Presidential Public Financing:

Repairing the System

Conference Report

Senate Hart Building

December 9, 2005

CO-HOSTED BY:

THE CAMPAIGN LEGAL CENTER

Democracy21.org

Fred Wertheimer, *President*

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Foreword

This report is based on the December 9, 2005 conference, *Presidential Public Financing: Repairing the System*. The conference highlighted the importance of the presidential public financing system, defined some of the current problems public financing faces, and offered guidance on how to begin addressing these problems. During the conference we were struck by the consensus among the participating groups and individuals on what needs to be changed with the presidential public financing system to make it viable again. We were also encouraged by the general agreement that these are simple, straightforward changes, not nearly as complicated or arcane as many other legislative matters.

We believe it is now more important than ever to maintain systems that are meant to increase public involvement in campaigns, protect the integrity of our democracy, and guard against the appearance of corruption in our presidential campaigns. Created in the wake of the Watergate scandal, the presidential public financing system reduces the enormous fundraising burden on candidates, discourages massive fundraising, and enables candidates who are not independently wealthy to participate effectively in the process. The system also encourages healthy competition in presidential campaigns, and provides incentives for candidates to focus on small donors rather than big money interests. These characteristics of the system open the presidential election process up in way that promotes a healthy democracy.

The goals and objectives of the presidential public financing system remain worthwhile and the system itself is a valuable asset to our democracy. But the system is like any other 30 year old piece of machinery: it needs attention and maintenance in order to continue running well. In the case of publicly-financed presidential elections, the system is outdated and now needs more of an overhaul than a simple tune-up.

We hope this report and our ongoing efforts will help create renewed interest in the presidential public funding program by both highlighting the need to fix the system and prescribing how the system can be fixed. We intend to work in the months ahead to build momentum for these critically important and much needed reforms. Congress should consider these reforms sufficiently important that it will fix the system in time for the 2008 presidential election. There is still enough time to accomplish this if it undertakes action now. In the long term, it is essential to preserve and enhance this system that has served the country so well for most of its existence.

We hope you find the report meaningful and informative.

Sincerely,

Trevor Potter
President
Campaign Legal Center

Fred Wertheimer
President
Democracy 21

Executive Summary

The presidential public financing system has served the country well for more than 30 years; but because of changes in how presidential campaigns are run, the system no longer meets the needs of candidates. Reforming the system is in the best interest of candidates, both parties, and more importantly, the American people. On December 9, 2005, the Campaign Legal Center and Democracy 21 co-hosted a conference to address the problems facing the nation's system of financing presidential elections.

The conference, held in the Senate Hart Building, consisted of three panels made up of Federal Election Commissioners, scholars, public interest and business leaders, and policy and public opinion experts. Despite the panelists' diverse backgrounds and often conflicting opinions on other issues, ***there was a strong consensus among the participants regarding both the importance of the public financing system and the relatively simple steps necessary to fix it.***

The presentations began with a discussion of the history of the public financing system. Over the last 30 years, the system has been remarkably successful in its original purposes of limiting the influence of large contributions, increasing the opportunity for presidential candidates to compete, containing the spending arms race, reducing the burdens of fundraising, and increasing the importance of small donors in presidential elections. Both major parties have benefited from the presidential public financing system. Since 1974, candidates and parties have received $1.3 billion from the system: $646 million has gone to Democrats and $628 million to Republicans.

The system has served to promote more vibrant competition among viable candidates. In nearly every election since its enactment, one major party candidate would not have been able to participate in the race if it were not for public financing. Such candidates include Jimmy Carter, Ronald Reagan, George H.W. Bush, Pat Buchanan, John McCain and John Edwards. All of these candidates would have been out of money at critical points in the nominating process if it weren't for an infusion of public funds they earned through the matching program.

> "In order to maximize voter choice and enhance the value of smaller donations in presidential races serious reform is needed in 2006. The presidential public financing system is broken, but we can fix it."
>
> — *Trevor Potter*

While the presidential public financing system successfully fulfilled its original purposes for many years, the public funding system has not been updated to meet the needs of changing presidential campaigns.

The current presidential campaign cycle is heavily "frontloaded," requiring candidates to spend more money much earlier than at the time the public financing system was enacted. In the 2000 election, George W. Bush became the first major party nominee ever to opt out of primary matching funds. In 2004 President Bush opted out again, along with Democratic candidate John Kerry. Opting out of the system gave both Bush and Kerry an important tactical and financial advantage over their opponents: a fact which will undoubtedly encourage others to opt out in the future unless the system is reformed.

There are other problems with the current system: candidates find the state-by-state primary election spending limits overly-restrictive; the one-to-one matching ratio does not sufficiently encourage small donors to contribute to presidential campaigns; and candidates who use the public funding system need some sort of 'escape hatch' if their opponent opts out.

> "The presidential primaries effectively end more than nine months before the general election, even in wide open races, and candidates must make decisions about financing their campaigns two years before the election."
>
> — *Trevor Potter*

If this valuable system is to survive, it must be revised to more effectively address 21st Century presidential campaigns. With potential presidential candidates building substantial war chests already, it is possible that in the 2008 elections major party candidates will opt out of the public financing system in both the primary and general elections; leaving in the system only less competitive candidates who can not raise substantial campaign funds.

There is general consensus about the reforms needed in order to keep the system viable. A number of organizations have already proposed ways in which Congress can fix the system. Many of these proposals are strikingly similar in identifying necessary reforms, including:

- increasing the primary spending limits;
- abolishing state-by-state primary spending limits;
- increasing the matching ratio;
- distributing primary matching funds earlier in the election cycle; and
- creating an "escape hatch" for candidates whose opponents opt out of the system.

The necessary reforms are not complicated; they just require the political will for implementation. One panelist stated, "It's not rocket science," and insisted that only two new pages of law would be required to rejuvenate the system.

Campaign Legal Center President Trevor Potter concluded the conference by noting: "The presidential public financing system is broken, but we can fix it." In order to maximize voter choice and contain the arms race in presidential elections, serious reform is needed in 2006. This is a well defined problem with straightforward solutions. With Republicans, Democrats and the strength of our democracy to benefit, it is critically important that the necessary changes be made to keep the presidential public financing system viable in the 2008 election and beyond.

Conference Agenda

Presidential Public Financing: Repairing the System

December 9, 2005, from 9 a.m. to Noon
Senate Hart Building Room 902

9:00	**Welcome and Opening Remarks**
9:15 – 10:15	**Panel I: The Issue of Presidential Public Funding: Its Goals, History, Current Status and Problems** *Fred Wertheimer, Democracy 21, moderator* Tony Corrado: Charles A. Dana Professor of Government, Colby College Charles Kolb: President, Committee for Economic Development Tom Mann: Senior Scholar, The Brookings Institution Kay Maxwell: President, League of Women Voters*
10:15 – 11:00	**Panel II: Money, Corruption and the Financing of Presidential Elections** *Meredith McGehee, Campaign Legal Center, moderator* Linda DiVall: President, American Viewpoint Celinda Lake: President, Lake, Snell, Perry, Mermin, and Associates
11:00 – Noon	**Panel III: Principles of Reforming the Presidential Public Funding System** *Trevor Potter, Campaign Legal Center, moderator* Scott Thomas: Chairman, Federal Election Commission** Michael Toner: Vice-Chairman, Federal Election Commission** Michael Malbin: Director, Campaign Finance Institute Don Simon: Attorney, Sonosky, Chambers, Sasche, Endreson, & Perry, LLP
Noon	**Closing Remarks**

** Her tenure as President of the League of Women Voters ended June 2006.*
*** Their roles were current as of the date of the conference, but Commissioner Toner is now the Chairman of the FEC, and Commissioner Thomas' term has ended.*

Conference Report

Fred Wertheimer, Democracy 21 President, and Trevor Potter, Campaign Legal Center President, opened the December 9, 2005 conference *Presidential Public Financing: Repairing the System*.

In his opening remarks, Wertheimer affirmed the importance of the system and highlighted the widespread use of public funding for presidential candidates among Republicans, Democrats, liberals, conservatives, frontrunners and long shots. Wertheimer, who worked on the passage of the system in 1974, pointed to the historical significance of public financing in presidential elections: Since 1976, every elected president used public funding in both the primary and general elections except for the current president. In the past two elections, however, lead candidates have opted out of the public financing system in the primary elections.

Wertheimer stated the goals of the conference were to build awareness about the presidential public financing system by looking at the history of the system, problems that have arisen with the system, and how to address these problems—and eventually build momentum towards reforming the system.

Wertheimer said the presidential public financing system had been successful in its original purpose of limiting the influence of big contributions, increasing the opportunity for presidential candidates to compete, containing the spending arms race, reducing the burdens of fundraising, and increasing the importance of small donors in presidential elections. While the system was originally successful in achieving these goals, it began to break down with the increased influence of soft money in the 1990s. The public financing system also became out of sync with the nominating process, but Congress blocked efforts to reform the system.

Wertheimer concluded his remarks by saying that one of the major challenges to reforming the presidential public financing system will be finding the political will to do the job. He insisted that efforts to update this important system would require the work of both the reform and grassroots communities.

> **"The presidential public financing system has been successful in its original purpose of limiting the influence of big contributions, increasing the opportunity for presidential candidates to compete, containing the spending arms race, reducing the burdens of fundraising, and increasing the importance of small donors in presidential elections."**
>
> — *Fred Wertheimer*

In his opening remarks Potter stressed the urgency of this matter, saying that reforms must be made in time for the 2008 presidential election. Potter also said that the current presidential public financing system does not reflect today's campaign cycle. Due to the "frontloading" of presidential campaigns, candidates need to spend money earlier in the campaign cycle, often before they have received matching funds. Opting out of the system and having more money to spend earlier in the campaign, and in key states in amounts in excess of state limits under the system, has become a more competitive strategy for presidential candidates. He stated that the presidential primaries effectively end more than nine months before the general election, even in wide open races, and that candidates must make decisions about financing their campaigns two years before the election.

Potter went on to say that the current reality of the system is that front runners from both parties are likely to opt out of the public funding system in the primaries. In the absence of public funding, fewer candidates will be able to participate early in the race and there will be more incentive for well-funded candidates to raise huge sums from donors and freeze out competition.

Potter concluded his remarks by saying that in order to maximize voter choice and enhance the value of smaller donations in presidential races serious reform is needed in 2006. He suggested that a good mantra for reform efforts is "the presidential public financing system is broken, but we can fix it."

Panel I: *The Issue of Presidential Public Funding: Its Goals, History, Current Status and Problems*

The first panel, *The Issue of Presidential Public Funding: Its Goals, History, Current Status and Problems*, moderated by Fred Wertheimer, focused on the historical roots of the presidential public financing system and the importance of its continuation.

Tony Corrado, the Charles A. Dana Professor of Government at Colby College and presidential campaign veteran, was the first Panel I presenter. Corrado helped place the presidential financing system in a historical perspective. The presidential public financing system was born from Congress's reaction to the Watergate scandal and the problems in the 1972 elections with illegal corporate and cash contributions, influence pedaling and selling of ambassadorships. Corrado referred to the presidential public financing system as the single most innovative campaign finance reform in American history. The system was designed to ensure broad citizen participation in the financing of presidential elections, competition among candidates and the importance of small donors. The system was also intended to contain spending in presidential elections.

The public funds are distributed in a tripartite approach, Corrado explained: matching funds to candidates in the primaries, grants to the party committees for conventions, and full campaign funding to candidates in the general election. Candidates can receive matching funds in the primaries of up to $250 per donor. In exchange for these public funds candidates must agree to spending limits, a full audit of their expenditures to account for the matching funds and maximum candidate contribution to their own campaign of $50,000.

Corrado described the public funding system as a broad system with broad benefits, which was embraced by both sides of the aisle. Between 1976 and 1990, one-third of the money candidates received came from the matching funds. Both major parties have benefited from this system: for some Republicans, up to 40% of their campaign money came from the public financing system. Corrado indicated that only one candidate has ever maxed out the limit of available funds; that was Ronald Reagan in 1984 because of his ability to raise money from small donors.

Corrado also quoted some interesting numbers about the total funds distributed by the system. Since 1974, $1.3 billion have been given to candidates and parties from the presidential

Presidential Public Financing System: Distribution of Funds Since 1976

Total amount distributed by the presidential public financing system since 1976	$1.3 billion
Amount given to Democrats (conventions and primary and general elections)	$646 billion
Amount given to Republicans (conventions and primary and general elections)	$628 million
Amount distributed for general elections	$839 million
Amount distributed for primary elections	$352 million
Amount distributed for party conventions	$152 million

Source: Tony Corrado

public financing system; $646 million to Democrats and $628 million to Republicans. Democrats possibly received more money because there was often not a clear frontrunner in the primary elections. $839 million of the $1.3 billion have gone to candidates in the general election. It is a misconception that most of the funds go to non-winning candidates; this actually cannot be the case with such a large amount of the money going to general election candidates. $60 million of the total money paid out by the presidential public financing system went to non-major party candidates and $42 million of that went to Ross Perot.

The presidential public financing system has helped promote competition among viable candidates. In nearly every election since the system was enacted, one major party candidate would not have been able to participate in the race if it were not for matching funds. Those candidates include Jimmy Carter, Ronald Reagan, George H.W. Bush, Pat Buchanan, John McCain and John Edwards. All of these candidates would have been out of money at certain points in the nominating process if it were not for public funds.

