



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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4 TAX CONVENTION TASK FORCE : OF

5 ----- HEARING

6

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9 TRANSCRIPT ORDERED BY:

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- SUSAN COLE, Ph.D.
- 15 SHERRYL GORDON
- SENATOR LEONARD LANCE
- 16 TERENCE MALLOY
- ASSEMBLYMAN KEVIN O'TOOLE
- 17 MAYOR GARY J. PASSANANTE
- ERNEST C. REOCK, JR., Ph.D.
- 18 MAYOR JO-ANNE B. SCHUBERT
- CY THANNIKARY
- 19 SENATOR RICHARD VAN WAGNER, SR.
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1 (Tape 1, Side A)

2 MR. VAN HORN: -- Tax Convention Task

3 Force. I'm Carl Van Horn, professor at Rutgers

4 University, and chair of the task force.

5 We -- before I have the members

6 introduce themselves to our distinguished panelists,

7 I just want to comment that we have, thus far, held

8 an organizational meeting and three public hearings

9 in Camden, Mercer, and Bergen Counties, and those

10 meetings were attended by 500 people; we heard from

11 125 speakers; and, as you might expect, they

12 expressed a wide diversity of views, none of which,

13 however, disagreed with the point that this is a

14 deadly serious issue that needs to be addressed, and

15 certainly reinforced, I think, the task force's

16 commitment to go forth and work expeditiously and

17 carefully in responding to the task the Legislature

18 put before us.

19 We move into a second phase of our

20 work today, and that is to hear from distinguished

21 leaders in New Jersey about their perspective on
22 property taxes and on how such a constitutional
23 revision process might go forward. And we are
24 especially honored today to have Governor Byrne and
25 Governor Florio with us, and I'll have more to say

3

1 about them in a moment, but it's certainly
2 appropriate that we start with them.
3 I do want to say that we have also
4 Governor DiFrancesco, Governor Whitman, and Governor
5 Kean; and, certainly, respecting their schedules,
6 we'll do the best we can to ask them to appear
7 before us and get them here, as well.
8 We -- following this next week,
9 today's meeting, we're going to have meetings here
10 at Rutgers on October 26th and 29th, at which we
11 will hear from representatives from business, labor,
12 education, groups representing children in New
13 Jersey, advocates for children, environmental
14 organizations, and citizen groups, also addressing
15 us and giving us detailed comments about this work,
16 and giving us a chance to question them further.
17 And then we'll follow that up with
18 testimony from expert witnesses from other states,

19 constitutional scholars and lawyers who have had
20 experience in dealing with similar situations,
21 constitutional revisions in their states, and we'll
22 benefit from their advice, as well.

23 So we have an ambitious set of
24 hearings ahead of us, and a lot of learning and
25 listening to do. And then, of course, we'll turn to

4

1 the task of drafting a report.

2 Let me now turn to the members of the
3 -- of this task force, and just allow them to
4 introduce themselves to the governors and to the
5 audience that's here today.

6 Mr. Vice Chairman.

7 MR. COLE: Good afternoon. Welcome,
8 Governors; Governor Byrne and Governor Florio. I'm
9 Michael Cole, and I'm honored to be the vice chair,
10 and I'm an attorney at law.

11 MAYOR PASSANANTE: Good afternoon. My
12 name is Mayor Gary Passanante, I'm the Mayor of the
13 Borough of Somerdale, Camden County. I'm also the
14 Chairman for Property Tax Reform for the New Jersey
15 State League of Municipalities.

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

17 retired from the Rutgers University faculty.

18 MAYOR SCHUBERT: I'm Jo-Anne Schubert,

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

20 Jersey State League of Municipalities. Welcome.

21 MR. THANNIKARY: It's good to see you,

22 Governors, I'm delighted to have you with us this

23 afternoon. My name is Cy Thannikary, I'm the

24 chairman of a grassroot (sic) organizations called

25 Citizens for Property Tax Reform, which is a

5

1 statewide coalition, representing over 500,000

2 homeowners.

3 SENATOR VAN WAGNER: Governor Byrne,

4 Governor Florio, good to see you again. My name is

5 Richard Van Wagner, and I'm retired.

6 UNIDENTIFIED: From a lot of things.

7 SENATOR VAN WAGNER: Right. Except

8 seven grandchildren.

9 DR. COLE: Susan Cole, President of

10 Montclair State University.

11 MS. GORDON: Sherryl Gordon, Executive

12 Director of the American Federation of State,

13 County, and Municipal Employees.

14 SENATOR LANCE: Leonard Lance of the

15 State Senate.

16 MR. MALLOY: Terrence Malloy from

17 Bayonne, I'm the city's CFO and business

18 administrator.

19 ASSEMBLYMAN O'TOOLE: Kevin O'Toole,

20 state assembly member.

21 MR. VAN HORN: Thank you. And some

22 other members who are not here today are en route;

23 some could not make it, but the transcripts of this

24 hearing will be made available to them, of course.

25 We're going to begin with the

6

1 Honorable Brendan Byrne who has, as we all know, not

2 only served the state with distinction as governor,

3 but did so as a lawyer, a judge, a prosecutor, and a

4 person who continues to serve the state in many

5 important ways.

6 And so, members of the task force,

7 what I would suggest is that we hear from the

8 Governor and then, as members wish, I'll recognize

9 them to ask him questions, and/or to make comments,

10 and then we'll go to Governor Florio. Governor

11 Byrne, welcome.

12 GOVERNOR BYRNE: This is a nice room.

13 Does it have a name?

14 MR. VAN HORN: It's called Assembly

15 Hall.

16 GOVERNOR BYRNE: Oh.

17 MR. VAN HORN: But if anyone wishes to

18 donate, including yourself, I'm sure we could

19 arrange for a naming.

20 (Laughter)

21 GOVERNOR BYRNE: Well, Governor

22 Whitman is coming later, so it wouldn't last long

23 anyway.

24 (Laughter)

25 GOVERNOR BYRNE: Governor Kean is not

7

1 here, but he and I have this discussion often, as to

2 the appropriateness or the need for a constitutional

3 convention. We differ a little bit on it.

4 But I remember years ago, Senator

5 Grossi (phonetic) from Passaic County -- and your

6 father would remember that -- and I used to go to

7 the race track from time to time. And he always

8 told me never to bet a horse to do something it's

9 never done.

10 And the reason that's relevant in my

11 thinking is that Tom Kean keeps telling me that this
12 responsibility is one that ought to be exercised by
13 the Legislature and not by a constitutional
14 convention because property tax problems and
15 property tax relief are items which appropriately
16 belong in the legislative sphere, and the
17 Legislature ought to deal with them.
18 To my knowledge, and I've been around
19 government -- I started working in the Governor's
20 Office in 1955, and I can't remember ever having the
21 Legislature take a really deep look at property tax
22 programs and the tax structure generally.
23 When I became Governor, I worked off
24 the Kale Commission (phonetic) recommendations,
25 which included a state income tax, which was

8

1 supposed to do property tax relief. And we had --
2 it was not a comprehensive look at the state's
3 problems; it was primarily a way to fund the school
4 mandate, the school finance mandate.
5 So that, despite the concession that
6 maybe it's a legislative problem that the
7 Legislature can deal with, I'm recalling Senator
8 Grossi saying, never -- never bet a horse to do what

9 it's never done. And the Legislature,
10 realistically, has never done this.
11 And I don't blame them. I'm not --
12 I'm not criticizing the Legislature because it's a
13 third-rail issue with legislators. And to get them
14 to make recommendations is a very tough -- Richie,
15 you were -- you were there -- a very tough thing to
16 do.
17 I remember when I ran for governor in
18 '73, I became famous for my quote that we didn't
19 need a state income tax in the foreseeable future,
20 and that came back to bite me a couple of times.
21 But I -- it was as a result partly of an editorial
22 board meeting I had with the old Paterson Evening
23 News editorial board, and it was during the early
24 part of the campaign. And I had actually
25 represented the Paterson News and won a big case for

9

1 them. So I thought I was among friends.
2 And they asked me, what we can do to
3 solve the tax dilemma in New Jersey and to raise the
4 money, and I started doing what you would do as an
5 academic, and what I might have done as a former
6 judge, and which I would not do again: I outlined

7 all of the possible proposals as to how to raise
8 money. And the next day, on the front page of the
9 Paterson News was an article that said, Brendan
10 Byrne is in favor of a state income tax, of a
11 statewide property tax, of an increase in the sales
12 tax, and two or three other things that I've since
13 forgotten.

14 I guess I'm putting all of that in the
15 context of how tough it is to get anything done in a
16 political setting. And getting somebody to vote for
17 taxes is something that's very difficult, and will
18 be even more difficult if you put it in the context
19 of solving an overall problem.

20 So I do think that, regardless of how
21 you structure it, that we do need a constitutional
22 convention. I don't -- first of all, I don't see
23 anything wrong with a constitutional convention, and
24 I've heard all of the arguments about all of the
25 pressure groups and the interest groups that would

10

1 want to be represented.

2 Somehow, Tom Kean is -- and you've got
3 to excuse me. I'm used to debating Tom Kean; so,
4 even though he's not here -- and Florio won't do.

5 (Laughter)

6 GOVERNOR BYRNE: I mean, because he

7 agrees with me on a lot of stuff.

