. And to try to find some highest  
25 vote-getter of another party other than that

27

1 majority party suggests that the people of that  
2 district aren't entitled to their majority view;  
3 that their culture, their attitude, their philosophy  
4 by majority vote doesn't matter so much, and you've  
5 just got to find the highest vote-getter of that  
6 other party. That seems to scream against our  
7 democratic traditions. So I don't think that's the  
8 best way to enhance real diversity of the  
9 delegation.

10 MR. VAN HORN: Let me have Ms. Gordon  
11 comment first; she was up first, and then we'll go  
12 to you, Assemblyman.

13 MS. GORDON: I don't favor a political  
14 label one way or the other. But I'd be interested

15 in knowing what method would be employed if you  
16 can't find a delegate to fit either criteria. I  
17 mean, how would you select, elect, appoint a person  
18 to fill the label that has been abandoned and not  
19 filled? How would we do that, or how would that be  
20 done?

21 MR. VAN HORN: Well, Assemblyman

22 O'Toole may want to comment on that, or other  
23 subjects. So it's his turn.

24 ASSEMBLYMAN O'TOOLE: No, just

25 somewhat in response to Senator Adler's comments.

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1 We can talk about theory; that, theoretically, we  
2 can go to a nonpartisan election. But we know, when  
3 we have nonpartisan elections in New Jersey, for the  
4 most part, they become underground a very partisan  
5 election. You look at whether they're suburban  
6 communities, urban communities, they are, by the  
7 large measure, a product of some of the machinations  
8 of the political parties.

9 And I think that it is not a stretch,

10 if we are truly trying to get from every -- every  
11 segment of our population, every community, I think  
12 that we can find a qualified independent, a  
13 qualified Democrat, and a qualified Republican.

14 If we allow it to go on its own device

15 in forty districts, we know the political lay of the

16 land currently. And if the political parties and

17 special interests are engaged, I think you'll see a  
18 very lopsided contingency that will not be evenly  
19 divided, in terms of political ideology. I think  
20 that there will be too much of an emphasis given on  
21 one side or another.

22 I think you really want to make this  
23 as inclusive as humanly possible; and I think, by  
24 doing that, you have the widest -- you draw from the  
25 widest spectrum of the population, and I think

29

1 that's what my goal is; an imperfect goal, but I  
2 think that's my -- that's my solution.

3 MR. VAN HORN: Senator Lance had asked  
4 to be recognized first.

5 SENATOR LANCE: Thank you. I'd only  
6 comment that, based on history, this has been tried  
7 in the past; in 1966, as I recall, there was an even  
8 split, and I defer to Dr. Reock on that.

9 And in 1947, Governor Driscoll  
10 attempted bipartisan delegations in each of the  
11 counties, and was successful in many, but not all of  
12 the counties, including in counties that were  
13 overwhelmingly Republican or overwhelmingly  
14 democratic. There were, for example, Republican  
15 delegates from Hudson County at the convention in  
16 1947.

17 So our history is that it has been  
18 tried, and I would not characterize it as anti-

19 democratic. Perhaps I'm not necessarily in favor of  
20 it, but it certainly has been tried, and I think  
21 it's worthy of discussion, based upon Assemblyman  
22 O'Toole's thoughts.

23 MR. VAN HORN: Dr. Reock.

24 DR. REOCK: I think the proposal would  
25 create real problems, in terms of

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1 representativeness, because from some districts you  
2 would have Democrats heavily over-represented, if  
3 they were guaranteed a seat; in other districts,  
4 you'd have Republicans heavily over-represented; and  
5 the same for a third kind of district, where you  
6 would have independents heavily over-represented.  
7 So, really, I have trouble accepting the idea.

8 MR. VAN HORN: Okay. Other comments  
9 on this topic? Okay.

10 Well, I think that the -- I would just  
11 articulate the point of view that the assemblyman's  
12 statements, although well -- obviously well intended  
13 and persuasive, but not sufficiently persuasive to  
14 change what I think is the consensus from -- from  
15 the last meeting. But, again, we're going to  
16 revisit this, and where there's -- the nice thing  
17 about this process is that we can always revisit  
18 things, at least until the end of this year.

19 (Laughter)

20 MR. VAN HORN: After which time, we

21 will not revisit them. You may want to forget them.

22 The next item for discussion is the

23 matter of whether legislators can be delegates and

24 the conjoined issue of the payment of delegates,

25 because I think we've had a thorough discussion

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1 about the fact that, if delegates are compensated

2 for other than their expenses, that this would, by

3 the constitutional decisions and interpretations,

4 forbid them from being members -- or being

5 delegates, excuse me, for the convention and

6 standing for election.

7 And this was certainly an issue which

8 -- which -- I think it was certainly fair to say

9 there was a clear division of opinion about this,

10 and so I'm not going to try to articulate a

11 consensus because there wasn't one. So let's try to

12 focus in on this, and see if we can find one. We'll

13 start with Assemblyman O'Toole, and then Senator

14 Adler.

15 ASSEMBLYMAN O'TOOLE: Very quickly. I

16 think, after much thought and debate, and having

17 listened to many of the commentators, that I am

18 against including legislators, and I would ask that

19 the delegates be paid out-of-pocket expense only.

20 MR. VAN HORN: Yeah. Senator Adler.

21 SENATOR ADLER: Thank you, Chairman.

22 Let me embrace, once again, the wisdom of

23 Assemblyman O'Toole and the idea of having just

24 expenses be paid.

25 Let me talk about a practical reality

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1 for just a second. There are, within the legislator

2 -- Legislature, a number of people who are opposed

3 to this convention process under any circumstances.

4 There are a number of legislators who are

5 persuadable, but for whom there are lots of

6 different obstacles that would lead them to oppose

7 this process and prevent its moving forward on to

8 the ballot in November.

9 So I would suggest to you one such

10 obstacle that we can overcome, and we should keep in

11 mind is the cost factor. And any additional costs

12 we put on to this system could jeopardize the

13 prospects of this process moving from the discussion

14 by this task force, to enactment by both houses of

15 the Legislature, to passage by the people of New

16 Jersey in November.

17 So I embrace Assemblyman O'Toole's

18 idea that we limit the costs to delegates to just

19 out-of-pocket expenses, and their actual out-of-

20 pocket expenses, not some sort of per diem, as other

21 states used, that can be abused, but just the actual

22 out-of-pocket expenses: Reimbursements for travel

23 costs, tolls, things like that, parking if there's a

24 parking fee, and maybe a small meal allowance, not

25 some abusive thing. The idea of salaries, to me,

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1 creates an almost fatal obstacle to this measure

2 getting through the Legislature.

3 Similarly, on the question of whether

4 legislators should be permitted to be delegates to

5 the convention, first, I think it's anti-democratic

6 to exclude any category of people. And I know we

7 had this discussion a couple of weeks ago, but every

8 category of people that has a stake in the expense

9 of government could properly be excluded, because

10 every category of people in some way has an interest

11 that maybe could be gored or enhanced by what

12 happens at the convention.

13 It's not unique to legislators; it's

14 certainly true of every category of people

15 represented at this table because we're all

16 taxpayers. Many of us are involved in public

17 education, many of us are involved in every level of

18 government. And there's a reason you could exclude

19 each individual, each category of people, and I

20 think that's anti-democratic and risky to start

21 picking and choosing.

22 I also, on a practical level, would

23 suggest to you that there are those legislators who

24 would be personally offended at the notion that they

25 weren't good enough to be delegates, even though the

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1 practical reality is very few -- I believe very few  
2 legislators will put themselves forward as  
3 candidates, as I've told you a couple of weeks ago.  
4 But I think there's a real possibility  
5 that, if we say to legislators, we recommend that  
6 you be barred from participating as delegates, but  
7 please now pass this idea and put it on the ballot,  
8 I think there are those legislators who will be so  
9 offended that they would vote against this process,  
10 and the convention would die, and people wouldn't  
11 articulate why they're voting against it. But that  
12 would be a basis for some legislators, the personal  
13 offense, the personal effrontery they would feel  
14 would lead them to oppose this and doom what has  
15 been, up to now, I think a very productive process  
16 for New Jersey.

17 So I urge you to reconsider, those of  
18 you who would oppose legislators as potential  
19 delegates; I would urge you to reconsider that,  
20 given the practical reality that there are those  
21 legislators who would vote against this because of  
22 that one provision.

23 MR. VAN HORN: Yes, Mayor Schubert.

24 MAYOR SCHUBERT: Again, this is  
25 another one of those things that I think I came in

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1 thinking that I wanted to say no legislators,  
2 feeling as though -- you know, we've heard it over  
3 and over -- they've had their opportunity, they  
4 haven't done it.  
5 However, I have changed my mind  
6 because I believe that if we -- we keep talking  
7 about making it all-inclusive, allowing the people  
8 to choose who should be there, and not intentionally  
9 cutting out one or another segment of the society.  
10 So, for those reasons -- and, quite honestly, with  
11 all respect, I think if somebody votes against it  
12 because they're offended, they're really not doing  
13 what's right for New Jersey at that point, maybe.  
14 But I think it's right that we include everyone, I  
15 think that that's important, and let the people  
16 decide if they think they should or they shouldn't.  
17 So for that reason -- and I agree that we should  
18 include everyone, and not cut any segment out.  
19 As for the compensation, again, I  
20 started out thinking that you have to really  
21 compensate people if you expect them to take a lot  
22 of time away from their life to do this. However, I  
23 would suggest that we think about, as we write the  
24 report, making some suggestions about the times that  
25 the meetings are held, so that it allows people, if  
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1 they're only compensated for their out-of-pocket  
2 expenses, maybe if there was a diversity of times

3 that the meetings were held, someone wouldn't maybe  
4 have to take two or three days a week off from their  
5 jobs, lose three days' pay to come to the meetings.  
6 Whereas, if they were held once during the day, once  
7 at night, and maybe once on a weekend, if it was  
8 three times a week or whatever, it would allow them  
9 the ability not to take so much time away from their  
10 paying jobs.

11 MR. VAN HORN: Yes, Mayor Passanante.

12 MAYOR PASSANANTE: Thank you, Mr.

13 Chair. I think I expressed my opinion before that I  
14 didn't believe that the Legislature should  
15 participate. I'm not sure I've changed my opinion  
16 on that.

17 My concern is that, if we have anyone  
18 as delegates that have the ability to be pressured  
19 by outside organizations, as we see happen on a  
20 regular basis with our Legislature, that they will  
21 again have to succumb to looking into the future,  
22 their own personal futures as to where they go, and  
23 their decision-making process as part of this  
24 delegation.

