

P U B L I C H E A R I N G

before

ASSEMBLY STATE GOVERNMENT, CIVIL SERVICE, ELECTIONS,
PENSIONS, AND VETERAN'S AFFAIRS COMMITTEE

on

PUBLIC FINANCING OF GUBERNATORIAL CAMPAIGNS

Held:

June 24, 1982

Assembly Chamber

State House Complex

Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Barbara F. Kalik (Chairwoman)

Assemblyman Joseph L. Bocchini, Jr.

Assemblyman Jimmy Zangari

Assemblyman Robert D. Franks

Assemblyman Richard A. Zimmer

ALSO:

Donald G. Margeson, Research Associate

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Aide, Assembly State Government, Civil Service,

Elections, Pensions and Veteran's Affairs Committee

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ASSEMBLYWOMAN BARBARA F. KALIK (Chairwoman): Good morning. As you saw in the public notice, there are several bills on the agenda that should be considered in this public hearing, as well as the report from the New Jersey Election Law Enforcement Commission. The first speaker is going to be Mr. Weiner from the Commission, but before he comes to the mike, I would, in fact, like to make a couple of comments.

I read the report rather thoroughly and I must, of course, commend the Election Commission for their very thorough analysis of what occurred in the 1981 gubernatorial election and, in fact, the figures and the conclusions that they came to. However, to begin with, I must disagree with the very thrust of the report in that the changes should be made to save taxpayers' dollars. It is my understanding, and unless Mr. Weiner corrects me later on, that this is not a deficit fund. Although it runs deficit for two years after the gubernatorial election, that is primarily because the fund was started two years prior to a gubernatorial election and that in the four year cycle there is enough money from the check-off to pay for the public financing. That money can only be used for that purpose. There was enough money, or will be at the end of the next two years to pay for the 1981 election. So, I think the thrust of the changes for public financing should be more towards an equitable and fair distribution of that money to the candidates who are running, and an openness of the process to anyone who does want to run and can meet the requirements. To that end, I also have several changes that I am going to propose to my own bill. I will be proposing them to the Committee that meets after this public meeting. However, I am not going to call the bills for consideration today because I think it ought to go out and I think we ought to get some more comment after I have made those recommendations.

Mr. Weiner, we could do this on a back and forth basis, if you would prefer, or I could go down my list of changes.

MR. WEINER: Whatever you would like, I have a few comments I would like to make, in general, and then would be happy to answer any questions, any way you want to do it.

ASSEMBLYWOMAN KALIK: Okay. Then I am going to just run down my list, for the record.

The changes I am proposing to my bill, A-1416: the contribution limit should be raised to \$1,000; the limit on individual loans should be raised to \$1,000; inaugural fund-raising event contributions should be increased to \$500 with anything left over to be given to charity; the amount County Committees and Municipal Committees of any political party may spend in aid of a gubernatorial candidate in a general election should remain at \$10,000, and the advocate of all such committees

should remain at \$1,000, but this spending should be exclusive of the spending limits. Those are the changes that I propose to A-1416.

In conclusion, I want to say that I think public financing of a gubernatorial election was, in fact, a major success for the State of New Jersey. I happen to think it's great that we had so many candidates and that the public had so many candidates from which to choose. I think that is the very purpose of public financing and I would certainly like to see it continue, with some of the changes recommended.

I will now call on Mr. Weiner from the Election Law Enforcement Commission.

MR. WEINER: Thank you very much.

ASSEMBLYWOMAN KALIK: Excuse me one moment. Would any of the other Committee members like to say something before he starts?

S C O T T W E I N E R: Thank you, Madame Chairwoman. Good morning. I would like to first start off by thanking you for the very kind comments you made about the Commission's work, and I know I speak for the staff of the Commission and the Commission members, in expressing our appreciation for those comments. As I will point out during my remarks, we fully anticipated throughout the preparation of the report that members of Legislature would be agreeing and disagreeing on individual points. And, in fact, that was one of the goals that we were seeking; to promote that type of debate and discussion. With me today is Mr. William Schmidt, who I believe many of the Committee members know. Mr. Schmidt has served as the Assistant Executive Director of the Election Law Enforcement Commission, and was responsible for the day to day management and oversight of the Public Financing Program during 1981.

This morning I distributed, before the meeting, a copy of the final text and appendix of the Commission's report. A pre-publication copy was distributed to you two weeks ago. Today's copy, I want to assure you that the text is the same, the recommendations are the same, what you now have is a brown cover and also a number of appendices, which includes all the interim reports which were distributed during the course of the past six months. The statistical data has been updated through the month of May and there are some additional materials, reports, and commentaries contained within the appendix.

This morning I want to try to avoid any formal remarks. You have before you the Commission's report and that certainly speaks as directly and eloquently to the concept of public financing as I could, but I would like to ask for a few moments of the Committee's time to summarize what the Commission perceives to be the major points of the report, and to discuss a few of the recommendations individually. In conclusion, I would like to address a couple of the bills which have been listed for today's agenda.

It is important to keep in mind that in issuing a report, the Commission sought to do something more than merely present a set of recommendations. Rather, the Commission sought to convey the need to review the program comprehensively, rather than incrementally. I know this is a theme which many of you on the Committee have heard from me frequently, if not daily, and it is a theme which I am very happy to see has been embraced by the Committee, and your colleagues in the Legislature. It is critically important that the interrelationships among the various program components be kept in mind as we commence this debate about public financing. Secondly, the Commission would suggest that the review of public financing, the public financing program in New Jersey particularly, be commenced by a statement, or a restatement, or an articulation, if you will, of the public policies and goals which underlie the program. And, the need to do that was a need that was perceived very strongly by the Commission, and was acknowledged this morning by your remarks, Madame Chair, when you pointed out your disagreements which may well be appropriate and are, in fact, in keeping with the current public policy of the State, in terms of the goal of the program.

I noted from the agenda coming in this morning that there were a number of bills that were going to be considered in the afternoon session and again, I was happy to hear, if I heard correctly, that today there will be no formal action on any of those bills, and that we will all have an opportunity to discuss the program.

Before addressing specific pieces of legislation or specific components in interrelationships, I would like to make a few general comments and observations pertinent to public financing.

First, I think it is important that we talk about the need and necessity for public financing. Sometimes it is overlooked in this discussion. The point was made by the Commission in its report concerning the 1977 general election, and was reiterated in the report that is before you. I would just like to quote from that report for the record, the Commission's conclusion that the rationale for public financing of the general election for Governor is applicable to the gubernatorial primary election. In fact, without the application of similar provisions to the primary election, much of the desirable effect of the general election provisions is diluted. Whenever I think of that provision, whenever we talk about public financing in the primary, I am reminded of the quote which you may all have heard, and I don't remember if it is attributable to Boss Tweed or Mayor Daley, or someone of that ilk, but it goes very simply, I don't care who elects them as long as I get to pick them. Without public financing in the primary, all the beneficial aspects of the program are diluted to the point where the program itself begins to lose its meaning and its impact in New Jersey.

In considering the Commission's report and the various proposals that are contained in it, we would suggest it is important to keep in mind what the Commission sought to do. Again, we did not seek to define a specific, most appropriate, set of recommendations for public financing in New Jersey. What we did attempt to do was to balance and reconcile the current public policies articulated in the public financing statute, and to reconcile potentially conflicting goals which have emerged during the past year. Having arrived at a particular equilibrium and a particular relationship among those components, the Commission was able to develop the recommendations which are set forth in its report.

In particular, the Commission acknowledged and responded to criticisms in commentary which were present during the 1981 primary election and continued through today. And those can be summarized two ways. One is that the program cost too much money. And the second, that too many candidates qualified and continued to receive public funds.

Again, it was the Commission's attempt to reconcile these goals, and not to comment upon their appropriateness or to what extent they may or may not be appropriately considered in legislation. There can be no denying that there was a public perception that the program cost too much money. Another reality is that public financing, to be successful, will cost money, and as the Chair pointed out this morning, the program has been and will continue to be self-financing to the check-off program. Although due to the timing of its creation, the fund does run a deficit during off-election years. These two goals have to be considered in connection with the current public policy which is articulated in the public financing statute; that is, that adequate funds be provided to allow candidates to run gubernatorial campaigns free from improper influence and to enable persons a limited means to run for the office of Governor. The tension between those statutorily discussed policies, and the goals that emerged out of the 1981 election, is indicated on page 14 of the pre-publication report. And, quite simply, if one wants to conserve money, you can talk about lowering a cap. If you want to provide more funds to a candidate, you talk about raising a cap. Those tensions are real and those tensions are the ones that are laid before you as Committee members now.

In addition, the Commission also considered a number of other goals or themes. Among those were increasing the role of political party organizations in the State and particularly, their participation in gubernatorial elections. Secondly, the Commission considered increasing participation by individuals in the process, and certainly not taking any action which would deter individual participation in gubernatorial elections. Third, was to avoid unnecessary administrative bookkeeping in

compliance requirements.

In arriving at its recommendations, the Commission considered how each particular alternative that was before it, and which are described in this various position papers, advance the particular component of the program, how it served the public policy, and most importantly, how it interacted with other components. Accordingly, we wish to reiterate that any contemplated change to the Commission's recommendations or to the program, must be made with recognition to how it interacts with the program as a whole. Even as I say that, I can't help but feel that that point can't be made often enough.

It was in that context that the Commission arrived at its thirteen recommendations set forth in the report. There is one in particular which I would like to address and which I think warrants and requires specific attention, and that is the discussion concerning the proposed repeal of the expenditure limit. This has probably been the most misunderstood issue in the area of public financing of gubernatorial elections, and certainly one which would be the center of much debate and attention. In its report this year, the Commission has reiterated its conclusion, first arrived at in 1978, that expenditure limits are unnecessary and undesirable, as long as publicly financed election process in New Jersey controls campaign receipts through limits on contributions, limits on loans, limits on the use of candidate's own funds, and limits on the cap on public funds which is available to any one candidate. All those four components are in place in New Jersey. Yet, when one speaks about the expenditure limit, we constantly hear two arguments which are raised in support of its continuation. Those are an argument of fairness and an argument that expenditure limits are necessary to curb excessive spending in gubernatorial elections. With regard to the fairness argument, we would submit that expenditure limits, in the context of the New Jersey scheme of public financing, are themselves fundamentally unfair. Greater campaign spending capability may be required by a candidate to overcome the comparative advantage of an opposing candidate as a result of incumbency, of greater name recognition, of a coattail effect from his or her running mates, of the availability of volunteer organization, or other non-monetary factors. To deny a candidate the opportunity to spend extra money which is a requirement, and a reality, in order to achieve political communication may be imposing an unnecessary barrier on political communication.

In fact, the continuation of an expenditure limit has often been called an incumbent's protection provision. With regard to excessive spending, in preparing my remarks this morning I thought I would jot down one or two items, or one or two arguments. With respect to that point, I ended up with nine. I would beg your indulgence to allow me to run through them briefly.

The first is that expenditure limits, and their continuation, create the illusion of control and restraint. The voting population in New Jersey may inappropriately feel that the continuation of expenditure limits has somehow curbed excessive spending, and that simply will not be the case. The cost of campaigns continues to increase due to factors apart from the public financing formulas. And, restrictions upon the ability of a principal campaign committee to spend money in a gubernatorial campaign, may well lead to and promote expenditures through so-called independent expenditures and independent committees.

Secondly, it is important to keep in mind that expenditure limitations have absolutely no impact on the amount of public funds available to a candidate. It is possible, and has been possible in 1981, through the imposition of caps, to limit the amount of money that would be available to any single candidate.

Thirdly, New Jersey currently imposes severe restraints on campaign receipts. We would suggest that notwithstanding the proposed increase in the contribution limit, or even an anticipated increase in the size of a contribution during the ensuing four years, after a point, the only way a candidate can spend more money is to increase receipts by attracting more contributors. Moreover, a candidate's ability to generate more contributions is viewed by the Commission to be an important reflection of the candidate's support and importantly provides a vehicle for participation by individuals in the political process, and may well be their only means of participation and should not be discouraged in any way.