8 Anyway, even -- even though, you know,

9 you're going to have problems, you're going to hear

10 them all, I think it's the way to go. And I think

11 now that we're -- we're in a state that's really

12 headed for disaster. I don't want -- you know, I

13 don't know what a candidate for governor is going to

14 do next year. We've been foreclosed out of

15 borrowing money, which we all did, and it got better

16 every governor.

17 We can't do that so much anymore.

18 We're up to our ears in debt now. And we're

19 probably -- we've probably got to raise four, maybe

20 \$5 billion next year. Cliff Goldman will know

21 better than I.

22 But, you know, why not, in this -- in

23 this climate, go for a constitutional convention,

24 limit it as you will, use it to solve the tax

25 problems, get the kind of consensus, if we can, on a

11

1 bipartisan basis. And let's see if we can't, after

2 all these years -- and I've had fifty of them --

3 really tackle and try to solve this problem with a
4 group of representatives from the citizenry of New
5 Jersey, to design a constitution -- constitution
6 which will ultimately be put before the voters of
7 this state for ratification or rejection. What
8 better -- what better demonstration of democracy can
9 we have?

10 And I made a note here that it's
11 easier to endorse than to propose. And so if -- if
12 the constitutional convention comes up with
13 something that can be endorsed on a bipartisan
14 basis, it's a lot easier than asking political
15 parties or political entities or political interests
16 to propose a solution to the problem. We all agree
17 it's a problem. Let's get a solution.

18 MR. VAN HORN: Thank you, Governor.

19 Members are now welcome to ask
20 questions of Governor Byrne, if anyone would like to
21 do so at this point.

22 Assemblyman O'Toole.

23 ASSEMBLYMAN O'TOOLE: Thank you,
24 Governor, for coming here. We certainly appreciate
25 your long history here in New Jersey government and

1 politics.

2 My question is -- and I very much

3 appreciated Senator Grossi's advice about never bet

4 for a horse to do something that it hasn't done. My

5 question is: Has a constitutional convention ever

6 controlled property taxes in the history of our

7 great state? And how do we control property taxes,

8 Governor, given your history? Is this

9 constitutional convention merely just going to shift

10 spending from property tax to some other tax, or put

11 it into some other -- and do we have to look at

12 revenue and spending, as well? How do we control

13 property taxes, given your large area of expertise?

14 GOVERNOR BYRNE: That's what the

15 constitutional -- that's what this group and the

16 constitutional convention is going to wrestle with,

17 and come up with solutions. I don't -- I don't know

18 the answer.

19 As I said, I'm used to doing this with

20 Tom Kean, and he says, cut spending. And I say,

21 okay, give me one example, specific example of where

22 you cut spending. And he has yet to do it. I mean,

23 he understands the concept, and -- but he has yet to

24 do it. And if I say, how about cutting the arts;

25 oh, no, no, no, no, no. Of course, I know what he's

1 going to say, but --

2 (Laughter)

3 GOVERNOR BYRNE: And nor do I want him

4 to.

5 But the point is, everybody has their

6 own interests, everybody -- everybody has their own

7 ideas. And -- and, you know, there are any number

8 of ideas. A huge amount of our spending now is in

9 mandated things, including automatic raises in

10 salaries and -- and pensions and formulas, and

11 formula-driven expenditures. I think there's a lot

12 of opportunities for a constitutional convention to

13 delve into those things.

14 ASSEMBLYMAN O'TOOLE: Governor, just

15 as a follow-up, are you saying that you think it's

16 an opportunity to look at the spending side? Is

17 that what I heard?

18 GOVERNOR BYRNE: Well, I think you got

19 to look at the spending side, and -- but you got to

20 look at them in tandem. I mean, you can't -- you

21 can't isolate revenues and spending. You're

22 supposed to; and when the two of us were governors,

23 we actually balanced budgets. We balanced budgets,

24 and we didn't -- we didn't play around with a Triple

25 A bond rating. So, sure, you got to do both. You

14

1 got to raise the money you have to spend.

2 MR. VAN HORN: Vice chairman.

3 MR. COLE: I think it's been answered,

4 Mr. Chairman, but let me follow up.

5 Governor Byrne, do you -- have you

6 given any thought to the timing of when the question

7 of a constitutional convention should be put to the

8 voters?

9 GOVERNOR BYRNE: No. I don't have any

10 recommendation at all on that. I mean, I've been --

11 I've been proposing a constitutional convention for

12 as many years as I've been around, I guess. So, no,

13 I don't have a -- I don't have a recommendation.

14 MR. COLE: Thank you.

15 MR. VAN HORN: Dr. Cole.

16 DR. COLE: Governor, you talked about

17 a convention composed of a group of citizens. And

18 going back to your point of not betting on a horse

19 to do what it has never done, a number of people

20 have suggested that the membership of such a

21 convention should not include state legislators;

22 that they have, in effect, had their chance in the

23 Legislature to tackle this issue and they haven't

24 done so, and it ought to -- a convention ought to be

25 composed of others -- other constituencies

15

1 throughout the state. Do you have a view on that?

2 GOVERNOR BYRNE: Well, if all you're

3 doing is transporting the Legislature from Trenton

4 to New Brunswick, then it wouldn't make sense, and

5 it wouldn't be getting you anywhere.

6 To have members of the Legislature on

7 -- on the overall convention floor doesn't bother me

8 at all, and they would not be there as -- as a

9 Republican legislator from Hudson County, or a

10 Democratic legislator from some other county; they

11 would be there as members of a constitutional

12 convention. So, from that standpoint, I wouldn't --

13 I wouldn't preempt the membership by excluding

14 members of the Legislature, I wouldn't. But nor

15 would I let that be the stumbling block to having a

16 constitutional convention.

17 MR. VAN HORN: Mayor Schubert and then

18 Senator Van Wagner.

19 MAYOR SCHUBERT: Thank you.

20 Governor, do you have any

21 recommendations on how the delegates should fund

22 their -- their campaign, if you'll say, for the

23 positions? Should it be state-funded, should they

24 be able to raise money, should there be some cap on

25 special interests putting money into it? Do you

16

1 have any recommendations on that?

2 GOVERNOR BYRNE: I don't have any

3 recommendations on that, no. That's -- that's not

4 why I think I'm here.

5 MR. VAN HORN: Senator Van Wagner.

6 SENATOR VAN WAGNER: Governor, just

7 ask an analogy, since both of us are -- are

8 connoisseurs of the fine art of thoroughbred racing,

9 we do occasionally have some maiden races, which

10 horses that have never won a race before sometimes

11 surprise us. And of course I'm showing my prejudice

12 here. I really tend to agree more with the idea of

13 continuing to press the Legislature to solve this

14 problem, and I realize what you're saying.

15 And I think Assemblyman O'Toole, at

16 our organizational meeting, indicated that,

17 unfortunately, because of the reluctance of the

18 Legislature to even deal with this, we're now -- we

19 now find ourselves in this position.

20 But would not, in your opinion, the

21 delegates who are elected to come to this convention

22 and deliberate on a variety of items -- and from the
23 public hearings we've had so far, a number of groups
24 have come to us, and have insisted that certain
25 items be not put on the table, such as spending,

17

1 such as Abbot or whatever it's called now. Would
2 not the same political pressures be, in your
3 opinion, on those delegates, as really right now
4 rest with the Legislature?

5 GOVERNOR BYRNE: Maybe.

6 SENATOR VAN WAGNER: Why would they be
7 able to reach an opinion -- or reach a decision?

8 GOVERNOR BYRNE: Because it's a
9 different group with a different cast and a
10 different -- a different charge, and a different --
11 and a different objective. And we'll go in with a -
12 - with a -- not even a bipartisan; a nonpartisan
13 attitude of trying to solve a problem.

14 And, Richie, you've been -- you've
15 been around long enough; you know what happens when
16 a proposal is made to raise money. You've been
17 called a reckless spender before.

18 SENATOR VAN WAGNER: I've been called
19 a lot of things.

20 GOVERNOR BYRNE: Yeah.

21 SENATOR VAN WAGNER: I mean, I've been

22 picketed at my house.

23 GOVERNOR BYRNE: Okay. But, no, I

24 think a different climate is what --

25 SENATOR VAN WAGNER: But we face the

18

1 issue.

2 GOVERNOR BYRNE: Yeah, but in a

3 different climate.

4 SENATOR VAN WAGNER: Should these

5 people be successful in reaching a conclusion and

6 coming up with a group of recommendations or

7 proposals, would you -- would you recommend that

8 these proposals be binding or non-binding on the

9 Legislature?

10 GOVERNOR BYRNE: No, no. I would

11 think that -- first of all, they're going to come up

12 with a constitutional amendment. I assume that

13 whatever they come up with, it will have to be put

14 ion the constitution somehow. And if it's put in

15 the constitution, then it's got to be ratified by

16 the people. Am I wrong on that?

17 MR. VAN HORN: No, you're right.

18 GOVERNOR BYRNE: Okay. So --

19 SENATOR VAN WAGNER: But I -- my

20 understanding was that the Legislature would put

21 that in a form of a resolution, a concurrent

22 resolution. Is that correct? In order for it to

23 reach the ballot.

24 GOVERNOR BYRNE: I think -- yeah.

25 (Mr. Cole not identified for the record)

19

1 MR. COLE: I think there are a number

2 of options.

3 SENATOR VAN WAGNER: Yeah.

4 MR. COLE: We could do it that way, or

5 it could go straight --

6 GOVERNOR BYRNE: Well, you could do it

7 --

8 MR. COLE: -- to the ballot as it did

9 in '47.