25 And I think an example is, we've seen

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1 it right here with this task force and things that  
2 have happened during our meetings and positions that  
3 have been taken by certain groups to try to  
4 influence our decisions here. So the more that we

5 leave this delegation open to that kind of pressure,  
6 the less likely we are to come out with a decision  
7 or a recommendation that's going to be truly in the  
8 best interests of the public.  
9 Maybe it's going overboard, but  
10 Senator Adler's comment about whether -- and I'm  
11 sure he endorses this, but he brought it up -- any  
12 elected official that would have the ability to be  
13 persuaded or have a stake in the decision, you know,  
14 maybe -- maybe we have to go all the way, and maybe  
15 this is very discriminatory, but, you know, if  
16 you're going to run for a delegate, that you can't  
17 be holding a current elected office.  
18 I mean, maybe that's really way out  
19 there. But my concern is: How do we control  
20 pressure that will be brought on this group? We  
21 know it's going to happen. How do we control that,  
22 so that they can make honest judgments along the  
23 process?

24 I don't know if I have an answer to  
25 that, but I guess that's one of the reasons why I

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1 was so concerned about having the Legislature  
2 participate, is that I'm concerned that their  
3 decisions may not necessarily be always the right  
4 ones.

5 As far as the cost issue, I agree with  
6 everyone that expenses only should be -- should be

7 covered because we need to keep the cost of this  
8 process down to a minimum, in order to, you know,  
9 make it work.

10 MR. VAN HORN: Yes, Dr. Cole, and then  
11 Mr. Cole.

12 DR. COLE: If the election of  
13 delegates occurs in a general election, so there is  
14 broad democratic participation in the selection of  
15 delegates, I would not wish to limit who the public  
16 may select as delegates, whether they are elected  
17 officials or not, so I would leave it entirely to  
18 the electoral process, and not exclude legislators  
19 or any other elected officials.

20 Second -- by the way, that probably  
21 works better with the larger delegation than the  
22 smaller, but either way, I think it would be all  
23 right.

24 Second, I also agree that delegates  
25 should not be paid, just modest expenses, as

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1 described by Senator Adler, I think are appropriate.  
2 And I want to return to the point made  
3 by Mayor Schubert that the -- I think we should  
4 specify that the convention should be held, to the  
5 greatest extent possible, in times that are not the  
6 normal work times, so that a full range of citizens  
7 can participate as delegates.

8 MR. VAN HORN: Yes, Vice Chairman.

9 MR. COLE: My original position was  
10 that the two subjects, pay and legislators as  
11 delegates, were, indeed, tied. Originally, I  
12 thought you would want to pay delegates because I  
13 think you are going to have a -- even though we're  
14 starting earlier, theoretically, you're probably  
15 going to do the work of the convention in a three-  
16 to-four-month period.  
17 I point out that we're only dealing  
18 with process; we're not dealing with substance.  
19 Substance gets sticky. The process gets sticky, but  
20 substance even more so. In three or four months,  
21 they are not going to be able to do it, I don't  
22 believe, meeting one or two nights a week. I think  
23 you're going to find a full-time commitment.  
24 But I'm -- you know, I'm persuaded  
25 that -- I think I was in a distinct minority, in

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1 terms of delegate pay, and I didn't really want to  
2 get into a situation where you are a captive of a  
3 group that would pay your salary and give you the  
4 necessary time, I thought that was a mistake.  
5 But I'm persuaded by the group that  
6 expense is important, as long as we go with  
7 reimbursement of out-of-pocket. And I would be  
8 liberal in my standards for what kind of expenses we  
9 accept because some people have childcare, some  
10 people have others, other expenses.

11 But that being said, I think the  
12 things are still linked; and, in that case, I would  
13 not object to legislators being delegates. But I  
14 would point out that I don't necessarily agree with  
15 Senator Adler that they won't run. To me, I think,  
16 even if -- even -- any kind of district,  
17 particularly competitive districts, in a general  
18 election, if you're a member of the Assembly, you  
19 are not going to want someone else, some other  
20 potential future candidate, running in your district  
21 and building name recognition in a general election,  
22 when you can -- when you can run essentially the  
23 same campaign for two different offices. So I  
24 expect you will see more members than you might  
25 thing.

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1 But, in any event, I would -- I would  
2 say legislators in; expenses only reimbursement.  
3 MR. VAN HORN: Dr. Reock, and then  
4 Senator Lance.  
5 DR. REOCK: I'd just like to endorse  
6 all of the comments on this issue by Senator Adler,  
7 particularly on the use of direct expenses. That  
8 would eliminate a little discrimination against  
9 delegates from South Jersey and North Jersey, who  
10 would have to travel a lot further than Central  
11 Jersey delegates.  
12 I would urge that we not recommend

13 anything specific in the enabling act about the

14 schedule of meetings; I think that's something that

15 should be decided by the convention itself.

16 MR. VAN HORN: Senator Lance.

17 SENATOR LANCE: Thank you, Chairman.

18 If the election of delegates will be at the same

19 time when the public decides whether or not to have

20 a convention -- and I think our time frame at the

21 moment suggests that would be November 2005 -- there

22 is an inherent conflict with members of the General

23 Assembly, who will all be on the ballot that day.

24 And if we're discussing whether

25 legislators should be delegates, that is, I think, a

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1 consideration because then, if an assembly member

2 wanted to be a delegate, he or she would be --

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

4 (Beginning of Tape No. 1, Side B)

5 SENATOR LANCE: -- initially expressed

6 that, number one.

7 Number two, regarding diversity, I am

8 concerned that if the convention meets in the

9 evening, part time, and without compensation,

10 diversity will be lessened. And I personally see

11 nothing wrong with compensation; that would exclude

12 legislators, constitutionally, but I do think it

13 would lead to greater diversity, and also lead to a

14 full-time convention for the period of time

15 necessary for, not only procedural issues that  
16 confront the convention delegates, but most  
17 important of all, the substantive issues.  
18 MR. VAN HORN: On this particular  
19 point, I just want to comment that I -- I favor  
20 permitting anyone who qualifies as -- I think the  
21 qualification we talked about was assembly  
22 qualifications -- to be a delegate, and I think the  
23 reason for that is not just the democratic impulse  
24 to allow everyone the opportunity to participate.  
25 But I think there is also the other

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1 side of the coin, and that is the -- that elected  
2 officials are also accountable for their actions,  
3 and I think that having them participate in this  
4 process as delegates -- and I don't -- I can't --  
5 none of us can predict how many will or won't, and I  
6 agree with Michael; I think there probably will be  
7 more than less, but that's going to vary on a  
8 district-by-district basis.  
9 But I think that, having the  
10 legislators in the mix, playing a different role,  
11 but accountable for what they're doing -- because,  
12 again, a legislator has to think -- an elected  
13 official has to think very hard about whether they  
14 want to be part of this process because then they're  
15 going to be accountable for what emerges from the  
16 convention. I think that we ought to let the

17 individuals make those judgments and let the voters  
18 make those judgments in those districts.  
19 The other point is -- and this has not  
20 been linked, but it links at least in my mind that  
21 lots of members of the task force have expressed  
22 concern about special interests hijacking the  
23 process and becoming overly involved and getting  
24 their delegate slate, et cetera, et cetera.  
25 I see allowing elected officials to

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1 run as one way to address that issue. In other  
2 words, in certain districts, if one is concerned  
3 that a particular interest group is going to  
4 dominate the process, then a person who holds  
5 elected office may decide that he or she wants to  
6 run in that -- in that case, in order to reflect a  
7 broader view of their constituency.  
8 So I really think that there are a  
9 number of good reasons to permit this, and I think  
10 that Dr. Reock has also pointed out that there is --  
11 both a process and a substantive expertise that  
12 legislators bring. I don't think they're going to  
13 dominate the process, I don't think that's a  
14 concern. I think there will be a healthy  
15 representation. And I think, when you look at,  
16 again, the history of other conventions where they  
17 were permitted to run, that's the pattern that we  
18 see.

19 That, of course, then deals with the  
20 question of compensation, by definition. I think  
21 that it should be expenses only. I do think that,  
22 however, our interpretation of expenses should be --  
23 include things like childcare and so on.  
24 The evidence -- and, again, I don't  
25 pretend to say that this is conclusory, but the

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1 evidence is that compensation doesn't seem to be the  
2 sine qua non of greater diversity based on what  
3 we've seen from other states because the individuals  
4 who choose to stand for election and get elected are  
5 likely to be active participants in the political  
6 process to begin with. And there may be some  
7 exceptions to that, but, you know, this is not --  
8 and they may or may not be diverse. But that is --  
9 it's not -- from what the staff presented to us,  
10 that particular issue of payment doesn't seem to  
11 preclude individuals from -- you know, from running.  
12 And in cases where there was compensation, the  
13 compensation doesn't seem to be -- have been  
14 significantly different.

15 Mayor Schubert.

16 MAYOR SCHUBERT: Mr. Chairman, have we  
17 actually come to a decision -- and I, for one, think  
18 this is important -- whether it's going to be a,  
19 quote/unquote, "full-time convention," full-time --  
20 I mean, no.

21 MR. VAN HORN: No. I --

22 MAYOR SCHUBERT: And I don't see that

23 as one of the questions, so ...

24 MR. VAN HORN: I don't think -- I

25 think -- sorry.

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1 MAYOR SCHUBERT: No, I just -- I don't

2 see it as one of the questions. And I think -- I,

3 for one, think that that's an important thing we

4 should set out. Because I think, if somebody is

5 going to run as a delegate, they need to know what's

6 expected of them at that point, rather than running

7 and then suddenly being told, you know, three

8 months, you have to be here five days a week,

9 whatever.

10 MR. VAN HORN: Well, my view about

11 that is that that -- the conduct of the convention

12 should be -- and we talked about this a bit. I

13 think, as I recall, the only position that was

14 articulated that we should tell the convention that

15 a majority rule should prevail in bringing proposals

16 forward; and, other than that, we shouldn't say

17 anything. I think that also pertains to the manner

18 and the conduct and the timing and the duration,

19 other than having a deadline.

20 So I don't think we should tell them

21 how to meet or how often to meet or whether --

22 whether it's going to be full time or -- again, I

23 can't imagine that it would be full time in the  
24 literal sense, where they would meet five days a  
25 week for several -- you know, several weeks in a

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1 row.

2 But, again, I think that should be

3 left to the convention myself. And when they

4 assemble at their organizational meeting in --

5 presumably in December, if it's approved, then they

6 would set out those rules.

7 Now a person running for this would

8 certainly have to assume that this is a significant

9 commitment of his or her time. How significant, I

10 think, will depend on, not only how often they meet,

11 but how -- how active that person decides to be in

12 the informal and in the committee processes.

13 Other comments on this subject? Okay.

14 I think we have some direction here for the staff.

15 The next issue is that of campaign

16 financing and public financing, they're related

17 questions. And since probably only the legislators

18 here are experts on this topic, I thought it would

19 be useful for staff to just walk us through a little

20 bit about the -- a bit about the prevailing rules

21 right now, and then the legislators can help us

22 understand them further, as we think about how to

23 apply these rules to a delegate election.

24 Ed, would you do that for us?

25 MR. MC BRIDE: Yeah. Thank you, Mr.

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1 Chairman. Actually, the mayors would be familiar

2 with this, as well, a little bit.