Additionally, in the 1981 general election, both major party candidates refunded contributions. As the Commission points out in its report, it's a question of public policy which compels candidates to refund contributions, and may well have been that some or a good deal of that money, in the form of campaign contributions, did arrive eventually at the State political party committees, and did allow the State political party committees to play a greater role in the gubernatorial campaign or in organizational development. But, so, too, is the fact that some part of that money may have, and will continue to, find its way into independent expenditures which run counter to the concept of coordinated campaigns controlled through a central campaign committee.

Fifth, and I'll say it again, although it's come up three other times, that expansion will continue to promote expenditures by independent committees.

Sixth, to lower the limit may, in fact, compel a candidate in the future, to forgo public financing when faced with a reality of having to spend funds in excess of a reasonably set limit.

Seven, the expenditure limits place an enormous administrative burden on candidates as a result of allocating joint expenditures. I hope that during the course of the day, if it's not today, it will be in the coming weeks, that we will be able to hear and the Committee will be able to hear, as the Commission did, from the staffs of the various candidates as to the enormous amount of time that was spent monitoring that provision. And also, enforceability. The fact of the matter is that it is very difficult for the candidate to enforce -- for the Commission to enforce limitations on spending through independent expenditures. While we do feel that we're able to identify most of those instances and evaluate them appropriately, the growth of independent expenditures will just require a greater allocation of resources by the Committee.

In this context, I'd like to turn briefly to Assembly Bill 574, which is on today's agenda, which proposes one possible solution to issues raised by the presence of an expenditure limit. When I first saw Assemblywoman Costa's bill, I said well, this is a direct, simple, nice approach to a specific problem, and that was the alienation that was occurring between local candidates and their gubernatorial standard bearer, because of allocation issues which arose as a result of an expenditure limit. A couple of comments I'd like to make for the Committee's consideration: The first is, you'll note at the very last word on line 12, leading into line 13 is the phrase "allied candidates". Allied candidates are a defined term under the Act and it refers to what are essentially running mates of the same party, running for the same level of office; be it local office or County office or State office. The use of that phrase in the context of Assemblywoman Costa's Bill may be too restrictive, if the intent here is to say to a candidate at any level, you can use the name of your gubernatorial standard bearer as long as it's incidental to the literature and it's just a listing of other candidates. We would suggest that the word "allied" be eliminated.

Also, in comment of Assembly 574, is that the bill itself presupposes the continuation of an expenditure limit and on the continuation of one, but the same levels of 1981, which, you can appreciate, would be of concern to the Commission. And finally, while the bill would be effective in addressing one of the problems which arises with regard to the expenditure limit, it should not be viewed as a method of addressing or solving all the problems which arise with the interaction of political parties.

Also, with regard to the expenditure limit, I spoke to Assemblyman Franks before; I received a call from his office about some numbers that are being considered, and I'd like to present them this morning, just by way of example. I understand there's been some consideration of increasing the expenditure limit in the

primary by \$500,000 to approximately one and one-half million dollars. This would represent approximately a 50 percent increase in expenditure limit over 1981 and, pulling out our calculator, we also figured out it's essentially a 10 percent compounded rate of increase over 4 years. The number may be okay, if one believes in expenditure limit. I'm not sure, and we'd want time to further analyze it. However, also being discussed is the possibility of increasing expenditure limit in a general election setting to 2.6 million dollars or, again, \$500,000 more. That would represent merely a 5 percent compounded increase over 4 years or approximately 25 percent, which facially would be insufficient. There is a reality, which I'm sure all the Committees are aware of, having to run for office every two years, that the cost of campaigning increases at a rate faster than any other commodity or service which you have to purchase. And, unless we figure out some way, and I don't know if it's possible, to control the cost of advertising, and printing, and television time, and advertising in print, there will be very little that we can do by way of controlling those costs.

The Citizens Research Foundation in California is currently engaged in a project to try and develop a campaign spending index that would take into account the real inflationary impact of the cost of campaigning. Recently, we were advised that they should come to some initial recommendations within the coming months. I'm sorry I can't produce anything for here, but I think it's fair to say that those costs are increasing at a rate faster than the consumer price index.

I'm sure, and I was very happy to hear at the start of this morning's meeting that among the amendments you'll be proposing are some which have not been discussed previously, either by this Committee or by members of the Legislature. And, those address some of the other points raised by the Commission, in its report, beyond recommendations 1 through 5. In addition to those mentioned here today, I would request that the Committee give consideration to recommendation number 13, in particular, which would provide for the codification of the Commission's policy that all campaign funds remaining on deposit at the conclusion of a gubernatorial campaign be first returned to the State, up to the amount of the public funds, which were received by the candidate.

Sir?

ASSEMBLYMAN BOCCHINI: I was just curious, do you think that there would be in excess of the amount received in public funds?

MR. WEINER: Depending on how long a candidate stays in the race, and also depending on how much of a public fund formally you provide, and depending on the existence of an expenditure limit, so there's an impetus to raise more funds, it may well be that a candidate could be left with money in excess the amount of money received in public funds. Also, depending upon the date of

the termination of the candidacy. During the past two weeks, since the issuance of the report, a couple of themes have emerged that have been discussed with me. I'd like to comment upon them generally.

One has been the effect of inflation and the question is that whether or not the Commission sufficiently considers the effect of inflation in arriving at its recommendations. For this morning, at this time, I would just like to point out that in considering inflation, its greatest impact deals with the expenditure limit. No provision of the campaign financing structure is more effected by inflationary factors than the ability of a candidate to spend money in recognition of the cost of campaigning.

And secondly, inflation does not always represent a real factor in considering financial thresholds or limitations. For example, in considering the limitation on the use of a candidate's own funds, the Commission considered whether or not the \$25,000 limitation should be increased in light of inflationary impact since its inception. And the Commission opted not to increase that number, concluding that a \$25,000 figure would allow a candidate to provide whatever bridge money or seed money, or however you'd like to characterize those funds that his or her campaign may need. While at the same time, by limiting that figure to \$25,000, the Commission was able to serve an egalitarian end that may be viewed in the program.

A second concept is one of seed money and the Commission concurs with the opinion of those who feel that seed money or start-up money is qualitatively more important to a candidate than money coming later in a campaign. And, I believe you will hear from Mr. Neil Upmeyer later this morning that a criticism that he has of the report is the fact that the Commission's report would make money available to a candidate too late in the process, and not sufficiently early in the form of seed money.

The Commission does not necessarily disagree, but we were faced with that reconciliation of conflicting goals, and seed money is more expensive. The more money you provide in the front-end of a campaign structure, the more you're increasing the likelihood that a candidate may decide to drop out of the race, not be able to refund any money, and serve as a more expensive variation. If, however, you, on this Committee, and your colleagues in the Legislature are willing to embrace the concept that this program is meant to aid candidates, and is meant to provide access to the gubernatorial candidacy arena for as many people as possible throughout the State who can pass a test of viability, then seed money is an important concept and should be promoted by this Committee, and by your colleagues in the Legislature.

There are many ways to do that. You may do that by raising the threshold -- excuse me, the matching ratio to a two to one

ratio, for some or all of the matching period. You may start matching funds earlier in the campaign. The Commission has recommended matching after the first \$50,000. You may start matching after the first dollar, after reaching the qualification threshold. Again, this is just another example of how the different factors interreact. There has been a recommendation that's been discussed of temporarily increasing the matching ratio for two to one, but increasing the threshold to \$150,000. It would serve the end in a way of providing seed money. However, you're obviously making it harder for someone to enter into the arena.

Another comment has been that the Commission's recommendations do not sufficiently or adequately provide an incentive to campaigns to seek out small contributors, and to attract them. For the sake of brevity, I would urge all the Committee members to please pay special attention to Appendix Number 10, which goes into great detail on this point, and points out among other things, that the mean contribution during the 1981 gubernatorial election cycle was \$100 and that the average contribution overall was approximately \$200.

In conclusion, let me say that some have expressed surprise that the Commission has not prepared specific legislation for presentation, but, as I've tried to point out this morning, as the Commission tried to articulate in its report, what it has sought to do was provide a platform to debate and probably, certainly, it's the Commission's feeling that one of the most important tasks that will be undertaken as part of the forthcoming legislative review of public financing, is the review, and perhaps restatement, of the State's public policy concerning the method by which New Jersey's Governor is elected. There is a need for you, on this Committee, to begin the qualitative analysis of policy and to try and place into some perspective and reconciliation, the desire to deter marginal candidates as opposed to providing access to the arena. The desire to conserve public funds, whether they be from a check-off fund or from general revenues and the desire to provide adequate funding with sufficient restraints on limitations.

Madame Chair, Members of the Committee, I thank you very much for the opportunity to appear before you today, and I thank you for giving me the time for these remarks and, of course, Mr. Schmidt and I would be happy to answer any questions which you may have.

ASSEMBLYWOMAN KALIK: Any members of the Committee have any questions? Joe? Jim? Bob?

ASSEMBLYMAN FRANKS: Just briefly, Madame Chairwoman, I just want to congratulate Scott and the Elec Staff as you did, this really provided, I think all of us with a basis from which to proceed and these are very difficult discussions, one of which any number of competing interests have to be grappled with, and to have a basis for that discussion, a jumping off point, has made our

work, I think, considerably easier. And, as you know, Scott, I don't agree with every provision that we've recommended, it certainly has been an excellent job by you and your staff and I want to congratulate you.

MR. WEINER: Thank you very much.

ASSEMBLYMAN ZIMMER: I've been impressed by the Study and also by the presentation, you've answered all the questions I was prepared to ask but for one, and that is on the Costa bill. Do you feel that the Election Law Enforcement Commission would be able adequately to, by regulation, define what the word "incidentally" means; and, I know you can't speak for the Commission, but if you think the answer is yes, what's your own personal view of what that means?

MR. WEINER: I think the answer is yes. In fact, the Commission was faced with an issue if not identical, similar to this during the campaign and was the subject of an advisory opinion request. There were legislative candidates who wanted to use the name of Congressman Florio in their campaign literature, and let me just say that in reviewing the literature, it was clear that the literature was intended for dissemination in the legislative district and that it spoke to issues in the legislative district, and presented biographies of the candidates. On the last panel, it was a four fold piece, there were eight panels, there was a listing of the entire slate, from the gubernatorial candidate right down to the office of Freeholder and all those candidates were listed in the same type face, were given the same amount of space, and based upon standards which I really can't quote verbatim, the Commission was comfortable that that was incidental expenditure. But, in the absence of a bill similar to that proposed by Assemblywoman Costa, the Commission was constrained to allocate 5 percent of the cost of production and distribution of that to Congressman Florio.

ASSEMBLYMAN ZIMMER: If the caption above that panel said Vote the Florio Team, would your answer have been different?

MR. WEINER: It would certainly be raised for consideration. It very well may have been different. As you know, the Commission issued an advisory opinion which went into detail on issues of joint advertising and allocation. I think I can speak for the Commission in saying that we felt that that advisory opinion, which has been provided to you, it's number 33, provided a workable format where the campaigns could do cost planning and could allocate expenditures. Because of the existence of the expenditure limit, these issues of joint fund raising took on a character of importance much beyond that, which the Commission feels it should. And the example of the events of 1977, and the Commission's assessment of \$70,000 of allocations to Candidate Bateman, is known by all, and the effect it had on his campaign. So, we were able to administer. We're confident that we could.

And, between the standards set out, and the Commission's Advisory Opinion Number 33, and the example I just gave you, I think we could work out sufficiently clear regulations that would allow a candidate to understand and work within the confines of incidental, as used in the Act.

ASSEMBLYMAN ZIMMER: As you know, I was Counsel for the Kean Campaign, and I do think you did an excellent job of construing the Act, as it relates to joint expenditures, but, as you probably know, it drove both the people in the Kean Campaign and the Florio Campaign nuts.

MR. WEINER: And the Commission. I shared many late nights with you, although you didn't know it. We were in our office while you were in yours.

ASSEMBLYMAN ZIMMER: The problem was that, at least from my viewpoint, although your regulations were dictated by the letter and the spirit of the Act, they really discouraged the kind of advertising which would relate to the entire ticket, which would discuss the Florio team or the Kean team and, in a time when parties are breaking up, becoming less cohesive, everybody's a prima donna, it seemed to me that this was at variance with that end and was discouraging candidates who wanted to run as a unit, who wanted some kind of coherence in the party effort from establishing a united campaign. As I said, the law dictated that. How important do you think that is, and what should we do about it?