10 SENATOR VAN WAGNER: So, in other

11 words, the -- once the recommendations are made, it

12 automatically, in whatever process the Legislature

13 decides to use, and I'm sort of going back and forth

14 because I'm not quite sure what it's supposed to,

15 that automatically then becomes a referendum

16 question, the Legislature just moves on that?

17 MR. COLE: That's one of the questions

18 I think they're looking to this task force to make

19 recommendations --

20 SENATOR VAN WAGNER: Oh, we have to

21 answer that question.

22 MR. COLE: We have to make a

23 recommendation.

24 SENATOR VAN WAGNER: I see. Okay.

25 Thank you.

20

1 MR. VAN HORN: Mayor Passanante, and

2 then Mr. Thannikary.

3 MAYOR PASSANANTE: Thank you, Mr.

4 Chair.

5 Governor, the selection process with

6 the delegates, you alluded to special interest

7 groups. And having fair and equitable

8 representation for all groups in all parts of the

9 state is so important for this process. Do you have

10 any recommendations or thoughts on how to avoid the

11 pressures or the possibilities of special interest

12 groups having more say than others in the delegates

13 that are selected?

14 GOVERNOR BYRNE: Well, we did it
15 pretty well in 1947. And I know now that groups are
16 better organized, and if you have enough groups for
17 and against pretty well organized, you're going to
18 get a blend of opinions. And I think you're going
19 to get a blend of opinions that's relatively open-
20 minded and looking for a consensus.
21 You know, why would you -- why would
22 you run for a delegate to a constitutional
23 convention if your objective is just to deadlock the
24 convention? I don't think -- I don't think that's
25 going to happen.

21

1 MR. VAN HORN: Mr. Thannikary.
2 MR. THANNIKARY: Governor, how do you
3 recommend to finance the election of delegates?
4 Should that be publicly funded or should that be
5 private contributions, or do you have any
6 recommendation on that?
7 GOVERNOR BYRNE: As Jackie Mason would
8 say, that's not my problem.
9 (Laughter)
10 GOVERNOR BYRNE: No, I -- I haven't
11 gone into that. Maybe Governor Florio has a

12 recommendation. I don't.

13 MR. VAN HORN: Dr. Reock.

14 DR. REOCK: Governor, in your remarks,

15 you emphasized the need to obtain bipartisan

16 consensus; and, yet, we've heard many people in the

17 public hearings argue that the convention should be

18 strictly nonpartisan.

19 GOVERNOR BYRNE: Yeah, I would rather

20 use that term "nonpartisan" than "bipartisan."

21 Absolutely.

22 DR. REOCK: So you're not suggesting

23 any structuring to ensure that --

24 GOVERNOR BYRNE: No.

25 DR. REOCK: -- both parties have a

22

1 substantial role, as parties.

2 GOVERNOR BYRNE: No, not me. I mean,

3 it may turn out that way to some extent, but that's

4 -- I don't -- I don't propose that as an objective.

5 MR. VAN HORN: Okay. If there are no

6 other questions, thank you, Governor, I hope you can

7 stay with us.

8 GOVERNOR BYRNE: Yes.

9 MR. VAN HORN: We're going to proceed

10 then with Governor Florio, who also served the state
11 with distinction as Governor and as a member of
12 Congress for sixteen years. And he now continues to
13 serve the state in his role as university professor
14 here at Rutgers University.

15 And he, as many of you know, received
16 the Profile and Courage Award from the John F.
17 Kennedy Foundation for his work on banning assault
18 weapons. And I also thought he displayed his
19 courage in appointing me to work for him as Director
20 of Policy in the Governor's Office. So, Governor,
21 welcome. Good to see you.

22 GOVERNOR FLORIO: It's my lot in life
23 to always follow Brendan by virtue of the
24 appropriate seniority considerations. Usually, I
25 omit that because I can't keep up with his humor.

23

1 Today, it was his wisdom that I'm going to have a
2 hard time trying to keep up with. And I would like
3 to, at the outset, for the record, associate myself
4 with the remarks of Governor Byrne.

5 I'd like to just make some comments in
6 three different areas. Excuse me. First is to make
7 the observation that your basic mission of seeking

8 to remedy the over-reliance upon property taxes in
9 New Jersey is something that will help you and help
10 all of us, if you're successful in making
11 recommendations, that ultimately are enacted into
12 law, whether it be statutory law or constitutional
13 law.
14 If that happens, we will also be
15 taking a giant step in remedying and addressing
16 virtually every major policy issue that is on the
17 public policy agenda. I think that will be
18 something that we will benefit from, and I would
19 urge you to take that into consideration when you're
20 making your recommendations to the Legislature.
21 I think we all know excessive reliance
22 upon property taxes results in poor land use
23 planning, which results largely because of the
24 ratable chase; which, in turn, results in inhibiting
25 open space preservation, which has a consequence of

24

1 impacting upon water, the quality of water and the
2 availability of water.
3 It undermines; that is, reliance on
4 property taxes undermines urban revitalization;
5 which, in turn, restricts economic growth across the

6 state, results also in inefficient traffic patterns
7 that result in gridlock and congestion, which means
8 energy inefficiency, which translates into air
9 pollution, which results in public health problems,
10 on and on and all. School financing problems,
11 affordable housing shortage problems, you know, the
12 inability to have a good smart growth program for
13 the state. All of these things are related fairly
14 directly to our over-reliance upon property taxes.
15 So that, when you undertake this
16 mission that you're undertaking, keep in mind that
17 you'll be changing the structure of our state, sort
18 of public policy landscape. Hopefully, you'll do it
19 for the good, and there will be benefits out of this
20 whole undertaking.
21 The second point that I'd like to make
22 is to urge very strongly that there be an
23 institutionalization of a public advocacy and a
24 public accountability function in the state
25 constitution, I would argue, that the purpose of

25

1 property tax reform, among other things, is to have
2 a more equitable funding system for our governmental
3 system. But equity has to go along with efficiency

4 if it's going to be able to be sold to the people of
5 the state.

6 Now from Watergate to Enron, we have
7 seen that any large bureaucracy, public sector or
8 private sector bureaucracy, can fail our
9 expectations if the bureaucracy is not monitored
10 correctly.

11 The former Department of the Public
12 Advocate would be something that I would look to as
13 a model, to be able to ensure responsibility. The
14 Public Advocate held all governmental units to
15 account, and supplemented governmental operations in
16 better performing their functions, bringing about a
17 higher degree of efficiency. This was especially
18 the case in the are of affordable housing, insurance
19 reform environmental protection, stopping sludge
20 dumping from occurring in our rivers; healthcare, so
21 as to ensure that nursing homes accepted Medicaid
22 applicants, and things of that sort.

23 A little bit less expansive approach
24 would be the General Accounting Office, the GAO
25 approach in Washington, where that body has existed,

26

1 I think with applause from both sides of the aisle,

2 for a very long period of time, and has been able to
3 build in a monitoring mechanisms for the state
4 government.

5 Whatever the ultimate end result is of
6 your actions on the revenue side, I believe that
7 they'll be much more acceptable to the general
8 public if they're accompanied by enhanced standards
9 of accountability. And so I would urge you to
10 attempt to build in to our system.

11 And I say build it into the
12 constitutional system because we have seen all too
13 frequently where systems that are placed in place by
14 one administration; Public Advocate, as an example,
15 are ultimately eliminated by another administration.
16 The environmental prosecutor, various advocacy
17 programs that were in existence, ultimately, when
18 the change of philosophy or change in administration
19 came, they were watered down or, in some respects,
20 eliminated. I think accountability is sufficiently
21 important that it should be embodied in the basic
22 structure of the charter of this state.

23 Lastly, I want to talk about something
24 that I've given a lot of thought to in the last
25 couple of weeks, anticipating coming here. I

27

1 believe, going to the bottom line, that the
2 constitutional convention is a good idea, and should
3 be done for a whole lot of reasons we can talk about
4 if you have any questions on that. But I'd like to
5 also talk to you a bit about the process and the
6 procedures that you will suggest for the convention
7 in your report to the Legislature, and the
8 importance of getting it right in your
9 recommendations.

10 I think I'd go so far as to say that,
11 if it is not done right, we might very well be
12 better off not doing it. I mean, it is one thing to
13 undo legislation that is bad; it is another thing to
14 undo provisions in the constitution that are put in,
15 in inappropriate ways, or that result in dilemmas.
16 Clearly, it is much more difficult to undo the
17 results of this convention if, in fact, it is not a
18 good end result.

19 My major apprehension is the delegate
20 selection process. And since I'm done running for
21 political office, I can give you the benefit of my
22 unvarnished candor, which perhaps might not have
23 always been the case.

24 If a special election is to be held,
25 as some have suggested, for delegates, I suspect it

28

1 would be held after the referendum question would be
2 approved. I do not foresee that being a high-
3 turnout election; hence, in a low-turnout election,
4 there will be disproportionate opportunities for
5 influence, and maybe even manipulation by special
6 interest groups that would inappropriately color the
7 deliberations of the convention.

8 Alternatively, some have proposed, as
9 I understand it, that the election for delegates be
10 at the same time as the general election next year,
11 which happens to be a gubernatorial election. I
12 believe that that would effectively force, just by
13 virtue of the political pressures at work, that
14 would force the delegates, and perhaps even
15 candidates for office into taking positions on
16 issues that would preclude good-faith, open-minded
17 deliberations that we would hope would take place
18 during the convention. And that would not be a good
19 thing.