3 The chart that you've been given and

4 the single-page contribution limits chart is from

5 the ELEC handbook, which is about sixty pages long.

6 But this -- these limits were enacted in 1993.

7 And the way to read this is to, for

8 purposes of what we're dealing with today, is the

9 left-hand column is the identification of who's

10 making the contribution. And then the first column,

11 "Candidate Committee," is the one that we would be

12 concerned with here, which is the recipient.

13 So, for instance, under current law,

14 individuals, corporations, unions, any other

15 unincorporated group or association, are limited to

16 \$2,200 per election. The last time this subject was

17 discussed at this task force, there seemed to be a

18 consensus of adopting a lower limit than these. The

19 -- although there was not a whole lot of discussion

20 about the point of a lower limit for which

21 contributors. So I think that's a point that, for

22 purposes of giving us direction about how to address

23 this in a report for your consideration, that's a

24 subject that I think needs to be talked about today.

25 The pending legislation or various

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1 pieces of legislation that have been introduced over  
2 time that have had contribution limits have  
3 generally had the same scheme, which is a five-  
4 hundred-dollar limit on individuals; individual  
5 contributions to the candidate.  
6 A limit of \$5,000 on political party -  
7 - county political party contributions to a  
8 candidate. And you'll note that, otherwise,  
9 generally, political parties are free to contribute  
10 as much as they want to candidates, and that was, in  
11 fact, part of the idea behind the 1993 statute.  
12 The other piece of the current  
13 legislation was -- is an aggregate limit on the  
14 ability of a candidate to accept political party  
15 contribution; and that aggregate being 10,000. In  
16 other words, the candidate could accept 5,000 from a  
17 county political party, and 2,000 each from five  
18 municipal political party committees in that  
19 district, as an example.  
20 But, other than that, the pending  
21 legislation, for instance, has -- did not -- would  
22 not change the seventy-two-hundred-dollar limit on  
23 PACs' contributions to the candidate, or the twenty-  
24 two-hundred-dollar limit on corporations or unions.  
25 So that's just by way of some of the background

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1 that's out there.

2 But I think the group needs to talk

3 about which type of contributor would have which

4 type of limit, and then whether there ought to be

5 any aggregate limits for particular categories of

6 givers, as there -- as there are set forth in some

7 of the proposed legislation.

8 MR. VAN HORN: Thank you, Ed.

9 Assemblyman O'Toole.

10 ASSEMBLYMAN O'TOOLE: Well, at the

11 risk of being labeled anti-democratic for the third

12 time, let me just start --

13 (Laughter)

14 ASSEMBLYMAN O'TOOLE: -- consistent

15 with my --

16 MR. VAN HORN: Well, probably with a

17 lowercase D.

18 ASSEMBLYMAN O'TOOLE: Yeah, well ...

19 Consistent with my prior thoughts, I

20 think that, in the real world of politics, that

21 money matters greatly. And we have all seen the

22 terrific influence of money in campaigns, whether

23 it's legislative leadership PACs, state money,

24 county money, continuing political action

25 committees. There is an enormous -- you can't

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1 understate the impact that money has had in

2 campaigns, certainly in the last five, six, seven

3 election cycles we've seen in this state.  
4 And, again, I think the Republican and  
5 Democrats both would plead guilty to, I think,  
6 overusing money, and it kind of gets away from the  
7 issues. And I think what you want to talk about  
8 when you're at a constitutional convention is the  
9 issues. I think we've got to harken back to  
10 campaigns of, perhaps, a hundred or 150 years ago,  
11 when people had to go out door to door stumping, and  
12 in halls, and talking face to face with people.  
13 And I think, when you have the money,  
14 you can create this image, go on TV, you can do  
15 mailers and define who you are; and, when you  
16 saturate the market with money, you create -- that  
17 is the -- that is the election, that is the image  
18 that's cast. And you kind of lose fact of what the  
19 candidate stands for or what the issues at hand  
20 really are.

21 So I would really caution this  
22 committee about going along with either the current  
23 legislative limits, and I would just go back and try  
24 to model a little bit off of the federal level.

25 And I would say that we should go in

52

1 the direction of \$500 per contribution, individual  
2 only.

3 I would say no to corporate checks, no

4 to PACs, no to any type of leadership money.

5 I would limit it to -- have the  
6 federal limits in place; although their threshold is  
7 higher, but I would bring home the dollar to like  
8 \$500 per individual.

9 Because when you look at an  
10 individual, first of all, it will cause two things:  
11 First, it will cause the campaign to  
12 be focused on issues, it will force the candidates  
13 to go out there and actually speak one on one, in an  
14 old-fashioned campaign, where the ideas actually  
15 matter.

16 And, again, I think you'd get away  
17 from this corrosive nature of this political  
18 campaigns that have so saturated the market that we  
19 all are just tired of seeing. And I just think we  
20 have to get away from what we have done in the past,  
21 and do something very radically different.

22 MR. VAN HORN: Yes, Mr. Malloy.

23 MR. MALLOY: I would be fully  
24 supportive of perhaps just limiting the  
25 contributions to individuals only, and \$500 does

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1 seem to be a good working number.  
2 And I'm certainly in agreement with  
3 that, the campaign should not be based upon who  
4 raises the most money, but rather who's the one out  
5 there hustling, working the streets, ringing the  
6 doorbells, and really articulating their views to

7 the public as to where they stand on property taxes,  
8 and what some of their potential solutions are to  
9 that.

10 So, again, I would be supportive to  
11 just limiting it to individual at 500.

12 MR. VAN HORN: Other comments.

13 Senator Adler.

14 SENATOR ADLER: I know this is farther  
15 down on the second page of this discussion, but I  
16 think the expenditure limits is a factor we have to  
17 consider. I mean, I endorse a lot of what Kevin  
18 just said with respect to the influence of money.  
19 And I wonder if our genius lawyers can  
20 tell us whether or not it's legal for us to require  
21 those candidates that don't accept an expenditure  
22 limit must disclose in every mailing or every TV  
23 spot, for some percentage of the size of the mailer  
24 or percentage of the time for the radio or TV spot,  
25 that they do not comply with the expenditure limit;

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1 almost, you know, an actual warning like on a  
2 cigarette box saying, you know, warning, this  
3 candidate does not comply with the voluntary limits  
4 set by the good nature of the Legislature.

5 So I throw that out there because that  
6 may have as good an impact as limiting individual  
7 dollar contributions or PAC contributions or county  
8 or municipal party contributions or leadership PAC

9 contributions, if you just have, with respect to  
10 this delegate election process, people having to  
11 acknowledge each time they put out a piece of  
12 literature or an electronic solicitation, the fact  
13 that they're violating the spirit of democracy in  
14 that regard.

15 It's a question -- it's a request, but  
16 it's also a question for the experts.

17 MR. VAN HORN: Does anyone want to  
18 opine on that, or do you want to come back with an  
19 answer later?

20 (Mr. McBride not identified for the record)

21 MR. MC BRIDE: I think we'd -- I'd  
22 rather consult with some folks from ELEC and OLS, as  
23 well, before speculating on -- on how that might  
24 come out.

25 MR. VAN HORN: Yeah.

55

1 (Professor Williams not identified for the record)

2 PROFESSOR WILLIAMS: Senator, just to  
3 clarify, that would not be as a condition of  
4 accepting public funds, that you would be subject to  
5 that limitation.

6 SENATOR ADLER: The -- what I'm  
7 thinking of is, if you -- if there's a voluntary  
8 limit we set, whatever the dollar is going to be --

9 PROFESSOR WILLIAMS: Okay. Because --

10 SENATOR ADLER: -- the memo here says

11 25,000. If someone exceeds \$25,000, they have to,  
12 on every one of their outreaches, by electronic  
13 media, by mailer, by robo-calls (sic), whatever  
14 process they use, say, oh, by the way, I'm violating  
15 this, the expenditure limit that other people are  
16 following; whether we can legally require that. Not  
17 ban them from spending more, I know we can't do  
18 that.

19 PROFESSOR WILLIAMS: Right. It's a  
20 voluntary expenditure --

21 SENATOR ADLER: But whether we can  
22 require this disclosure on every piece, on every  
23 spot, on every automated call.

24 PROFESSOR WILLIAMS: Okay.

25 SENATOR ADLER: Got it.

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1 (Off the record. Back on the record)

2 MR. VAN HORN: Other comments.

3 Senator Lance.

4 SENATOR LANCE: Thank you. I think

5 \$500 is an excellent initial suggestion. Would that

6 apply also to what a candidate could spend on him or

7 herself? I don't believe we can do that, legally,

8 and I'd like --

9 UNIDENTIFIED: I think that's right,

10 Senator. I think the U.S. Supreme Court cases are

11 pretty clear that you can't limit the ability of

12 somebody to spend their own money on behalf of their

13 own candidacy.

14 SENATOR LANCE: Yes. And there will

15 be -- there will be -- is that accurate? I think

16 everybody agrees with that.

17 (Participants confer)

18 SENATOR LANCE: That, of course, is --

19 makes the playing field unlevel. I think we'll be

20 hearing a great deal about that next year, number

21 one.

22 Number two, we're talking about

23 delegates here, but there is the initial question of

24 the convention itself and expenditures, pro and con,

25 against the convention question. And we never get

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1 to delegates unless the convention is called, and I

2 think we need a discussion as to that. That's

3 equally important.

4 Millions of dollars could be spent by

5 advocacy groups, both pro and con, on the

6 fundamental question of whether there will be a

7 convention.

8 MR. VAN HORN: But, having said that,

9 what can one do about it? I guess that's the --

10 SENATOR LANCE: I don't know.

11 MR. VAN HORN: Yeah. I don't think

12 there is anything, but ...

13 SENATOR LANCE: Nothing at all.

14 MR. VAN HORN: I'm not an expert on

15 campaign finance, but I don't -- if you have an  
16 independent expenditure or a wealthy individual that  
17 decided to oppose or support the convention, I don't  
18 see what we could do about that.

19 SENATOR LANCE: And, also, I guess  
20 there is nothing we can do about independent  
21 expenditures --

22 MR. VAN HORN: On behalf of delegates.

23 SENATOR LANCE: -- for delegates.

24 MR. VAN HORN: Right. Or against,  
25 right.

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1 UNIDENTIFIED: Other than the  
2 contemporaneous disclosure requirements. You could  
3 require --

4 MR. VAN HORN: Right.

5 UNIDENTIFIED: -- that the mail piece,  
6 that the electronic media have a disclosure as part  
7 of that: This is paid for by, you know, rich John  
8 Adler, or so, but you could require that as part of  
9 that.

10 MR. VAN HORN: Yeah. Vis-a-vis both  
11 supporting opposing delegates and --

12 UNIDENTIFIED: And the process, right.

13 MR. VAN HORN: -- the convention  
14 issue, in general. So a disclosure is about the  
15 best we can do.

16 Okay. Mr. Cole.

17 MR. COLE: I guess to the legislators

18 or anyone. How tightly can you -- do you look at

19 independent expenditures.