Despite the importance of this system and its historical success, Corrado said the system began breaking down in the early 1990s with major party candidates opting out of using public funds. He also stated that absent reform, the public financing system will collapse during the 2008 election cycle. Changes in the presidential nominating process have made the public financing system out of sync with typical campaign funding needs. With the frontloading of presidential campaigns there is a greater need now for money earlier in the campaign than there was 30 years ago. The January distribution of matching funds are now at the midpoint of the election rather than the beginning. Other changes to the presidential nominating process that have hurt the system include the need for candidates to campaign more effectively in more states. Candidates are also relying more heavily on larger contributions—$1,000 and more—because of their need to be more efficient fundraisers, and decreasingly focusing on smaller donors.

The spending limits, according to Corrado, have also become an impossible problem that keeps candidates from being competitive at crucial times in the campaign. Candidates now begin bumping up against the spending limit in March. The spending limits create a serious disadvantage for candidates who accept public funds. Corrado insisted that the tradeoff between the benefits of receiving public funding subsidies and agreeing to the spending limits is a tradeoff that no longer makes strategic sense. The constraints of the spending limits are so severe that no candidate can expect to run a competitive campaign within the constraints of the spending limits. This has led to a shift in perceptions of the presidential public financing system: In the first 20 years of the program, qualifying for public funds was seen as a sign of strength; now it is seen as a sign of weakness. Corrado also predicted that no major candidate would take public funding in 2008 and we would see the development of a two-tiered system—with top-tier candidates opting out of the system and second-tier candidates staying in the system.

> **"The presidential public financing system has helped promote competition among viable candidates. In nearly every election since the system was enacted, one major party candidate would not have been able to participate in the race if it were not for matching funds."**
>
> *—Tony Corrado*

Charles Kolb, President of the Committee for Economic Development (CED), was the second presenter on the panel. Kolb briefly reviewed CED's involvement in campaign finance reform efforts, particularly with the passage of BCRA, and then outlined CED's position on presidential public financing as stated in their report *Building on Reform: A Business Proposal to Strengthen Election Finance*.

CED's report calls for Congress to increase the one-to-one match of public funds on individual donations up to $250. Instead of the one-to-one match, CED calls for a multiple dollar match and suggests that a four-to-one match would stimulate small donor participation.

Kolb outlined CED's position on the presidential public financing system, saying that eligibility to receive public funds for the general election should be contingent on a candidate accepting public funds in the primaries. Coming from the business community, CED is concerned about any system that does not foster competition. Kolb said there needs to be more flexibility in the presidential funding system in order to promote competition. CED suggests raising the expenditure limit, and setting a total primary spending limit rather than the current state-by-state limit, so there is more autonomy in the system and candidates can best decide how their campaign funds should be allocated. He also said that publicly funded candidates should be able to match the spending of privately funded candidates.

Kolb concluded his remarks by saying that the partnership of the various groups will be important in successful reform, and that grassroots efforts are a particularly important part of moving this issue beyond the realm of the reform community and into people's homes. He said that this system will not be fixed by the politicians who rely on the status quo.

Thomas Mann, a Senior Fellow in Governance Studies and the W. Averell Harriman Chair at the Brookings Institution, followed up Kolb's remarks with the assertion that this issue is simple, clear and straightforward. Unlike other campaign finance reform battles, the presidential public financing issue is not confusing, arcane or partisan. Further, the presidential public funding system is the crown jewel of campaign finance regulation. Mann also insisted that this system is *not* primarily about corruption or preventing corruption; it is about competition both within the parties and between them. Mann asserted that it is un-debatable that the presidential public financing system promotes competition. It is a system that encourages competition, allows a broader field of candidates to participate in the primary elections, and offers a rough balance between candidates in the general election.

Mann also highlighted the fact that the presidential public financing system retains a role for private fundraising and provides a kind of market test for candidates, giving them a chance to demonstrate their appeal in the nominating process. The public financing system also maintains an important role for the political parties. The system allows for a move towards equalizing resources, while enabling competition and providing a market test for candidates.

Mann continued by saying he was struck by the similarities between the various reform groups and advocates on why the system broke down and how to fix it. The groups may not agree on every detail, he said, but he feels there is a simple, straightforward consensus on what happened to the system and how to fix it. The different groups and proposals agree on the basics: getting rid of state-by-state spending limits, increasing the matching fund, and creating an escape hatch for candidates whose opponents are privately funded.

He said there is also agreement that the system will collapse if not reformed prior to the 2008 election. He also said the system will be exceedingly difficult to reconstruct if not fixed before then. Mann said now would be the perfect time to build off the last election cycle and the rise of small money donors and help the parties learn to operate in a hard money world.

Kay Maxwell, President of the League of Women Voters, began her remarks by emphasizing the serious competitive problem candidates face if they run out of money. She also highlighted the importance of the presidential public financing system in the context of the importance of the election of the President of the United States: It is perhaps the most important election in the United States and the World. Voter perception is affected by this election, as is citizens' perception of how the government works. The presidential election sets the tone for American democracy. Maxwell said the tone set from last election, with the leading candidates opting out of the system, is a tone that signals the growing influence of special interests. There was tremendous special interest money in the 2004 elections and, as Maxwell said, "he who pays the piper calls the tune."

Presidential public funding is part of the League of Women Voters' democracy agenda for advocacy and education efforts. Citizens are deeply concerned about corruption and ethics lapses in politics, stated Maxwell. Americans do not want to give wealth and special interests more access to power; they want more reform, not a retreat from anti-corruption safeguards. Connecticut recently passed progressive public funding legislation for legislative and statewide constitutional offices. This is the first time such a law has been passed by a legislature rather than by ballot initiative; Maxwell attributed part of that success to Connecticut legislators' ability to tap into citizens' unrest and concerns.

Panel II: *Public Perception of the Presidential Public Financing System*

The second panel was moderated by the Campaign Legal Center's Policy Director, Meredith McGehee. This panel focused on the public perception of the presidential public financing system and the potential for reform in the current climate of corruption and scandal in government.

Celinda Lake, President of Lake, Snell, Perry, Mermin and Associates and one of the Democratic Party's leading political strategists, began her remarks by pointing out the great lack of data on this subject and the need for more bipartisan polling on the presidential public financing system. She affirmed that there is a general sentiment that things are broken. She addressed the difficulty of communicating the message of presidential public financing and the need for reform efforts to the public: Corruption makes people less likely to want to be engaged and there is a problem in finding an effective connector between the damage of corruption and the need for reform of the presidential public financing system. The corruption and ethics violations hanging over Washington drive people away from public funding rather than towards it, out of general disillusionment with the whole political system, she said. One way to address this is to connect presidential public financing reform language to controlling special interests.

In concluding her remarks, Lake offered some guidelines on where to go from here:

1. We need a public education campaign on public financing.
2. Hold broadcasters accountable for broadcasting regulations and standards. Part of the reason candidates need to raise and spend so much money is to pay for TV ads. Broadcasters need to be held accountable for their part in the process.
3. Explore new approaches to limiting other funding.
4. Use internet to drive check-off designations to the presidential public funding system.

Linda DiVall, President of American Viewpoint and a leading Republican political strategist, echoed Lake's remarks on the dearth of research on the presidential public financing system. She also said that there is a feeling generally right now that people are upset with the entire system, both Republicans and Democrats, and trust neither party to fix it.

DiVall suggested that in reform dialogues there must be some conversation about financing party conventions. $15 million is spent on the respective Republican and Democratic conventions — this is money that could be given to the general election. The major broadcast networks are not covering the conventions because the public is not interested. We need to look at the whole system, including the party conventions, and not just primary and general elections.

DiVall concluded by addressing the problem of getting this message across to the public. Giving the system more money for politics makes no sense to a cynical public. According to DiVall, if reform is going to occur, you need political insiders to tell you how the rules need to be changed.

Panel III: *Fixing the Presidential Public Financing System*

The final panel was moderated by Trevor Potter. This panel focused on the "nuts and bolts" of several proposals that have been made to reform the presidential public financing system, and the various policy issues raised in these proposals.

Michael Malbin, the Executive Director of the Campaign Finance Institute (CFI), began his remarks by emphasizing the importance of continuing the presidential public funding system, and the difference the system has made to candidates, many of whom went on to become President and would not have done so without public funds. The CFI has been very involved with this issue and released a task force report in 2005 entitled *So the Voters May Choose… Reviving the Presidential Matching Fund System*.

Malbin went on to outline some of the provisions of the CFI proposal to repair the public financing system, which include changing the spending limit in the primary election to the same as that in the general election ($75 million); and providing an "escape hatch" for those candidates who stay in the system but whose opponents do not. The CFI report also addresses the role of the political parties in the public funding system. Under the CFI proposal, parties would still be able to make unlimited independent expenditures if the candidate uses public funds and, in addition, if candidates use public funds, parties can then make unlimited coordinated expenditures. The CFI proposal has two goals: keeping candidates in the system and fostering growth in the number of small donors.

Malbin asserted that the CFI proposal is simple but the political battle is tough. He insisted that the voters, not the donors, should have the power. Malbin ended his remarks by stressing that if anything is going to be done to fix the presidential funding system, it needs to start now.

Scott Thomas, Chairman of the Federal Election Commission, the Commission's longest serving Commissioner and a Democrat, stated that he and his fellow FEC Commissioner, Republican Michael Toner, agree that if Congress is going to repair the presidential public financing system, it has to act now. This is an issue that cuts across party lines. He pointed out that he and Commissioner Thomas have come together on this particular issue despite party differences—Congress needs to do the same.

Thomas went on to discuss the apparent dichotomy in the popular perception of what the presidential public financing system actually does. Some say it promotes competition, while others suggest the system reduces reliance on well-connected fundraisers. Thomas asserted that the public financing system does both. In the system's ability to promote competition, Thomas pointed to former Presidents Carter and Reagan as examples of candidates who would not have been competitive without public funding. At the same time, Thomas pointed out that the presidential public financing system also reduces reliance on well connected fundraisers, "the bundlers." Bush and Kerry both relied on bundlers; they should have been able to say they relied on clean money instead. Thomas said that stories of fundraising bundlers will continue on both sides of the aisle if the public funding system is not fixed. As Thomas said, reform efforts must focus on both the competitive advantages of the public financing system and addressing the issue of appearance of corruption.

Commissioner Thomas then went on to discuss some of the details of the Toner-Thomas proposal. The Commissioners' proposal focuses on raising primary spending limits with the intended goal that whoever wins the White House should be able to use the system. Thomas went on to say that in order for candidates to be able to say "I relied on clean money," they need more money in the primary and need to receive matching funds earlier. Thomas also suggested that major party candidates need to receive their general election public funds at the same time, regardless of variations in the timing of party conventions. In 2004, Senator Kerry received his general election public money almost a month before President Bush did. As a result, Senator Kerry had to abide by spending limits longer than President Bush did. The Toner-Thomas proposal also calls for the elimination of state spending limits.

Thomas concluded his remarks by urging reformers not to get frustrated by the stories of corruption and scandal. Many see these stories about corruption and surmise that campaign finance reform has not worked. Instead, Thomas noted, these stories of political corruption largely relate to activities in the pre-BCRA era.

Michael Toner, Vice-Chairman of the FEC and former Republican National Committee Chief Counsel, pointed out that he is not generally considered supportive of campaign finance reform efforts, but does support reforming the presidential public financing system. Presidential public financing should be practical, functional and effective. It should be a viable system for those candidates who have no chance of winning as well as the strongest candidates. If the system is strong enough to include the strongest candidates, then it will be supported by the public. The presidential public financing system worked well for two decades until the mid-1990s when age caught up with the system. Toner insisted that the system would be relatively easy to fix, requiring only two pages of new law to fix they system. "It's not rocket science," he declared.

Toner explained why Senator Hillary Clinton would likely opt out of the current public financing system in both the primary and general elections in 2008 if she ran for President. If Senator Clinton raises $250 million in the primary and another $250 million in the general, he said, she could then roll over $100 million to the general and spend $350 million in the general election. If the Republican candidate stays in the presidential public financing system, the most that candidate could receive by way of public funds is $80 million for the general.

The Toner-Thomas proposal would raise spending limits. The proposal would also increase the amount of public funds in the system. Candidates need to feel like they can stay in the system and still be able to go toe-to-toe with their opponent if their opponent opts out of the system. The Toner-Thomas proposal echoes suggestions made earlier in the conference calling for abolishing state spending limits, making primary funds available to candidates in July of the year before the election, and setting a fixed date or establishing a concurrent time for both candidates to get their general election funds.

The last panelist was **Don Simon**, partner at Sonosky, Chambers, Sachse, Endreson & Perry, LLP as well as legal counsel to the Campaign Legal Center and Democracy 21. Simon commented that it is very helpful to have a bipartisan proposal by two FEC Commissioners.

Simon's remarks focused on the presidential public financing bill introduced in 2003 by the BCRA co-sponsors: Senator John McCain (R-AZ), Senator Russ Feingold (D-WI), Representative Marty Meehan (D-MA) and Representative Christopher Shays (R-CT). The Congressmen are looking at this now in light of the 2004 experience, with an eye toward introducing a similar bill in the near future. The bill, if introduced, would include several non-controversial ideas: distribution of public funds earlier in the process because the primary system is frontloaded; and elimination of the state-by-state spending limits which are tough to enforce.

There are four or five policy issues that require a tradeoff in any legislation aimed at fixing the current presidential public financing system. On one hand, you have to make the system attractive to top-tier candidates. On the other, you can not make it so attractive that it is cost prohibitive or thwarts other goals, like increasing and encouraging small donors.