MR. WEINER: I think the concerns that you raised are critically important and it's a concern which is shared by the Commission, it's very high on their list of concerns, if you will. The impact upon the party structure, the operation of political party organizations, and the relationship of the gubernatorial candidate and his or her campaign with those party organizations was strained beyond the limit of toleration. Assemblyman Zimmer, it's the Commission's recommendation that the most direct way that we can overcome those problems is by repeal of the expenditure limit. As I said before, the crisis nature, if you will, of allocations, the need to split the hairs very finely, and to allocate expenditures between campaigns, the gubernatorial campaigns and others, the need to allocate expenditures between compliance and campaigning, took on a character beyond cost accounting, as all campaigns have to do, and became critical and not only took up a lot of time, but certainly was responsible for the diversion of resources, both personal and financial. To that activity, that could have been better spent in the Commission's mind, communicating with the voters, in whatever form that communication is going to take place. Anything short of repealing the expenditure limit may help, it will help a little bit, Assemblywoman Costa's bill helps a little bit, in one limited area; and, that's incidental advertising. The amendment proposed today by the Chair, which

would allow Municipal and County Committees to spend limited amounts outside the expenditure limit will help, but not completely. And in 1985, I fear that we'll continue to see the prospect of banks of lawyers and banks of accountants for all gubernatorial candidates and I dare say, for the Commission, including the Commission's investigators, running around, trying to find pieces of literature and bumper stickers providing (inaudible) of the system. The other reality is we can't ignore it. To ignore it and not to put in the energy and the resources to enforce it and to ensure its integrity would be wrong.

ASSEMBLYMAN ZIMMER: As you probably know, in 1976 when the Federal Presidential Public Financing Law went into effect, there were similar restrictions on local party expenditures and that was the principal criticism, I believe, of the public financing law at that time. It was amended to loosen up those restrictions. Are you familiar with those amendments and do you think they could be applicable to the New Jersey situation?

MR. WEINER: We're familiar with them. We considered them in some detail when we were arriving at our recommendations. And again, I have to keep coming back to this point, our report is hinged in part upon our recommendation of repealing the expenditure limit. If you do that, and if you allow the Municipal and County Committees to participate in the \$100,000 or \$10,000 per County mode, that provides a great incentive to allow for political party participation. We considered what is called the Volunteer Services Exception, you're referring to, that allows local committees to spend unlimited sums on volunteer related activities. They can produce literature as long as it's distributed by volunteers. They can produce bumper stickers. We considered that. We felt that the repeal of the expenditure limit would be as effective, if not more effective, certainly in a much more direct way, and all those activities which are anticipated by the Federal amendments, would flow as a matter of fact from the repeal of the expenditure limit in a less complex regulatory scheme.

ASSEMBLYMAN ZIMMER: Thank you.

ASSEMBLYMAN FRANKS: Scott, one observation, and it goes back to your previous remark, much of your report is based on the elimination of the expenditure ceiling. My fear is that if we do retain some fixed expenditure ceiling, that Mrs. Costa's bill might open up Pandora's Box and somewhat analagous I think to our cap law here in New Jersey, several members of the Legislature are rather reluctant to deal with any cap exceptions because they're afraid that once we do, it may well open the door to fundamentally affect the integrity of that law as it currently exists. Your remark that this Commission is sufficiently geared up or could be, to take on this added burden of trying to

gauge whether or not the mention of a gubernatorial candidate is in fact incidental to the piece or, in fact, a really independent part of the piece trying to piggy-back as part of the legislative team, for example-- I had the same sort of dilemma in 1981, the Governor comes from two towns away from me and we were rather interested in trying to get his name, but we opted not to do that because we thought it would be charged off against -- it just seems to me that even if you are administratively geared up to make those determinations, I'm not so sure I want to see Elec in that business of trying to determine what's incidental and what's not, and I'm just a little bit fearful that this kind of door may be opening to which somebody, perhaps in good faith, could say well, I only did it incidentally. I only wanted to make certain that the reference was to the same party, that everybody knew, in fact, it was a team effort. I just -- I'm fearful about that.

MR. WEINER: We found ourselves having to make those decisions every day of the campaign. I think each of you sitting up here received a letter either from Nick Rudi or Marty Barber, that said don't spend a penny unless we tell you, unless we authorize it, because we're going to be responsible for that. The determination of "incidental" is comparatively easy. We could do it, we have done it. What would be difficult is assuring the voting population that we have scoured all 500 and some odd municipalities. We found every piece of literature that used the gubernatorial candidate's name and I would not be surprised if there were people sitting in this room who know of some billboard somewhere in the State that never came to our attention. We recognize that. And, in fact, again in October of 1981 there was a complaint brought before the Commission, as you recall, from competing State Committees that dealt with issues of allocation. Had there been no expenditure limit, those allocation figures would have been important for the accuracy of the report. Bill Schmidt would be calling people up, not in October, but in December saying is that the right number? Did you use the right percentage? And, we'd be fine tuning reports, not determining the ability of a gubernatorial candidate to communicate with the voters and possibly to win and prevail in an election.

ASSEMBLYMAN FRANKS: Scott, I think that makes the most compelling case for the abolition of the ceiling, but assuming that we do retain a ceiling, and this becomes a particular problem to me.

MR. WEINER: Yes, but then not only this, in fact, happened in all -- in the example I gave you, the Commission determined an allocation of 5 percent. It felt a determination of "incidental" required some allocation, otherwise it'd be opening up a Pandora's Box. The figure 5 percent was concluded as reasonable. In the example that we looked at, I forget all the numbers, but it turned out to be an allocation of \$138. I assure you that the

amount of time spent by Commission's Counsel and my time and Mr. Schmidt's time, far dwarfed the \$138 that we protected the public from.

ASSEMBLYWOMAN KALIK: Thank you, Mr. Weiner.

MR. WEINER: Thank you very much.

ASSEMBLYWOMAN KALIK: I just want to conclude first of all, when you say "allied candidate" and the "allied" definition means running for the same level of office, so that State office would be State office and that that would, in fact, preclude local candidates from using that as an incidental.

MR. WEINER: That's right.

ASSEMBLYWOMAN KALIK: Okay. So that if we just remove the word "allied", it would be candidates of the same political and I think you'd have to put the same political party.

MR. WEINER: Well, you may want to delete that, and I'm glad you brought that up, because the question of candidates of the same political party in the primary, you could leave it, Counsel gave me a note this morning suggesting deleting both the words "allied as well as "of a political party" because of the context that in a primary, the candidate may decide to use the name of one of many candidates running for nomination in the primary.

ASSEMBLYWOMAN KALIK: Except they'd still be the same political party.

MR. WEINER: That's right, they would be. We're in the business of trying to anticipate problems so that we're not back here three years from now, fine tuning a law when we could do it now. By merely using the word "candidate", we would have the protection and the purpose of the Assemblyman's bill, I think, would be served.

ASSEMBLYWOMAN KALIK: I'm not quite as optimistic as you that we're not going to be back here three years from now fine tuning the same law nor that we're not going to be back here four and five years from now redefining some of these things.

MR. WEINER: Four or five years maybe, hopefully, we can put the issue to bed well in advance of '85. I still like to think so, although I share your realism.

ASSEMBLYWOMAN KALIK: As I say, I'm not quite as optimistic as you are. Notwithstanding, and you and I disagree, of course, on the repeal of the expenditure limitation, but notwithstanding that we leave that in, I do believe that the elimination of the local candidates from using the gubernatorial name and the exclusion of the County Committees, might in fact at least make that expenditure limit a little bit more palatable and a little bit less obnoxious to the Commission to have to deal with. One of the problems I found as a candidate running in the same election, was that I could not plan my own material without getting my okay from the powers that be, and that was destructive

to me as a candidate, never mind to the gubernatorial candidate. And, I don't think that's the purpose of public financing of a gubernatorial election. So, we will be keeping that, at least one item, very much to the forefront.

Is there anything else, sir? Do you have anything?
Assemblyman Weidel.

Karl, I'm going to ask you to hold for one second. Sit in the witness chair, but we do have a letter that I want to read into the record from Congressman Florio, if you would just be so patient.

This letter was received by the Committee today, if you will just bear with me, I'm going to read it into the record.

"Dear Chairwoman Kalik: There is no doubt that the laws providing for the public funding of gubernatorial elections are in need of revision. I applaud the efforts of your committee in initiating discussion of ways to improve the system so that the public interest is better served.

"First, I would like to strongly state my belief that public funding of gubernatorial elections is a tremendous reform, one which has done a great deal in restoring people's confidence in state government. We should, by any reasonable means, seek to minimize the opportunity for private contributions to improperly influence the governmental process. Public funding aids greatly in achieving that end.

"I would like to briefly outline my thoughts on some of the proposed revisions suggested through legislation already introduced, as well as by the Election Law Enforcement Commission. I support the raising of the threshold to \$100,000 as well as the suggestion that the maximum contribution an individual can make be raised to \$1,000.

"In addition, I would also offer qualified support for the recommendation that would provide for matching one public dollar for every private dollar raised. If we agree, however, that the goal of public financing is to limit the influence of private contributions, it would seem that a 2:1 matching provision would better serve that end.

"The overall limitation on the campaign expenditures of a candidate are essential if the State is to realize its stated goal of limiting the cost of campaigns, insuring fairness and equity between the candidate's ability to compete for voter approval and limiting the undue influence of large contributors. Clearly, without caps on campaign expenditures, there is no constraint on the cost of a campaign but the ability of a candidate to raise funds. The New Jersey Election Law Enforcement Commission has admitted that "... in the 1981 general election, neither major party candidate had difficulty in raising funds." Thus without caps, we can expect the cost of future gubernatorial campaigns to experience substantial and compounding

increases as candidates are forced to press their fund-raising ability to the limit.

"Candidates with the ability to raise funds beyond their opponents' means will find themselves in the enviable position of having countless opportunities to approach and influence the electorate.

"The limiting of the influence of large contributors is accomplished, not only by limiting the size of individual contributions, but by limiting the amount of campaign funds derived from non-public sources. The influence of individual contributions which are unmatched and uncapped is inherently greater than those which are within the limitations of the cap. This disparity in influence can become totally unacceptable to the public when the perception is that they are playing a diminished role in the equalizing of the process by virtue of the ability of the candidate to continue to raise money from, in many cases, special interest groups.

"I believe that the public policy interest of the State will best be served by the maintenance of overall expenditure limits.

"I appreciate this opportunity to comment on the issue of public financing and commend the committee's efforts in this regard.

"I remain,
Very truly yours,
James Florio."
Thank you.
Karl.

K A R L W E I D E L: Thank you, Madame Chairwoman. I'm here obviously because I'm interested in the subject and because I have a bill in front of this Committee. And to me, the basic reason for public financing of gubernatorial primary campaigns is to give voters a number of serious candidates to choose among when they enter the voting booth.

I want you to know that I support that objective wholeheartedly. I also think that the concept of public campaign financing has proven itself here in New Jersey. When I heard that last year's gubernatorial primary was the largest in votes cast in the State's history, I was convinced that public financing was the way to go. After all, getting out the vote is the bottom line in our democracy.

However, I also believe that the law, as presently constituted, encourages too many candidates to run at too great a cost to us all. Although a wealth of capable candidates ran in both parties last year, I believe that the public interest would have been served just as effectively and more economically with fewer candidates. The problem is to fine-tune the law without destroying its effectiveness.

I believe that my bill, A-137, accomplishes that objective by raising the qualifying threshold from its present \$50,000 to \$150,000 and distributing subsequent public matching funds at the rate of one-and-a-half times private funds, rather than at the present two-to-one distribution.

I would like to draw your attention to the fact that my bill also raises the total amount a primary candidate may spend per voter in the last general presidential election in New Jersey from 35 cents to 42 cents. Based on an approximate figure of three million such voters, the provisions of my bill would increase the spending limit per primary candidate to about \$1.26 million.

Please note that this maximum is more than the amount which can be raised via public financing, given the current limit of \$600,000 in public funds. This means that a candidate would be free to raise an additional amount of about \$110,000 purely from private sources.

In conclusion, I wish to emphasize that, although I am in favor of raising the spending limit to give a candidate the opportunity to raise more private funds, I am not in favor of abolishing that spending limit.