20 For example, if a -- one of the

21 delegate candidates is a member of Union Y, does any

22 contribution from Union Y, is that deemed to be non-

23 independent? What I'm saying, I guess, if we say

24 individuals only can contribute, as the assemblyman,

25 Assemblyman O'Toole has said, and then an individual

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1 is a member of a union, and a union expends money --

2 UNIDENTIFIED: Uh-huh.

3 MR. COLE: -- either on behalf of that

4 delegate or a position espoused by that delegate, is

5 that independent?

6 UNIDENTIFIED: I think the union would

7 claim it's independent, and I think that has been

8 the history of New Jersey.

9 (Laughter)

10 UNIDENTIFIED: And that's true of

11 business groups, as well.

12 MR. COLE: Uh-huh.

13 (Participants confer)

14 MR. COLE: So are you better off

15 having a limit of \$500, but allowing all of the --

16 all of the groups that are set forth on this list;

17 corporations, associations, political committees,

18 letting them give \$500? Do you have better control?

19 MR. VAN HORN: Assemblyman O'Toole.

20 ASSEMBLYMAN O'TOOLE: It's

21 interesting, Michael, but I think that if -- you

22 know, if you allow that five-hundred-dollar

23 threshold, say in my district, District 40, there's

24 twelve towns, and twelve municipal parties can each

25 give 500. Then you have political action committees

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1 that you know, or leadership committees, you start

2 aggregating; you have ten or twenty, 500, that's --

3 that goes a long way.

4 I just think that you need to --

5 again, I think you really need to divide the

6 politics out of this process as much as possible.

7 And remember, I think part of the

8 reason why we're here is because of the bottleneck

9 that we have seen. And I don't think we can harken

10 back to the past if the past hasn't been very

11 successful. So let's try to like, you know, start

12 this process over again and learn the lessons from

13 the past.

14 MR. COLE: Well, if we think 25,000 is

15 kind of the appropriate amount to spend, and if we

16 were going to do public financing, that would be the

17 voluntary limit that we would talk about. Is \$500

18 too much? I mean, \$500 is only fifty individual

19 contributions, just fifty. Should it be 250, at

20 least require that, you know, if people are going to

21 spend at the voluntary limit, they at least be able

22 to have a hundred people support them.

23 (Off the record. Back on the record)

24 MR. VAN HORN: Any other comments on

25 this? Anyone else want to get in on it? Yeah,

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1 Senator Lance.

2 SENATOR LANCE: If you are self-

3 financed as a candidate for delegate, would that

4 take you outside the parameters of what we're

5 suggesting? And would there be the cigarette label

6 warning that Senator Adler suggests if you are a

7 self-financed candidate?

8 MR. COLE: I guess if you exceeded

9 whatever limit we set for voluntary limits, yes;

10 whether you've raised it by having 10,000 people

11 contribute to you, or you've raised it out of your

12 own pocket, it's -- the label went, as I understood

13 it, on total expenditures.

14 SENATOR LANCE: On total expenditures.

15 So a self-financed candidate could spend \$25,000, or

16 whatever the limit is, of his own money or her own

17 money, and not have that noxious warning, so long as

18 he or she did not raise a nickel more from anybody

19 else. Is that the state of the law in the United

20 States? I think I'm asking, not whether this is

21 good policy or bad policy, but are we under some

22 constraints constitutionally?

23 UNIDENTIFIED: I don't think so,

24 Senator. I think the concept here is, you know, a

25 voluntary spending cap with some mechanism for

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1 people to have to identify themselves when they have

2 exceeded that cap.

3 The principle about the ability of --

4 the inability to constitutionally prevent someone

5 from using their own money to promote their own

6 candidacy. I don't think that necessarily would

7 take that person out of this kind of a scheme. I

8 think this idea, whether it's constitutional or not,

9 or whether there are legal issues with it or not, I

10 think would -- sort of depends on the broader

11 question about whether you can put in some kind of a

12 disincentive for people to exceed a voluntary

13 spending limitation; how strong can that

14 disincentive be, that kind of an analysis. I don't

15 know that it would matter where the money -- where

16 their money came from.

17 SENATOR LANCE: I'm not sure I

18 understand that, and it's perhaps due to my not

19 understanding this subject well, but I think this is

20 an important subject and it will have to be

21 addressed by this task force. I posit this

22 hypothetical:

23 If a person runs for delegate, stays

24 within whatever limit we suggest, but raises all of

25 his or her funding through self-financing, that

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1 person would not be disadvantaged in any way with a  
2 warning label.

3 SENATOR ADLER: I can be clear on my  
4 proposal. Regardless of the sources of the money,  
5 if a campaign for delegate, controlled by the  
6 delegate, whether it's his own money, her own money,  
7 aggregated from wherever, from county committees and  
8 municipal committees, from individuals, from unions  
9 and corporations, whoever we permit or exclude; if  
10 it exceeds that threshold --

11 SENATOR LANCE: Yes.

12 SENATOR ADLER: -- in terms of  
13 expenditure, at that point, every communication with  
14 voters beyond that threshold expenditure would  
15 include some sort of very bold, cigarette-type  
16 warning.

17 And let me make clear, I am not --

18 SENATOR LANCE: Well, let me -- let me  
19 stop you there. I understand that, Senator.

20 SENATOR ADLER: Okay.

21 SENATOR LANCE: What if he does not  
22 exceed that by one nickel, but up to that point --

23 SENATOR ADLER: No, I think --

24 SENATOR LANCE: -- every amount of  
25 expenditure is from himself?

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1 SENATOR ADLER: I'm personally not  
2 troubled by that, given the constraints of the  
3 Supreme Court decisions. I think we don't have any  
4 say in the matter.

5 SENATOR LANCE: Well, that's my  
6 question.

7 SENATOR ADLER: And I -- again --

8 SENATOR LANCE: Not whether it's good  
9 or bad policy; is it constitutional. And you are  
10 telling me it is not constitutional.

11 SENATOR ADLER: No, you can't.

12 MR. COLE: I agree with that. I don't  
13 think there's anything we can do about that.

14 SENATOR LANCE: Thank you. You've --

15 SENATOR ADLER: And let me make clear,  
16 none of this is a criticism of Doug Forrester, I  
17 don't want to say that in any way. Okay? There was  
18 a reference earlier, I think --

19 SENATOR LANCE: No, I certainly  
20 wouldn't imagine Senator Adler would want to  
21 criticize the poorer of the two candidates for  
22 governor next year.

23 (Laughter)

24 (Participants confer)

25 MR. COLE: There may be more than two.

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1 (Participants confer)

2 MR. VAN HORN: Okay. I'm going to

3 pass on that, and go on to ...

4 (Laughter)

5 MR. VAN HORN: It seems to me that, on

6 this -- on this subject, I guess what I'd like the

7 staff to do is consult with ELEC and craft a

8 recommendation that reflects what I think are the

9 central principles here that we are articulating,

10 which is that we want to significantly limit

11 expenditures, and we want to do -- and

12 contributions, and to cap expenditures, and to come

13 up with incentives of maximum disclosure, basically.

14 I mean, those are the key points. And we need to do

15 so in such a way that is constitutional and

16 consistent with, you know, the laws of the nation.

17 Senator Adler, you wanted to add to

18 that?

19 SENATOR ADLER: Yeah. Maybe it was an

20 inadvertent omission, or maybe I didn't hear it.

21 For me, the most important point is the cigarette

22 warning, and --

23 MR. VAN HORN: Yes, I -- I would -- I

24 consider that an incentive --

25 SENATOR ADLER: Okay.

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1 MR. VAN HORN: -- or a disincentive.

2 I think that's -- yes, we want to try to apply that

3 and come up with a constitutional way to do that.

4 Okay?

5 UNIDENTIFIED: Just so I'm clear.

6 Senator, is -- your suggestion is that we don't deal

7 at all with limiting contributions, or we deal with

8 it, for instance, by just simply having current New

9 Jersey law apply on the contribution side, but then

10 --

11 SENATOR ADLER: No, I was -- I was

12 silent on that issue. I think --

13 UNIDENTIFIED: Okay. Okay.

14 SENATOR ADLER: I respect the wisdom

15 of previous speakers on that.

16 UNIDENTIFIED: Okay.

17 SENATOR ADLER: I added the warning

18 notion. And I would apply that also to independent

19 expenditures.

20 MR. VAN HORN: I didn't hear any

21 dissent from Assemblyman O'Toole's point. I think

22 that that was -- there was broad consensus going in

23 the direction of the highly democratic suggestion he

24 made --

25 UNIDENTIFIED: Highly.

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1 MR. VAN HORN: -- that we go that way.

2 And then, Michael, you wanted to add

3 something to it?

4 MR. COLE: I just wanted to add that,

5 not only did we talk in prior meetings about  
6 disincentives to adhere to a voluntary limit, we  
7 talked about incentives, as well: Free TV time was  
8 one, mailers; if you would voluntarily agree to  
9 limit spending, we would help you. And we never  
10 really got into too much detail of what those would  
11 be.

12 (Participants confer)

13 MR. COLE: But I think those are  
14 important, as well.

15 MR. VAN HORN: So does that give you  
16 enough to go on, Ed?

17 MR. MC BRIDE: Yes.

18 MR. VAN HORN: Okay. And then -- I'm  
19 sorry. Mayor Passanante.

20 MAYOR PASSANANTE: Just one question.

21 Concerning the independent expenditures, I know we  
22 can't control that. But I guess the question is,  
23 you're asking that, over this certain level we have  
24 this cigarette warning. Do we have the ability to  
25 control what that warning says? Is that our

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1 wording, or is it left to that organization to word  
2 it? And I guess --

3 (Participants confer)

4 MAYOR PASSANANTE: Okay. So we can  
5 control what it says that they're going to have to  
6 include with their advertisement or their --

7 MR. VAN HORN: Excessive contributions

8 are dangerous to democracy.

9 UNIDENTIFIED: We're going to say it

10 produces cancer, is what we're going to say.

11 (Laughter)

12 MR. COLE: Now if the expenditures are

13 -- the expenditures are independent, how does the

14 candidate even know?

15 (Participants confer)

16 SENATOR ADLER: The independent

17 expenditure body --

18 MR. VAN HORN: They know.

19 SENATOR ADLER: -- has to tabulate its

20 own expenditure.

21 MR. VAN HORN: Right.

22 SENATOR ADLER: And once it hits the

23 threshold, it must disclose or face the same sort of

24 criminal penalties under ELEC or under, you know,

25 broader statutory law. The candidates --

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1 MR. COLE: But, Senator, I thought we

2 were talking about putting a label -- that the

3 actual delegate candidate had to put a label that

4 expenditures by independent committees have exceeded

5 a limit. No?

6 SENATOR ADLER: No. No, I think there

7 would be two different type of labels, for

8 independent group or for candidate, but I -- labels

9 are good in this case, I think.