20 Let me conclude with one possible
21 alternative approach to this dilemma of delegate
22 selection. As part of the authorizing legislation -
23 - and, by the way, just to respond to Richie's
24 observation, my understanding of the process is that
25 you are going to make recommendations by the end of

29

1 this year to the Legislature as to what it is they
2 should do by way of placing a question on the
3 ballot, November of 2005. And they hopefully will
4 take into account what it is you suggest. But,
5 candidly, they may very well just decide that,
6 either you don't know what you're talking about, or
7 they're going to adopt part and parcel of what you
8 want to do, and they'll do whatever it is you want
9 to do, or conceivably do nothing and not place
10 anything on the budget -- on the ballot.
11 But as part of the authorization
12 process that the Legislature will be undertaking in
13 probably the spring of next year, to place the
14 question on the ballot in whatever framework they
15 want to, the Legislature in my suggestion here
16 should itself select the criteria for delegates, in
17 general terms; that is, the number of delegates, the
18 geographic disbursement of delegates, the types of
19 qualifications, professions, skills, and so on, so
20 as to ensure, hopefully -- and I think they will be
21 politically sensitive to this -- so as to ensure an
22 appropriate representative cross-section of the
23 universe of people in the state.
24 A slate of selected names should then

25 appear on the ballot next November, when the voters

30

1 will be electing -- selecting whether there should

2 be a convention or not. And the voters would be

3 authorized to say yes or no to the slate of

4 candidates that would be there.

5 The actual individuals to be delegates

6 to be named should be, in my opinion, selected

7 unanimously by a committee of the bipartisan

8 legislative leadership and the Governor. The virtue

9 of this method of selection is that, coming during

10 an election campaign, the gubernatorial election

11 campaign, everyone, I would think, would want to

12 look statesmanlike and would offer defensible

13 selections. By having to decide unanimously, this

14 commission or committee would eliminate extreme or

15 fringe individuals, who would thereby be ruled out

16 of contention.

17 And should the totality of the

18 delegates selected in this way be so offensive, the

19 referendum question itself would be jeopardized or

20 perhaps rejected, which perhaps should be a good

21 thing, if, in fact, the delegates are so over the

22 edge, in terms of not being representative of the

23 state.

24 Part of my confidence in the viability

25 of this type of a process flows from my confidence

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1 in the good will and the commitment to the public

2 interest of the current leadership in the

3 Legislature.

4 You have two members of the leadership

5 who are on this committee, Senator Lance and

6 Assemblyman Roberts, both of whom I regard as models

7 of excellence for public service, and I can say that

8 with some degree of authority, having worked

9 intimately with them over the years. So -- but I

10 have confidence in the judgment that will come from

11 that type of a mechanism for selecting delegates.

12 Let me just finish by saying to the

13 chairman and the members of the task force, you have

14 a literally once-in-a-lifetime opportunity to deal

15 with what is, I believe, the fundamental deficiency

16 in our whole governmental system here in New Jersey;

17 that is, the over-reliance upon a property tax

18 system that may very well have been wonderful in the

19 17th Century or the 18th Century. Property taxes

20 are not an equitable measurement of wealth in this

21 day and age, and it skews the whole system that we

22 have.

23 So I would just wish you all well, and

24 I would be happy to respond to questions.

25 MR. VAN HORN: Thank you, Governor.

32

1 Yes. Senator Van Wagner first, and

2 then Assemblyman O'Toole.

3 SENATOR VAN WAGNER: As I get older, I

4 have to remember the questions I'm going to ask, so

5 I have -- if you'll excuse me, I don't want to

6 forget the question.

7 Just following on process, which is

8 something that's vexing me at this point, in looking

9 at the background paper that we were given, we are

10 to -- we're not limited to this, but our

11 recommendations are for the method of selection of

12 delegates, which -- you know, which is something

13 we'll have to decide, whether it be by congressional

14 district, legislative district, or whatever.

15 The appropriate scope of the

16 convention's inquiry. And, as I said, there's been

17 a lot of discussion about whether or not we should

18 include spending, and what type of spending we

19 should include.

20 And the method for consideration of

21 our recommendations, or the convention's

22 recommendations.

23 In your view, and in terms of the

24 delegate selection perhaps being skewed, how would

25 you approach those two issues, in terms of the

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1 selection of delegates and the -- I guess the

2 matching of the method of consideration of the

3 convention's recommendations with what the

4 Legislature might do; what would be your

5 recommendation?

6 GOVERNOR FLORIO: Well, I gave you my

7 thoughts on the selection process. And my -- by the

8 way, part of the rationale for taking this is my

9 apprehensions about the alternatives.

10 SENATOR VAN WAGNER: I have the same -

11 -

12 GOVERNOR FLORIO: Again, someone

13 raised the question about, how do you limit money

14 for people who are running for office; and, if you

15 put limits on money, we've already seen in every

16 other aspect of government limits are meaningless

17 because people will immediately go into the mode of
18 trying to figure out how to beat the limits.
19 And I guess my hope, by the way, for
20 this proposal is that there will be political and
21 social and hopefully ethical pressures on the folks
22 that I suggested, or if you have another
23 alternative, who will make these decisions to have a
24 representative cross-section that meets virtually
25 universal approval, that the people of the state

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1 would say, well, these, whatever it is, forty people
2 or eighty people --

3 SENATOR VAN WAGNER: Right.

4 GOVERNOR FLORIO: -- however many
5 you're going to have, are a good group of people
6 that meets everyone's expectations about being
7 representative, having qualities there. So that, in
8 a sense, is the aspect of the delegate selection
9 process.

10 Now your other point, are you talking
11 about the scope of the activities?

12 SENATOR VAN WAGNER: Yeah. My thought
13 was that, once we've determined all of this --

14 GOVERNOR FLORIO: Right.

15 SENATOR VAN WAGNER: -- assuming we
16 do, and we make our recommendations, by recommending
17 perhaps that it be adopted by way of a concurrent
18 resolution --

19 GOVERNOR FLORIO: Right.

20 SENATOR VAN WAGNER: -- we are saying,
21 I think -- if I'm wrong, if the rules still apply --
22 to the Legislature that they need more than a
23 majority of votes to pass that type of resolution.
24 Is that correct, Senator or
25 Assemblyman? Would you not need a three-fifths

35

1 vote?

2 (Senator Lance not identified for the record)

3 SENATOR LANCE: To get it done in one
4 year.

5 SENATOR VAN WAGNER: Right.

6 (Participants confer away from recording
7 microphones)

8 SENATOR VAN WAGNER: I think you need
9 a three-fifths vote.

10 (Participants confer away from recording
11 microphones)

12 SENATOR VAN WAGNER: Well, I'm

13 assuming you're going to do it in one year.

14 As a way of ensuring --

15 GOVERNOR FLORIO: Yeah.

16 SENATOR VAN WAGNER: -- that the

17 selection of these delegates is, in fact -- rather

18 than having a superimposed committee on --

19 GOVERNOR FLORIO: Well, I mean, my

20 answer -- my answer is going to sound almost trite,

21 but it's the essence of trying to put together a

22 consensus. What you're going to do is come up with

23 recommendations, and you're obviously working very

24 hard to have recommendations that will be treated

25 seriously by the Legislature; therefore, your

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1 recommendations are going to have to try to appeal

2 to the majority that you need, in order to have your

3 recommendations incorporated into legislation, which

4 the Legislature to pass to place on the ballot.

5 And that just -- it's life. You're

6 going to have tradeoffs. You're going to have to be

7 able to -- I know there's been some debate as to

8 whether this should be exclusively spending and not

9 revenue. I think it's virtually a non-starter to

10 say, just spending and not revenue.

11 But then, when you say, well, revenue,
12 there are issues -- should there be some carve-outs,
13 should there be some things that should not be
14 allowed to be tinkered with in the constitution. I
15 can think of a couple, but you obviously have to go
16 way in, whether you alienate sufficient numbers of
17 people by making those types of specific
18 recommendations, such that you jeopardize the
19 Legislature's consideration of your proposals.

20 SENATOR VAN WAGNER: Should it include
21 structures of government within the state?

22 GOVERNOR FLORIO: Absolutely. I mean,
23 I heard some -- one of the questions that was asked
24 of Governor Byrne before about, how do you go about
25 cutting or reducing reliance upon the property

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1 taxes. Six hundred and eleven school districts
2 makes absolutely no sense. And, therefore, would
3 that be something that you want to include as a
4 legitimate area for review, in terms of trying to
5 reduce expenditures without having a deterioration
6 of educational quality? That certainly should be at
7 least on the table for folks to talk about.

8 SENATOR VAN WAGNER: Thank you.

9 MR. VAN HORN: (Inaudible - not

10 recorded).

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

12 ASSEMBLYMAN O'TOOLE: Thank you,

13 Chair. Thank you, Governor. I certainly appreciate

14 your unvarnished candor.

15 And I'm really curious about

16 developing your public accountability comment, the

17 point -- the second point you made. Can you just

18 talk about -- I think maybe you just alluded to it a

19 little bit. Are you talking about -- you know, the

20 spending side we're talking about, the

21 accountability. Is that where the monies are being

22 spent currently, prospectively? Tell me how this

23 public accountability -- do you envision, you know,

24 bringing back a Public Advocate that would help

25 harness some of the current spending? Is that what

38

1 you're talking about?

2 GOVERNOR FLORIO: I'm not talking

3 about, not only spending, but managerial efficiency.