Simon then listed five policy questions that must be addressed as we move forward in reforming the presidential public financing system:

1. What spending limits should be set? The current $45 million spending limit for primaries is too low. But if you raise it to $200 million to reflect experience of the 2004 election, you disregard the goal of keeping spending down. The 2003 bill set a new primary spending limit of $150 million.
2. What contributions should be matched? Currently, there is a 1:1 match of the first $250 of an individual's contribution. If you raise this amount, you cut against small donors. If you lower the matchable limit to $100 dollars, then there is a risk that

not enough money will be raised. There is a tension here between resting the system on contributions from small donors and ensuring there are sufficient public funds to attract candidates who otherwise would opt out. The bill introduced in 2003 would not have increased or decreased the amount of a matchable contribution, but instead would have matched contributions from individuals at a ratio of 4:1.

3. How should the presidential public financing system deal with candidates who opt out? Should it raise spending limits for candidates who stay in when their opponent opts out? And is raising the limits enough protection in such circumstances? Should the system instead make more public money available? The 2003 bill suggested doubling the primary spending limit from $75 million to $150 million, but not distributing additional public funds.
4. How do you deal with the gap between end of the primary elections and the post-convention period? The 2003 bill addressed this problem by raising the spending ceiling and doubling the parties' spending limits in coordination with candidates.
5. How do you deal with funding these changes? The 2003 bill would have raised the $3 check-off amounts to $6 for an individual and $12 for a couple.

Trevor Potter closed the conference by highlighting again that there is broad consensus on the need to reform the presidential public financing system and on the basics of such reform. The key will be moving forward in a timely, bipartisan manner to make the necessary changes.

Selected Transcripts

This transcript was produced from a tape recording and has been edited by the speakers.

Panel I: *The Issue of Presidential Public Funding: Its Goals, History, Current Status and Problems*

MR. CORRADO: It is important to note that when this law was adopted, Congress was responding to the Watergate scandal and the subsequent investigations into illegal activity that had plagued the 1972 presidential race. Those reviews and subsequent investigation showed that there was a problem with illegal corporate contributions, illegal cash contributions, influence peddling in the form of raising contributions in exchange for support on milk subsidies, the selling of U.S. ambassadorships — literally a panoply of financial problems that highlighted the risk of corruption that can come from large privately funded donations in presidential elections.

Consequently, Congress decided to create the most innovative campaign finance reform ever adopted in American history: a public funding system designed to not only address the risk of corruption, but also to bring other values to the presidential selection process. Most important, it was an effort to provide the type of funding that would ensure that there would be broad citizen participation in the financing of elections by creating a system that would encourage small contributions and encourage candidates to solicit contributions from small donors. It was designed to try to promote competition in presidential elections by providing resources to candidates so that they would be better able to mount campaigns at a time of rising campaign costs. And it sought to constrain what at the time was an enormous spike in presidential spending. This was driven by the growth of campaign advertising, which led Congress to believe that the amount of money needed in a presidential race was becoming an increasing barrier to entry in presidential politics.

Therefore, the law tried to adopt some sort of constraints on spending in the form of spending limits that were attached to the receipt of public funds. The early experience of this program showed the value of this type of approach. Generally, Congress took a tripartite approach to public funding by creating a system of matching funds in the primaries where donors could give a contribution to a candidate, up to a maximum of $250 per individual donor, and the government would match that dollar-for-dollar with public funds. In exchange, a candidate would have to agree to limit their own contributions to their own campaign to $50,000, would have to agree to spending limits that were imposed on publicly funded candidates, and would also have to agree to a full audit of their campaign to account for all of the public funds. In the general election, Congress went another way and said, we'll offer a voluntary flat grant that will provide the money a candidate needs for the general election, which was initially set at $20 million, and with adjustments for inflation, has subsequently grown to $74.6 million.

Congress also made available grants to the party committees to help finance conventions since much of the appearance of corruption that occurred in '72 were related to contributions that had been made to the parties for the presidential nominating conventions. So it was a fairly comprehensive system that provided fairly broad benefits. As Fred Wertheimer noted, probably the most noteworthy aspect of the experience of public funding has been the fact that it did engender broad participation from candidates. At the time that it was adopted, there were questions as to whether this would end up being a system that would favor Democrats more than Republicans. There were questions as to the extent to which candidates would participate in the program. Generally, candidates on both sides of the aisle embraced the opportunity to be able to receive funding in the form of subsidies, and consequently, there has been broad participation. As Fred noted, in every presidential election since '76, both major party candidates have accepted the public funding. In the primaries, especially through 1996, essentially every major candidate accepted public funding with the notable exceptions of John Connally in 1976, and Steven Forbes in 1996 and 2000. Forbes, along with Ross Perot, who ran outside the major party structure, were unique candidates in that they had the resources to personally finance a campaign. I also like to encourage audiences to remember Morry Taylor, who also self-funded his campaign, providing $6 million out of his own pocket in an attempt to win the Iowa Caucus, in 1996, and since you don't remember him, you know that he failed.

Generally, it's the case that the money provided by public funding constituted a significant share of the campaign money, especially in presidential nominating politics. In the elections from '76 to the early '90s, it was generally the case that about a third of the money available to candidates came out of the public matching funds. And for the most part, some candidates were particularly successful at raising small contributions and got even more. A number of the candidates — and most interesting, more so on the Republican side than the Democratic side — reached the point where 40 percent of their campaign funding came from public money because they were so successful at soliciting small contributions. And, in fact, only one candidate has ever maxed out in terms of gaining all of the public money one could get in the nominating process, and that was Ronald Reagan, who, in 1984, met the maximum because of the large number of small donors that he had to his campaign. Consequently, the programs have provided significant funding to successful candidates over the years.

Overall, since 1976, $1.3 billion has been given to candidates and party committees since this program was adopted, distributed fairly equally between the two parties. Overall, the Democrats have taken in somewhere in the area of $646 million, the Republicans have taken in somewhere in the area of $628 million. The primary difference is that the Democrats seem to have had trouble winning the White House for a while, and therefore, there were more open primary races on the Democratic side than there were on the Republican side. While it's commonly argued that much of this money might go to candidates who couldn't win, or to candidates who didn't have a chance, most of the money has gone to the general election; $839 million of this $1.3 billion has gone to general election candidates. So it's been a principal source of funding in presidential general elections. About $352 million has been distributed to candidates in the presidential primaries and about $152 million to the parties for their conventions. Every party convention since 1976 held by the Democrats or Republicans has been conducted in part with the support of public funds.

If we look more deeply, it's often said that public funding provides too much money to candidates who don't have a chance, or to minor parties, and candidates who aren't really viable contenders. But if you look at the experience of this program, particularly in the early experience, it's not been easy for a non-major party candidate to qualify for this funding. And in part, the ability of these candidates to qualify has largely been an effect of an easing in the requirements that were developed by the FEC over time. Even so, if you look at the entire experience of this program, only about $60 million has gone to non-major party candidates. And of that, $42 million is a reflection of Ross Perot and the support he engendered in the '92 and '96 races for the Reform Party. Other than Perot, there's $18 million in the course of the last 30 years that went to candidates of various non-major parties, so you're talking about 0.5 percent of the money.

It hasn't been as big of a benefit to minor party candidates as it might have been, which is an issue which will probably be discussed by some of those involved in the public funding debate.

What's most important to my perspective is the fact that the program has proved so beneficial in terms of promoting competition. If you look at every election since '76 and you look at those candidates who were serious contestants for the presidential race, particularly those who won key primaries — even though they might not have won the nomination — what you find is that in virtually every election cycle since this program was adopted, there were candidates who were able to stay in the race or mount a viable bid for office solely because of the public funds made available to them. You can begin with Ronald Reagan and Jimmy Carter, both of whom were essentially out of money at crucial points in the nominating process and basically were able to continue because of the public funds they were given. You can look at the case of George Bush in 1980, who was down to $75,000 at the end of 1979 and really in no position to compete in Iowa and New Hampshire, except for the fact that he received his public funds in January that allowed him to continue. You can look at Gary Hart in 1984, who basically lived off of public funds as he went through a point where he won seven out of eleven primaries and mounted a major challenge to Walter Mondale. You can think about 1988 and Pat Buchanan's bid on the Republican side, which was fueled by public funds because of the small donors that he had supporting his campaign, as well as Buchanan again in '96, or McCain in 2000. People often forget that in early January, McCain basically had $350,000 in the bank, compared to $20 million for George Bush. But the matching funds that McCain was able to accrue became an important part of his campaign's financial base in January and February as he contested in New Hampshire. And certainly in this past year, John Edwards would not have mounted the challenge he did had it not been for the public funds. So the program has offered numerous benefits.

The problem is that it's been clear since the early 1990s that this program is breaking down, and that it is now in serious need of repair. In fact, I tend to be of the perspective that the system has essentially collapsed, and that we will see in 2008 the real demise of the presidential public funding system absent reform. That collapse has come about largely because there have been changes in the presidential nominating process that were never anticipated by this program. When this program was created, it was a completely different nominating process that didn't have such a front-loaded calendar, that didn't have such high demands on New Hampshire and Iowa as the gateways to the presidential selection, as the gateways to victory, and as a result, what we have is a system that is increasingly out of sync with the financial system.

> "Qualifying for matching funds was seen as a sign of strength; now it is seen as sign of weakness. Qualifying for matching funds in 2008 will be taken as a sign that someone's not a legitimate contender because he or she is going to run into all of these financial problems and be outspent later on."
>
> *—Tony Corrado*

The front-loading of the presidential process has increased the demand for early campaigning. It forces candidates to raise money earlier and earlier in the cycle so that the January matching fund payments have become more the midpoint in the financing of a race rather than the start in the financing of a race. Candidates not only have to campaign earlier, but they also have to campaign more effectively in a large number of states. A candidate can't take the approach anymore of winning Iowa or New Hampshire and then hopscotching to the next state: a candidate now has to run in 12, 14, 17 states at once. That greatly increases the front-end financial demands on a candidate.

As a result, candidates increasingly rely on thousand-dollar contributions because they have to raise money as efficiently as possible. And the incentive to solicit small contributions has diminished. We've also seen that the spending limit has become increasingly antiquated and outdated as more and more candidates have begun to meet the spending limit earlier in the process.

I remember when I was first involved in presidential elections, in 1980, 1984, and 1988. We would often have to cut back on expenditures in order to stay within the limit. And generally it was the case that by May, we were starting to bump up against the limit; by June, we were really cutting back on some of the things we would like to do in order to stay within the limit. If you look at the experience of the '80s, every nominee cut back spending as a result of the constraints they were feeling by the limit. That was the case with Reagan, that was the certainly the case with Mondale in '84, that was the case in 1988 with both Dukakis and Bush, and a result, there was some real pinch to the spending limit. In the '90s the spending limit has become an impossible problem.

Generally it's now the case that candidates in they system are going to bump up against the limit as early as March, even if they're very efficient with their spending. As a result, they're stuck with this period between the end of March and the conventions where they essentially can't campaign and are at a great disadvantage vis-à-vis any opponent who still has money to spend. That was the exact problem Bob Dole finally faced in 1996, when he was essentially out of spending room by March 27th, and he was facing an incumbent, Bill Clinton, with $20 million in the bank. That experience led George Bush to opt out of the system in 2000. And it was that experience that in turn taught the Democrats a lesson because Al Gore then faced a problem similar to Dole's. He had no room left to spend under the spending limit and faced a candidate with over $20 million available to spend and a capacity to raise even more.

In short, there's a simple change that has taken place: The tradeoff that's at the core of public funding, the tradeoff between the benefits of the subsidies and the agreement to limit spending, is a tradeoff that no longer makes strategic sense. The constraints of the spending limit have become so severe that no candidate in their strategic calculus can realistically expect that they are going to be able to run a campaign within the constraints of this limit. And therefore, we have reached the point in 2004, which we will see expanded in 2008, in which the major candidates who think they can raise money and seriously think they can achieve the nomination are not going to take public funding. We have turned the system inside out in the process.

Twenty-five years ago, 20 years ago, the first sign of the viability of a presidential candidate was whether or not they could qualify for public money. I recall the Mondale campaign making sure not just that they could qualify for public funding quickly, but actually orienting their strategy around trying to qualify in 48 hours to create the big news story about how strong they were because they immediately qualified for matching funds. Qualifying for matching funds was seen as a sign of strength; now it is seen as sign of weakness. Qualifying for matching funds in 2008 will be taken as a sign that someone's not a legitimate contender because he or she is going to run into all of these financial problems and be outspent later on. Even though parties tried to patch over the system with soft money and issue-advocacy advertising, and now post-BCRA with independent expenditures, from the candidates' perspective, that meant ceding their campaigns to somebody else, and they would rather control the campaign message on their own.

As a result, what you're going to see in 2008 if we do not have reform is, a system that operates as a two-tiered system. The top candidates won't take public funding. The weaker candidates will and won't be seen as major contenders. And I think that that is probably going to be the case in 2008 for the general election funding as well. If you look at 2004, and you look at the public funds these candidates were given, they were vastly outspent by the parties and by organized interest groups. In fact, by my counting, we had somewhere in the area — just looking at TV and monies reported to the Federal Election Commission — somewhere in the area of $536 million spent in the period after the convention on the presidential race. Of that $536 million, only $170 million was money spent by the candidates.