10 MR. VAN HORN: Okay. Now the --

11 Michael already introduced the point about what

12 other sorts of public financing incentives and

13 amenities might be made available to people that

14 accept, if we have public financing, and/or provide

15 other sort of public mechanisms to publicize

16 delegates and their positions.

17 The current bills have a public

18 financing cap of \$25,000. How do people feel about

19 that issue? Yes, no, caps.

20 Assemblyman O'Toole.

21 ASSEMBLYMAN O'TOOLE: Consistent with

22 what Senator Adler's concerns were about stumbling

23 blocks that would make this seemingly impossible, if

24 there are so many roadblocks that we set up, or give

25 excuses to the Assembly and Senate, in terms of

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1 cost, whether it's per diem or salary, I think

2 public finance would be another potential stumbling

3 block or an excuse that individuals may or may not

4 use as to why they would not be supportive, in terms

5 of increasing costs. I would be against public

6 financing for that and other reasons, number one.

7 But I would encourage, whether it be

8 NJN, Channel 12, or some other medium to sponsor

9 forty debates throughout -- prior to the campaign

10 itself, and allow for as much discussion to go on.

11 And I think the same pitfalls you run  
12 into when you saturate the market with money, I  
13 think public funds, the injection of public funds, I  
14 think some would question the propriety of public  
15 funds in a campaign. I think, if you allow for more  
16 funds, it could potentially allow for a candidate to  
17 do less, in terms of going door to door and would  
18 perhaps discourage the larger sense of a democracy  
19 that we are seeking in this very personal  
20 convention.

21 MR. VAN HORN: Other comments on that  
22 topic? Yes, Mr. Malloy.

23 MR. MALLOY: I guess this is more of a  
24 question, but in terms of NJN hosting debates, forty  
25 different debates in all of the districts. Is it

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1 possible that, if a candidate has not agreed to the  
2 voluntary expenditure limit, he is then eliminated  
3 from that debate?

4 (Off the record. Back on the record)

5 (Participants confer)

6 (Mr. McBride not identified for the record)

7 MR. MC BRIDE: Yeah, I think that gets  
8 into -- the issue, ultimately, would be, I think,  
9 how much of a burden can -- I mean, the way it would  
10 be phrased, I think, how much of a burden can you  
11 put on the person's ability or an organization's  
12 ability to promote someone's candidacy. That's --

13 it will be a line-drawing process.

14 So, you know, the more things that you

15 either -- that you deny to a person who spends over

16 X amount, or that you prohibit, you know, a person

17 who spends over X amount from doing, then the closer

18 you will come to eventually have a problem from a

19 First Amendment standpoint.

20 Again, when we're -- since we're

21 talking in the context of not a system where you are

22 giving, either in-kind, or financial contributions

23 from public money in return for some voluntary

24 limits, because that's not what we were talking

25 about thus far; we were talking about a system where

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1 there is some kind of disincentive for spending over

2 -- or -- and a disincentive to spend over a certain

3 amount of money. And the more burdens you put on

4 that, that's -- you know, that will be the issue

5 that we have to -- you know, would have to look at.

6 The basic idea of having a label that

7 simply says, this candidate has already spent over

8 \$25,000 on behalf of his or her candidacy, that

9 might be the bare minimum neutral, and maybe that

10 would be fine. The more sinister the warning label

11 sounds, the more there might be a problem from a

12 First Amendment standpoint of unduly burdening the

13 ability of somebody to promote their -- you know,

14 their candidacy, and to spend on behalf of their

15 candidacy, or somebody else to spend on behalf of

16 their candidacy.

17 MR. VAN HORN: Yes, Mayor.

18 MAYOR SCHUBERT: I also think, if you

19 were to say something like, they couldn't partake in

20 the debate, they may not spend the money up until

21 the debate. But then what control do you have after

22 the debate? The debate is usually a couple of weeks

23 before the election, which is when most of the

24 spending is done in the last few weeks. So that may

25 not work.

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1 MR. VAN HORN: Senator Lance.

2 SENATOR LANCE: I agree with that

3 completely.

4 And, also, could we imagine a

5 situation for Governor of New Jersey, where one

6 candidate takes public funding and the other

7 candidate does not, and limiting the debates for

8 governor to the candidate who takes public funding.

9 So I don't think we're going to be able to do that,

10 number one.

11 Number two, I don't think the

12 Legislature is likely to agree to public funding or

13 partial public funding for the reasons Assemblyman

14 O'Toole has suggested. And I think it might hamper

15 a discussion of this in the Legislature because,

16 after all, legislative candidates themselves are not

17 involved in partial public funding. And so we are  
18 now asking the Legislature, if we make this  
19 suggestion, to have candidates for convention  
20 delegate be funded in part through public funding,  
21 where legislative candidates themselves are not. I  
22 agree with Assemblyman O'Toole on both parts of  
23 that.

24 MR. VAN HORN: Dr. Reock.

25 DR. REOCK: Just to add possibly to

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1 the listing of items here, where support might be  
2 provided to candidates, one would be a state website  
3 where candidates could place their biographies and a  
4 statement, just as we have for the task force.  
5 Another one possibly -- and I'm not  
6 sure how practical this is -- would be to give  
7 candidates the right to have their -- a brief  
8 biography printed on the sample ballot that goes out  
9 before the election.

10 MR. VAN HORN: Yes. I think those are  
11 suggestions that have been made before, and I think  
12 that you'll see that reflected in the budgetary  
13 discussion when we get into that.

14 Michael.

15 MR. COLE: I -- in my view, you have  
16 to provide some incentive if you want people to  
17 agree to a voluntary limit. I think one infomercial  
18 or website or things that were permissible.

19 I'm not sure you could put some

20 candidates' biographies on the ballot and not

21 others. That I find a little troublesome.

22 UNIDENTIFIED: (Inaudible - not

23 recorded).

24 MR. COLE: Oh. But I think an

25 incentive that is modest, but meaningful is

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1 something we ought to try to do, as well as a

2 disincentive. I'm not talking about spending

3 millions of dollars, but maybe several hundred

4 thousand dollars, for those candidates who agree

5 that they won't spent more than 25,000.

6 MR. VAN HORN: Well, didn't we also

7 talk at an earlier meeting about putting that as

8 part of their statement, that they have accepted the

9 limits? I mean, now this is the different -- the

10 other side of they have exceeded limits. But if

11 they say, I have voluntarily -- I voluntarily

12 accept, whatever the wording is, the twenty-five-

13 thousand-dollar limit, then that becomes part of the

14 -- either on the -- I guess we talked about putting

15 this on the ballot line. But then I think that is -

16 - doesn't make sense, if you don't have slogans and

17 bracketing, et cetera, but putting it in the bio or

18 in the -- as you list the delegates in the -- in the

19 mailed ballot, would be an affirmative way of

20 acknowledging their accepting a limit.

21 And that, presumably, would be

22 acceptable, correct, gentlemen? Ed, I'm looking at

23 you. Let me just add that to your list, if you

24 don't have the answer.

25 (Participants confer)

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1 MR. MC BRIDE: Yeah. You're talking

2 about the -- so the flip-side message --

3 MR. VAN HORN: Yeah.

4 MR. MC BRIDE: -- by one who has

5 agreed to abide by it --

6 MR. VAN HORN: Yeah, right.

7 MR. MC BRIDE: -- they get to have a

8 positive message.

9 MR. VAN HORN: Yeah, right. I'm

10 asking you to look into that. Yeah.

11 Senator Lance.

12 SENATOR LANCE: And you raised the

13 point, which we haven't discussed today, but which I

14 think is settled policy: No bracketing, no

15 sloganing --

16 MR. VAN HORN: No, that's right.

17 Yeah. Yes.

18 SENATOR LANCE: -- none of that

19 nonsense.

20 MR. VAN HORN: No.

21 SENATOR LANCE: Right. Thank you.

22 SENATOR LANCE: We're not revisiting

23 that. I was just saying, in the context of that,  
24 you couldn't put that beside their name on the  
25 ballot, saying that, you know, these are the -- the

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1 noncancerous candidates or whatever, right. Right.

2 Mayor Passanante.

3 MAYOR PASSANANTE: Just a question.

4 Should, you know, the consensus be that legislators

5 would be able to run for one of these positions, is

6 there any restrictions or any delineation of cross-

7 campaigning that we need to address? Because they

8 would be having a campaign running for their seat.

9 And, you know, where do we divide that?

10 I mean, I know you would -- I guess it

11 would be very clear as to what you're running for.

12 But I don't know. In essence, they get -- they get

13 the benefit of having another campaign exposure out

14 there while they're running for this delegate seat.

15 (Senator Lance not identified for the record)

16 SENATOR LANCE: Well, that's not true

17 of those of us who serve in the Senate. We have the

18 luxury of four-year terms, knock on wood. This

19 would only be a problem if there's to be an election

20 next year for members of the Assembly. And I do

21 believe it's a difficult problem.

22 MR. VAN HORN: But could you require,

23 for example, that their -- they couldn't join

24 advertisement and say, Assemblyman Van Horn -- elect

25 Assemblyman Van Horn to District 17 as a delegate

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1 and as an assemblyman, assemblyperson.

2 MAYOR PASSANANTE: That's my point,

3 that's what I'm asking.

4 MR. VAN HORN: Yeah, I'm asking, and

5 that's a question. Couldn't you do that? In other

6 words, prohibit them from having, let's say, a

7 single sign, all these horrible yard signs that

8 litter our landscape, and that they couldn't say,

9 Senator Adler -- well, it wouldn't be a senator --

10 Assemblyman Van Horn for delegate and assembly, '05.

11 SENATOR ADLER: I mean, it's a shame

12 Fred Herman is not here to explain this. But I

13 think the practical reality is, you have to allocate

14 costs between different campaigns when you have more

15 than one name. And so, similarly, if someone did

16 that and had a joint sign, you know, Adler for

17 Assembly and Adler for delegate, I'd have to

18 allocate between the two things and obey the

19 spending restrictions --

20 MR. VAN HORN: Right.

21 SENATOR ADLER: -- applicable to each

22 of the two offices or candidacies, so ...

23 MR. VAN HORN: Right.

24 SENATOR LANCE: Of course, at a rally,

25 a rally would say, this candidate is about my

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1 candidacy for the Assembly and --

2 MR. VAN HORN: Yeah, right.

3 SENATOR LANCE: -- and now, ladies and

4 gentlemen, this paragraph is about my candidacy for

5 delegate.

6 UNIDENTIFIED: And the second

7 paragraph is cancerous.

8 MR. VAN HORN: Yeah, right.

9 (Laughter)

10 MR. VAN HORN: Yes, Ms. Gordon.

11 MS. GORDON: Is the Assembly the only

12 elected body that would have that issue on the

13 ballot in November?

14 UNIDENTIFIED: No. Freeholder.

15 (Participants confer)

16 MS. GORDON: Would you also have that

17 issue with a candidate for freeholder, mayor, county

18 exec.?

19 (Participants confer)

20 MS. GORDON: But -- so the same rules

21 would apply to those individuals, as well. Is that

22 what we're saying?