In my mind, abolishing the spending limit would subvert the whole purpose of public campaign financing. It would mean that a very rich or well-connected candidate could accept public monies and then go on to raise huge amounts privately. This would return us to the era before public financing, with the difference that millions of taxpayers' dollars would be thrown away in the process. Let us not make a mockery of all the effort we are putting into making public campaign financing work for the people of New Jersey.

I would also like to state, for the record, that I introduced in the 80-81 session, Assembly Bill 3122. At the time of the primary, I realized what was happening. I thought I should begin a course of action to correct what I thought was a malfunction of the public financing law, so Assembly Bill 3122 was introduced in the last session and Assembly Bill 137, which is the same bill, was introduced in this session.

I would also like to state that I have here a fiscal note from our Office of Legislative Services, and I will go to the second paragraph of that fiscal note, because the first paragraph just reiterates what I've said and what the bill says. But, I think that this is interesting.

"The Election Law Enforcement Commission estimates public funds expenditures under this proposed bill for a gubernatorial primary would be \$3.9 million. This is based on a recent 1981 experience when an actual amount of \$6.35 million was expended. The Office of Legislative Services concurs with the fiscal note given to them by the Election Law Enforcement Commission."

That's the end of my testimony. I have some copies that I would like to distribute. I'll be glad to answer any questions that anyone may have in relation to my bill.

ASSEMBLYWOMAN KALIK: Karl, I just want to acknowledge that it was discussed, as a matter of fact, during the primary campaign last year and I think the thought was that that was not the time to do it because you don't change horses in mid-stream.

ASSEMBLYMAN WEIDEL: Right, and that was my thought.

ASSEMBLYWOMAN KALIK: But, I do want to acknowledge the fact that, you know, we were all very much aware of the bill that you did put in.

ASSEMBLYMAN WEIDEL: Yes, and I might just make a little aside. I think that probably our convention system of both parties might be changed from within and that we could some way limit the amount of candidates that are running in the gubernatorial primary. This is an interworking of the various parties, and that would be their rules. But, it could, in effect, affect the total amount of candidates. It would have the same effect, but, of course, it wouldn't relate at all to the object of public financing.

ASSEMBLYWOMAN KALIK: I'm going to ask the other Committee members if they have any questions to ask. Before I do, I just want to ask Mr. Weiner, if I recall, in going through your total report and your recommendations, the totality of it was that with the recommendations accepted, only two candidates would not have run. I know you don't state that in conclusion, but I think as I read through it that that, in fact, was the conclusion I came to.

MR. WEINER: Yes, you're correct that there would have been two candidates, one of whom would not have qualified under the scheme and one of whom might have qualified so late that we could assume that that candidate wouldn't continue.

ASSEMBLYWOMAN KALIK: So that the end purpose of what we're doing is not necessarily to limit the number of candidates.

MR. WEINER: Well, it was a goal which the Commission considered. There was a perception, I think, we all have to acknowledge, in the public arena that the program allowed marginal candidates to receive funding, and I have said the past couple months I raised as a rhetorical question that has to be answered at some point, whether or not the public was well-served by having to field the candidates that it did. Former Assemblyman Burstein, at our public hearing in Hackensack back in March, that Assemblyman Zimmer attended and testified that would take the position that yes, the public was well-served. And, that was the goal, to bring as many candidates in as possible who are qualified, to give them the opportunity to compete in the electoral arena. If you agree with that, you'll come out one way on the issues. If you disagree with that, you'll set a higher threshold, you'll make the obstacles higher, and you may compensate that partially by providing a higher match once you get into the arena. But, that is a fundamental issue that frankly has to be addressed by you on this

Committee.

ASSEMBLYWOMAN KALIK: Do you have any idea under Mr. Weidel's proposal whether any of the candidates that ran would have not qualified, other than the two previously indicated?

MR. WEINER: Excuse me one second.

I just wanted to check with Mr. Schmidt. The same two constantly get affected.

ASSEMBLYWOMAN KALIK: But, I think that that's interesting. Thank you.

MR. WEINER: But, one of the examples that's used in our report, is the experience of Mayor Gibson. If you take a look at his cash flow through the campaign and when he qualified, many say by creating a higher threshold or higher hurdle, his qualification may have occurred so late at a higher level than \$50,000 that he may not have been able to run an effective campaign, would never have had the opportunity to run third in the election. Counter to that, one could say he may have started earlier. One of the problems of using 1981 as a base is that you're assuming all sorts of variables remain constant. It may well be in 1981 if we have an incumbent Governor that the field will be narrowed in its own way. We just don't know. It could have been if Assemblyman Weidel's provisions had been in effect that the field would have only been three candidates. You really don't know.

ASSEMBLYWOMAN KALIK: Thank you.

Do any of the other members of the Committee have any questions?

ASSEMBLYMAN ZIMMER: I'd just like to make a comment that in the Senate campaign of this June, when there was no public financing whatsoever, there was an enormous field of Democrats, most of them credible. I think that if the political context is right, we're going to have a lot of candidates regardless of whether the public money is there.

MR. WEINER: And a forum, sponsored by Common Cause, seems like now way back in January, Gina Glantz made the distinction of credible to viable. Those are two separate concepts. There are many credible, credible candidates, some of whom are not viable. Again, this Committee will have to weigh where does the threshold line fall out in that spectrum between credible and viable.

ASSEMBLYWOMAN KALIK: Thank you. Thank you, Karl.

Mr. LaCorte.

S. M. T E R R Y L A C O R T E: Thank you, Madame Chairman. I'm very happy to have the opportunity to come here today. I've prepared a statement, which I've given to Don Margeson, for the purposes of the Committee, and also for the stenographer, if she wishes or I can give her a copy here. I was delighted, the statement that you made prior to the beginning of this public

hearing that there will be no decision on the bills today, that you will still review it, because I feel that the purpose of this meeting is a platform, as Scott Weiner said, is a platform of debate and I will be coming from maybe a different direction.

It's interesting to note that many of the questions that arose earlier with Mr. Weiner's testimony were based on the general election rather than the primary. My comments, and the statement that I'll be reading for the record, basically deal primarily for the primary and the effect of the primary financing. Basically, my bill is A-530 and essentially, my proposal would eliminate public financing of primary elections because it is an experiment that has failed. Moreover and more importantly, however, public financing of primary campaigns is unfair to the independent voters since it forces them to subsidize campaigns of parties and candidates in party primaries.

I take note that out of 3.6 million registered voters in the State of New Jersey, 1.6 or 45 percent have no party affiliation. Those voters, along with 1900 registered independents are forced to pay for the cost of primary campaigns for candidates who are, in many cases, not credible, even in their own party's primary election. Public financing of gubernatorial primary campaigns forces the independent or the undeclared voter of our State to fund the campaigns of candidates in the two major parties. By law, many of these independent and undeclared voters cannot participate in the primary election. But yet are forced to contribute their tax dollars to primary campaigns.

These primary elections are not open to all the voters, and yet all of our taxpayers must contribute to such campaigns. These citizens are, in effect, contributing to political parties without choosing to do so. Why do I say the experiment has failed? First, the citizens of our State spent over \$6.3 million subsidizing the campaigns of 16 candidates in both the Democratic and Republican primaries for Governor in 1981.

I will not go through it, but I have listed on page 3 and page 4, the findings of ELEC where you'll note from Degnan to Smith there was an expenditure on the Democratic side of close to 3.8, a little bit over \$3.8 million. And, on the Republican side from Kean to Wallwork of \$2.5 million.

I cite on page 4, without going through each of the numbers here, the list of voters and votes that the Democrats received from Buhler all the way down to Smith, and the amounts of votes that they received, and I also cite on page 4 on the Republicans, from Kean down to Wallwork, the amount of votes that they received in the 1981 gubernatorial primary vote.

Continuing on page 5, particularly in these difficult economic times, \$6.3 million is a great deal of money for our citizens to have to pitch in to help primary candidates, many of those whose campaigns already are well-heeled.

The Election Law Enforcement Commission has itself recognized this criticism in its Report of Conclusions and Recommendations at page 13 where it declares: "if there was any consistent negative criticism of the public financing program for the 1981 primary, it was that it cost the taxpayers too much money and that too many candidates qualified and continued to receive public funds."

The second reason why I believe public financing of primaries has failed is that it's not effectively advanced the goals it sought to foster. Public financing law was enacted in 1974 to enable gubernatorial candidates to conduct their campaigns free from improper influence and to enable persons of limited financial means to seek election to the State's highest office. Public funding of primaries was added to the law for the 1981 election. The question is whether primary public financing advances these goals. There is a great deal of evidence which shows that it does not. I take note of the following:

Public financing of the gubernatorial primary candidates did not change the races at all. The front runners among the Democrats were Congressmen James Florio and Robert A. Roe and they're the two men that finished 1 and 2. And by the way, Mr. Robert Roe, Congressman Roe did not accept any public financing. The front runners in the Republicans prior to that, were Governor Tom Kean and Mayor Lawrence Pat Kramer, and once again, these two men placed first and second.

When one starts to look at the amount of money spent by certain candidates and how few votes these candidates received in spite of being subsidized by the taxpayers, the result is, indeed, startling. In the Republican primary, for example, Richard McGlynn received \$233,000 from the citizens of our State for use in his campaign and received only 5800 votes. That comes down to approximately \$43 of public money spent for each vote he received, not surely a very good return on an investment.

Another example is the campaign of Mayor John Rafferty of Hamilton Township in the Republican primary, he received \$246,000 in public funds, and yet he received only 12,800 votes on election day, \$19 per vote. In the Democratic primary, the campaigns of Barbara McConnell, William Hamilton, and Frank Dodd, provide good illustrations of the same point. As an example, Miss McConnell took in \$95,000, I'm rounding these numbers off, in public funds, and got only 16,000 votes, or \$6 per vote.

Mr. Hamilton received a whopping \$309,000 from the public treasury and yet received only 17,000 votes, or \$18 per vote.

Frank Dodd was given \$327,000 in public funds, and yet he only got 23,800 votes on Election Day, \$14 per vote.

Perhaps the most glaring example of all, however, is the candidacy of former Secretary of State Donald Lan. Mr. Lan received \$249,000 in public funds for his campaign, which he aborted, and threw his support to Congressman Florio. He withdrew

and was not even a factor on the ballot on primary day. Yet, the taxpayers shelled out close to \$250,000 for his short-lived campaign. One wonders how his strategy may have differed if he had financed his campaign of his own devices without help from the public.

Once again, I quote from ELEC's report on page 29 where referring to the primary candidates for Governor, it states:

Others stayed in the contest and continued to draw public funds even though, in retrospect, they no longer had a chance to win the election and to many, had ceased being viable candidates.

These examples are discussed to illustrate the point that public financing had relatively little impact on the primary campaign of the candidates for Governor last year. No significant movement took place among lesser-known candidates as a result of the infusion of public money, and most remained what they were at the outset, that is, regional candidates. The front runners were still out in front at the end. The only real impact is that the taxpayers spent \$6.3 million with little or no results.

I want to point out that in no way do I intend, by these examples, to disparage any of the candidates I have mentioned or the quality of their candidacies. We are all well aware that quality is not determined by the number of votes a candidate receives. The point I am trying to make, however, is that in a primary election, candidates should be able to show the voters the quality in their candidacy without depending on public financing. Notwithstanding the quality or lack of same in a particular candidate, it is simply unfair for our taxpayers, particularly those who are independent voters or undeclared to subsidize primary campaigns.

The third reason for my belief that public financing of primary elections has been a failure is that the public financing did not appreciably increase voter interest nor significantly hike voter turnout, nor did it bring into the race candidates who had not already been around for years and years. Kean, Kramer, the Florios, the Merlinos, the Roes, the Imperiales, are all politicians of long standing. All of these candidates had a great deal of time to develop credible candidacies in their own parties without taxpayer help. Yet, they received \$6.3 million in public monies to assist them in their campaign. I cannot help but point out that the State does not assist other classes of citizens in this way in order to minimize the effect of money in a competitive situation. Why should candidates for public office be so favored?

Fourth, public financing which gives money to primary candidates may actually contribute to the further deterioration of the political organizations in our State. Under the law, funds are given to the candidates, not to the parties. Money, public money, becomes so readily available to the individual, that he or

she simply does not have to be active in a party. This serves to produce a bizzare paradox. Independents who by choice are neither Democrats or Republicans, are forced to subsidize primary campaigns in party primaries, but this very process may actually weaken party organizations by making money rather than personal contact and party activity the paramount factor. I would like to point out that this is noted in the ELEC's conclusions and recommendations at page 15, wherein it is stated: "the principle is well established that the party's nominee and the party's organization should not be artificially separated by a public policy of public financing."