They are now in a position where the public funds they receive represent about less than a third of the money that's going to be spent on communications in a general election, and I don't think it's much longer before candidates are no longer willing to tolerate that, especially if they're in an age when they can raise $200 million on their own.

So we really have reached the tipping point, not just for the problems that we've seen in the primaries, but for the problems now in the general election, which is why I think if we're going to continue this program, the moment for reform has, in some ways, been imposed on us and is very urgent at this time.

MR. KOLB: The trustees of the Committee for Economic Development decided to get into the issue of campaign finance reform early in the wake of some of the problems that arose in the '96 election between Clinton and Dole. And we came out with our first policy statement on campaign finance reform in 1999. We have project directors at the Committee for Economic Development — that's our official term but we're going to change that term now because Tony Corrado was the project director for both of our reports on campaign finance reform so we'll change future editions to reflect Tony's real title here, Wizard of Oz rather than project director.

Tony did our trustees a major service because he laid out for them the problems of the campaign finance system and really sort of turned them loose on the issues, and the result of their deliberations was a policy statement in 1999 which really made it clear, I think for the first time, as Fred alluded to, why the business community cared about this issue. And when we released that statement, I'll never forget the reaction that we got on "Inside Politics" on CNN that day. They led the story with film footage of a man biting a dog, and they said that this is a man-bites-dog story because after all, isn't it the business community that provides most of the soft money, along with organized labor? And what we were able to do was to show that a significant segment of the business community had some serious concerns about the system. They felt that the way that money was entering into the political system, through soft money primarily, was giving the business community a black eye, because every time the phrase "special interest" was used, people thought primarily of the business community.

And so we stated in that policy statement on page 1 the view of the trustees; that as business leaders, we want to compete in the marketplace, not in the political arena. So we, I think, as Fred said, we were very pleased and proud to play a role with many of you in this room as a partner in effecting the change that ultimately led to BCRA.

And thus after that battle was over, there were a number of people on our board who felt that the job had been started but not yet finished, and so there was a desire on the part of CED trustees to take another look at this issue. Tony Corrado was willing to continue on as the Wizard of Oz at CED, and served again as the project director for our second report. We produced another report which came out last year, and it's called "Building on Reform: A Business Proposal to Strengthen Election Finance."

Now, I should say that CED is going to continue in this issue. We will continue to partner with all of the groups that we have partnered with before. I also want to do a little advertising. This issue has caught on within CED, and by "this issue," I mean the whole role of money in politics in American life.

And we will have a third project, which we are about to launch early next year. James Thurber at American University will be the Wizard for this one, and we will keep Tony involved with us as well. This next project is going to focus on the dysfunctionality of Washington. We're still grappling with the title, "Why Washington Doesn't Work" — something along those lines— but we will look at issues of redistricting, revolving door, and ethical practices. But as Ed Kangas, who was the co-chair of our campaign finance reform work, (Ed is the former global head of Deloitte Touche Tohmatsu) said last week, this will not just be an academic study on redistricting. It will be a statement by the business community of why these issues are important and why these values matter for the future of American democracy. You'll have to stay tuned for that one; we expect it to come out probably in the latter part of next year. And certainly, the current climate in Washington tells me that it is not only timely, but maybe even a little bit overdue. Let me just very quickly share with you the recommendations in CED's second campaign finance report, and then I really want to talk not so much about the details of the recommendations – because I think there are some other more important issues that relate to how you effect change, and as Tony said, it's important that we try to do this before the 2008 election cycle.

> "The expenditure ceilings that accompany public funding, in our view, need to be increased, and the limits should be streamlined and simplified to merely set the total amount of money that a candidate can spend and thereby give the candidate some flexibility and autonomy in deciding how best to allocate the money."
>
> — *Charles Kolb*

In our second report, "Building on Reform to Strengthen the Election Finance System," first of all we do say some important things about the need to reform and strengthen the Federal Election Commission. And we also talk about tightening the regulations around 527s. With regard to presidential campaign finance, we call for the Congress to replace the existing dollar-for-dollar match of the first $250 of a contribution with a multiple dollar match. And we had a huge debate on this in the subcommittee. We recognized that a 2:1 match would be an improvement, but our trustees actually went further, and they called for a $4:$1 match was the best way to stimulate small-donor participation. And the principle is a consistent one with everything we've been saying. Business leaders understand competition, and they're concerned about a system which increasingly is not a competitive system. And in the first report and in the second report, we've looked for ways, strategies, and incentives to bring out smaller-dollar contributors. And that was a major part of the first report where we wanted to eliminate soft money, increase the hard money limits, but then we also had a matching system there to really encourage small-dollar contributors to become participants in our democratic system. So we were not opposed to money in politics, but it's very important how that money gets there, and that's the principle which continues to drive a lot of our thinking. We think that eligibility for general election funding should be contingent on candidates accepting public financing during the primary stage of the presidential-selection process.

We also recommend more flexibility in the system. Also, the expenditure ceilings that accompany public funding, in our view, need to be increased, and the limits should be streamlined and simplified to merely set the total amount of money that a candidate can spend and thereby give the candidate some flexibility and autonomy in deciding how best to allocate the money. We would also change the system so that there are alternatives that allow a publicly-funded candidate to match the spending of a privately-funded opponent who spends more than the amount allowed under the limit.

We then take a look at the complex issue of contributions to convention host committees, which, as I think we all know, offer a way of circumventing the ban on soft money. We recommend three reforms. First, elected officials should be barred from soliciting unlimited contributions for these committees. Second, a contribution limit should be placed on donations to host Committees. And third, there needs to be greater transparency and disclosure procedure.

Those are the details, but let me step back for a second and offer some observations based on CED's earlier experience. What we found when we entered the campaign finance reform debate some years ago is that it didn't matter so much what CED was saying as who was saying it. We weren't the first group to call for eliminating soft money, but I think it's fair to say we were the first major business organization to do so. And as I indicated at the onset, CED's position caught a lot of people by surprise. The other thing that I noted — and it's a rule that we now follow at CED — is that you can partner and be effective with organizations even though you may not agree 100-percent on the details.

When we first started meeting with several groups — I think Fred Wertheimer will remember this — we'd walk into rooms and find pro-campaign reform groups fighting with each other over the details. The classic phrase in Washington is "letting the perfect be the enemy of the good." But I think there are several groups present in this room— I think of Common Cause, at the time led by Scott Harshbarger — who realized that the common goal of getting rid of soft money was more important than the disagreement between Common Cause and CED over the hard money limits. Now, that's a lesson that we take and apply to everything we do, particularly education reform, which is maybe even more hotly contested in this town than campaign finance reform. So we want to continue the relationships and the partnerships and also continue to reach out to the business community.

Now, another observation: How did BCRA happen? I think it's useful to step back and think about that as we contemplate the urgency of reform in a much shorter time period. Senator McCain used to say it took him and Senator Feingold eight-plus years to get BCRA. We don't have eight years to achieve these reforms. I think there were three things that were important to the ultimate passage of BCRA.

First of all was national leadership. Whatever you think of John McCain, if you were for him or against him, it doesn't matter. The fact is, in his 2000 presidential campaign, he made this issue a primary reason as to why he wanted to be president and it resonated with people in the country. National leadership here is important for this issue. Second were the groups around the country that had really plowed the terrain for several years. They had been active and were ready for the issue when it arose. And the third point was the corporate scandals, the Enron, WorldCom, and other scandals that arose that really made it clear for people why money in politics mattered.

Now, do we have those comparable events today? The more Tom DeLay speaks, the more we may have the equivalent of Enron. But the challenge for us is to take these issues and translate them in ways that will resonate outside of Washington. I think this issue is more complicated than campaign finance reform because we're talking about public funding here and getting people to invest in a system that they may not understand in the first place. The number of people who check off the box on their tax forms is a relatively small number, so we have a lot of grass-roots educating to do to get people to understand the issues.

We have a similar opportunity with a lot of CED's policy work. That is, to take complicated issues like the budget deficit, early childhood education, the trade deficits, and translate these into language that resonates with real people. The ultimate key to success here is finding a way to take these issue and really get it them into homes all across this country. It cannot simply be a discussion among or a debate among elites.

So I think it's going to be an uphill battle, but I remember all the people who said six years ago that campaign finance reform wasn't going to happen. But it did happen, one thing I would ask all of you to do is to really think about why it did and the contribution that you made to that splendid victory and the type of contribution that you can make at this point going forward. Fred opened by saying what is necessary here is the political will. The political system is broken in this town. That's in large part why CED is going to continue in this third project. It will not be fixed if we rely on the actors in Washington or the people who currently benefit from the status quo.

I think we might be approaching another tipping point, namely tolerance of the American people for the type of behavior which is emerging almost daily here in Washington. There has been a major violation of the public trust; both parties have been guilty of it. It's very hard to explain rationally a transportation bill with over 6,000 earmarks signed by a president who claims to want to be like Ronald Reagan. He claims to be a fiscal conservative. Something is broken here, and the people's will is not being done. And the more we can expose that with tangible, concrete examples that may, in some instances, be criminal — or in the case of the transportation bill, foolish — the more I think we will succeed in taking these issues to real people who understand it. So my pledge to you is that CED will continue to play the role

MR. MANN: An earlier speaker suggested that this issue, the public financing of presidential elections, is in many ways, more complicated than McCain-Feingold BCRA battle. I suppose, in looking at the political obstacles ahead, that might be true, but my take is just the opposite. As a grizzled veteran of campaign finance debates over the years, I'm struck by how simple, clear and straightforward this issue is. Unlike so many of our debates about campaign finance — and one sees them now surrounding the 527s — it's not arcane, it's not confusing, it's really not partisan — you really have to reach to make an argument that this has an immediate partisan advantage for one side or the other. And you really have to reach if you want to make a case that it's constitutionally questionable. So much of what is usually raised as objections to campaign finance reform is not on the table here. Yes, there's a philosophical opposition to public spending more generally, I'd say an economic libertarian opposition. Cato and John Samples have a principled argument about big government, and in this case, using public funds for elections. But that is one small piece of what is usually a very complicated mix of conflicting values and interest. In the case of the public financing of presidential elections, I would argue there's a simple story to tell and a number of you in this room have told it with power and insight, and I think it's pretty damn convincing. I believe public financing of presidential elections is the crown jewel of campaign finance regulation in this country. We have had occasion in recent years to look at our democracy, compared to other democracies around the world, and much to our chagrin, we've found ourselves lacking, whether it be in the arena of election administration or redistricting or campaign finance. This is one area where we bear some resemblance to other democracies, which, one way or another, direct or indirect, provide some public subsidies in their elections. I also believe that whatever its origins — and Tony is absolutely right about what was in the background at the time the system was set up — I think that this is not primarily about corruption. That's not what this debate is about, it's about competition within and between political parties, and God knows, we haven't had the opportunity to talk about and promote competition in recent grounds of reform because we've been attending to other problems. McCain-Feingold was about other issues, it wasn't about competition, but this system is.

I think it is undebatable that public financing of presidential elections encourages competition. It does so by enabling a broader field of candidates within the nominating system and by providing some rough balance of resources between the major party candidates in the general election. It has a number of attractive features to it, including retaining a role for private fundraising in the nomination stage so that there exists still some market test of candidates to demonstrate their appeal — that's the attractiveness of matching funds. It also allows a role, an important, complementary role, for political parties which are financed with private donations, and now, happily, thanks to McCain-Feingold, with limited contributions. It moves us toward equalizing resources, enabling candidacies and competition, while retaining a market test for those candidates. That sounds pretty good to Republicans and Democrats, to conservatives and liberals. It doesn't stimulate the kind of fierce debates that so much else in this area does.

Having said that, I would argue there is a virtual consensus now on why the system broke down. I think Tony and Charlie have addressed this, and you will hear more about this. There's also a consensus on how to fix it. I commend to you, if you haven't seen them, the really superb work that's already been done. The Campaign Finance Institute report, its task force report, the CED report, the collection of writings by FEC Commissioners Thomas and Toner, Democracy 21's work — you read through all of these, and you're struck not by the differences, but by the areas of agreement about what went wrong, why, as Tony puts it, the cost- benefit tradeoff no longer makes strategic sense for candidates, it's perfectly clear. It's also perfectly clear what to do.

Yes, we can quibble about the details — where should the spending limits be set, is it $75 million or $100 million — but we all agree state spending limits make no sense at all. Everyone agrees that there should be a public match, but should it be for just small donations, up to $100, or should it be a bit larger. Should it be a 2:1, a 3:1, a 4:1, a 5:1 match? Well, that's sort of interesting. There has to be an escape hatch for candidates who opt in and then find themselves running against candidates outside. There has to be a way for a party whose nominee works within the system to compete fairly against a party whose nominee is outside — and there are ways of dealing with that. The creative one in the CFI report is unlimited coordinated party spending for that candidate during that bridge period. Also, there is clear agreement on ways to restore the fund itself — and let me just acknowledge the superb work done by CFI, along with Commissioners Toner and Thomas in persuading the tax software firms to change their defaults, their explanations, their policies — a huge, huge constructive change. You can imagine building on that now with a public education program and a modest increase in the size of the check-off.

So what I want to say is, it's simple, it's straightforward, there's a consensus on how it broke down and how to fix it, and importantly, I think there is a basic agreement that if we don't fix this in time for the 2008 elections, it will collapse. And once it's collapsed it will be exceedingly difficult to reconstruct it, which means now is the time to act. I think we have seen some opposition and efforts by backbench Republican members of the House to actually kill the system — and I'm sure Michael Toner will talk about this later — there are strong incentives for prospective Republican presidential candidates to get this system refurbished and up and running, powerful arguments for them to do so. In fact, I think arguments are there for presidential candidates in both parties, and if they see their interest and begin to act on them, opportunities are created.