23 MR. VAN HORN: Yeah.

24 MS. GORDON: Yes?

25 UNIDENTIFIED: Absolutely.

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1 MR. VAN HORN: Yes.

2 SENATOR LANCE: Maybe we'll have

3 somebody run for governor and delegate, that would

4 be interesting.

5 MR. VAN HORN: It might be a good

6 idea.

7 Mayor Schubert.

8 MAYOR SCHUBERT: Just one comment.

9 When we talked about possibly providing some public

10 financing, I agree with Assemblyman O'Toole that I

11 think it's just going to be another stumbling block

12 with the budget being so tight, and trying to figure

13 out where we're going to get our money from next

14 year. I don't know that we want to add an

15 additional ...

16 And I mean, I don't know. If somebody

17 is going to spend more than the \$25,000, are they

18 going to not spend it because they're going to get a

19 free website? They can do their own website if

20 they're going to spend \$100,000. So I don't know

21 that that would be an incentive for somebody not to

22 spend it; whereas, I think Senator Adler's

23 recommendation about the disclosure is more -- would

24 be more of like a poison pill for them.

25 MR. VAN HORN: Well, I think -- yeah,

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1 we're talking about, basically, giving them a Good

2 Housekeeping Seal of Approval, I'll call it, if they

3 -- if they accept the limits. You know, and that --  
4 that, in my view, is probably the most powerful  
5 message that could be included in the process, and  
6 much more valuable than some of these other things,  
7 I agree with you.

8 Although -- because I don't think you  
9 want to say that people who don't accept those  
10 limits can't be on the website. You certainly can't  
11 say they're not going to be on the -- you know, have  
12 a ballot bio. But delineating them in some positive  
13 way, I think, is a powerful message.

14 And I think that's probably the best -  
15 - the best that could be done, if we're not going to  
16 have public financing, which I think, as has been  
17 stated by several members, I agree with. I think  
18 that that -- that drives the cost very, very far  
19 north, especially when you consider that, whether  
20 it's eighty or 120, you can have, you know, ten  
21 people, you can have 1,200 people running or  
22 something like that. So, you know, then it becomes  
23 prohibitively expensive.

24 Okay. So I think on this point, you  
25 know, I'll just summarize this by asking the staff

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1 to consult with appropriate experts and the Attorney  
2 General's Office and ELEC to come back with crafting  
3 a constitutionally bullet-proof set of  
4 recommendations to carry out the will of the task

5 force for our recommendations to the Legislature.

6 And especially including the point

7 that Senator Lance raised, not just about the

8 delegates, but about the -- about the ballot

9 proposition itself, because I think that's a very

10 important point that we hadn't discussed before.

11 (Mr. McBride not identified for the record)

12 MR. MC BRIDE: What, about spending on

13 --

14 MR. VAN HORN: The rules -- the rules

15 governing spending on, you know, pro and con, the

16 con-con (sic), as it's called. In other words, the

17 election -- the support or the opposition to the

18 constitutional convention call.

19 MR. MC BRIDE: Yeah. And I think that

20 really is a completely different issue than spending

21 on behalf of people's candidacies, because the

22 premise that the Supreme Court has always used in

23 allowing legislators -- you know, allowing congress

24 or state legislatures to limit spending in certain

25 instances, or limit contributions or whatever, is

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1 always premised on the idea of trying to prevent

2 quid pro quo corruption --

3 MR. VAN HORN: Yeah.

4 MR. MC BRIDE: -- you know, buying an

5 office.

6 MR. VAN HORN: Right.

7 MR. MC BRIDE: With spending in

8 support of or against a public question, that

9 justification isn't there.

10 MR. VAN HORN: No, well --

11 MR. MC BRIDE: So, I mean, I'm not

12 saying that that means the answer is there are --

13 the sky is the limit, but it does -- it does raise

14 different issues.

15 MR. VAN HORN: Well, I guess I mean, I

16 think we're talking about disclosure principles, I

17 think we're looking for ways to inform the public at

18 the time that they're reading an advertisement in a

19 newspaper or hearing a radio ad or seeing a

20 television ad, who is behind that ad, at the very

21 minimum. And -- yeah, Senator Lance, you wanted to

22 add to your --

23 SENATOR LANCE: Yes, thank you. I'm

24 not sure we can, in any way, prohibit what is done.

25 MR. VAN HORN: No.

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1 SENATOR LANCE: But I would like to

2 see what disclosure we might suggest the Legislature

3 require.

4 And I don't know what the rules are

5 regarding the various public questions that have

6 been on the ballot over the years regarding

7 disclosure of those who have favored and opposed

8 those matters; I simply have no knowledge on that.

9 MR. VAN HORN: I don't, either. Does

10 anybody else on the task force? Well, that's --

11 we'll be informed by that work.

12 Senator Adler, did you want to comment

13 on this?

14 SENATOR ADLER: (Inaudible - not

15 recorded).

16 MR. VAN HORN: Yeah. Assemblyman

17 O'Toole, did you -- okay.

18 Moving on, the next question that we

19 calendared from the last meeting was the -- whether

20 the convention should be authorized to propose

21 statutes, as well as amendments. We had a -- both a

22 robust discussion, and also an arcane one about the

23 rules governing this. And I think that I would say

24 that the task force leaned towards permitting both,

25 although there was some strong dissent from that.

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1 So I just want to revisit that question, to see if

2 members want to comment on that, try to persuade

3 each other, and see if we can find a consensus.

4 Dr. Cole.

5 DR. COLE: Since this is -- is this

6 the bottom of your list of unresolved issues? So my

7 -- I do want to say something about that, but it

8 sort of takes us back into the scope issue. So do

9 you want to do that now, or wait?

10 MR. VAN HORN: (Inaudible - not

11 recorded).

12 DR. COLE: Okay. I wanted to perhaps

13 propose this question for consideration. It's not

14 an answer; it is a question. But, after our last

15 discussion, I spent some time curled up with Article

16 VIII, which was not, from an aesthetic point of

17 view, very rewarding; but, nevertheless, I did.

18 And what occurs to me is, if the

19 purposes that we are about is reform of the property

20 tax structure, and if the purposes of a

21 constitutional convention are to --

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

23 (Beginning of Tape No. 2)

24 DR. COLE: -- limited in its issue to

25 Article VIII, Section 1, Paragraph 1(a) and

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1 Paragraph 7, and limited to constitutional changes,

2 if necessary, to those provisions, and able to

3 direct the Legislature to implement those revisions

4 through appropriate statute, as the Legislature is

5 directed to do innumerable times in the

6 constitution.

7 In other words, the convention would

8 have no need to take up statute; they would make

9 appropriate constitutional changes that would guide

10 how the Legislature would have to develop statute,

11 but the Legislature would still retain its authority

12 to write laws, and we would not meddle with that

13 authority question. Question mark.

14 MR. VAN HORN: Okay. Who would like

15 to answer Dr. Cole's question?

16 MR. COLE: (Inaudible - not recorded.)

17 DR. COLE: That's really two

18 questions.

19 MR. COLE: Yeah, it is.

20 DR. COLE: One has to do with the

21 limitation --

22 MR. COLE: I agree --

23 DR. COLE: -- of subject, and the

24 other has to do with the statute issue.

25 MR. COLE: On your second part, I

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1 agree wholeheartedly. The convention should only be

2 permitted to propose general statements of

3 constitution, leaving implementing details to the

4 Legislature, and I would not continue to think it's

5 a bad idea to have the convention be authorized to

6 adopt statutes for a lot of reasons:

7 One, because I think it is a potential

8 way people can derail the convention because of the

9 three-fifths requirement. It's pretty easy to stop

10 something if all you have to do is stop the three-

11 fifths, and then you've already gained at least a

12 one-year delay.

13 Second, I think there's something

14 wrong with the concept that a convention can reach a

15 conclusion, which can be overruled immediately by  
16 the Legislature the day after the Board of  
17 Canvassers meet to certify the result. That, to me,  
18 is anomalous.

19 In terms of your first point, your  
20 first point was, why isn't it limited to Article I  
21 and Article VII?

22 DR. COLE: Article I, Paragraph --  
23 Article I -- Article VIII, Section 1, Paragraph  
24 1(a), which deals with property taxes. And I think,  
25 also, Paragraph 7, which deals with income tax in

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1 its relationship to property tax.

2 MR. COLE: But not 1(b), which deals  
3 with --

4 DR. COLE: All of the other provisions

5 --

6 MR. COLE: -- land values?

7 DR. COLE: -- go to specific

8 entitlements that have been written into the  
9 constitution, and not to the larger structural issue  
10 of property tax.

11 Now, obviously, you can start --

12 MR. COLE: Why couldn't they, Doctor,  
13 be revisited as part of the review of property tax?

14 DR. COLE: They could be revisited.

15 There is much in here that could be revisited.

16 Obviously, we have heard a great deal about not

17 wanting to revisit some provisions here. But it  
18 strikes me that the reason they are not to be  
19 revisited is because none of them in their intent  
20 really address the major structural issue of  
21 taxation in the state. They are really doing  
22 something else. They are addressing other social  
23 issues.

24 MR. COLE: Well, I don't -- I haven't  
25 really studied this, but I would just say, if you're

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1 going to have a convention address the structure of  
2 property taxes, I don't know why I would make  
3 exclusions to that general subject when some of the  
4 other things go to who's exempt, who's not exempt  
5 from property tax.

6 DR. COLE: Right. What I'm --

7 MR. COLE: And you may -- you may want  
8 to, for example, add additional exemptions to  
9 encourage certain growth patterns or for certain  
10 types of uses. I don't know.

11 DR. COLE: I'm not necessarily arguing  
12 that point, Michael. What I'm saying is, it is  
13 clear to me that 1(a) and 7 deal with the larger  
14 structural issues; and, as -- in my reading, which  
15 clearly is not definitive, those are the only  
16 provisions that really deal with the major  
17 structural issues.

18 Other paragraphs might be added for

19 specific reasons; that is, because we determine that

20 it is so closely related that we should.

21 MR. COLE: Uh-huh.

22 DR. COLE: But I think we should have

23 a reason for each one of them.

24 MR. VAN HORN: Senator Adler.

25 SENATOR ADLER: Yeah. On one of those

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1 many good points, I think Dr. Cole skipped over some

2 of the other constitutional provisions that are in

3 Article VIII. So I'm going to make an argument that

4 I think the mayors are about to make, and that NJEA

5 would make or school boards would make, which is

6 that the one provision that was added to the

7 constitution about unfunded mandates could well be

8 revisited, and actually made real, rather than the

9 sort of phony constitutional amendment we passed a

10 few years ago, which didn't really require the

11 Legislature to fund the mandates we imposed upon

12 municipalities and counties and school districts,

13 and in some places fire districts or library

14 commissions.