Further down in the report the Commission concludes that this separation is not only artificial, but also detrimental to the political life of the State.

I continue, fifth and lastly; I would point out that compliance and administration costs are also a factor in primary financing. Information supplied by the Commission was sketchy, but, nevertheless, such costs are another added burden to our taxpayers.

My proposal, which is A-530, would completely eliminate public financing for gubernatorial primary candidates. I have introduced this bill because I believe it is unfair to ask our taxpayers, particularly those who choose to be independents, to subsidize partisan primary campaigns. Once again, we have difficulties balancing our budget in New Jersey and new taxes are being proposed. At this very moment, we have a shortfall in State revenues. We have to begin to set priorities in State services. Transportation, toxic waste, crime, our deteriorating cities, and other critical problems demand immediate attention.

No matter how well-intentioned the concept of public financing of gubernatorial primaries is, it is simply not as important as some of the serious problems in our State which need to be addressed, and cost dollars.

Costly experiments, such as primary financing should be eliminated so that needless spending is reduced, rather than taxes increased again and again. For the reasons I have already outlined, the primary financing experiment simply has not produced the results which justifies extending and possibly with inflation in 1985, with additional expenditures of 12 or possibly even more, from the \$12 million, rather than \$6.3 in this current year.

Finally, we would be remiss if we did not address the issue of money in political campaigns. There are those who are going to say that in the absence of public financing, wealthy candidates will have unfair advantage over those who are less well to do. The recent victories of millionaires Frank Lautenberg and Millicent Fenwick in the recent Senate primaries, could be cited to support this view. But, a closer analysis suggests that this is not as accurate as it appears. For one thing, although

Mrs. Fenwick is personally wealthy, she was outspent by Jeffrey Bell who lost. The big spender, on the Democratic side, Mr. Frank Lautenberg, had other assets besides money, such as a long involvement in philanthropic circles and a successful business career. In short, he had something to sell.

Candidates with more money have an advantage. One big advantage. There is no question about it. But is public financing of primary campaigns really the best way to reduce the impact of money? I would suggest that it is not. And, in fact, it may actually increase the importance of money as a factor. By focusing solely on money as the key variable, other factors receive even less emphasis. Organization, party activity, past office holding, all become less important. No effort has really been made to counter the advantage of wealth by stress of other factors of a candidacy. Perhaps the real answer to the money problem is to encourage our citizenry to become more involved in politics, more active in the two political parties, and better informed so that money is not so important in reaching often lethargic electorate.

Once again, I would like to state that the ELEC's Conclusions and Recommendations Report acknowledges these points in concluding that the expenditure limitation in the law should be repealed. The argument that imposing limits on expenditures equalizes competing candidates, and is thus more fair, focuses only on the monetary factor in judging equity and ignores other advantages a candidate may have in a campaign, advantages that are not measured in monetary terms.

They also go on to say fairness can be measured in many ways; equity or fairness cannot be measured solely on the basis of expenditures made by the gubernatorial candidate's campaign committee.

For all of the above reasons, I feel that public primary financing should be eliminated.

I want to thank you for the opportunity to make this presentation and hope you would consider this recommendation.

Thank you very much.

ASSEMBLYWOMAN KALIK: Thank you, Mr. LaCorte.

Any of the Committee members want to question?

ASSEMBLYMAN ZIMMER: Assemblyman, this is probably the most thoughtful and comprehensive explication of your view that I've seen, and I find some of the points stronger than some of the others. The principal problem that I have is why you focus on the primary campaign. Do you support public campaign financing for general elections?

ASSEMBLYMAN LACORTE: My problem, theoretically, I could almost support primary financing. My problem is, in this day and age, that State government has to begin to set priorities. There are many, many good causes in State government, and many, many good programs. But, we have so many problems with limited

funds that we in Legislature are going to have to say, this is more important than something else. I don't believe we can have everything that we'd like to have. So, for that basis, I oppose primary financing, because that's the issue before us now. And I would say that if I had a way of financing gubernatorial campaigns against the transportation and improvement of roads, or help to our deteriorating cities, or toxic wastes, I'd have to put that as a low priority.

ASSEMBLYMAN ZIMMER: So, in other words, you're addressing the primary campaign issue now, but if you had the opportunity you'd abolish the general election campaign financing --

ASSEMBLYMAN LACORTE: Depending on where the funds are. If it's going to require more taxes and if it's going to require additional revenues in our State, then I would say. But, at this stage of the game, I'm addressing primary financing, because the thrust of my point today is that we are disenfranchising, in my mind, 45% of the registered voters who cannot participate; who cannot -- if we talk about the check-off system, and I'm not quite sure of this, but I believe the check-off system is something that is available for the general election and the primary. I don't know if there's a distinction on the check-off system.

ASSEMBLYMAN ZIMMER: Could we ask the Director of Elec on that? Does the check-off cover the primary as well as the general?

MR. WEINER: Yes, it does.

ASSEMBLYMAN LACORTE: It's the general fund, so, therefore, if I'm an independent voter or an undeclared voter as an example, better than "independent", you know, because there are actually, I know, independent voters; but I mean that undeclared, they are checking-off because they might believe and want to support a candidate, because they're going to vote in the general election in November. But, they don't belong to a Republican party, they don't belong to the Democratic party and they are checking-off the system they are putting funds in, but then they cannot vote. And, to the surprise of many people sometime, when they have a particular candidate they gain interest in, they find that when they go to the ballot box in June, that they cannot participate. And that's the reason that it's costing them dollars. And, they're not getting proper representation.

ASSEMBLYMAN BOCCHINI : Terry, wouldn't you agree, though, conversely, if somebody checked-off a dollar and they're an undeclared voter, and there is a primary, and because of the collection of candidates, the person may, at that point in time say well, I think I will vote and declare myself because I want to see this Republican or this Democratic candidate be that party's choice.

ASSEMBLYMAN LACORTE: Well, that might be for that individual. I think that the check-off game is a shell game, because we could

start checking-off transportation, we could start checking-off all the way down the line. The point of the fact is that we had the check-off this year and we're in a hole, \$6.3 million. The point is that when we run out of funds, if we got in the check-off system \$2 million, and then when a \$2 million expenditure is used, are we saying that's all the candidates are going to get in the primary or is that all the candidates are going to get in the general election? No. They get continually financed. Where does that money come from? It comes from the General Treasury. So, therefore, the check-off system has a nice round sound to it, but, in my way, it's just another way of making it more palatable.

ASSEMBLYMAN BOCCHINI: You made mention of the fact that Frank Lautenberg had more to sell, you know, that he had himself to sell as a successful businessman and, I forget exactly the way your quote ran, don't you think there would probably be -- all right,"the big spender, Frank Lautenberg had other assets besides money, such as a long involvement in philanthropic circles and a successful business career. In short, he had something to sell." Frank put in a great deal of his own money into that campaign. I could foresee, and this is a personal opinion, and I'm wondering if you can. A person with not as much financial substance as a Lautenberg, but, in part, have the same qualities; a successful business person, not in the millions, as set forth under the Lautenberg example, and philanthropic to a certain degree, who conversely could never put that type of money out. Don't you think that would hinder that type of a person who would still have something to sell? I'm not trying to completely disagree with you, I don't agree with you and there are a lot of things you're saying, you know, I can appreciate, especially the part about, you know, programs in this State that need to be taken care of. But, on the basis of where do our candidates come from and how to give the access, you know, to the public, how do you feel about that?

ASSEMBLYMAN LACORTE: The old process hasn't done so bad. The Supreme Court Justice Hughes was a pretty darn good Governor and the past Governor, although I personally sometimes disagreed I think, had his program. And, we have produced good Governors. And, Mr. Lautenberg, there are other factors that maybe we don't have to cite now, but maybe two liberals hurt each other and that might have been the reason. But, I could cite Bo Sullivan in the Republican candidacy. He had his own money, didn't choose public financing. Really, it didn't change his position. Maybe instead of coming in a little bit lower, he came in a little stronger, but the two front runners on the Republican side from day one, long before this law was enacted were Governor Kean and Pat Kramer from Paterson Mayor of Paterson. And on the other side, Bob Roe, who is a businessman, a Congressman, didn't accept public financing; and Jim Florio, and from day one, as I stated in my statement, who were the front runners and there was really no appreciable change there either. Your point is well taken though.

ASSEMBLYMAN ZIMMER: Just briefly, you cited on page 5 of your testimony the purposes expressed in the law itself as far as why the law was enacted, and there are two. One is to enable gubernatorial candidates to conduct their campaigns free from improper influence and the other is to enable persons of limited financial means to seek election, not to win, but to seek election. Could you discuss whether either of those goals are advanced by campaign financing.

ASSEMBLYMAN LACORTE: I really don't believe it has been advanced because we are a two party structure in this State and in this country, and I think that an individual has to go through that structure. I don't know if I would like to see someone who's not coming through the organization and through the two party system, who has an understanding of government, to come out of nowhere, out of left field, to take over office without a true understanding of what's going on. And, I think that's something that hurts in public financing of a primary, certainly in a primary election.

ASSEMBLYMAN ZIMMER: The improper influence, I believe, that was referred to in the statute, was the improper influence of contributors, and you've just pointed out that the people who finished first were the people who had a long record of party activity. Do you feel that the -- well, first of all, do you feel that large contributions are potentially an improper influence?

ASSEMBLYMAN LACORTE: That could be. I think maybe a better approach might be limiting the amount of dollars a candidate has to spend, period. So, therefore, this not only would apply to gubernatorial candidates, but it would apply to legislative candidates and that would really give an input on fairness because there's always the argument that we as incumbents have an advantage over someone who's trying to get in and because we have name recognition and maybe there are things available to us that aren't available to a challenger. If you eliminated the dollars, then you wouldn't have expenditures that are happening, like in Atlantic City of \$250,000 for a legislative campaign and everybody had equal spending, without primary, then it would be realistic. Then we might have to be a little bit more careful in how we spend the money.

ASSEMBLYMAN ZIMMER: The Supreme Court has ruled that you can't limit spending unless you have public campaign financing, and only as a condition to accepting it. Do you think maybe that we're buying something valuable with the public financing because we're able to limit the spending, at least by those candidates who accept it?

ASSEMBLYMAN LACORTE: Well, I think -- no, I don't agree with that.

ASSEMBLYMAN ZIMMER: Okay, thank you.

ASSEMBLYWOMAN KALIK: Thank you. Any further questions?
Thank you.

Next, I'd like to ask Barbara McConnell, former gubernatorial candidate and past New Jersey State Assemblywoman.

B A R B A R A M C C O N N E L L: Thank you. I really didn't come to testify today, and as a matter of fact, I didn't know that this hearing was being held. I just happened to stop by to see what was going on and Chairman Kalik asked me if I would say a few words, and I'm very happy to because as you know, I was a recipient of public financing. I was a candidate for Governor in the Democratic primary and I feel a responsibility to answer any of your questions or to share with you some of my thoughts and reflections on public financing. Although I don't have written testimony to submit to you, or even prepared testimony, perhaps some of the things that I have to say will be of some interest to you.

Number one, I think certainly that the concept behind public financing is a good one. As a former member of the Legislature, I supported that, and that concept is to give the largest number of people the opportunity to run if they care to and that elections in this State and this country are not just confined to those who are wealthy or financially well-connected, who necessarily come from those areas where there is strong political clout in one party or the other. So, the concept is good. However, in reality, I'm not sure that public financing works as the Legislature intended it to.

I can tell you from my own experience that perhaps I would have been the type candidate that public financing could have well benefited. I came from a long background of political and governmental involvement. You know, I had some credentials to run for political office at that level. However, because I come from an area where there was no strong political support and I was not financially well-connected, public financing really did not serve me that well or benefit my campaign that greatly.

I can tell you that I think the threshold is too low in public financing. The greatest obstacle that a candidate has to overcome under public financing is raising that first \$50,000, certainly, before they can qualify for any public financing. But, unless they can raise \$50,000, they certainly are not going to be able to raise the additional money to wage a viable campaign which is estimated at \$1.2 million in this State today. So, the first \$50,000 was very difficult for me to raise. However, I think the threshold should be raised to at least \$100,000 or \$150,000 because unless that candidate can raise that amount of money, they sure are not going to be able to raise the additional monies to put together a strong viable campaign in this State.