Secondly, I simply underscore what Charlie said about the broader context of scandal and corruption and money in politics creating what I think will be a major issue throughout next year as the public integrity section of the Justice Department continues its work. And being able to take a positive step like this would be good for all hands on Capitol Hill.

"As a grizzled veteran of campaign finance debates over the years, I'm struck by how simple, clear and straightforward this issue is."

— *Thomas Mann*

Finally, I think this effort to refurbish, to restructure, to revive, to resuscitate the presidential public financing system can build on the most important constructive developments of the last election cycle, the emergence of a large number of small donors and the ability of political parties to learn to operate effectively in a hard- money world. Those become compatible with restructuring this system, and so let's go about it.

MS. MAXWELL: Thank you. I appreciate the invitation to be here and be part of this discussion about presidential public financing because it's a topic that's been of particular interest to the League of Women Voters many years.

The election of a President of the United States is the single most important election in our country, and perhaps the world. The election obviously results in the selection of this particular powerful official, but it also affects every voter's perception about our election system generally, and about how our government really works.

The presidential election system, in effect, sets the tone for American democracy.

Now, it's not an exaggeration to suggest that the public financing system for presidential elections, that was enacted in the 1970s, played a key role in rescuing the presidency from the dark days of Watergate, as several have articulated this morning. And it was a time when many citizens believed that our political system was corrupt at its core. And I think today we once again face significant challenges to our entire political system. Many citizens are again wondering whether the political system is responsive to their concerns.

Now, the 2000 presidential election caused many to question the basic mechanics and fairness of our election systems, from voting machines to voter registration, from unfair purging to partisan administration of elections. And we've all seen redistricting used for partisan purposes with the result that we have many fewer truly contested elections.

"We all know the system needs to be fixed and needs to be fixed soon. It needs to be fixed so that we can have equitable competition in the primary and the general elections. And it needs to be fixed so that the citizen's voice can be heard over special interests. 'He who pays the piper calls the tune,' and that's why public financing of elections enables all citizens to hold the President accountable."

— *Kay Maxwell*

Some question whether voters can succeed in making changes or whether elected officials have protected themselves from the voters through gerrymandering. And we've seen the presidential public financing system wither away, as needed updates and improvements have not been put in place.

Last year, as you all know, three major candidates, including the two parties' nominees, chose not to participate in public funding. The result? Tremendous special interest contributions to the candidates.

Now, we all know the system needs to be fixed and needs to be fixed soon, as the previous speakers have indicated. It needs to be fixed so that we can have equitable competition in the primary and the general elections. And it needs to be fixed so that the citizen's voice can be heard over special interests. "He who pays the piper calls the tune," and that's why public financing of elections enables all citizens to hold the President accountable.

The League of Women Voters has been in this fight from the beginning, helping to pass the laws creating the Presidential Election Campaign Fund in the 1970s and of course, the Bipartisan Campaign Reform Act of 2002. And since that time, we've supported efforts to improve public financing and we've opposed attempts to weaken or abolish important campaign finance reforms. Public financing and campaign finance reform are part of the League's current Democracy Agenda. It's an advocacy and a public education effort to protect our electoral processes. And a central part of our work has been to try to educate voters and citizens about the critical role that public financing plays in American democracy.

In 1991-1992, faced with an impending shortfall in the presidential election campaign fund, the League defended the system of public financing for presidential candidates through check-offs on income tax forms and on many other fronts. We issued an appeal to taxpayers and preparers to use the tax check-off. We provided testimony before the House Election Subcommittee to increase the check-off from a dollar to $3, with indexing for inflation. We opposed IRS regulations that would weaken the system, and we supported a House bill guaranteeing matching funds for qualified presidential primary candidates.

Over the years, we've expanded our grassroots check-the-box public awareness media campaign to try to help get the message out at the community level. And of course, the League also joined a coalition that sought pledge commitments from the 2004 presidential candidates to support the public financing system's reform if elected. However, as you all know, in the 2004 presidential primary election season, President Bush, Senator Kerry, and Governor Dean all did opt out of the public financing system.

Our work continues. We've recently issued Action Alerts to our network of grassroots lobbyists and urged the U.S. House to defeat legislation that would eliminate the presidential public financing system. And of course, we continue to work with Representatives Shays and Meehan and Senators McCain and Feingold on legislation that will fix the presidential public financing system with the kind of reforms that have been discussed and will be discussed here today.

So how do citizens feel about presidential public financing? Are they ready to take action to reform our campaign laws? Citizens are deeply concerned about the growing issues of corruption and ethics abuses in politics. Americans do not want to give wealth and special interests more access to power. American citizens, in fact, want more reform, not a retreat from anticorruption safeguards.

There are some promising signs at the grassroots level. In fact, in Connecticut — my home state, I'm proud to say — the Democratic- controlled General Assembly just passed landmark campaign finance legislation. It includes public financing of state legislative campaigns, as well as for our statewide Constitutional offices. And it made Connecticut the first state in the country to have its legislature enact public financing. And the Republican governor signed it into law just this week. Connecticut citizens were tired of special interests running their elections and running their government, and we made our voices heard.

The League of Women Voters of Connecticut and other reform organizations tapped into voter frustration and anger to put pressure on state officials to clean up elections. As the national president of the League, I joined Connecticut League leaders to personally lobby the legislative leadership and the governor's office in support of campaign finance reform and this particular legislation. We made the case to Connecticut's political leadership that the country was watching, and that Connecticut had a unique opportunity to be a model for the nation. They listened. As Governor Rell said when she signed the bill into law just two days ago — and I quote — "By signing this bill into law today, perhaps we can ignite another revolution. Perhaps we can revolutionize our system of elections and how they're financed." The grassroots is making a difference. As the President Pro Tem of the Connecticut Senate noted when the bill passed, "What's most important, we're bringing the process back to the grassroots, and we're freeing elected officials from the pursuit of special interest money." Put another way, in a USA Today editorial earlier this week, what happened in Connecticut "might augur a seismic shift in attitude." We believe it will.

Americans have said time and time again that special interest groups have too much influence over Washington. They want the average citizen to have just as much say in who becomes President as large corporations, lobbying organizations, and wealthy donors. Our system belongs in the hands of its rightful owners, the American voters, and the League will continue to do its part, both at the grassroots level and nationally, to see that it happens. Thank you.

Panel II: *Public Perception of the Presidential Public Financing System*

MS. LAKE: Thank you very much, I'm really pleased to be here and pleased to be partnered with Linda. The polling presentations can be very fast and very sharp because there is virtually no data that's recent in this area, which leads us to our number one recommendation — that there needs to be much more bipartisan research in this area. Having said that, I think there are some trends out there that affect the atmosphere in which we are working.

First of all, I just want to echo what everyone has said, which is that there needs to be a broad campaign to educate and reengage the public, who does not know about the Presidential Public Funding System and how it works, and what the checkbox even means. In fact, when we asked voters (for an entirely different client) about the checkbox, more of the people mentioned that there is a checkbox on their state ballot, in part because many states have a checkbox for domestic violence.

Moreover, people strongly believe that the presidential campaign does not rely on [finance] limits and does not have public financing. Indeed, depending on your perspective, they may be very insightful in that regard. They don't believe that campaigns are free speech and they see absolutely no reason why they would encourage [public financing].

People can't imagine paying their own good money to have more campaign ads sent to them and they think that campaigns are paid speech not free speech, so why in the world would you support them? There is a massive public education campaign needed and I think, frankly, in a number of ways it's more daunting than the first panel might have perceived.

There is a current climate of scandal, which is certainly increasing cynicism greatly. There is a strong sense of corruption out there, but I don't think this is leading people to think there should be public financing. I think this is leading people to believe a pox on both your houses and in general to become less engaged in the system, not more engaged. There seems to be a sense that, "Why in the world would you contribute even a dollar to promote this system or promote these bastards," — that being a direct quote from one of our recent focus groups, it is not my own interpretation of the elected officials.

There is a sense that things are broken and there certainly is a sentiment out there that, "if it's broke let's fix it," so in that sense, being able to take charge of a problem and actually do something is powerful motivation. But I think, honestly, given what people think is wrong with the system right now, it's a real stretch for people to see any connection between what is wrong with the system and [why there should be] public financing of presidential campaigns: there is a real problem here of how to find an effective connector.

Also, I think you will see the dialogue shift a little bit in ways that may be helpful to promoting public financing of campaigns. It is not the 'culture of corruption' that is so powerful to voters. I think you are going to see Democrats shift their dialogue from the culture of corruption to the cost of corruption — the cost of corruption to you and your family, the cost to America as a whole.

There is a very, very strong iron triangle out there illustrated by ties to oil and gas, insurance, pharmaceutical companies that I think, Democrats in particular, will be talking about quite a lot that may promote some interest in public financing of presidential campaigns. But it's going to be a dialogue that is more connected to Senate campaigns and Congressional campaigns than it is to Presidential campaigns.

Now, the other interesting notion here is what is the lesson we want to teach the public? There just was a passage of campaign finance reform and yet they have the most corrupt Congress they have seen in awhile, so that didn't work very well. Again, I think we have got a problem here connecting the way people are going to interpret this sequence of events, as the past panel suggested, to somehow promote public financing.

I would argue it's a far more complex situation. The lessons that are being learned right now are probably moving people away from public financing, ironically, not toward it. In fact, what we are seeing is that self-financing candidates are more popular than ever before because people think, "Well, at least, you can't buy them." Who can buy a self-made candidate?

I also would say, and I want to underscore, that I do think there is a tremendous crisis in the system. I will let Linda speak [to the Republican side], but certainly on the Democratic side we have got shaping up the best fundraisers, the most well financed campaigns that we have ever had.

The money machines, if you will — whether it's Hillary Clinton, or John Edwards, or John Kerry — are going to come into the season with record amounts of money. This is not a crew that is going to be very appealed to by public financing. They are going to see public financing as a limit. By the way, one small note, and I'm probably just reflecting my ignorance here, I don't think it's very appealing to the voters to say that you are going to take the limits off by state. It may be good policy, maybe not honestly, but voters think that [state limits] force competition.

One of the things that voters don't like is that, "They never come to my state, they always go to just a couple of states that determine everything." If you don't force them to spend money — one of the arguments probably for public financing was, "We are going to force them to come into your state because they have to spend money in your state," I'm not sure it's so appealing as part of your message. The effects really may be appealing to candidates, [but state spending limits are] still appealing to voters.

But moving right along, lesson number one from the data is that the voters aren't thinking about [public financing] at all. We asked an open-ended question, "What do you think are the most important problems that the President and Congress should deal with?" Not a single voter mentioned campaign finance reform. This issue really is not on people's radar screen, and it's not like they have a lot of minor things on their mind. Voters have got a lot of big things on their mind, so the ability to break through right now is also very complex.

Very few people contribute to Presidential campaigns. Even fewer people feel they need to lie about it. This is a noticeable contradiction. Remember 65 percent of Americans say they gave to their church last month. Of course, 65 percent of Americans didn't even attend church last month, but they felt they ought to lie about it. You notice that people don't even feel it incumbent upon themselves to lie about contributing to Presidential campaigns. And the [number of voters checking the] voluntary check off has been diminishing dramatically. This isn't on real people's radar screen. Even asking people what they base their vote on, you can see campaign finance reform down at the bottom of the list, behind the power of abortion and gun control. When we ask people to rate the issues, you will see again only a quarter of the people say that it's a top priority for them, those are low numbers. We look for things that are in the 65 percent range, as things that really move elections.

Someone in the first panel said that Tom DeLay would be the motivating force here. People are certainly aware of Abramoff and Tom DeLay, but honestly the scandals that people are focused on are Halliburton and no-bid contracts. Those are the scandals that people are focused on.

A lot of this process stuff that will be in the news isn't going to motivate people for campaign finance reform. It is going to make people cynical about the whole darn thing, and they think, "it doesn't matter what I do, these guys get around it. Maybe I should just change the guys and gals."

People are in the mood for change in the campaign finance system. Only a quarter of the people are satisfied, only four percent very satisfied. Now, the error rate on this survey was plus or minus four percent; basically no one was very satisfied with the campaign finance system.

The real motivation here for the public is going to be limiting spending. Now, that's an interesting contradiction, because if we think about the number of the reforms we wanted — we wanted to [increase the public financing matching rate], you want to give [candidates who stay in the system] flexibility — the dialogue of those reforms suggest the removal of limits. The public wants to add limits. There is a real tension here and, again, we haven't figured out a way that the limits actually control the outside spending. The limits sometimes drive more money to the outside. We need to understand that what the public is learning from these experiences unfortunately is often that money is driven to the outside into a less controlled arena.

People are bothered by the amount of money that candidates spend. Three quarters are bothered by the amount of money that candidates spend on campaigns; we have got some work to do to make our dialogue fit the limits piece, and really communicate, effectively putting limits on the system.

People blame a lot of the corporate scandals on campaign finance reform. Challenge number one — I know there is a lot of desire for bipartisanship and for involving corporations and labor in the dialogue — is that we need to figure out some way in which the campaign finance presidential language is going to connect to controlling special interests language.