4 ASSEMBLYMAN O'TOOLE: Okay.

5 GOVERNOR FLORIO: That if, in fact --

6 the Public Advocate, as you know, in the past was

7 not reluctant to go and take on the insurance
8 department at the time for not pursuing the public
9 interest as they saw it, in the appropriate
10 deployment of insurance department resources.
11 So, in a sense, the Public Advocate,
12 as I see it, is sort of an ombudsman for the public
13 that is institutionalized, with authority to go look
14 at the operation of government, as well as to reach
15 out to private entities, as well, to be able to --
16 where the government has become so bureaucratic that
17 it was not doing the right thing to vindicate the
18 rights of the public, you had this agency that was
19 charged by definition with looking at the public
20 interest as they saw it.

21 ASSEMBLYMAN O'TOOLE: Thank you,

22 Governor. Thank you, Chairman.

23 MR. VAN HORN: Michael Cole.

24 MR. COLE: Governor, I'd like to go

25 back just for a minute, because I'm --

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

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

3 MR. COLE: -- that are set by the

4 Legislature. Did you envision only one slate of

5 delegates; in effect, the voters ratifying the

6 committee's choice?

7 GOVERNOR FLORIO: Yes.

8 MR. COLE: Okay.

9 GOVERNOR FLORIO: That's what I'm

10 suggesting. Obviously, I appreciate the fact that,

11 you know, not everyone is going to agree with that.

12 But I guess my thought is, the opposite of that is,

13 however you want to have competition for delegates

14 in a -- either a low-turnout election, if you do it

15 by special election, or an election which people in

16 a heated political climate are going to be asked to

17 pledge. You know, I'm -- I'm running against John

18 Smith for delegate in our district, however they're

19 defined, and I'm willing to say, if you elect me,

20 we'll never have taxes, and I'll give everybody a

21 new car, and I will do all of these tremendous

22 things.

23 MR. COLE: Uh-huh.

24 GOVERNOR FLORIO: That's not conducive

25 to what you hope takes place at a convention, which

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1 is discussion, deliberation, open-mindedness, rather

2 than everybody locked in to positions before they go

3 there.

4 MR. COLE: And would you suggest that

5 the committee that selects the delegates be the

6 present Legislature or --

7 GOVERNOR FLORIO: Well, no --

8 MR. COLE: -- or leadership.

9 GOVERNOR FLORIO: -- what I suggested

10 was -- and, again, there's nothing sacred about

11 this, but I just have sufficient confidence in the

12 bipartisan leadership of each of the houses. So

13 you're talking about five people: The Governor and

14 two assemblymen and two senators, who are the

15 leadership, unanimously being required to come up

16 with proposals, so that they would then have the

17 opportunity, if anybody is too far over the edge,

18 they certainly would not make the cut.

19 MR. COLE: Very good. Thank you.

20 GOVERNOR BYRNE: I would supplement

21 Governor Florio's thought there. And you don't want

22 -- you don't want to go in with, you know, a bunch

23 of people who are sort of interested in just

24 developing a consensus. I think, for instance, if

25 you were doing it as he suggested, I might have a

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1 vigorous candidate who has one point of view, and
2 Senator Lance may have a candidate who has a strong
3 view the other way, and you get a little bit -- if
4 you don't get a little bit of that, you're not going
5 to have the kind of debate that's going to get you a
6 good result.

7 MR. VAN HORN: Other questions? Yes,
8 Mr. Malloy.

9 MR. MALLOY: Governor, in terms of the
10 delegates themselves, do you -- in your opinion,
11 should they be paid --

12 GOVERNOR FLORIO: Could you just speak
13 up a little bit?

14 MR. MALLOY: Sure. In terms of the
15 delegates, in your opinion, should they be paid, and
16 should they also be faced with a time limit, be it
17 three months or six months, what --

18 GOVERNOR FLORIO: Should they be paid,
19 did you say?

20 MR. MALLOY: Should they be paid, and
21 should they have a time limit to reach a conclusion?

22 GOVERNOR FLORIO: They should not be
23 paid, I wouldn't think. I mean, you certainly don't
24 want people competing as an income supplement. I
25 mean, you would hope they'd have, you know, a little

1 bit loftier goals.

2 And what was your second point?

3 MR. MALLOY: Should they have a time

4 limit, in which to complete the convention, be it

5 three months, six months?

6 GOVERNOR FLORIO: Well, the time

7 limit, I presume, is implicit, in the sense that

8 you've got to have it done, so that the people would

9 be able to vote in the following November for the

10 ratification. So I mean, I think -- again, I'm just

11 working the assumption that the time sequence is,

12 next November, the people say yes or no; I suspect

13 they say yes on the referendum for the

14 constitutional convention. The following spring,

15 that the convention deliberates, comes out with

16 suggestions. And then the following November, the

17 people get to say yes or no on what -- that's

18 November 2006, the people will get to vote on the

19 recommendations of the constitutional convention.

20 MR. VAN HORN: Dr. Cole.

21 DR. COLE: Governor, given your

22 comments about the impact that the property tax

23 structure has on all aspects of state services and

24 so many issues in the state, do you -- have you

25 given any thought to how the question might be

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1 framed for the convention, given that, as well as

2 given it's the property tax relationship to other

3 tax structures in the state and the expense side?

4 GOVERNOR FLORIO: Yeah. Well, I'm

5 inclined to talk about leaving it as broadly as

6 possible. I mean, if I -- if someone could give me

7 the assurance that we're going to have, you know,

8 philosophers, kings, and queens who are going to be

9 the people deliberating, and that we're going to

10 have good-faith discussion, I'm inclined not to want

11 to put limitations.

12 I guess my sole concern is thorough

13 and efficient, the whole educational funding. I

14 think that would be tremendously disruptive, if, in

15 fact, we are perceived of as retreating from the

16 commitment that this state has had from Governor

17 Byrne's tenure straight through the current day to

18 bring about equality of opportunity for education.

19 And I'm appreciative of the fact that

20 that is a financial issue, in addition to being an

21 equitable issue. And I would -- I would -- if I

22 were a delegate, I would hope that there would be an

23 opportunity to have language that would retain our

24 commitment to educational equality in the state.

25 Now may there be other issues? The

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1 answer is, I'm sure there are other issues that
2 different people will have different views on. I
3 don't think any rise, at least in my opinion, to the
4 level -- that level of educational equity; such
5 that, you want to make sure that tinkering doesn't
6 occur.

7 Although now that I -- now that I'm
8 saying it, I can think of there may -- there are
9 obviously groups in the state that may be able to
10 frame funding into a right to life issue, there
11 shall be no funding for measures there. So in some
12 respects you either have to trust to the good
13 judgment to the people you select as delegates, or
14 you have to start carving out things that you regard
15 as basic, fundamental issues.

16 That's why I'm apprehensive about
17 having elections for delegates. There would be
18 contests between different groups that would have a
19 particular narrow interest to try to get people
20 elected who would be committed to their particular
21 view.

22 MR. VAN HORN: Mr. Thannikary, then
23 the mayor.

24 MR. THANNIKARY: Governor, are you

25 suggesting that T and E should be off -- off limits

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1 to the convention, are you suggesting that; thorough

2 and efficient education should not be part of the

3 convention --

4 GOVERNOR FLORIO: I'm suggesting --

5 I'm suggesting that there should not be any retreat

6 from the state's current commitment to educational

7 equity for all of our children in the state; and

8 that, however we do that -- I guess what I would do

9 is flip it around negatively. I just don't want

10 this convention to result in a walking away from

11 that commitment. How you insure that, obviously

12 I'll leave to the deliberations of the folks who

13 will be deliberating.

14 MR. VAN HORN: Mayor Schubert.

15 MAYOR SCHUBERT: Thank you, Governor.

16 I think, if we could just go back to

17 the delegate selection, because I think it's

18 interesting the proposal that you've made. It's

19 something, I think -- I don't know if any of the

20 other members had this run through their mind, but I

21 always was sort of under the assumption that there

22 was going to be an election for delegates by the

23 general population.

24 And I just -- I wonder, I mean, you

25 talk about the five members of the leadership

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1 choosing the delegates. And one of my questions, I

2 guess, is: How do we ensure then that the regular

3 person, the people that have been coming before us

4 and telling us about how hard it is for them to make

5 ends meet, how do they get any representation there

6 and a voice at the table?

7 Especially if -- and we had -- one of

8 the things we have to look at is whether we can pay

9 them or not pay them, or their expenses are paid or

10 whatever. You know, to hope that we just have

11 philosophers and basically almost legislators there,

12 doing this job, I just wonder, you know, what the

13 thought is, as far as getting regular people there,

14 to feel as though they're represented, as well.

15 GOVERNOR FLORIO: Well, "regular

16 people" will be voting yes or no on the people that

17 are recommended. Over and above that, regular

18 people will have input into the process that the

19 Legislature is going to go through. And I just

20 think that, unless we assume that all the delegates
21 will somehow now be regular people, the folks who
22 want to have -- to advance this whole venture will
23 have to have a representative cross-section of
24 people who will comprise the slate.
25 As a result of that, they will be

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1 looking to make sure that everyone at least feels
2 invested in this process; and, therefore, they'll be
3 able to see in this list of whatever it is, eighty
4 people, there are folks that, either I know who are
5 like me, a carpenter; or I know because they come
6 from my town of Somerdale, or like me because they
7 have the same type of values that I do. So the
8 sense is, you're going to have a slate of people who
9 are going to be representative of the state, so
10 people can identify. And then they ultimately will
11 have the yes-or-no say in the course of the vote.
12 MAYOR SCHUBERT: So there would have
13 to be a majority voting no in order for that slate
14 not to be passed. Is that --
15 GOVERNOR FLORIO: The majority would
16 vote no on the slate. And actually you could have
17 it -- I guess you could have it two ways: The slate

18 and the question, or you can have one vote on both

19 of them.