As to the match, the one-to-two match, how I feel about that, if you continue to keep public financing in this State, I would

not recommend that you make any changes there. But, perhaps in the cap limitation and on the threshold itself would be a good idea to take a look at if you're going to make any changes or amendments in the law.

As Mr. LaCorte pointed out, there are several factors that go into a viable campaign besides money, and certainly that's essential and that's critical in any political campaign, but there are other factors; whether or not you have some strong political support, how the press treats that particular election, the number of candidates in the field, and a lot of other factors besides money itself must be considered as to whether or not, you know, a candidate is a viable one. I'm sure that the question on this Committee's mind is did public financing cause a proliferation of candidates in the gubernatorial primary. In my opinion, it did not. I think we can go back to 1973, 1977, those gubernatorial primaries, where there was also a large number of candidates.

So, in my opinion, those candidates that ran in both the Democratic and Republican primaries, were not there because of public financing. They probably would have been there anyway. I know, in my case, I would have run anyway, whether there was public financing. So, I'm not sure that the law caused the large number of candidates that you had in that particular primary.

I think, perhaps, if you have questions, maybe I could be more helpful in answering your questions than continuing to reflect on some of my thoughts without having organized any written testimony.

ASSEMBLYWOMAN KALIK: Thank you.

ASSEMBLYMAN ZANGARI: Barbara, having seen the results of the amount of dollars that you received and the cost per vote that you got, would you feel safe to say that if you were to run again for the same position that money would be forthcoming much easier based on the total vote that you had received for the money that you spent?

MS. MCCONNELL: Perhaps. Mr. LaCorte pointed out that certainly I got more bang for the buck than some of the candidates there. My votes per vote was like \$6 a vote where some other, perhaps better known, candidates, you know, the cost per vote ran from \$14 to \$18 per vote. So, from that point of view, perhaps, public financing was helpful to a candidate like me. Could I do better if I ran again? Would money be forthcoming? Perhaps, simply because I've been around the track once, I think there's greater name recognition and I've had some exposure and learned a lot of lessons. Perhaps that's true. But, I think people give money, whether it's groups, organizations, political parties, what have you. They give money to candidates that they perceive are winners. And, it's sort of a Catch-22 situation. Unless you have money, you aren't perceived to be

a winner. And, if you're perceived to be a winner, then the money is forthcoming. So, it's really a Catch-22 situation. I know that when I started out there was a great deal of speculation that perhaps I'd be the only woman running in the primary and therefore, that would set me apart and that would be unique. So, people -- I was receiving contributions, I think, with that kind of thought in mind. Once other women got into the race, then it was perceived by the press, perceived by the public and a lot of groups and organizations that well, Barbara McConnell is not going to be able to pull this off and so money dried up.

So, a lot of it is perception as to whether or not you're a viable candidate and whether or not you're going to win. That's reality.

ASSEMBLYMAN ZIMMER: Barbara, as you probably know, there's probably nobody happier than I was to see you as a gubernatorial candidate and what I'd like to know is whether you think that there's a critical mass that can be measured in dollars for a marginal candidacy. That is, if you had raised a certain number of dollars, say \$300,000, would you have been able to have gotten off the runway and made enough of an impact so that the money would have started coming in and sustaining the campaign.

MS. MCCONNELL: Yes.

ASSEMBLYMAN ZIMMER: There's been a proposal made that we match at a higher rate for the first -- once the threshold has been reached in order to reach whatever that critical mass is. Can you estimate a range --

MS. MCCONNELL: Yes, I think it's a reasonable argument. The reason I said to you that I think the threshold should be raised, because I think that gives you an initial indication as to whether or not that candidate is going to have the capabilities of raising additional monies in waging a viable campaign.

After they've raised \$150,000, assuming that's the threshold, then maybe it is a good idea to consider maybe raising then the match because there is a point where money becomes terribly important, especially in a large field of candidates. Television becomes important today in political campaigns and that candidate who cannot put the money together to get on television is simply lost, I think, in this State in a large field of candidates.

But, to answer your question more specifically, if I had been able to raise \$150,000 and there was a greater match would the money have been more forthcoming, yes. I think so. There are an awful lot of people in this State, contributors who gauge the success of a candidate by how many dollars they've raised. So then it becomes a "success follows success" kind of thing.

ASSEMBLYMAN ZIMMER: Success follows success because you've shown that you can raise the money. What I was thinking of was the impact of actually spending the money to create a political impact so that you move in the polls, so that people start to

consider you as someone moving out from the pack.

MS. MCCONNELL: Well, there are limitations as to how you can spend public money as you well know, Dick, and it's supposed to be used for communications for media for informing the voter, and that can be done through radio, television, newspapers, brochures, that kind of informative or media type campaign. Yes. And the more you have, the more you're able to do this, and to promote your campaign and get your name well-known.

ASSEMBLYMAN ZIMMER: Could you just give me a ballpark figure what you think it would take to distinguish the candidate back in the pack from one who is --

MS. MCCONNELL: A minimum.

ASSEMBLYMAN ZIMMER: Yeah, like -- 300, 400 thousand --

MS. MCCONNELL: I would say \$350,000.

ASSEMBLYWOMAN KALIK: I happen to agree with you, Barbara. And that's exactly why I think the limit ought to be raised \$250,000 and matched from dollar one, because once you raise the \$150,000, you get the \$150,000, you've got your \$300,000, and you can move onward. Without that, you are really not a viable candidate. The Elec has said that you should not get the money in less than \$25,000 aggregate at a time, because of the bookkeeping involved and I agree with that too. Once you've got your \$300,000 and you're on your way, the money starts coming in and you can then apply for it in \$25,000 sums. And that gives you the money to spend on the TV, because without it, you again are not a viable candidate.

MS. MCCONNELL: I think that's, perhaps, a good idea too because the bookkeeping under the public financing law is a tremendous burden on a political campaign as well as the State. And while I probably could speak to that question from two different points of view, as a candidate in my particular situation, I was eager just to get \$2,000 because there was always something out there that I needed the \$2,000 for to buy another, you know, ad in the newspaper, what have you. But, from a very practical sense, I think you're absolutely right. And Elec is right.

ASSEMBLYWOMAN KALIK: And from a practical sense, if you couldn't get the \$2,000 that might have dried up the campaign then and there.

MS. MCCONNELL: That's right. There's something else that I might throw out and I don't know that there's anything that we can do about it, but if there's -- those candidates who run and don't accept public financing, in some ways put those of us who did or will in the future, at a disadvantage. There's always this argument and the public is always -- they're going to have differences of opinion as to whether or not they support public financing or not so then it becomes a political issue.

In addition, there were some candidates in that primary who never raised \$500. And yet, their name was always listed

among those candidates that were running, they were invited to all the debates, that kind of thing, so, it became a situation of where just the numbers itself confused the public and put the press to sleep, quite frankly. I don't know what can be done about that; whether or not anybody that runs has to accept public financing or whether that's even constitutional, legal, or what have you. But, it seems that we all ought to be playing by the same rules.

ASSEMBLYWOMAN KALIK: Except that without public financing in the Senatorial primary, we had almost as many candidates, so I'm not so sure that that was truly a result of public financing.

MS. MCCONNELL: No, no. I didn't mean to imply that. I'm saying that the larger number of candidates you have, the more the confused the public has, and the press doesn't cover the race quite as extensively as they would, perhaps, otherwise. And there are those candidates who run who are not accepting public financing because they don't need it or there are those who just jump in to put their name in the pot.

ASSEMBLYWOMAN KALIK: Well, I think that's going to happen with or without public financing, and I'm not sure we confuse the public as much as give the public a choice. They may not be very wide or broad based candidates, nonetheless, there are people who do agree with that philosophy and they're entitled to a candidate.

MS. MCCONNELL: Maybe so. Right. You can't deny anybody the opportunity to run if they can get their petition.

ASSEMBLYWOMAN KALIK: That's what makes this great country great.

MS. MCCONNELL: Exactly. But it was a thought in something that occurred to me during that time.

ASSEMBLYWOMAN KALIK: Anything else?

Barbara, I thank you very much for giving us the benefit of your experience.

MS. MCCONNELL: You're welcome. Well, I hope I was helpful in some way, Barbara.

ASSEMBLYWOMAN KALIK: Thanks a lot.

Senator Barry Parker or anyone speaking on his behalf?

Jo-Ann Oser, from Common Cause. We will be breaking very shortly. There is, I think, only one more speaker.

J O - A N N O S E R: Good morning. My name is Jo-Ann Oser and I am the Executive Director of New Jersey Common Cause. I would like to thank the members of this Committee for holding this public hearing and for giving Common Cause the opportunity to participate. I would also like to commend the Election Law Enforcement Commission and their staff for preparing and providing us with copies of their recent Conclusions and Recommendations based on New Jersey's 1981 gubernatorial elections. We are hopeful that the data and information contained in these reports will be used as a starting point for any proposed changes in New Jersey's public financing laws.

In any discussion of public financing, the first question which needs to be answered is should public financing be preserved and continued. Clearly, not everyone thinks that it is a good idea or worth the cost. Common Cause does not share this view. We believe that the concept is fundamentally sound. We thought so in 1974 when we worked for public financing of the gubernatorial election. We thought so in 1980 and 1981 when we urged extension of the concept to the gubernatorial primary. We believe that the experience in the 1981 primary and the 1977 and '81 general elections justify our belief that it is a reform that contributes to and enhances the democratic process.

The New Jersey public financing law was originally enacted to limit the growing political influence of special interest contributions and to stimulate competition by permitting candidates of limited financial means to seek the governorship. As you will remember, the 1977 gubernatorial general election was the first successfully financed by small contribution and public funds. In 1981, the Legislature and Governor decided to close a major loophole in the law by extending public financing to candidates in the gubernatorial primary; and as a result, no primary candidate this year could receive more than \$800 from any individual contributor. One can easily see the improvement by comparing this past year's experience with the 1977 primary, where former Governor Byrne received 39% of his campaign chest from contributions in excess of \$600 and nearly 30 of those such contributions ranged from \$5,000 to \$40,000 apiece. The New Jersey law has also effectively stimulated competition in gubernatorial elections. First, the law helped assure a wide field of well-financed candidates from which New Jersey voters could choose on election day. Second, the advantage enjoyed by wealthy or well-heeled candidates in the past has been largely eliminated. In 1977 and 1981 the candidates spent approximately the same amount in the publicly-financed general election. You will remember that in 1973, Byrne had outspent his general election opponent by a margin of more than two to one.

Before this Committee or the Legislature as a whole begins to amend the current law, we think that it is very important that a policy determination be made as to what, if any, are the new and desired goals of public financing. The Election Law Enforcement Commission has suggested that the Legislature look at two new additional goals -- the conservation of public funds and the ability to screen candidates who receive such funds. In these days of tight fiscal policy, we agree with the need to conserve State tax dollars. However, we think that a very delicate balance must be reached between encouraging competition among candidates and then preventing them from continuing to receive public funds.

We also think that it is most important for this Committee to look at all of the component parts of the public financing law. This law should not be amended in a piecemeal fashion.

It is not enough to simply raise or lower one or two of the thresholds. The Election Law Enforcement Commission's report clearly demonstrates how all thresholds are related to each other and how they implement a specific goal of the State's public policy

Of the many issues that could be discussed, four seem to be the most central; the qualifying threshold, the contribution limit, the matching ratio, and the expenditure limit. I shall discuss them in that order.

The qualifying threshold is important because it determines who shall be eligible for public funds. It should be high enough to keep out marginal, non-viable candidates, but also not so high to pose an unsurmountable barrier for a potentially viable candidate who might have difficulty raising start-up funds. Examining the Election Law Enforcement Commission's data, it seems clear that the \$50,000 limit was probably too low. In the past election, all of the serious contenders were able to raise \$100,000 or more. We were of the opinion that the \$150,000 threshold as suggested by former Governor Byrne was too high, and we still feel that way.