Secondly, there is a big challenge in terms of getting this public education dialogue out, and I would say that it is more difficult than ever before to actually educate the public on this. First of all, the public is going to noticeably change the channel. People watching public affairs programming is down to a record low amount of time. That also means the candidates feel more and more pressure to put more money into TV. One of the things I didn't hear talked about is the pressure in campaigns that candidates now feel that they cannot reach their public, even the primary audience, except through television. It's going to take one convincing argument to get the ones that actually can raise the money off of TV into a public finance system.

Thirdly, if you look at what people are watching, you will see that people are watching cable and local television news. A third of Americans say they now rely on friends and family more than anybody else for information about campaigns. Newspapers and news programs are down to a record low penetration, and so again, it's forcing candidates to think, "I've got to buy more TV, I've got to buy my broadcast and my cable," not thinking, "boy, I cannot participate in a system that has limits."

Americans are bothered by political advertising. Although, nobody ever thought they lost a campaign because they put too much on. This works against us because candidates feel they need more advertising and the public feels like, "I don't want to put money into this, I don't want to see more advertising," so they are not motivated by this.

I think there are some opportunities, and I want to close on that. One, we need to completely rethink this issue in terms of a public education campaign. We do need a public education campaign, but we haven't got the ingredients for that campaign right now. The traditional things that we have been dialoguing about in this room and the lessons that the public is learning are moving in the opposite direction.

Secondly, we haven't talked about how we can make broadcasts more accountable. Maybe that's because it's impossible, but there is a real dialogue to be had with the public about getting more debates on and getting the public broadcasters more engaged.

We need to consider new and innovative approaches to limiting the other kinds of money out there. If we continue to drive money outside the system, the public is going to get more and more cynical about this whole thing. We have less and less accountability because 527s have a lot less accountability than candidates when they spend money.

And finally, one thing I didn't hear talked about at all was using the internet, including using the internet to drive people to the campaign check off. The internet is a vastly under utilized resource for us and we need to think much more creatively about how to use it for public education, and how, frankly, even to use it to get people to do the check off.

MS. DIVALL: Thank you, Celinda. Well, as I thought of my approach for this, for the past week or so, I didn't know what I was going to say or do. And I thought I'd be the contrarian but I think Celinda has beaten me to the punch here.

But I do have a couple of observations. There was no data. This will be a brief presentation. As Celinda said, it was amazing to me when we prepared for this presentation, we received huge stack of data from 1976 to 1996. That's not real helpful in terms of where we are in today's political environment.

We ought to have a lot of research, it seems to me, on voters' attitudes and what they think about those candidates who bypass the system, about the fairness of the state limits or not, and what they think about those primary candidates who have to abide by those state limits, and how that hurts them potentially down the road, when they are competing for their party's nomination.

I think we really have to think through where we are going with this — and I want to approach this a little bit from the perspective of being a campaign practitioner, as opposed to strictly a pollster, having participated in primaries in 1996, 2000, and 2004 — I think we have to look at a couple of things. The funding priority is for the system is number one, the general election; number two, the conventions; and number three, the primaries. It seems to me, one conversation we need to have is about the funding of conventions. How much money goes to each party for their national party conventions?

SPEAKER: About $15 million each.

MS. DIVALL: $15 million each; that's $30 million altogether that could go into either a general election or a primary system. It seems to me that when you look at what's happening with conventions, because it is only $15 million, you are looking at a lot of other financing coming from the host city, coming from the parties, coming from other interests. And what you're also seeing is less attention allocated by the networks to the convention itself.

What is also happening with the voters — the consumers of the conventions — is people aren't paying attention like they used to. With the internet and with all these new sources out there, aren't there other ways of getting attention and couldn't the conventions be collapsed? What I'm trying to say is, let's not just address one little part of this. We need to look at the whole and decide where consumer attention is and what are we trying to achieve with reform overall.

To me, the most inconsistent finding is that 65 percent of the people supposedly favor public financing, but so few people actually participate in the process. There is a huge disconnect here. Where are all these willing people?

If presidential public financing is so important — and as you said earlier, this is the most important contest in the entire world, it is our Presidential elections — then it's something that should be appropriated by Congress. The most important things to fund would be the general election first and the primary second. Having been involved in primary campaigns, I can tell you it is not fair to have to abide by state limits, because the limits have no relationship to the cost of campaigning.

You say, "well, this has been adjusted according to inflation." Well, guess what, the television stations don't honor that. They jack those rates up as high as they can. When you're talking about November, December, January, February, in Iowa and New Hampshire, you think they are going up 3.5 percent? Guess again. Mail costs, direct mail, direct mail field programs — polling is the only program I know where we never seem to up our rates.

But the point is that the cost of campaigning is very real. It has increased substantially. There are more ways available for campaigners to campaign. Internet campaigning is not cheap. The limits have no relationship to reality, and a candidate who can bypass the system can arrange things to simply stay in longer and look at the calendar and pick and choose, but a candidate who decides to participate in the system has to make a quick mark.

If they don't score by the time [of the] South Carolina [primaries] at the end of February or early March, if they haven't scored by winning in the top two, their money will have dried up and they will be out of the race. Which also gets me to the point, if there is a multi-candidate field, when you have anywhere form six to eight primary candidates in a race — which happened in 1988 on the Republican side and in 1996 on the Democratic side — candidates may be faced with the dilemma that they don't get their full share of funding from the FEC because there is not enough money available.

So if I had a look at recommendations, I would say, one, let's not just zero-in on a narrow piece of this, let's look at the whole, including the role of national conventions and the amount of money that they receive.

If there is any reform to occur, I think it's very important to get some former campaign practitioners involved in the process who understand what happens in terms of various states, somebody from the media world who understands what happens in terms of the race and really understands what the campaign costs are. You can't have people who don't really know what the cost of campaigns are or how you wage campaigns assessing the system in a truly honest and forthright way and be among those to establish the rules. It simply doesn't make sense.

So I think, those are the things that we really need to look at. And I think one of the most encouraging things I heard from Thomas Mann is that there is agreement that state spending limits make no sense. But again, one of the things to consider when you start making rules is that these rules are something that candidates have to live by — and they do indeed have significant consequences. And having to live with those state limits is one reason why some candidates have decided to bypass the system and go their own way.

So that's my assessment, it reflects only my opinion, because I have no data to back up what I say, which is indeed a free but unnatural place to be in — and perhaps quite precarious. Thank you very much.

Panel III: *Principals of Reforming the Presidential Public Funding System*

MR. MALBIN: Thank you, Trevor, and thanks to the Campaign Legal Center and Democracy 21 for sponsoring this event. The Campaign Finance Institute has been looking at the presidential funding system intensively for more than three years. In 2002, we appointed a distinguished bipartisan — actually a multipartisan — task force that was made up not only of scholars, but a diverse group of political professionals. These included a former chair of the Republican National Committee, a former chair of the Democratic National Committee, and people who held high positions in campaigns ranging from Reagan, Bob Dole, Forbes, Bauer, Perot, Mondale, Dukakis, Bill Clinton, and convention managers from both parties. Despite all of their political differences, the task force came up with a remarkable set of unanimous recommendations for fixing the system. So for the next few minutes, I'll tell you what they recommended and why. First, each of you should have been given copies of the task force report, which is also available on our website (www.cfinst.org). In the back is a CD which includes past public opinion research, lots of material on the tax check- offs, the soft money that went to the national party conventions, and many other topics. To follow my comments today, you may find it helpful to open to the contents page, but before you go to the contents, I'd like you take another look at the cover. On the cover are pictures of some of the underdogs who never would have been viable without public funding. All of these were people who were dead broke, out of money, running against front- runners until the public money came in and made it possible for them to get some kind of traction in the early primaries. These pictures include three who the American people eventually decided deserved to be president. That is to say, without public funding, Ronald Reagan, Jimmy Carter, and the elder George Bush would not have been president. Think about that the next time somebody denigrates this issue's urgency.

Well, the presidential system, as we said earlier, worked reasonably well for about 20 years, as long as everybody played by the same rules. But once serious candidates began opting out, the opponents who stayed in were in danger of being trapped by the spending limits. The reason is not complicated: The spending limit is too low, the spending limit is too rigid. Fortunately, to an uncomplicated problem there is a simple solution. The first is to raise the limit somewhat. Other proposals talk about $150 million or more; we went for a lower limit with an escape hatch. We said the limit in the primaries should be about the same as the general election, which is about $75 million in 2004.

But whatever the dollar amount, wherever you set it, the candidates need an escape hatch. We said that if you have to run against somebody who breaks out of the system, you shouldn't have to suffer because you chose to participate. Participating candidates should be able to raise every bit as much money as the ones who opt out. And we did not put a top dollar figure on that. Why this approach? Two answers: First of all, $75 million is enough as long as everybody stays in. It's a lot more than John Kerry or Howard Dean spent during the real nomination contest part of '04 and it's way more than George Bush spent before Super Tuesday in 2000. Most of the additional money — the big spending — was after Super Tuesday — between Super Tuesday and the convention. It was really part of the general election contest.

Second question: why, if there's an escape hatch, do we make it open-ended? Because if somebody does blow through the limit, we just can't be smart enough in advance to know how high they'll go. So the key, if you want to make it work is not to pick some arbitrary number, but to decrease the incentives for blowing through the limit in the first place and then make sure the ones who do want to play don't get hurt. The CFI plan would tell a candidate who is thinking about blowing through it that if you do it, your opponent's going to get the public money he or she needs to get started and that opponent, if he or she gets traction, can still raise enough private money to match you, whatever you do. We said that $75 million is enough for the real nomination contest. What about that period between Super Tuesday and the convention? Personally, I don't think we need to worry that the candidate's message is going to be silent for those three months. If both parties' candidates do stay inside the limit, the Supreme Court and the FEC have made it clear that parties can still do unlimited independent spending.

Okay, but what if only one party's candidate stays in and the other opts out? Is it fair to say to that one candidate who stays in that you can hope for independent spending by your party while your opponent can spend every bit as much as he or she wants directly through the campaign? No, that's not fair. So in that case we say, let the party whose candidate did stay inside the system and play by the rules make unlimited coordinated expenditures.

The point of all of this is to make sure that a spending limit is not a trap. We need candidates to participate in a system that encourages fair competition. But spending limits are only part of the problem. We also want to change public funding in two ways. First, we want candidates to start getting the money early, when it matters the most. Second, and most importantly, we want the system to foster small donors. In case anybody wonders whether small donors are still a problem after the Internet and after 2004, take a look at pages 10 to 11 of the report. Except for Dean, everybody was relying on $1,000-plus donors until after the nomination was settled. Most of the small donors came later. What should we do about that? The current system gives candidates a dollar in public funds for the first $250 they raise from each individual donor.

To encourage small donors, we recommended a 3-for-1 match for the first $100, not $250. That proposal is different from the Toner-Thomas proposal, which talked about 1-for-1 for the first $500. It is also different from the McCain- Feingold bill of 2003, which offered 3-for-1 for the first $250. We wanted the first $100 because most of the money above $100 was, in fact, being given by $1,000 donors. So, in effect, a higher match only reinforces those who give the big bucks, and it costs a whole lot more money. If more money is available, we would prefer going to 4 or 5:1 for the first $100, rather than raising $100 to $250 or $500.

Another provision in the CFI plan: We would cap the total amount of public funding to about $20 million or so per candidate. Again, $20 million is not etched in stone, but having some kind of cap over the public funds keeps control over the dollar amounts, which are much lower under the CFI plan than others. We can talk more about this later. But without a cap on the public money that goes to each candidate, then, in fact, the extra money all goes to the most successful candidates who need it the least, and they get it after the effective contest is over, when it matters the least.

The good news about the CFI plan is that it won't require a lot of new regulations. It's actually less regulatory than the current plan, and it won't cost very much. As Tom Mann said earlier, the solutions are simple, technically. All they take are some minor amendments within a basic structure that still makes good sense. But the political hurdles are high. Make no mistake: This is not just about tinkering — I want to pick up on Celinda Lake's challenge here. This is not just an insider's issue, even if the public doesn't see it yet. For every one of us — for all of us, every single one of us, it is crucial to restore the idea that the presidency should not be a closed game. Unless the system is changed, the only few candidates who will stand a chance are (1) incumbents, (2) establishment favorites, (3) rich people, or (4) whoever may be the high-intensity political flavor of the moment. I'm sorry, but the American people deserve a better range of choices than that. And this goes beyond preserving the system for candidates.

It's equally crucial, second, to invigorate small donors and third — but really first — are the voters. It's crucial to make sure that the race lasts long enough for real voters in real primaries to make the decisions. The voters and not the donors should have the power. Invigorating small donors and empowering the voters, both of these are the keys to restoring the ties between citizens and the government that we, the people, are supposed to own. And it's crucial to do all of this now. As the great Rabbi Hillel once said, if not now, when? If you think the system favors insiders in 2008, wait until there's an incumbent in office after that.

None of this is news to the political pros. Everyone sees the system falling apart, but no one outside of this room seems to be doing anything. In 2003, at least there was the McCain-Feingold-Shays-Meehan bill to talk about. Why, after a whole year, is there no such bill today? And if not McCain-Feingold, why not somebody else? Time is running out.

One final point before I sit down. I have offered reasons for preferring the CFI approach to Toner-Thomas or McCain-Feingold, but don't let those differences fool you. These plans all deserve a serious discussion. The problem is to get on the agenda. The details will come next. The status quo is a disaster. The only thing that would be worse is repeal. Commissioners Toner and Thomas deserve a "thanks" for pushing an issue that badly needs to be faced. The American people have a huge stake in this; unfortunately, the general public does not understand it and may not until 2008, and that will be too late. The time to start moving is now.