20 If you had no as two separate votes

21 and the slate was rejected, I assume you would have

22 fall-back legislation that would go then to the

23 proposal that I said is being considered by some a

24 special election in the spring for -- which is an

25 interesting safety valve. I mean, if somebody is

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1 really offended by the idea of not participating in

2 a person-by-person voting, you could have the

3 referendum on the slate of delegates; and then, if

4 it goes down, then you would have the fall-back

5 position of having a special election, as some have

6 advocated, in the spring, after the referendum was

7 approved, assuming that it was approved.

8 MR. VAN HORN: Dr. Cole, yes, follow-

9 up.

10 DR. COLE: Just one last quick

11 question from me.

12 Governor Byrne, what do you think of

13 Governor Florio's interesting delegate selection

14 proposal.

15 GOVERNOR BYRNE: Yeah, I sit here -- I

16 sit here, and I'm saying, this is not the first time
17 anybody has ever had a constitutional convention
18 proposal. We've had them before in New Jersey;
19 other states have had them.
20 You're -- you know, this is bouncing
21 off me and I'm saying, they're going to have a
22 constitutional convention, and they can't figure out
23 any way to have a fair selection of delegates.
24 We've been doing it. We've been, all over the
25 country, all over the world. And now it sounds like

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1 it's a big stumbling block. I don't think it is.
2 You can get a representative group in a number of
3 ways. And this issue just doesn't bother me.
4 MR. VAN HORN: Well, let me, on behalf
5 of the task force, give my sincere thanks to both
6 governors for spending time with us today, and to
7 continuing to provide wise council to us. And we
8 thank you very much, and we'll be -- if you have
9 other thoughts subsequent to this meeting, please
10 share them with us. Thank you very much, gentlemen.
11 GOVERNOR BYRNE: Good luck.
12 MR. VAN HORN: Thank you.
13 I'd like to now call to the table Dr.

14 Cliff Goldman and Michael Horne to continue our

15 conversation.

16 Okay. Dr. Cliff Goldman was Treasurer

17 in the 1970s and '80s, and he is now a partner with

18 Goldman & Biehl Association; and, as I think many

19 people know, is one of the foremost experts on state

20 fiscal policy in our state.

21 And Michael Horne, who's an attorney

22 at McCarter & English, was the state banking

23 commissioner, and then Treasurer in the 1980s, up

24 through 1990, and also was an assemblyman. And he

25 has continued to play a role in serving this state,

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1 chairing the Ethical Standards Commission for our

2 state.

3 So, gentlemen, thank you very much for

4 coming. I think we will start with Dr. Goldman, in

5 order of seniority of service, and then I want to

6 ask Michael Horne to go after that. And then we'll

7 question them both together, if that's all right

8 with everybody. So, Cliff, please proceed. Thank

9 you.

10 DR. GOLDMAN: Thank you. Thanks for

11 inviting me here. I'd like to just begin by saying

12 that, a person like me with a certain idealism about
13 public service, and a certain standard of personal
14 ethics, could not have been more fortunate than to
15 have worked for Governor Byrne, and I consider that
16 a blessing to my life and my career. And, as a
17 citizen of New Jersey, I feel also fortunate to have
18 had Governor Florio as a governor, a man of great
19 courage of conviction. And I'm glad to have them
20 both as friends.

21 It occurred -- now, to get to the
22 business, it occurs to me that property tax reform
23 in New Jersey has a life of a cicada, a gestation
24 period of about seventeen years. The SLURP
25 Commission reported in 1988, and the Cahill Tax

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1 Policy Commission, I think, was 1971.
2 Some of the Cahill recommendations
3 found their way into the package of property tax
4 reform and school finance, and so forth, that
5 Governor Byrne got enacted. And some of the SLURP
6 report, although it was pronounced dead on arrival,
7 some of it did get enacted afterward. Here, we're
8 talking about a report or a set of recommendations
9 with a more direct link between recommendation and

10 enactment, and it's very important that we get it
11 right.
12 I've seen stories about this task
13 force or people commenting about the task force, and
14 talking about how, after all these years, we're now
15 going to have a permanent fix to this problem. And
16 I just want to say that, I do not believe there is
17 such a thing as a "permanent fix" to this problem.
18 And I'm going to refer to a book by
19 two of my former Princeton professors that came out
20 coincidental with my first job in the state
21 government, in 1966; a book about a study of the
22 performing arts by William Baumwell (phonetic) and
23 William Bowen (phonetic), who was also the President
24 of Princeton.
25 And the essence of this book is that

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1 there are certain kinds of jobs, and they're
2 referring to the arts, where the audience or the
3 consumer wants those things defined by the number of
4 people who do them. And the example they give is
5 that a Schubert quartet is going to take three hours
6 to perform. And there are other kinds of jobs in
7 our economy or other kinds of enterprises where the

8 population really doesn't care or know how many
9 people produce a car or a computer, and those have a
10 greater ability to have productivity increases.
11 Local government is like the arts, in
12 the sense that its main function, schools and police
13 and fire departments, are defined by the number of
14 people who do the jobs, where all the salaries of
15 those people interact with the rest of the economy.
16 So school -- so government cannot keep up with the
17 productivity of the economy as a whole, and the cost
18 of government will rise. This is economic theory; I
19 don't think it's contestable. And there is no
20 permanent fix to this problem.
21 The second point I'd like to make is
22 that, by coincidence, the SLURP report came out in
23 1988, and coincided with the historical turning
24 point in the state's financial strength. I think
25 there may be only a couple of years, if any, since

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1 then, in which the actual revenues of the state
2 exceeded the appropriations of the state. And the
3 accumulating deficit that was masked by various
4 other techniques came to its worst point, about a
5 six-billion-dollar deficit, just after the last

6 election.

7 I think the current administration has

8 done a pretty good job to cut that back, but there

9 still is a problem, as everyone knows. And it has

10 taken many years to create that problem, and it may

11 take years to fix it.

12 Also, the federal government, which

13 has never been very helpful to the State of New

14 Jersey, has its own problems, which make its

15 contribution in the future fairly bleak, in my

16 opinion.

17 So, looking at all the measures --

18 I've been on a number of these commissions in the

19 past, and looking at all the measures that are

20 available to effect property tax reform, the most

21 powerful one is for the state to increase its aid to

22 local governments and schools and remove some of

23 that burden from the property tax, or for the state

24 to assume some of the functions that are paid for by

25 the local property tax.

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1 So it seems to me that the biggest

2 problem that I can't give you an answer to, but the

3 problem that occurs to me from looking at your

4 mission is how to structure a property tax
5 convention in the situation where the state's fiscal
6 house is not in order; and how to deal with one
7 large set of financial issues, while the other set
8 isn't -- isn't settled down.

9 When we did the Byrne tax reform
10 package, which passed in 1975 and '76, and did
11 involve school finance, municipal finance, spending
12 limits, rebates, all of those things, that plan,
13 once enacted in 1976, lasted through the balance of
14 Governor Byrne's term, leaving a fairly healthy
15 surplus at the end. And so it's important to
16 connect the property tax reform package to the
17 state's fiscal package. And it would be better to
18 have the state's finances in order before tackling
19 this problem. But that's not the plan, and I don't
20 know how you'll meet that challenge.

21 The next point is that, when we did
22 the Byrne school -- the Byrne package and we
23 introduced it in March of 1974, it took us two
24 months to put it together. We -- it would have been
25 impossible to do that without the terrific, vast

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1 research that we inherited from Governor Cahill and

2 his tax policy commission. I don't think this
3 convention can find solutions to these problems
4 without original research of that caliber and depth.
5 My sense of following these
6 discussions in the public press is that there are a
7 lot of unverified assumptions about these issues and
8 some cliches, and that the discussion has not kept
9 up with the changes in the New Jersey economy or the
10 New Jersey public policy issues, and so really
11 fundamental work would have to be done.
12 So on that score, I just recommend to
13 you that you provide this convention with sufficient
14 resources and sufficient time to have that
15 information available before they start meeting. I
16 think on SLURP, we probably met for two years --
17 UNIDENTIFIED: At least.
18 DR. GOLDMAN: -- at least, and fairly
19 intensively, because we had to do the research as we
20 were meeting. And I don't know how logistically you
21 want to plan this. Ernie would know what it would
22 take to do this.
23 And, finally, I want to echo a
24 statement that was made by Governor Florio that,
25 since Robinson v. Cahill in the years of the Cahill

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1 Administration, this state has struggled year after
2 year with the issue of school finance reform. And I
3 think, finally, we have a solution that appears to
4 be working for those Abbot districts. But it is not
5 working for the rest of the districts. It would be
6 a shame to solve the problem of the rest of the
7 districts by retreating on a plan that's relatively
8 new, and that's just starting to work for the Abbot
9 districts. Thank you.