One of the issues clearly related to the threshold question is that of candidates who meet the threshold, qualify for public funds, and whose campaigns then run out of steam. Many people feel that a number of candidates stayed in the race longer than they should have and kept on asking for matching funds in dribs and drabs. We believe that the suggestion of the rolling threshold has a great deal of merit. Under this plan, candidates would be able to request additional public funds in increments of a specified amount of perhaps either \$25,000 or \$50,000. If at any point in their campaign they couldn't raise that additional sum, they could stay in the race, but they would not be eligible for additional public funds. Such a requirement would save the taxpayers a substantial sum and tend to narrow the field rather quickly.

Closely related to the threshold is the maximum contribution candidates may accept in order to meet the threshold. We favor the retention of the \$800 contribution limit, adjusted for inflation. According to the Election Law Enforcement Commission, if we assume a 10% rate of inflation, the contribution limit would increase to \$1200 by 1985. If we assume a 15% rate of inflation, it would go to \$1400. We believe that the contribution limit should be indexed in some manner so that it can be adjusted upward, or even downward, as necessary, without requiring legislative action every four years.

The third central issue has to do with the matching formula. In 1977 and '81, public funds were matched at a ratio of two to one. Some feel that this ratio is too generous and that it guarantees that a majority of all funds available to a candidate would be State funds. Common Cause has weighed this against the argument that the two-to-one match tends to aid a candidate early on in the campaign. It provides a source of seed money

to the lesser known candidate. We would recommend a compromise position whereby a candidate would receive matching funds at a ratio of two to one on perhaps the first \$150,000 or \$200,000 and after that, the ratio drops to a match of one to one as the Election Law Enforcement Commission has suggested.

The last issue I want to address is the cap on campaign expenditures. Governor Byrne insisted on a cap as a way of preventing excessive campaign expenditures. Critics of the cap, and this includes the Election Law Enforcement Commission feel that it should be eliminated because it has nothing to do with the purpose of public financing, which is to reduce the potential for undue influence by contributors of large sums of money. The Election Law Enforcement Commission pointed out that there are already a number of factors built into the process which serve to limit the expenditures. These include a limit on contributions, loans and the use of the candidate's own personal funds. Moreover, there is a ceiling on the amount of public funds available. These, the Commission says, make a ceiling on expenditures unnecessary and undesirable. Critics of the limit also point out that it poses horrendous recordkeeping problems and it divorces the gubernatorial campaign from the campaigns of candidates for the Legislature and local races.

We can sympathize with the Commission and with the candidates for wanting to get rid of the recordkeeping headaches that this requirement imposes, but we are not persuaded that these are sufficient reasons for abandoning the cap. Without the cap, campaign costs will go higher and higher, and more and more candidates may decide to forgo public financing in order to be able to match the spending of their opponents. We also feel that a total limit on spending tends to serve as an equalizer between the various candidates. Finally, it becomes very hard to justify the use of public funds, if a candidate has a free hand in spending as much money as he or she can raise. It is for these reasons that we recommend that the total limit on expenditures not be lifted.

I want to close by commending everyone who contributed to the success of public financing. It was an experiment undertaken on faith, and with much trepidation. We feel it has proved itself and has gained widespread acceptance, even among people who were initially skeptical. The question before is not whether to consider public financing, but how to make it work better, and perhaps, how the same concept could be applied at some point in the future to the legislative arena as well.

Thank you.

ASSEMBLYWOMAN KALIK: Thank you. Do you have any questions. Jim? Dick?

ASSEMBLYMAN ZIMMER: Just an observation. I was slightly surprised to hear that Common Cause is in favor of retaining the

total spending cap. This is a switch from a former position.

MS. CSER: It is. And it was one that has been debated at length. People really felt that with the huge sums of money that can be spent on elections, that keeping the cost down was a consideration and probably the strongest consideration.

ASSEMBLYWOMAN KALIK: Thank you. I have no questions.

Mr. Upmeyer.

N E I L U P M E Y E R: Thank you Madame Chairman. As the nation observed the 10th anniversary of the break-in at Watergate last week, much was said about the consequences of reforms enacted to prevent a recurrence of the abuses disclosed during that embarrassing chapter of our political history. It is appropriate that we examine again and again the effect of such reforms to ensure that they are accomplishing what their authors intended. You are to be complimented, therefore, Madame Chairman for calling this hearing to review possible changes in our system for publicly financing New Jersey's gubernatorial campaigns.

Over the last decade, New Jersey has been at the forefront of the campaign finance reform movement. Within a year of the revelation that the Watergate burglary had been financed with campaign funds, public demand for controls on the way we raise and spend money for campaigns rippled across the country like a shock wave of reaction to the earthquake in Washington. In New Jersey, a strong campaign finance disclosure law was passed and an independent commission was established to administer that law. In 1974, the Legislature enacted the nation's first public financing program for a gubernatorial campaign. That program is one in which New Jerseyans can take pride. It serves as a model for other states considering similar legislation and is far superior to the public financing system used in presidential elections. But, it is not perfect, and that, of course, is why we are here today.

As you consider changing the law, I hope that you will heed the admonishment of the Election Law Enforcement Commission in its excellent evaluation of the public financing program, that the core elements of the system are inextricably related. The reform movement which grew out of the Watergate debacle showed us that we can prevent the recurrence of past abuses, but it has also taught us that we need to be careful to avoid the unintended consequences of reforms. If you change the matching formula, the contribution limit, and the qualification threshold, you may answer the public concern about using tax dollars to support less than viable candidacies, but, you may also make running for Governor solely a rich man's game, ignoring the Legislature's intent that public financing enable persons of limited financial means to seek election to the State's highest office. I believe you can address the concern about the viability of candidates who qualify for public funds and preserve the original program goals.

As you know, the Commission has recommended five major changes in the law. For the most part, I agree with what has been recommended, and I commend the Commission for the effort that they have put into their review of the options for change. I agree with them that it is possible to raise the contribution limit to as much as \$1200 without reintroducing the improper influence of large contributions, but, my guess is that by raising the limit, you would end up with a higher average amount contributed to the gubernatorial campaigns, since candidates will naturally want to maximize their fund raising by producing the largest return from the smallest number of contributors. Since I prefer incentives which will lead candidates to broaden their base of support, I would rather that the current \$800 limit be retained or if raised, then to no more than \$1,000.

I agree with the recommendation to raise the qualification threshold to \$100,000 and to impose a series of subsequent thresholds. There was probably more criticism last year over the fact that candidates with floundering campaigns continued to receive public financing than over the large number of candidates who qualified initially. The multiple threshold concept addresses this problem without unduly restricting potentially viable candidates.

There is a precedent for establishing multiple qualification requirements as a means of winnowing the field of candidates who are eligible to receive funding. In presidential campaigns, candidates who receive less than 10% of the vote in two consecutive primaries, lose their eligibility for public financing. Since we do not have multiple elections to use as a test of viability, it seems to me that measuring the candidate's fund raising ability is a good substitute. This test is easily administered since candidates are permitted to apply for additional funds only if the next \$25,000 threshold of contributions has been met.

I agree with the Commission's conclusion that the threshold of \$150,000 is too high. It would certainly make it more difficult to get a campaign off the ground and might doom last minute candidacies, both of which are effects that we could live to regret.

I favor reducing the 2-for-1 match to 1-for-1 as the Commission has recommended, but I propose doing so only after the candidate has raised the first \$200,000 from private sources. It is extremely important that we preserve the program goal of enabling candidates of limited financial means to run for Governor by providing adequate funding. In its wisdom, the Legislature established the 2-for-1 match to ensure adequate funding for qualified candidates. All candidates would agree, I'm sure, that this support is particularly critical in the early stages of the campaign. Seed money is used to generate support

for a candidacy, to build name recognition, and to raise additional funds. For less well-known candidates or for candidates running against an incumbent, it is essential to start these activities early. It is one of the most attractive features of the public financing program that adequate support is provided at this stage. If it is necessary to reduce the amount of available public funding, then I urge you to do so without withdrawing the early support provided through the two-for-one match. The problem with the scheme proposed by the Commission, is that it would provide the bulk of the public funding later rather than earlier in the campaign. The alternative I have proposed would reduce the total public contribution in comparison to the current law, as does the Commission proposal, but it would ensure adequate funding when it is needed most.

I agree completely with the Commission's fourth recommendation that the public fund contribution should be limited to \$500,000 per candidate in the primary and \$1,000,000 in the general election.

Finally, I support the Commission's recommendation for the repeal of the expenditure limit. As you know, the Legislature did repeal the limit two years ago, but then reinstated it to avoid a gubernatorial veto over the issue. The reasons for the repeal of the limit are as valid today as they were two years ago. It is unnecessary and it discriminates unfairly against challengers or less well-known candidates. In the past two gubernatorial general elections, the four publicly financed candidates have been able to raise sufficient amounts privately to spend up to the limit when public and private funds available to them were combined. In fact, large amounts raised by candidates Byrne and Bateman in 1977, which could not be spent in the general election, were used to help satisfy their primary debts. Thanks to the fact that public financing has since been extended to cover the primary campaigns, 1981 candidates Florio and Kean had no primary debts as they entered the general election campaign. Because of the spending limit they had to return \$150,000 and \$70,000, respectively, in contributions that they were not permitted to spend. Imagine the possible outcome of the closest election in New Jersey history if Jim Florio had been able to spend that \$80,000 advantage in excess contributions.

In an interview following the 1977 election, Ray Bateman disclosed that his campaign had ceased fund raising in September because they knew they could not spend all they would raise. Bateman called public financing an incumbent's protection law which creates a hardship that few non-incumbents can survive. The hardship to which he referred was the spending limit.

A spending limit which can be easily reached by opposing candidates tends to benefit the candidate with greater name recognition. This year's Senate race in New Jersey is an excellent illustration of the problem. A week ago the Star-Ledger endorsed

Millicent Fenwick's call for a self-imposed limit on spending in her race against Frank Lautenberg. Fortunately, the paper's political reporter understands politics better than its editorial writers. Elsewhere in the same edition of that paper, David Wald wrote that Lautenberg faces an uphill battle and will have to overcome Fenwick's greater name recognition before he can make any impact on the voters in the campaign he hopes will revolve around issues rather than Fenwick's strong personable image. Wald went on to note that Lautenberg will not commit to a spending limit against Fenwick or a limit on how much of his own money he will contribute to the campaign. He cannot afford to. If he expects to have any chance of catching Fenwick, he will have to outspend her. I agree with Wald's assessment. It would be a foolish mistake for Lautenberg to permit himself to be trapped by such a limit.

It is often necessary for less well-known candidates or challengers of incumbents to outspend their opponents if they are to overcome the advantages possessed by the opposition. Over the last ten years eight incumbent congressmen from New Jersey have been defeated, and seven of the eight successful challengers outspent their opponents. Only in the 4th District race two years ago was the incumbent, Frank Thompson, defeated by a challenger who spent less, and it could be argued that there were extenuating circumstances in that instance. Of the five open seat races over the past ten years, the winners outspent the losers each time. In the 1978 Senate primary, Jeff Bell outspent Clifford Case two to one on his way to victory, and then was outspent by a victorious Bill Bradley in the general election.

I do not mean to imply by citing these particular races that spending always provides the margin of victory. As you can see from the examples listed, it is but one element of an often complex set of ingredients which combine to produce a victory. Yet, it is interesting to speculate about the outcome of some of these races had the margin of spending advantage been reversed.

Given the choice of an artificial limit imposed by the government, or a natural limit determined by the candidate's ability to generate financial support, I urge you to opt for the latter.

Again, Madame Chairman, I commend you for providing a forum for the reexamination of this important reform, and I thank you for giving me the opportunity to present my views on the subject.

ASSEMBLYWOMAN KALIK: Any questions?

ASSEMBLYMAN FRANKS: I have one question. Your approach is to have the two-for-one matching ratio at the beginning in order to cause people who otherwise would be viable to make certain that they can make the race. It's capital intensive

at the beginning of the process, and we ought to make certain that enough cash is available for them, so we ought to retain the two to one ratio at the beginning and then move it to a one to one. Mrs. Kalik's bill calls for \$150,000 threshold, but it calls for a match back to the first dollar; so, once attaining the 150, you'd match it with 150. Does that satisfy the policy goal you're looking to achieve?