15 And so that, I think for local levels

16 of government, is profoundly structural and might,

17 by itself, be a massive shift in responsibilities

18 that would really unburden property taxpayers

19 enormously. And so I wouldn't want to skip over

20 that one; that's a big one. It's just a few little

21 words, but that's a hugely big one that would --  
22 either would help fund special education, which is a  
23 huge burden for school districts; and, therefore,  
24 property taxpayers, or some of the other things that  
25 we, with our extraordinary wisdom at the legislative

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1 level, passed without actually giving more than a  
2 dollar or a hay penny, or whatever sort of token  
3 amount satisfied the constitution.  
4 So I'd be wary about limiting on some  
5 of these issues. I don't want to say, therefore,  
6 that what I said a few days ago was profoundly  
7 right, and everybody else is wrong. But I'd be  
8 worried about skipping over that one, because that  
9 one was phony. We didn't do a good job when we  
10 passed that amendment and sort of tricked the voters  
11 a few years ago.

12 DR. COLE: I did pause over that one.

13 SENATOR ADLER: Yeah. Well, that one  
14 -- we should pause over that again. That's maybe  
15 precisely the sort of constitutional amendment that  
16 the convention should discuss.

17 You know, I was struggling with Dr.

18 Reock's point of a few days ago, which aspects of  
19 the constitution should we deal with, maybe this  
20 convention should be just dealing with statute.

21 And, as I thought about it over the last few days,  
22 that sort of phony mandate provision that I voted

23 for in the Legislature -- so I'm one of those

24 hypocrites -- that's exactly the sort of

25 constitutional provision that we probably should

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1 revisit through a convention or through a

2 legislative process, to let the voters actually get

3 what they thought they were getting a few years ago.

4 MR. VAN HORN: Yes, Dr. Reock.

5 DR. REOCK: (Inaudible - not recorded)

6 I think they're sort of very important questions,

7 and we should address them. I think these are very

8 important questions we should address (inaudible.)

9 (Off the record. Back on the record)

10 DR. REOCK: -- defer this discussion

11 until we hear that analysis, and then proceed with

12 this injunction with the entire scope question.

13 MR. VAN HORN: Well, I think I granted

14 it on to the agenda today because I think what Dr.

15 Cole really has done is raised some additional

16 questions for consideration. And you're right.

17 We're certainly not going to settle it today, but,

18 you know, I think it's fine to discuss it. It's --

19 and we're going to discuss it again, you know, after

20 having received that -- that information, Dr. Reock.

21 DR. REOCK: I would just like to have

22 Article VIII in front of me when we discuss it.

23 MR. VAN HORN: Yeah. No, we -- yeah,

24 you're right. That's a well taken point.

25 Let me -- sorry, Assemblyman O'Toole,

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1 you want to comment on this? Yes.

2 ASSEMBLYMAN O'TOOLE: Just on the

3 narrow focus as to whether the convention should be

4 limited to proposing statutes or amendments or both.

5 I think that the convention -- I think it was Mayor

6 Schubert who said that we should not tie the hands

7 of the delegates going in. I think, to maximize the

8 potential, we should allow adjustments with state

9 statutes and/or constitutional amendments.

10 And I think, if we are going to do

11 amendments only, and then direct the legislative

12 body to follow the mandate of the convention, I

13 think that, on occasion, things get lost in the

14 translation from the findings of the convention to

15 the findings in the legislative bodies, and whether

16 the will of the bodies is present to carry out what

17 the intent of the convention had concluded.

18 So I would be in favor, strong favor,

19 to allow proposing statute statutes, as well as

20 constitutional amendments.

21 MR. VAN HORN: Yes, Mayor.

22 MAYOR PASSANANTE: Yes. I would

23 concur with Assemblyman O'Toole and the Vice Chair's

24 opinion and position on this. We need to make sure

25 that what is decided can be executed; and the only

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1 way to make sure that happens is if we allow them --

2 MR. VAN HORN: They're actually

3 different positions.

4 MAYOR PASSANANTE: Well, I believe --

5 MR. VAN HORN: He does not favor the

6 statutory --

7 MR. COLE: I do not favor --

8 MAYOR PASSANANTE: You do not favor

9 statutes.

10 MR. COLE: -- giving them statutory

11 power.

12 MAYOR PASSANANTE: Okay. Well, then I

13 --

14 MR. VAN HORN: You want to agree with

15 him, but not with him.

16 MAYOR PASSANANTE: -- agree with --

17 MR. VAN HORN: Right.

18 MAYOR PASSANANTE: -- okay, the

19 assemblyman that we need to make sure that they are

20 together. Sorry about that. Maybe I can convince

21 you.

22 MR. VAN HORN: Any other views on the

23 -- you know, again, I think that the -- with all due

24 respect to my vice chair, I think the consensus is

25 towards including the flexibility for statutory

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1 changes. And I think, when -- you know, that is  
2 what I'm going to ask the staff to draft, and to  
3 deal with those various questions related to it.

4 MR. COLE: I thought I heard a  
5 potential ally in Dr. Cole a moment ago.

6 DR. COLE: I think we'll call it the  
7 "Cole dissent."

8 (Laughter)

9 MR. VAN HORN: Yeah.

10 DR. COLE: I really think the question  
11 of statute -- obviously, there's strong feeling that  
12 statutes should be included; I hear that around the  
13 table. But I really think that, to make that  
14 decision absent a clear understanding of what the  
15 scope question is, is putting the cart a little bit  
16 before the horse.

17 MR. VAN HORN: Yes, Senator Lance.

18 SENATOR LANCE: Thank you. I will  
19 repeat what I stated at a previous meeting. I'm of  
20 mixed emotion whether the convention should have  
21 statutory power, although bills I have introduced  
22 include statutory power. I'm of mixed emotion, so I  
23 cannot joint the Cole dissent; I'm somewhere on the  
24 fence.

25 But I definitely agree with Dr. Cole

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1 that this issue is inextricably related to scope,  
2 and will have to be discussed. I don't know whether

3 it's cart before the horse, but discussed together.

4 MR. VAN HORN: Well, again, I -- I

5 agree with that. I think what I'd like to do is ask

6 the staff to proceed with, again, the recommendation

7 that we include this, with the -- all the things we

8 need to do to make that happen. Because, as we set

9 up complex issues, and then -- again, we're going to

10 revisit this when we revisit the scope discussion a

11 week from today. So, again, nothing is done until

12 it's done. All right? So let's move on from there.

13 I'd like to ask Mr. Donnelly to take a

14 microphone up there and ask the members to get --

15 turn to the page with the cost -- there's two pages

16 -- estimated cost. And what Mr. Donnelly is going

17 to do is just walk us through this and explain how

18 he arrived at these estimates and who he consulted

19 to get the estimates, and so on and so forth.

20 Mr. Donnelly.

21 MR. DONNELLY: Thank you, Mr.

22 Chairman.

23 Members, the budget that's before you

24 is based upon input from the Election Law

25 Enforcement Commission, the Division of Elections,

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1 some assistance from the Office of Legislative

2 Services on some of their past bills with past

3 proposed amounts; nd, in part, therefore, Senator

4 Schluter, who had a bill a few years ago with cost

5 mentioned.

6 And ask that this be kept in mind,

7 that it's a guide based upon the discussions to

8 date, and heard, for instance, some possibilities

9 that maybe the task force members would like to

10 consider, such as expanded opportunity for out-of-

11 pocket expenses mentioned by the chair and vice

12 chair this morning.

13 Recent appropriations proposed have

14 been anywhere from four to 15 million, and the draft

15 budget before you this morning proposes one

16 underneath the lower limit at \$3,845,000, as you can

17 see.

18 If you'd like, I'll start at the top.

19 Pre-convention, I have shown a line,

20 "Delegate and Convention Election, \$1,150,000." To

21 arrive at that figure, I started with the Election

22 Law Enforcement Commission, which would be required

23 to implement some of the provisions that you spoke

24 of this morning:

25 Regulations on to -- as to disclosure,

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1 as to the specific amounts proposed; \$500, for

2 instance, for contributions.

3 Forms in order to accomplish that

4 purpose.

5 Computer programs to implement.

6 And the possibility of a staff member

7 to make sure that the process moves smoothly.  
8 That \$50,000, if I may then jump down  
9 to the bottom, under "Post-Convention," you see the  
10 same amount, \$50,000. Under "Post-Convention," ELEC  
11 monitor of issue groups. And that goes largely to  
12 the same point.  
13 And if I might expand upon a subject  
14 that you were speaking of earlier, about the  
15 disclosure at the bottom of any campaign material,  
16 information received from ELEC during these analyses  
17 is that, since disclosure issues affect the budget,  
18 I have included them, and candidates who do not  
19 accept public finance must follow the disclosure  
20 rules.  
21 And those disclosure rules would  
22 follow from, I think, your discussion this morning.  
23 If you want to have it say that the candidate has  
24 not accepted public finance, then on the bottom of  
25 any campaign forms, that is what would be required;

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1 that the disclosure is made there, thereby.  
2 Further, as it gets to in the post-  
3 convention atmosphere, where you do have independent  
4 entities which you were talking about, independent  
5 entities may come out either for the convention  
6 proposals or against the convention proposals. And  
7 in an education campaign such as that, the  
8 independent entities must also disclose by a

9 political identification statement.

10 That is, therefore, part of fifty-

11 thousand-dollar cost proposed to you in both the

12 pre-convention and post-convention environment.

13 Further, to the delegate and

14 convention election, there would be cost in

15 reproducing the candidate statements, collection

16 thereof, printing, making camera-ready, coordinating

17 with the counties, ensuring the candidate statements

18 get on the ballot; and then the possibility of

19 increased paper, printing, and mailing costs. And

20 that comes to -- that entire process for the

21 candidate statement collection could come as high as

22 500,000 of that amount. It would go on to the

23 existing ballot statement that everyone will receive

24 already.

25 An additional amount for the ballot

100

1 questions; preparing them, ensuring that it says the

2 right thing, placing them on the ballot -- sample

3 ballot, mailing, printing, distribution would come

4 to about 100,000 of that figure.

5 And then, finally, the county costs to

6 review the county delegate nominating petitions and

7 to provide any additional training of poll workers,

8 that would be estimated at 500,000, as well. And

9 that's how that first figure comes in.

10 As to research facilities and staff

11 for up to one month prior to the convention, you see

12 a figure of \$65,000.

13 Without being able to assess up front,

14 immediately the impact to the Office of Legislative

15 Services in providing the research that you have in

16 a previous meeting said that they should provide, I

17 have assigned a dollar value for your consideration

18 of \$50,000.

19 Facilities would be anywhere from

20 computers, et cetera, 5,000; and staff, perhaps up

21 to \$10,000 for the month prior to the convention.

22 So that's how the sixty-five comes up.

23 Moving to the convention time frame,

24 printing of the various materials that would be

25 necessary for all the hearings, et cetera -- and I

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1 can back this up with more detail as you wish -- but

2 printing would be -- of that 675,000, it would be

3 420,000.

4 Transcripts of all the meetings,

5 70,000.

6 Notices, which would not necessarily

7 be required, but perhaps there could be some public

8 outreach, 5,000.