MR. THOMAS: My name's Scott Thomas. I am, as noted, serving as chairman of the Federal Election Commission this year, and I'm lending whatever influence I can to enlighten people about this, to get people interested in the issue, and let's see if we can get it repaired. I have to note the importance of the fact that I'm here with my colleague, Michael Toner. He's from a different political party, but he and I agree on this issue. If Congress is going to salvage the program, it better get with it, and there ought to be a serious assessment as to whether or not the program is an improvement on the alternative.

We don't always agree. I have to confess that as we were developing our proposal, he wanted to have a program that basically gave Republicans twice as much public money as Democrats, so we couldn't quite reach agreement on that. But other than that, I think we're pretty solid — right down the line.

Another thing to think about — I think there's some Congressional staff out here — you're going to have to think about how you're going to get along with folks on the other side of the aisle if you're going to be working on this issue. This is an issue that cuts across partisan lines; it really does. And if you think back, it's been that way for a long time.

Teddy Roosevelt — you know, it goes back that far. Remember the election of 1904 — I use this example in many of my presentations to classes and student groups that come through the FEC. He was running for election in '04, and he was really worried he wasn't going to be able to win in New York. And he went to a couple of his very wealthy benefactor friends, Mr. Harriman and Mr. Frick — railroad industry and steel industry, respectively — and he said, "Guys, I need money." And they followed through; they came up with a lot of money in that day. I know that Mr. Harriman is credited himself for having pulled together about $260,000. But you know the results; Teddy Roosevelt won that election and the irony is that afterward, he got kind of tough on big business, he got the label "Mr. Trustbuster" when all was said and done. Well, you can imagine Mr. Harriman and Mr. Frick; they were certainly not amused by this turn of events, and one of the great quotes of the entire political history of this country came from Mr. Frick. He said, "You know, we bought that son-of-a-bitch, he just didn't stay bought."

But we know that's kind of the thing that's been going on this whole time. There's this idea that people who can put together a lot of campaign support for a particular presidential candidate can basically feel like they can buy something, they can buy some policy with that. And that is a major component of what this battle is about — or what this discussion is about, I should say. It shouldn't be a battle. Back to Theodore Roosevelt: after the 1904 election he urged Congress to adopt public funding for national political parties and Presidential campaigns.

Now, there is, as you can tell, kind of a dichotomy here. There are some who are really promoting the fact that this program promotes competition. It does that. Think about the folks that have been mentioned already. But how important was it to bring Jimmy Carter and Ronald Reagan into the debate in 1976? They had dramatic influence on our country's policies for many years. Jesse Jackson — and on the other side, Pat Robertson — brought the social justice and moral issues debate into the presidential campaign process. Very, very important for this country's policy. General Clark, Senator McCain, both with the military background; they brought perspective during the debate about what to do about terrorism. Very important considerations. Now, as it turned out, there was already a lot of — I guess, if you will – military muscle being debated by the other candidates, but that was a very important component of our presidential debate during that campaign.

Now, the other component is what I've alluded to already, this need to maybe reduce reliance on these well-connected fundraisers, the "bundlers," as they're quite often referred to. And I would think that it's in the interest of anybody running for President to steer clear of the kinds of stories that are inevitably going to come out during any presidential campaign as long as we have a system where people are going to be — because of the breakdown of the public funding program — relying more and more and more on these well- connected fundraisers, the bundlers. You're going to end up with stories like appeared in The Nation not too long ago. This just happens to be because the president we have won election, but the story goes, "Bush's bundlers brought in nearly $25 million from the finance, insurance, and real estate sector, which has profited mightily from his tax cuts and stands to make billions more if he succeeds in privatizing Social Security." You'll see research done by organizations like Public Citizen, and they've got it called "Payola Pioneering," and it goes on about how the President's campaign relied on the so-called "Pioneers."

But to be fair, the stories, if the election had gone the other way, would have been about Senator Kerry. The research has already been done about the bundlers in the Kerry campaign, which key industries supported the Kerry campaign through the bundling process. These stories are going to come out, they're going to be stronger, they're going to be tougher, unless we do something where these candidates can say, "Look, I've done all I can to rely on clean money, I've promoted the public funding program, and I've participated in it." That's my spin on why it's important that we focus on not just the competitive advantages of public funding, but also the appearance of corruption. That angle, I think, does deserve a lot of attention.

"In order for candidates to be able to say 'I relied on clean money,' they need more money in the primary and need to receive matching funds earlier."

— Scott Thomas

Our proposal the vice chairman and I have put together focuses on raising the primary spending limit. We think that, basically, you need to raise that limit high enough so you will draw in whoever ends up winning the White House. Whoever gets in there will be able to say they've gone through this process where cleaner money has been used to get them there, fewer strings are attached, and they have participated in the cleanest process possible.

We focus on allowing more public money to actually be given to these folks. You've got to not just increase the spending limit, but find a way to give them more of an inducement to participate, find a way to get them more matching money in the primary process. We also have some ideas about fixing some of the problems that we've seen in recent elections.

Number one, we talk about making matching funds available earlier. It's been noted earlier, but you know, if they have to wait until January of the election year to start getting the primary money, they go through all these contortions, going out to get bank loans, and it causes a real stress level, confusion level, and inefficiency in the campaign process. It would be easy to say that they could get the money earlier.

Also, we talk about one of the anomalies that developed in 2004. You'll remember that the Kerry campaign had their nomination about a month before the Bush campaign got their nomination. So the Kerry campaign had to start living with the general election spending limits a month earlier, and it really impacted, I think, the presidential campaign. They felt somewhat constrained to spend their general election grant during that one-month timeframe when they hadn't even met the opposition yet, so to speak. And who knows — if they had felt more free to have their primary money available, they might have been able to maybe meet some of those Swift Boat Veteran ads and some of that other nasty stuff that was going on. So we talk about letting the candidates get their general election grants on the same date, and that should fix that problem.

We also had some other proposals: (1) Get rid of those state-by-state spending limits. We think that's an inappropriate focus on campaign regulation. (2) Tighten the eligibility for matching funds; that could be done. Right now, you can qualify for matching funds by having 20 people in each of 20 states give $250 each. It's only $100,000 to get into the public funding program in the matching phase. You could probably raise those without much problem.

So, that's the pitch. I would note that before we get too frustrated with the analysis that was provided by the earlier panel on polling, keep in mind that the stories about the scandals and the corruption — and it's going to come out on both sides of the aisle, you can bet — relate to the pre-BCRA era. Before we give up on what the public thinks about campaign reform, we ought to take a look at what they think about what's happened since BCRA. Let's at least start giving it a fair chance and analyze what the BCRA reforms have actually affected. It may be that the story's much brighter than that panel indicated.

So I'll leave it with that, I'll turn it over to Michael, who's going to, again, focus on some of the aspects of our proposal. Thank you.

MR. TONER: I want to stress at the outset I am not a campaign finance reformer. And I don't think anybody is ever going to put me in that school of thought. So I may come at this from a slightly different perspective than some of the other speakers. But I do feel strongly that if there's going to be a presidential public financing system, it should be practical, it should be functional, it should be effective. In my view, it makes no sense to have a system in which the only candidates who are participating have no realistic chance to win the presidency. And as the earlier panelists indicated, that's probably where we're headed if the public financing system remains as is. Echoing some of the discussion this morning about the check-off rate, the fact is that it was originally in the 25- to 30-percent range and has been declining over the last 10 years or so, and in recent years, has been down in the 9-, 10-, or 11- percent rate. Again, I don't think it's a coincidence that the check-off rate is at that level if the person who's at 1600 Pennsylvania Avenue opted out of the system, if the challenger in the 2004 election, Senator Kerry, also opted out of the system, and if people looking forward towards 2008 think those candidates are going to do the same thing. At the very least, if you have a system that is strong enough to include the strongest candidates that have got to help on check-off rate, regardless of any other changes that are made. So I come to this debate from that perspective; it's one of pragmatism, but it's also one of a recognition that the public financing system worked very well for the first couple decades of its existence. As the earlier panels indicated, from about the mid 1970s to the mid 1990s, it worked very well. And I don't think anyone should be surprised that a system that was set up 30 years ago eventually became outdated.

The presidential selection process is so much different today than it was at that time, and so age did catch up with the system. But I don't think in any way that's an indictment of the system or the way it was structured. Quite the contrary. I think it's a recognition that changes need to be made to any legal regime to keep up with the changing politics of our time. I also want to echo comments that were made this morning — Tom Mann made them, I think, most forcefully. This is not rocket science. The changes that would allow this system to be revitalized are very straightforward. I've calculated that the necessary changes could be done in under two pages of new statutory language, building on bedrock principles that have been in the campaign finance laws since the 1970s. So unlike other campaign finance debates, the solutions here, I think, are fairly straightforward, and the question is whether or not there's the political desire to implement these changes.

I want to spend just a couple minutes talking about — and Chairman Thomas alluded to a number of the ideas that we proposed — first and foremost, the view —in our view, when Congress decides what to do with this system, the focal point has got to be to make this system strong enough for the strongest candidates to be comfortable participating in it. No serious candidate for the presidency can be given a hard time, in my view, for opting out of a system that doesn't accommodate their competitive interests.

There's been some discussion about 2008 that Hillary Rodham Clinton might very well run. Published reports indicate that she's contemplating perhaps not only opting out for the primaries, but also for the general election. And if she were to raise, say, $250 million for the primaries — which I think many people believe is quite conceivable — and let's say she raised another $250 million for the general election, she might only need to spend $150 million or so in the primaries, she then could roll over that last $100 million directly into the general election, and have $350 million for the general election. The candidate who remains in the system, if the system were not altered, would be left with $80 million for the general election. So these types of competitive pressures have been building for the last few presidential elections, and they really are coming to a head as we look forward to 2008. But there are a number of straightforward practical solutions that could address that. First and foremost is the spending limit. There's been some discussion about how that's played out; I won't go over those details again, but the bottom line is we had two presidential candidates that each raised more than five times the legal spending limit for the primaries, we have the higher contribution limit under the McCain-Feingold law, we have the Internet fundraising phenomenon that we've seen over the last several years — all of those events conspired — combined with the exploding cost of running for president — that a 45- or $50-million primary spending limit just is not realistic when candidates can raise 200, $250 million.

"Candidates need to feel like they can stay in the system and still be able to go toe-to-toe with their opponent if their opponent opts out of the system."

— Michael Toner

So the first solution that Chairman Thomas and I proposed is a practical recognition that the spending limit needs to be at the level that, again, can accommodate the strongest candidates. Now, we propose a number of different levels for Congress to look at, we've talked about $150 million, $200 million, and $250 million. We don't pretend to know exactly what spending limit is appropriate. But it seems like most of the United States Senate's running for president these days, so they're obviously very familiar with what it takes to run and to wage a successful campaign. Our point is that that ought to be the focal point. In deciding where that spending limit ought to be, it ought — the focal point ought to be, where does it need to be to be high enough for the Hillary Rodham Clintons of the world, for Senator McCain, for others who are running to be comfortable within the system and not be forced into a choice between what is in their best interest competitively when they're trying to win the presidency and remaining in the system. And we really think Congress is well situated to make that choice.

We also think Congress, if there's any ambiguity, should err on the side of a higher limit for two reasons. One, it makes it more likely that whatever limit is set will endure not only for the next election cycle, but many beyond that, maybe for the next decade or two, which we think is the ideal solution. And second of all, that wherever the spending limit is set, all the money that's being spent under that regime is either hard money being raised by the candidates or public funds. And so no soft money being in that equation, we think it makes sense to err on the high side in terms of the spending limits that are considered. But the second key ingredient to strengthening the system and revitalizing it, as has been noted, is greatly increasing, in our view, the total amount of public funds the candidates can receive. Under current law, candidates can receive a little bit under $20 million in public funds, no matter how many matchable contributions they may receive. They're still that ceiling in the primary of about $19-20 million. That's in an era when candidates can raise $230, $240, $250 million. So Chairman Thomas and I proposed that the total public funds allotment be tied to 50 percent of whatever the newly increased spending limit is. So for example, if Congress decided to set a spending limit of $200 million, then the total amount of public funds available would be up to $100 million per candidate, or if they went to $250 million, it would be up to $125 million.

So if you had a candidate who might be able to raise $100 or $125 million, they then might be eligible for up to $75 to $100 million of public funds. When you combine those allotments, they get up to the $200-$225-million range that, in our view, would allow them to compete toe-to-toe, all the way, against a candidate who might be opting out of the system and raising $225-250 million. And for us, that really has to be the focal point, is designing a system where candidates can feel good about being in the system and feeling like they could go toe-to-toe with any candidate who opts out and stays outside the system. Now, we recognize that would be about a four or five times increase in the total amount of public funds that candidates could receive under current law, but we think that's exactly the analysis that Congress needs to look at to strengthen the system and to revitalize the system.