10 MR. VAN HORN: Thank you, Cliff.

11 Michael Horne.

12 MR. HORNE: Yes. Thanks, Mr.

13 Chairman, and thank all of you for serving on this
14 commission. You have a very, very difficult task.
15 As I read the issues that you have to
16 wrestle with, none of them is easy. And you can
17 tell by the questions that you've asked today, there
18 are a wide range of views on each of the issues that
19 you have to deal with to come up with your report.
20 Sitting next to Cliff Goldman here
21 reminds me, Cliff and I are the treasurer
22 counterpoint to Byrne/Kean counterpoint. I can't
23 tell you the number of calls I've gotten from
24 governor's office -- governors' offices, whether
25 it's the Pension and Health Benefits Review

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1 Commission or the Public Officers Salary Commission,
2 where the first thing that's said to me, we have
3 this commission and we've appointed Cliff Goldman to
4 the commission, and we'd like to have you, as well.
5 I should say, Cliff and I usually
6 agree on ninety-eight percent of the issues that
7 come before the various commissions that we've been
8 honored to serve on.

9 Also, Mr. Chairman, you mentioned that
10 I did serve -- thank you for picking this up
11 somewhere. I did serve one term in the State
12 Assembly. So, although treasurer is an appointed
13 position, and people who are appointed usually have
14 different views from those who are elected, I do
15 have the experience of having served one term, and
16 having run for office once in my life.

17 I start off by saying that I agree
18 pretty much ninety-nine and nine-tenths percent with
19 what Governor Byrne said. I guess my comment on,
20 should we have this convention, is: What do you
21 have to lose? We are where we are.

22 I dare say, there's probably not a
23 legislator, state legislator, who ran for office who
24 doesn't say at some time during a campaign or after
25 the campaign, we got to do something about property

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1 tax reform. That must be the case. I compliment
2 the current Governor and the current Legislature for
3 having brought it to this point.

4 The worst that can happen -- what's

5 the worst that can happen if we have a

6 constitutional convention? In my mind, the worst

7 that can happen is they come up with a bunch of

8 crazy things that the public won't buy, and that's

9 the worst that can happen. What's the most that can

10 happen? We get real reform.

11 In terms of real reform, it reminds

12 me, I spend most of my time as a bank lawyer; and,

13 when I talk to young bank lawyers, I say, you know,

14 if we were starting a bank regulatory system, you

15 wouldn't possibly do it the way it was done here.

16 You have the National Bank Act, and then state

17 banking acts, and the Federal Reserve Board, federal

18 consumer legislation, state consumer -- and it's a

19 crazy quilt. And if you didn't grow up in it, you

20 don't even know where to start.

21 And, similarly, with our current

22 taxation and spending system and policies, it's kind

23 of grown up over time, it is where it is; and, if

24 you try to tinker with it here and there, you may

25 make some improvements on it, but you really have to

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1 start from scratch.

2 So what I would like to believe is

3 that the constitutional convention would, in effect,

4 start from scratch, and say, if we had to start from

5 scratch, and we had to raise \$26 billion fairly, and

6 all the factors that you enter into it; we don't

7 want to lose our senior citizens, we don't want to

8 lose business, how would you do it. And I would

9 like to think that that's what the blank slate that

10 the constitutional convention would envision.

11 I had some prepared remarks on how to

12 select the delegates, and that's clearly one of your

13 major issues. And, quite frankly, I am intrigued by

14 Governor Florio's comments about that, is putting up

15 an agreed-upon slate, vote them up or vote them

16 down. I suspect the newspapers would be violently

17 against that, but it may not be a bad idea.

18 What I'm afraid of, and I guess we'd

19 have to rely upon the wisdom of our elected

20 officials, is -- and Governor Byrne said this, and I

21 want to emphasize it. You don't want to replicate

22 what you already have. You already have X Democrats

23 and Y Republicans in the Legislature. You have
24 NJBIA, Chamber of Commerce, NJEA, state, county, and
25 municipal, so you have all of the interest groups

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1 which normally enter into the mix when you're trying
2 to look at these issues. And, although they're all
3 very good people, they all have constituencies that
4 they need to satisfy. And so what I would -- if we
5 can figure out a way to not replicate the existing
6 power structure group, if you're looking for real,
7 new solutions, you would do that. And I don't know
8 exactly how to do that.

9 I guess you'll have to have an
10 election in which you run nonpartisan, you're not
11 allowed to say whether you're Republican or
12 Democrat. There would -- there should -- although I
13 generally oppose spending restrictions, I think it's
14 an unconstitutional restriction of free speech,
15 don't ask me why I think it makes sense here; we
16 don't want to elect only wealthy people and prevent
17 non-wealthy people from running for office.
18 In my mind, I would not have state
19 legislators. If I were a state legislator, I
20 wouldn't want to be on there. But a state

21 legislator clearly should not be on there.

22 I wasn't certain about county

23 legislators when I originally thought about it. The

24 more I think about it, municipal council people and

25 mayors probably are the best people to serve on it

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1 because they have -- they have the real interests in

2 doing something that might make a real difference.

3 As a general matter, though, I'd want

4 to try to get people who are not beholden to a

5 philosophy or interest group, such as the ones I've

6 mentioned, but people who are just, quote,

7 "citizens" with a variety of skills, but who are

8 not, as I say, beholden to a particular group.

9 In terms of the scope of the

10 commission, I agree with -- again with Governor

11 Byrne. You really do have to look at both sides. I

12 don't disagree with the concept that perhaps the one

13 sacred -- and, again, I'm not an expert in Abbot --

14 the one sacred area where you don't want to take a

15 chance on tinkering with is educational equality. I

16 guess, other than that, I would put no restrictions.

17 Any beyond that, to me, would be start -- would be a

18 violation of, we want to start from scratch, how

19 would we design a system of raising money and

20 spending money from scratch.

21 That's about it. Thank you. I'll be

22 happy to take questions.

23 MR. VAN HORN: If anyone would like to

24 ask questions of either of these gentlemen, please

25 let me know. Senator Van Wagner.

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1 SENATOR VAN WAGNER: Thank you both.

2 I want to tell you it was a privilege to work with

3 both of you, both in the Assembly and the Senate.

4 I just want to tell you that Cliff

5 Goldman no longer smokes.

6 DR. GOLDMAN: While I'm sitting here.

7 SENATOR VAN WAGNER: You smoke again?

8 DR. GOLDMAN: Oh, sure.

9 SENATOR VAN WAGNER: Oh.

10 DR. GOLDMAN: Have to keep the

11 cigarette tax, right?

12 SENATOR VAN WAGNER: We used to be

13 able to tell -- we used to be able to tell whenever

14 -- when I was Chairman of the Assembly Taxation

15 Committee, and then later the Revenue and Finance

16 Committee, whenever Cliff asked for a meeting, I

17 could tell the fiscal state of the state by the
18 amount of cigarettes that were piled in his ashtray
19 in front of him. That would immediately tell you
20 how dire the straits, the condition of the state
21 was.

22 I wanted to go to your -- to the same
23 issue that I asked the governors about, and that's
24 the scope and selection of this convention, and how
25 it should -- how we, as a task force, make our

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1 recommendation to the Legislature. Because I think
2 that's one of the most important functions we have
3 here, is how we frame these recommendations and how
4 they go to the Legislature, because that will
5 determine in what manner and how quickly the
6 Legislature will act.

7 You know, should it be a rule-in or a
8 rule-out process, in your view, in how we approach
9 this? I mean, we've had people from the public come
10 to us and say very directly, don't get involved in
11 spending.

12 MR. HORNE: I think you have to -- I
13 don't have any preconceived ideas as to what it
14 should be, but I -- I don't see how you could --

15 well, for example, let's take an example that I
16 haven't thought through.
17 Let's take a state auditor with real
18 powers and that kind of thing, where the state
19 auditor would see where Legislature -- the
20 appropriations bill has been violated, or whatever,
21 and would be able to stop spending in areas that the
22 Legislature didn't -- and that's just --
23 SENATOR VAN WAGNER: Right.
24 MR. HORNE: -- one example. So there
25 could be a number of areas where we could control

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1 spending. You could, and I'm not saying you should
2 do it, but you would consider things like state
3 budget can't increase more than CPI. And, again,
4 I'm not saying it should be that; I'm just saying
5 you would want to think about things like that. And
6 if you don't think about things like that, you -- I
7 think you lose -- well, you'd lose, I think, the
8 support of a lot of the public.
9 I think what we're talking about is,
10 again, these are pressure groups and public interest
11 groups who have a public interest; and, if we
12 really, really, really want to think outside the

13 box, I think we have to have the whole box to look

14 at.

15 Cliff.

16 DR. GOLDMAN: I don't think you can

17 cut out spending. First of all, it would look bad

18 to people, that there was commission, and all it

19 talked about was taxes, and didn't also talk about

20 spending, so --

21 SENATOR VAN WAGNER: I agree.

22 DR. GOLDMAN: So you have to do both,

23 just from that point of view.

24 And, also, there are, among the

25 cliches that I mentioned, some of them are that

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1 local governments are very wasteful. I don't think

2 that's true; I work with some local governments, and

3 I think they run fairly efficiently. But the

4 public-at-large should know that someone looked at

5 it.

6 There are lots of talk about

7 regionalization and cutting spending. That's a

8 method of cutting spending; regionalize this and

9 that. I think that's one of the cliches, too, that

10 hasn't been substantiated. It might be true when

11 it's substantiated. But, in general, I would say

12 you'd have to include spending.

13 MR. VAN HORN: Other questions for

14 these gentlemen?