MR. UPMEYER: Well, it might. There are lots of differences as you've noticed in all of this testimony today. There are lots of different mixes that could accomplish the same thing. I was just concerned by what the Commission's report -- the implication left by the Commission's report, and I'm hopeful that when you all deal with it, you will make sure that you protect that aspect of it, the front-end aspect.

ASSEMBLYMAN FRANKS: But, it's not sacrosanct to do it in any one particular way.

MR. UPMEYER: Absolutely not, no.

ASSEMBLYWOMAN KALIK: As a matter of fact, and I've discussed this with Scott, the proposal that the Commission made would, in fact, give candidates in 1985 the same dollar that they had in 1981, spendable dollar. I think in a four year period of time, we must consider inflation as a very realistic thing and deal with that. And, my proposal would give them just a little bit of an edge on that, I think it was a \$750 edge or something like that.

Anything else? Jim?

Anybody else wishing to testify before the Committee?

I thank you very much, and I close the public portion.

(HEARING CONCLUDED)

June 24, 1982

Statement by S.M. Terry LaCorte- R- 34th District

RE: A-530 Elimination of Primary Finances

Ladies and Gentlemen

I am speaking to you today in support of Assembly Bill A 530 which I have introduced in the General Assembly of the State of New Jersey. This bill would amend the New Jersey Campaign Contributions and Expenditures Reporting Act to eliminate public financing of gubernatorial primary elections in New Jersey.

I would like to first state that my bill applies only to public financing of the gubernatorial primary and not the general election. This is a critical distinction because there is a major difference between a general election and a primary and this is crucial to a real understanding of the purpose of the bill.

Essentially my proposal would eliminate public financing of primary elections because it is an experiment that has failed. Moreover and more importantly, however, public financing of primary campaigns is unfair to independent voters since it forces them to subsidize the campaigns of partisan candidates in party primaries. I take note that out of approximately 3,611,398 registered voters in New Jersey, 1,604,051 have no party affiliation. These voters along with 1,895 registered independents are forced to pay for the cost of primary campaigns for candidates who are in many cases not credible even in their own party's primary election. *45% of Registered voters are independents*

Public financing of gubernatorial primary campaigns forces the independent or undeclared voters of our State to fund the campaigns of candidates in the two major parties. By law many of these independent and undeclared voters cannot participate in a primary election, but yet are forced to contribute their tax dollars to primary campaigns. These primary elections are not open to all the voters and yet all of our taxpayers must contribute to such campaigns. These citizens are, in effect, contributing to political parties without choosing to do so.

Why do I say the experiment has failed?

First, the citizens of our State spent over \$6.3 million dollars subsidizing the campaigns of 16 candidates in both the Democratic and Republican primaries for Governor in 1981. Figures supplied to our office by the Election Law Enforcement Commission (ELEC) show that the following amounts were spent by the taxpayers of our State on the following Democratic and Republican candidates:

DEMOCRATS

1981

Degnan	\$ 599,975.80
Dodd	327,543.77
Florio	599,975.80
Gibson	393,879.00
Hamilton	309,678.76
Klein	52,763.74
Lan	249,919.69
McConnell	95,916.72
Merlino	599,975.80
Smith	<u>599,949.90</u>
DEMOCRATIC TOTAL	\$3,829,578.98

REPUBLICANS

Kean	\$ 599,975.80
Kramer	599,975.80
McGlynn	233,916.74
Parker	306,042.00
Rafferty	246,575.22
Wallwork	<u>557,594.74</u>
REPUBLICAN TOTAL	\$2,544,080.30

1981 GUBERNATORIAL PRIMARY VOTEDEMOCRATS1981

Buhler	4,266
Degnan	65,844
Dodd	23,866
Florio	164,179
Gibson	95,212
Hamilton	17,395
Klein	14,884
Lan	
Mann	2,375
McConnel	16,123
Merlino	70,910
Monyek	21,129
Roe	98,660
Smith	57,479

REPUBLICANS

Kean	122,512
Kramer	83,565
Imperiale	18,452
McGlynn	5,486
Parker	26,040
Rafferty	12,837
Sullivan	67,651
Wallwork	61,816

Particularly in these difficult economic times, \$6.3 million is a great deal of money for our citizens to have to pitch in to "help" primary candidates, many of whose campaigns were already well-heeled.

The Election Law Enforcement Commission has itself recognized this criticism in its Report of Conclusions and Recommendations at Page 13 where it states:

If there was any consistent negative criticism of the public financing program for the 1981 primary, it was that it cost the taxpayers too much money and that too many candidates qualified and continued to receive public funds.

The second reason why I believe public financing of primaries has failed is it has not effectively advanced the goals it sought to foster. The Public financing law was enacted in 1974 to enable gubernatorial candidates to conduct their campaigns free from improper influence and to enable persons of limited financial means to seek election to the State's highest office. Public funding for primaries was added to the law for the 1981 election. The question is whether primary public financing advances these goals. There is a great deal of evidence which shows that it does not. I take note of the following:

1. Public financing of gubernatorial primary candidacies did not change the races at all. The front runners among the

Democrats were Congressmen James Florio and Robert A. Roe and these two men finished 1 and 2. The front running Republicans were Governor Tom Kean, and Mayor Lawrence "Pat" Kramer and once again these two men placed first and second.

2. When one starts to look at the amounts of money spent by certain candidates and how few votes these candidates received in spite of being subsidized by ~~the~~ the taxpayers, the result is, indeed, startling. In the Republican primary, for example, Richard McGlynn received \$233,916.74 from the citizens of our State for use in his campaign and yet received only 5,486 votes. That comes down to approximately \$43.00 of public money spent for each vote he received, not a very good return on your investment.

Another example is the campaign of Mayor John Rafferty of Hamilton Township in the Republican primary who received \$246,575.22 in public funds and yet received only 12,837 votes ^{\$19 per vote} on Election Day. In the Democratic primary, the campaigns of Barbara McConnell, William Hamilton, and Frank Dodd provide good illustrations of the same point:

a. Ms McConnell took in \$95,916.72 in public funds and got only 16,123 votes. ^{\$6 per vote}

b. Mr. Hamilton received a whopping \$309,678.76 from the public treasury and yet received only 17,395 votes. ^{\$18 per vote}

c. Frank Dodd was given \$327,543.77 in public funds and yet he got only 23,866 votes on Election Day. \$14 per vote

Perhaps the most glaring example of all, however, is the candidacy of former Secretary of State, Donald Lan. Mr. Lan received \$249,919.69 in public funds for his campaign which he aborted, throwing his support to Congressman Florio. He withdrew and was not even a factor on the ballot on primary day. Yet the taxpayers shelled out almost \$250,000.00 for his short-lived campaign. One wonders how his strategy may have differed if he had to finance his campaign of his own devices without "help".

Once again I quote from the ELEC's Report at Page 29 where referring to the primary candidates for Governor, it states:

Others stayed in the contest and continued to draw public funds, even though, in retrospect, they no longer had a chance to win the election and to many, had ceased being "viable" candidates.

These examples are discussed to illustrate the point that public financing had relatively little impact on the primary campaigns of the candidates for Governor last year. No significant movement took place among lesser-known candidates as a result of the infusion of public money; most remained what they were at the outset, that is, regional candidates. The front runners

were still out front at the end. The only real impact is that the taxpayers spent over \$6.3 million with little or no result.

I want to point out that in no way do I intend by these examples to disparage any of the candidates I have mentioned or the quality of their candidacies. We are all well aware that quality is not determined by the number of votes a candidate receives. The point I am trying to make, however, is that in a primary election candidates should be able to show the voters the qualities in their candidacies without depending on public financing. Notwithstanding the quality or lack of same in a particular candidate, it is simply unfair for our taxpayers, particularly those who are independent voters or undeclared to subsidize primary campaigns.

The third reason for my belief that public financing of primary elections has been a failure is that public financing did not appreciably increase voter interest nor significantly hike voter turnout nor did it bring into the races candidates who had not already been around for years and years. Kean, Kramer, Florio, Merlino, Degnan, Dodd, Lan, Smith, McGlynn, Parker, Rafferty, Wallwork, Gibson, Klein, McConnell, Roe and Imperiale are politicians of long standing. All of these candidates had a great deal of time to develop credible candidacies in their own parties without taxpayer help. Yet

they received \$6.3 million in public money to assist them in their campaigns. I cannot help but point out that the State' does not assist any other class of citizens in this way in order to minimize the effects of money in competitive situations. Why should candidates for public office be so favored?

Fourth, public financing which gives money to primary candidates may actually contribute to further deterioration of political organizations in our State. Under the law, funds are given to candidates, not parties. Money, public money, becomes so readily available to an individual that he or she simply does not have to be active in a party. This serves to produce a bizarre paradox: Independents who by choice are neither Democratic or Republican are forced to subsidize primary campaigns in ~~party~~ party primaries but this very process may actually weaken party organizations by making money rather than personal contact and party activity the paramount factor. I would like to point out that this is noted in the ELEC's Conclusions and Recommendations at Page 15 wherein it is stated:

...the principle is well established that the party's nominee and the party organization should not be artificially separated by a public policy of public financing.

Further down the Report states:

The Commission concludes that this separation is not only artificial but also detrimental to the political life of the State.

Fifth, and lastly, I would point out that compliance ^{and Administration} costs are also a factor in primary financing. Information supplied by the Commission was sketchy but, nevertheless, such costs are another added burden to our taxpayers.

My proposal, A 530, would completely eliminate public financing for gubernatorial primary candidates. I have introduced this bill because I believe it is unfair to ask our taxpayers, particularly those who choose to be independents, to subsidize partisan primary campaigns. Once again we are having difficulties balancing our budget in New Jersey and new taxes are being proposed. At this very moment we have a shortfall in State revenue. We have to begin to set priorities in State services. Transportation, toxic waste, crime, our deteriorating cities, and other critical problems demand immediate attention. [REDACTED]

[REDACTED] No matter how well-intentioned the concept of public financing of gubernatorial primaries is, it simply is not as important as some of the serious problems in our State which need to be addressed.

Perhaps costly experiments such as primary financing should be eliminated so that needless spending is reduced, rather than taxes increased again and again. For the reasons I have already outlined the primary financing experiment simply has not produced results which justify spending another \$6.3 million or perhaps with inflation, \$12 or \$20 million three years from now in 1985.

Finally we would be remiss if we did not address the issue of money in political campaigns. There are those who are going to say that in the absence of public financing, wealthy candidates will have unfair advantages over those who are less well-to-do. The recent victories of millionaires Frank Lautenberg and Millicent Fenwick in the recent Senate primaries could be cited to support this view. But a closer analysis suggests that this is not as accurate as it appears. For one thing, although Mrs. Fenwick is personally wealthy, she was outspent by Jeffrey Bell who lost. The big spender, Frank Lautenberg, had other assets besides money such as a long involvement in philanthropic circles and a successful business career; in short, he had something to sell.

Candidates with more money have an advantage, one big advantage. There is no question about it. But is public financing of primary campaigns really the best way to reduce the impact of money. I would suggest that it is not, and, in fact, it may actually increase the importance of money as a

factor. By focusing solely at money as the key variable, other factors receive even less emphasis. Organization, party activity, past office holding, all become less important. No effort has really been made to counter the advantage of wealth by stressing other facets of a candidacy. Perhaps the real answer to the money problem is to encourage our citizenry to become more involved in politics, more active in the two political parties, and better informed so that money is not so important in reaching an often lethargic electorate.

Once again I would like to state that the ELEC's Conclusions and Recommendations Report acknowledges these points in concluding that the expenditure limitation in the law should be repealed. The report states at Page 16:

The argument that imposing limits on expenditures equalizes competing candidates and is thus more fair focuses only on the monetary factor in judging equity and ignores other advantages a candidate may have in a campaign, advantages that are not measured in monetary terms.

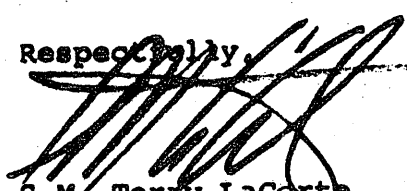
The Commission Report also points out that:

Fairness can be measured in many ways... equity or fairness cannot be measured solely on the basis of expenditures made by the gubernatorial candidate's campaign committee.

For all of the above reasons I feel that public primary financing should be eliminated.

Thanking you for the opportunity to submit this statement of my views, I am,

Respectfully,



S.M. Terry LaCorte
Assemblyman, 34th District