9 And audiotape, put on the tape, et

10 cetera, depending on the number of hearings, if

11 there were perhaps as many as three a week for four

12 months, it might run as high as 180,000.

13 Moving to the next line, meals, if it  
14 were separate from out-of-pocket, but that there was  
15 something provided to the delegates at the site over  
16 the course of perhaps a four-month period, that  
17 would be \$180,000, and that could be contingent upon  
18 where you meet. If you're close to facilities where  
19 they might be able to go get a sandwich and come  
20 back with their receipt, or do you want to provide  
21 it where they are.

22 "Rutgers Charges" is meant to mean,  
23 not so much that the university was anticipating  
24 submitting a bill for the use of a room, but, again,  
25 copier, phone, things that you need to simply have

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1 communications.  
2 Other agency help could be anywhere  
3 from directional signs, staff -- as you may or may  
4 not have noticed, at some of our hearings we've had  
5 help from various agencies in providing a working  
6 environment with assistance, the collection of names  
7 of speakers that wanted to come before you and  
8 address you. And so for other agency help on a  
9 variety of matters, such as directions and things  
10 like that, signage, over the course of four months,  
11 I've suggested an allotment of perhaps \$100,000.  
12 Experts and constitutional scholars, a  
13 variety of officials have addressed you that are  
14 experts in technical fields; that was estimated at

15 60,000 over the course of the convention. And  
16 scholars, such as those that have also addressed  
17 this body, at another \$60,000. It would include  
18 honoraria fees and travel over the course of the  
19 four months.  
20 Staff and delegate expenses.  
21 Operating under the belief that out-of-pocket is  
22 what you have indicated your preference for, that  
23 would be \$210,000 for the delegates.  
24 Salary of the various staff for the  
25 period of the convention; it would include perhaps a

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1 director, a chief counsel, press aides, accountants,  
2 and then other aides to assist on the floor of the  
3 convention perhaps over the course of the entire  
4 convention, 145,000.

5 And, finally, staff out-of-pocket and  
6 unforeseen delegate requests or convention needs,  
7 that total would be 90,000. And so you'd have  
8 445,000 there.

9 Finally, addressing the post-  
10 convention. I've already mentioned ELEC. If I  
11 could just refer to the million dollars. That  
12 divides up into county costs for preparing for the  
13 election, training poll workers, \$400,000; in  
14 addition to the general election costs that are  
15 already assumed as out of separate cost accounts  
16 that are not a concern of the convention.

17 Additionally, 400,000 for preparation  
18 of the proposal/statement, printing, camera-ready,  
19 mailing, 400,000.  
20 And then, finally, at your choice, if  
21 you decided on some sort of public education  
22 campaign -- as you've heard testimony, in '47, there  
23 was \$200,000 left over from the convention budget  
24 that was spent for education in '44. In '66, as Dr.  
25 Reock was able to advise us, the convention did  
  
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1 authorize delegates to, as part of a speakers'  
2 bureau. And it's not quite clear from the records  
3 that the convention left behind as to the amount  
4 that they spent on the public education campaign,  
5 but they produced about 600,000 copies of the  
6 constitution for distribution around the state; that  
7 much we do know. How it was paid is not clear.  
8 If we, this time around, were to do  
9 something similar, perhaps five or 600,000 copies of  
10 the document, I was roughly estimating that, with  
11 566 municipalities, if each municipality was mailed  
12 a hundred copies for distribution in municipal hall,  
13 town library, et cetera, those hundred copies for  
14 each municipality at twenty cents per copy times the  
15 mailing charge of twenty cents, it might run as high  
16 as \$200,000 for that. Two hundred thousand would be  
17 the same amount as spent in '47.  
18 The total of all those items is the

19 \$3,845,000. And if you'd like me to address these

20 issues in more detail, I'm available.

21 MR. VAN HORN: Okay. Any questions

22 for Mr. Donnelly?

23 I think one comment I would make,

24 Jack, is it -- since you obviously have more detail

25 at your fingertips than are reflected on this sheet,

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1 that you should provide that additional detail

2 because, that way, people can scrub the numbers

3 (sic) more carefully, if we were to pass this along.

4 MR. DONNELLY: I'll do that, Chairman.

5 Thank you.

6 MR. VAN HORN: Yes, Mayor Passanante.

7 MAYOR PASSANANTE: Just a question. I

8 -- earlier today, I believe Senator Lance was asking

9 about the educational process, and I just want to

10 make a clarification. Were you talking about the

11 post-convention or the upcoming, the first go-

12 around? Because the question is, is there any money

13 plugged in for that. I didn't hear that, so ...

14 SENATOR LANCE: I was commenting on

15 the first go-around. But, of course, the second go-

16 around is also an important consideration that we

17 probably should analyze. But I was speaking about

18 the first go-around.

19 MAYOR PASSANANTE: And there is -- I

20 didn't hear any numbers. Were there any numbers in

21 there for that, at all, educational process?

22 MR. VAN HORN: Yes. That's in the

23 post-convention.

24 MAYOR PASSANANTE: No. I thought that

25 was for the second process.

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1 (Participants confer)

2 MR. DONNELLY: I've provided an amount

3 in the post-convention for distribution of a

4 proposal for the public. Mr. Chairman, I have not

5 included an amount of public education up front,

6 other than --

7 MR. VAN HORN: Oh, right.

8 MR. DONNELLY: -- other than the

9 statement that, of course, goes on the ballot.

10 MR. VAN HORN: Right. Dr. Reock.

11 DR. REOCK: Just as a general reaction

12 to the proposed budget, I think it really stints on

13 the research staff, the technical staff that would

14 be desirable for a convention.

15 I get the impression that there's a

16 considerable reliance on OLS here. OLS has other

17 jobs to do, and I'm not sure how much intensive work

18 we really can anticipate from them, in addition to

19 their regular duties. They've been very helpful so

20 far.

21 But if we don't provide some sort of

22 independent technical staff for the convention, then

23 we're going to -- then the convention is going to be  
24 relying on the so-called "experts" that are provided  
25 by interest groups. And I think it would be far

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1 more desirable to add money in here, both pre-  
2 convention and during the convention, for an  
3 independent technical staff for the convention.

4 MR. VAN HORN: Well, I think -- I

5 think, Dr. Reock that the independent piece is  
6 provided -- I don't know exactly what you mean by  
7 that, but the -- there's a line item in here for  
8 experts and, you know, outside consultants to the  
9 staff.

10 I think what we decided at the last  
11 meeting was -- or a couple of meetings ago, was that  
12 the Legislative Services Commission would be charged  
13 with the responsibility for staffing this. And I  
14 think that what's not here, and I think Mr. Donnelly  
15 pointed that out, is we're not exactly sure how the  
16 director of that organization will decide to  
17 allocate staff. And I -- I find it very hard to  
18 estimate what that number is. It may well require  
19 additional appropriation for that. But I don't  
20 think it's possible for us to make that estimate.  
21 Other comments on the budget? I think  
22 it's very helpful and detailed, and it provides some  
23 more thorough vetting. And I -- I know because I  
24 worked a bit with the staff in doing this. Believe

25 me, it was not based on the four -- we didn't start

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1 with the four-million-dollar number and say, that's

2 where it had to come in. It happens to be close to

3 that.

4 But I think -- I think it does at

5 least advise the Legislature, as we go forward, with

6 what the incremental costs -- and I think it's very

7 important to point out here that, in moving this to

8 the general election, we've obviously saved millions

9 of dollars, if that's when it occurs. And so this

10 reflects the incremental costs of that.

11 And I think there are other

12 incremental costs that Dr. Reock raises that are

13 really hard, almost impossible for us to estimate,

14 as to how much staff would be reassigned as an

15 important part of their regular duties for this

16 period of time, as opposed to having to hire

17 additional staff. So I think that's probably the

18 best we can do.

19 Okay. If there -- does any other

20 member have anything else they want to say before we

21 just talk about where we're headed next week?

22 Okay. I just remind you, we're

23 bouncing back and forth, so that next Friday, in the

24 afternoon, we're going to be over at Douglas Trayes

25 Hall again at two o'clock; and, prior to that, the

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1 staff is going to circulate a draft report, which  
2 reflects as much as possible the decisions that --  
3 where we have consensus, as well as reflecting those  
4 where we don't, and state a -- I've asked them to  
5 state a brief rationale -- in other words, it's not  
6 just going to be a one-line, you know, we recommend  
7 this, but to state the rationale briefly. I don't  
8 want to turn this into a Ph.D. dissertation, but a  
9 report that at least gives the Legislature and the  
10 Governor the benefit of our thinking. Of course,  
11 there's plenty of record to back up those  
12 conclusions.

13 So I don't want to give you -- say  
14 it's definitely going to be Monday, but I hope it's  
15 Monday or Tuesday, so that you have ample time to  
16 look at it; I think that's possible. And then we'll  
17 discuss it on the 17th.

18 And I do encourage, if you do have  
19 time, to look at it, especially when it gets down to  
20 word-smithing; that, if you have any comments on  
21 that, that you submit them to us -- submit them to  
22 the staff directly, and then we'll discuss the  
23 basic, you know, important principles at that  
24 meeting.

25 And then whatever additional work we

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1 need, we'll hold for our meeting on the 21st. And  
2 we'll proceed, as I said, at -- before, in answering  
3 Assemblyman O'Toole's question, about recording  
4 dissents as we go along, if people choose to do  
5 that. And I hope we can keep that as limited as  
6 possible, but I recognize that people may feel the  
7 need to do that, and that's perfectly appropriate.  
8 Okay. Oh, Dr. Cole, sorry.

9 DR. COLE: Just one small point. We  
10 are going to be discussing Article VIII, and we have  
11 asked for some analysis of Article VIII. In the  
12 process of that, I think it might be helpful if you  
13 could point out any of the major court decisions  
14 that have been reliant upon one or another article.  
15 For example, with the thorough and  
16 effective -- thorough and efficient -- is that --  
17 (Participants confer)

18 DR. COLE: Efficient. Efficient.  
19 Thorough and efficient, we've referenced the Abbot  
20 decisions and so forth.

21 Some of the other provisions of  
22 Article VIII may be those provisions on which some  
23 very important court decisions have been balanced,  
24 and I think we ought to be aware of that.

25 MR. MC BRIDE: That's fine.

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1 MR. VAN HORN: And, Ed, that

2 presumably can be circulated, that memo, in advance

3 of the meeting next Friday.

4 MR. MC BRIDE: Yes, that should be

5 distributed on Monday.

6 MR. VAN HORN: Okay. Good.

7 Okay. Thank you, ladies and

8 gentlemen. Have a nice weekend. We'll see you next

9 Friday.

10 (Proceedings adjourned)

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

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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 December 10, 2004, is a true and  
7 accurate non-compressed transcript of the  
8 proceedings to the best of my knowledge and ability.

9

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12 Coleen Rand AD/T 419 Date

13 For Guy J. Renzi & Associates

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