15 Mayor Schubert.

16 MAYOR SCHUBERT: Thank you.

17 I just -- if I can go back to Dr.

18 Horne. You were talking, again, about the delegate

19 selection. You said you had some ideas, but you

20 were intrigued with Governor Florio's

21 recommendations. And, although you did say that,

22 you know, you felt that the delegates should not be

23 beholden to any particular group, they should be

24 just regular citizens, would you mind just maybe

25 mentioning some of what you thought you were going

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1 to say until Governor Florio had suggested --

2 MR. HORNE: Well, I guess I ended up

3 mentioning them. Spending limitations, no state-

4 elected officials, no political designation on the

5 ballot. I guess that's it. I -- by the way, if I

6 can use this opportunity to add a couple of things I

7 did forget to mention.

8 Some organization has suggested a use

9 of a panel of three retired judges to review the
10 recommendations of the commission, to make sure that
11 they stay within the mandate of the legislation. I
12 think that's a very good idea.
13 But along the lines of the delegates,
14 again, as I say, I'm intrigued with Governor
15 Florio's because it -- I guess maybe it's a lack of
16 healthy respect for the political process, is that
17 if you put a bunch of good people into a room; for
18 example, that selected this commission or this task
19 force, they might do as good a job in selecting the
20 delegates, as well. However, if you end up having
21 them elected, and there is something to be said for
22 electing them, then the people, I guess, have more
23 of a stake in it, knowing they elected the
24 delegates.
25 I thought that the -- again, the

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1 organization suggested a panel of the Chief Justice
2 and X number of college presidents to be able to add
3 five, call them "at-large" or "super delegates." I
4 certainly would include all former governors as
5 delegates. I guess those are my thoughts now.
6 Thank you.

7 MR. VAN HORN: Mayor Passanante.

8 MAYOR PASSANANTE: Thank you, Chair.

9 If we take the context that we're --

10 you know, that we would move ahead with looking at

11 spending, as well as the revenue side, do you

12 believe or do you think that that would affect the

13 time table in the process? And that would be either

14 one of you to answer that question.

15 Because, right now, the way the

16 process appears to be presented, there would be a

17 one-year period from the election of -- you know,

18 when it's on the ballot for the people to decide on

19 the convention, and then before it's back on the

20 ballot for the recommendations, if spending is going

21 to be part of that equation, do you feel that that

22 time table is adequate or not?

23 DR. GOLDMAN: Well, off the top of my

24 head, I don't think that time table is adequate,

25 with or without spending, based on my experience

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1 with the SLURP Commission and the Cahill Commission.

2 I can't say that I'm up to speed on every bit of

3 research that's being done or has been done lately

4 on the property tax and all these issues, but I

5 haven't -- I don't have a sense that there's a base
6 of information that a newly constituted convention
7 could dig right into.

8 I think the process is, they ask
9 questions, it takes research, new issues are
10 suggested. For example, someone might say, how do
11 we replicate the Meadowlands tax-sharing formula in
12 other kinds of places, regional tax-base sharing. I
13 wrote that, by the way, so I wanted to mention it.
14 That would take quite a bit of work. Or what if the
15 state were to assume that the police pension, and
16 the way it does the teachers pension, it does -- it
17 takes a lot of time.

18 So it would be -- if you had your
19 druthers, you would have this -- the kind of work
20 that the Cahill Commission did first, and then you'd
21 have a convention to consider it, and ask new
22 questions and add to it. But without that, I think
23 one year is too -- too little.

24 MR. HORNE: Yeah, and let me
25 supplement that. I agree with Cliff and say, if

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1 that's the price we have to pay for doing the
2 complete job, then that's the price we have to pay,

3 and if it does take longer. Let me make another
4 comment on that because something Cliff said
5 reminded me of it.
6 I think the thought is that OLS would
7 provide the staffing. I have a great deal of
8 respect for OLS. I don't think it has the
9 resources; and it's not its own fault, necessary to
10 do the kind of studies that Cliff is talking about.
11 SLURP, as you may know, had its own staff, and maybe
12 that's the way we should go on this. So I would
13 think about that, as well.

14 MR. VAN HORN: Dr. Reock, and then
15 Senator Van Wagner.

16 DR. REOCK: I'd like to ask both
17 treasurers, there have been suggestions that the
18 convention should deal both in amendments to the
19 constitution and in statutes, and I wonder what your
20 opinion of that is.

21 DR. GOLDMAN: Off the top of my head,
22 I haven't given it much thought. I -- I would think
23 that having both would be a good idea, because there
24 are some things that you would want to be able to
25 fix if they were wrong, and some other things,

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1 perhaps broader, that could be constitutional
2 amendments. But if you're going to have a different
3 way of dealing with agricultural land taxation, or
4 in-lieu-of-tax payments in urban renewal areas, I
5 don't think you'd want to do that through a
6 constitutional amendment, and then be unable to fix
7 it. And I think there will be things that are
8 wrong.

9 MR. HORNE: I agree. I think you want
10 some things written in stone that can only be
11 changed by the people; other issues, you may want to
12 have the Legislature have the power to change them.

13 DR. REOCK: Thank you.

14 MR. VAN HORN: Senator Van Wagner.

15 SENATOR VAN WAGNER: I was going to
16 ask a similar question. But isn't that -- is that a
17 both answer, or is that an either/or?

18 DR. GOLDMAN: Both. Both.

19 SENATOR VAN WAGNER: Because if you're
20 asking, on one hand, for only that which is written
21 in stone to be changed by this convention, then
22 you're leaving open the statutory changes that
23 needed to be made by the Legislature to implement
24 much of that. Is that pretty much it or --

25 DR. GOLDMAN: Well, I thought -- I

1 thought the question was that this convention could
2 enact or put up for a vote certain changes that
3 would be constitutional changes and certain changes
4 that would be -- have the effect of statutory
5 changes; so that then -- let's say the voters, or
6 however you did that, the voters would endorse that
7 package; and, afterward, the constitutional changes
8 would have to be changed by another vote, but the
9 statutory-type changes could be changed by the
10 Legislature.

11 MR. HORNE: I guess -- let me just
12 give an example; and, again, I'm just reaching for
13 examples, I don't necessary advocate it, but it's --
14 to give an example of it, let's say -- let's take
15 the gas tax. There was a proposal to increase the
16 gas tax when gas was \$1.50 a gallon. Gas is now \$2
17 a gallon, and we didn't increase the gas tax. It
18 went from \$1.50 to \$2, and people complained, but,
19 you know.

20 The Legislature could have increased
21 it to \$1.60, and might have alleviated a lot of the
22 pain and suffering that went on in the last couple
23 of years. So you might say -- you might come up
24 with something that says, the gas tax shall be X,
25 but put -- make that a statute, to give the

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1 Legislature the opportunity at some point to lower
2 it, raise it, or whatever.

3 Other things, and I can't think of a
4 good example, you would say, this is a basic change
5 in our system, like -- and, again, I'm just thinking
6 out loud -- at least sixty percent of school costs
7 shall be paid by the state. I'm just -- again,
8 that's just the kind of example that I'm thinking
9 of; the state must fund X percent. Well, that you
10 would want done by constitutional change, and that
11 can only be changed by the people, once having
12 adopted it at a later date, so --

13 SENATOR VAN WAGNER: But the
14 Legislature now actually adjusts that by the
15 Appropriations Act. Am I right?

16 MR. HORNE: Well, they would not be
17 able to adjust it lower than a constitutional
18 amendment, which says, if the amount to fund
19 education at the local level is, you know, \$10
20 billion, at least \$6 billion must be given by the
21 state, and the Legislature can't change that.

22 SENATOR VAN WAGNER: And I was just
23 listening to what Cliff said. Given the vast amount
24 of information that this convention has to consider,
25 I mean, it's --

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1 MR. HORNE: Yeah.

2 SENATOR VAN WAGNER: -- you know, in-

3 lieu taxes, abatement, just a vast amount of

4 information that affect the property tax, and the

5 amount of information that's been developed through

6 SLURP, the Cahill Commission, probably other studies

7 that have been done, how would you position that

8 information for -- and I agree with you, I think

9 it's going to take longer. How would you position

10 that information to be available to conventioners,

11 to delegates, through a clearinghouse process? How

12 would you do it?

13 DR. GOLDMAN: Well, it has to be a

14 back-and-forth process because -- because whoever is

15 providing the information, there are certain basic

16 things that are obvious that they will need. But

17 the convention delegates may come up with their own

18 thoughts and need them to be researched.

19 For example, someone might say, let's

20 look at having locally imposed sales taxes. Now

21 someone has to go out and figure out how that would

22 work; I mean, what towns would gain and what towns

23 wouldn't. And I can tell you, there are lots of

24 issues that are going to come up, and hopefully

25 someone is going to think of some new things that we

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1 -- that you couldn't channel into a convention

2 because the convention people are going to be

3 thoughtful and think of their own ideas, which is --

4 which is good.

5 So I -- I just think you have to

6 review what Dr. Miller did under Cahill, how long it

7 took, how much he spent, those dollars. That's the

8 best report, in my judgment, that we've had. And

9 try to provide the convention with its independent

10 resources, its own research director, like we had

11 Henry Coleman at SLURP and its own --

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

13 (End of recorded proceedings provided for

14 transcription)

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

2

3 I, Coleen Rand, do hereby certify that

4 the foregoing transcript of proceedings before the

5 New Jersey Property Tax Relief Task Force, recorded

6 on audiotape on October 20, 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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