I do want to note briefly that in our view, the state spending limits are irrational, they serve no anticorruption purpose, and they need to be abolished. I note that the spending limit for the New Hampshire primary in 2004 was the same as American Samoa. Now, I like American Samoa, and I hear it's very beautiful, but it's probably not as important in the presidential selection process as the New Hampshire primary. The Iowa Caucus spending limit was $1.3 million in 2004, the same limit as existed in Mississippi and Kansas. Again, lovely places, but probably not as important in who's going to become the nominee. In our view, there's no anticorruption rationale in maintaining these limits, and quite the contrary, its forcing candidates — it creates an incentive for them not to participate in the system. So we strongly believe the state spending limits ought to be abolished. As Chairman Thomas indicated, we also think matching funds ought to be made available sooner in the process. We recommend July 1st of the year before the presidential election, as opposed to January 1st of the presidential election, a recognition that so many key events now occur in this year before the election. The rise of straw polls — the Iowa Straw Poll being perhaps the most prominent — occurs in the summer of the year before the election. That, for many candidates, is a key time in terms of whether they're going to stay in the race. We think the key then is to have the public funds be available sooner, when they're needed.

We also strongly believe that the public grant — the grant for the public general election needs to be given to both candidates at the same time. Right now, we have an anomaly in the system where each major party nominee gets their funds when they're nominated at their conventions — that's obviously not at the same time. So Chairman Thomas and I recommended either a fixed date of, say, September 1st for that to occur, or to have the public grants released the latest major party convention is held.

In closing, I want to emphasize I think there's broad consensus about the key ways to revitalize the system and that the steps that need to be taken are not rocket science. They're straightforward, it would not require a rewriting of the statute; what it would require is a commitment to make this system strong enough for the strongest candidates. And that, for me, is a fundamental principle that makes total sense, and the public funding system served the country and worked very well for two decades, and there's an opportunity now, in my view, going forward, to have it set up in a strong fashion for the next two decades. And with that, I'm going to turn it over to Don Simon.

MR. SIMON: This panel obviously is focusing on the nuts and bolts of the various policy solutions, and it's a nuts-and-bolts that inherently has an eyes-glazed-over sort of quality to it. But to the extent the conference is aimed, at least in part, at Congressional staff, nuts and bolts of policy solutions are mother's milk for Congressional staff.

Let me add a third approach. We've heard from Michael about the CFI proposals, which I think are good proposals, impressively researched and argued in their reports. We've heard from Scott and Michael about their proposal, and let me just add from my perspective, I think it's been tremendously helpful and constructive to this debate to have a bipartisan proposal put forth by the two commissioners. In this area in particular, bipartisanship in proposed solutions is really critical to those solutions having credibility, and I think they have played a very constructive role in this debate. Let me focus on a third approach, which is the bill introduced — the one actual legislative proposal that we have in this debate so far, which is a bill introduced in 2003 by the BCRA cosponsors, Senators McCain and Feingold in the Senate and Representatives Shays and Meehan in the House. They are looking at that bill now, it's my understanding, in light of the experience in 2004, in light of the other reform proposals that have been made, with an eye towards reintroducing a new bill in the near future. But I do want to talk about the specifics of the bill that they introduced in 2003.

Now, as Tom Mann said earlier, and several of us have emphasized, there is, I think, broad consensus about the policy solutions, and even to some extent, about the nuts and bolts of the policy solutions. All of these proposals sort of operate in the same framework. When you look at the problems that have been identified, they all can be addressed in about a dozen changes or fixes to the existing law, and some of these changes, I think, are quite non-controversial. For instance, as several people have mentioned, one problem with the current system is that because the primary season has become so front-loaded, the public funding, the actual distribution of public funds now comes too late — not until January of the election year. It's simple, and I think not controversial at all, to move up the initial payment of funds to eligible candidates to, say, July of the year before the election, a position that is taken, I think, in all of the proposals that have been offered. Another example is that there's broad consensus on the failure of the state-by-state spending limits in the current system. Those limits don't work, they're very administratively cumbersome, they're very difficult to enforce, and they're very easy to game. So I think there's general agreement that those limits should not be maintained at the state level, and it's easy, obviously, to eliminate them, and the McCain-Feingold bill and the other reform proposals agree on this. But at the level of detail, there are a handful — four or five policy decisions which are considerably more difficult and which I think require a balancing of considerations and a tradeoff of competing goals. At the broadest level, the tradeoff is the following: On the one hand, it's imperative to make the system sufficiently attractive to candidates, including and perhaps especially, the top-tier candidates, so that they will voluntarily choose to opt into the system.

> "There's broad consensus on the failure of the state-by-state spending limits in the current system. Those limits don't work, they're very administratively cumbersome, they're very difficult to enforce, and they're very easy to game."
>
> *—Don Simon*

If no one opts in or if only second-tier candidates participate, the system will become — or at least seem to become — mostly irrelevant. On the other hand, you can't make the system so attractive that it either becomes insupportably expensive as a practical matter, or it imposes so few constraints on the candidates that it fails to achieve its core public policy goals, such as encouraging small contributions or restraining the overall cost of the presidential campaigns.

Now, I want to talk very specifically about five questions where I think these tradeoffs come into play. The first is what spending limits to set. The current $45-million limit for the primary, I think, is too low, as almost everyone agrees. But if you set the limit at $200 million or $250 million to reflect the experience of the 2004 campaign, the system at that point imposes no real constraint on spending at all, and one of the key goals of the system — to hold down spending — would be discarded at that level. S. 1913 sets the primary limit at 75 million, which is a significant increase over the current 45 million, but even this may not have been high enough, given the experience in 2004.

"If no one opts in or if only second-tier candidates participate, the system will become — or at least seem to become — mostly irrelevant. On the other hand, you can't make the system so attractive that it either becomes insupportably expensive as a practical matter, or it imposes so few constraints on the candidates that it fails to achieve its core public policy goals, such as encouraging small contributions or restraining the overall cost of the presidential campaigns."

—Don Simon

So one important policy question facing the sponsors of that legislation is whether to increase the spending limit over the $75-million level, and if so, how much. I think there's less pressure on the spending limit in the general election, which has always been twice that of the primary election, and which takes place over a much shorter time frame. S. 1913 kept that general election spending limit at its current level of about $75 million.

Second question: What contributions to match? Current law provides for a 1:1 match for the first $250 of a person's contribution, which, when set, was 25 percent of the overall contribution limit of $1,000. Since that contribution limit has now doubled, there is certainly a rationale for increasing the matchable amount to $500 to maintain the same relative ratio. On the other hand, doing that rewards contributions that many people see as very large contributions — $500 contributions — when one of the important public policy purposes of the law is to encourage small contributions and encourage candidates to seek small contributions. That goal would be achieved, as someone has recommended, by lowering the matchable limit to $100, but the problem is that it may not get enough public funds to candidates, which would discourage them from entering the system. So there's some tension here between resting the funding system primarily on the collection of small donations, but yet ensuring that there are enough public funds to make the system attractive to candidates who can easily raise large contributions by opting out. And this tension is exacerbated by the fact that the contribution limit was increased by BCRA to $2,000. Now, in part, this tension can be mediated by keeping a focus on small contributions, but by providing a multiple match for them, instead 15 of the current 1:1 match. This is the approach taken by the McCain-Feingold bill, which does not raise or lower the matchable amount — it keeps it at $250 — but matches those contributions at 4:1, which is a middle ground.

The next question is how to deal, if at all, with opt-out candidates. The problem here is that it's hard to go into the system if you're going to be swamped by the spending of a candidate who stays out of the system. One approach here is to raise the spending limit for candidates who go in and are then faced by candidates who stay out. The policy question is whether that's enough protection, or whether you have to go beyond that and provide additional public funding – whether, in addition to raising the limit for the opt-in candidate, you need to provide additional public resources for that candidate to deal with the opt-out candidate. The approach taken by McCain-Feingold is to raise — to double the primary limit from 75 million to 150 million, but to not give additional public resources because it's very expensive in the primary context, where you could have multiple opt-in candidates. It's very expensive to give additional resources to each one of them.

A fourth problem is how to deal with the gap, which is that period between the effective end of the primary season in March or April and the conventions in late summer. Candidates may have reached their spending ceiling by the end of March or April, but they need resources to continue to get their message out. That problem can be addressed in part by raising the spending ceiling. In addition, S. 1913 took the route of doubling the coordinated spending limit for the parties — so the party hard dollars can be used in coordination with candidates to supplement their message in the gap period. The fifth question is how to deal with the funding system. All this is very expensive— the check-off is currently at $3. The approach taken by the McCain-Feingold bill is to double that for $6 for an individual or $12 for a couple, and with that, I will stop. Thank you.

Panelist Profiles

Tony Corrado is the Charles A. Dana Professor of Government at Colby College in Waterville, Maine, and a nonresident fellow in Governance Studies at the Brookings Institution. Considered one of the nation's leading experts on campaign finance, Corrado also serves as Chair of the American Bar Association's Advisory Commission on Election Law and Co-chair of the Board of Trustees of the Campaign Finance Institute.

Linda DiVall is the founder and President of American Viewpoint. For over twenty years, DiVall has provided strategic solutions to both political and corporate clients. She is a foremost expert in the Republican Party on developing and implementing strategies on the gender gap. Her advice is sought by party leaders on issues as diverse as health care reform, trade policy and party image development.

Charles Kolb is the President of the Committee for Economic Development (CED), an independent, nonpartisan organization of 250 business and education leaders dedicated to economic and social policy research. In April 2005, CED released a report on campaign finance issues – making recommendations for greater policy reforms and showing its support for the presidential public funding system. Prior to joining CED, he served as General Counsel and Secretary of United Way of America.

Celinda Lake is the President of Lake, Snell, Perry, Mermin, and Associates, and one of the Democratic Party's leading political strategists. She serves as tactician and senior advisor to the national party committees and dozens of Democratic incumbents and challengers at all levels of the electoral process. Lake and her firm are known for cutting edge research on issues including the economy, health care, the environment and education.

Michael Malbin is the Executive Director of the Campaign Finance Institute and a Professor of Political Science at the State University of New York at Albany. Malbin has also worked for Vice President Richard B. Cheney in the House of Representatives and the Pentagon, has been a reporter for *National Journal* and a resident scholar at the American Enterprise Institute.

Tom Mann serves as a Senior Fellow in Governance Studies and is the W. Averell Harriman Chair at the Brookings Institution. Mann is an expert on campaign finance and governance and is the former executive director of the American Political Science Association. His books include: *The Broken Branch, The New Campaign Finance Sourcebook*; *Inside the Campaign Finance Battle*; and *The Permanent Campaign and its Future*.

Kay Maxwell* is the President of the League of Women Voters of the United States and has been a League member since 1976. During her 29 years of service with the League, she has held numerous leadership posts within the organization. Maxwell is an active participant in the U.S. Department of State's International Speakers and CitizenConnect Programs. Maxwell's leadership in the League earned her the first "Citizen of the Year" award from the Connecticut Secretary of State in 1993.

Meredith McGehee is the Director of the Media Policy Program at the Campaign Legal Center and former Executive Director of the Alliance for Better Campaigns. She has also served as the Senior Vice President and Chief Lobbyist for Common Cause, during which time she was named by *The Hill* as one of the top nonprofit/grassroots lobbyists in Washington.

Trevor Potter is the President and General Counsel of the Campaign Legal Center. Potter is a former Commissioner and Chairman of the Federal Election Commission, and has specialized in the area of campaign finance and election law for the last 17

** Her tenure as President of the League of Women Voters ended June 2006.*

years. He served as General Counsel to the McCain presidential campaign in 2000. Potter is the editor of the "Campaign Finance Law" website at the Brookings Institution, where he is a nonresident Senior Fellow. He is also currently a member of the D.C. law firm Caplin & Drysdale, where he heads its political activities practice.

Don Simon is a partner at Sonosky, Chambers, Sachse, Endreson & Perry, LLP and counsel to Democracy 21. Simon is also a former Executive Vice President and General Counsel of Common Cause. He is an expert on campaign finance and election law issues, and has been involved in numerous major legislative and litigation initiatives on campaign finance and related issues. Simon also serves as a legal consultant to the Campaign Legal Center.

Scott Thomas* is the Chairman of the Federal Election Commission. Thomas began his service at the FEC as a legal intern during the summer of 1975. He worked on the FEC's legal staff, eventually serving as an Assistant General Counsel in the Enforcement Division. In 1983, he became Executive Assistant to then Commissioner Tom Harris, a Democrat and one of the original FEC commissioners. Upon Commissioner Harris's retirement in 1986, President Reagan appointed Thomas to the remainder of a six-year term. He was reappointed in 1991 by President Bush, and reappointed again by President Clinton in 1997.

Michael Toner* is the Vice-Chairman of the Federal Election Commission. Prior to being appointed to the FEC, Toner served as Chief Counsel of the Republican National Committee. He joined the RNC in 2001 after serving as General Counsel of the Bush-Cheney Transition Team in Washington, DC and General Counsel of the Bush-Cheney 2000 Presidential Campaign in Austin, TX. Toner was an associate attorney at Wiley, Rein, & Fielding in Washington, D.C. from 1992-1996, focusing on federal and state election law compliance.

Fred Wertheimer is the President and CEO of Democracy 21 and Democracy 21 Education Fund, which he founded in 1997. Wertheimer is a longtime leader in the fight for campaign finance reform and a nationally recognized authority and spokesperson on the issues of money in politics, government accountability and ethics, and reform of the political system. Wertheimer served as President of Common Cause for fourteen years and also has served as a Fellow at the Shorenstein Center on the Press, Politics and Public Policy at Harvard University; as the J. Skelly Wright Fellow and Visiting Lecturer at Yale Law School; and as a political analyst and consultant for *CBS News*, *ABC News* and *ABC's Nightline*.

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*** Their roles were current as of the date of the conference, but Commissioner Toner is now the Chairman of the FEC, and Commissioner Thomas' term has ended.*

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