

PA10-002

HB5544

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

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properly cast. The machine will be locked and the Clerk will prepare the tally.

The Clerk will please announce the tally.

THE CLERK:

On today's consent calendar.

Total Number voting	149
Necessary for adoption	75
Those voting Yea	149
Those voting Nay	0
Those absent and not voting	2

DEPUTY SPEAKER KIRKLEY-BEY:

The consent calendar is adopted.

(Speaker Donovan in the Chair.)

SPEAKER DONOVAN:

Will the Clerk please call Emergency Certified Bill Number 5544.

THE CLERK:

House Bill 5544, AN ACT CONCERNING THE CITIZENS' ELECTION FUND, LCO Number 3312, introduced by Representative Donovan and Senator Williams.

SPEAKER DONOVAN:

Chairman Spallone, you have the floor, sir.

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REP. SPALLONE (36th):

Thank you, Mr. Speaker.

Mr. Speaker, I'm move for passage of the emergency certified bill.

SPEAKER DONOVAN:

The question is on passage of the bill. Will you remark.

REP. SPALLONE (36th):

Thank you, Mr. Speaker.

The emergency certified bill is a placeholder that makes a technical change to the Citizens' Election Program, but the operative bill will be taking up today is included in an amendment.

The Clerk is in possession of an amendment, LCO Number 3386. I ask that the amendment be called and I be given permission to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 3386, which will be designated House Amendment Schedule "A."

THE CLERK:

LCO Number 3386, House "A" offered by Representative Spallone and Senator Slossberg.

SPEAKER DONOVAN:

The Representative seeks leave of the Chamber to

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summarize the amendment.

Is there objection to summarization?

Hearing none, Representative Spallone, you may proceed with summarization.

REP. SPALLONE (36th):

Thank you, Mr. Speaker.

I'll briefly summarize by saying that this amendment will strike the underlying bill, the emergency certified bill, and make amendments to the so-called "reverter clause" in the Citizen Election Program, known as General Statutes Number 09-717. I move adoption of the amendment.

SPEAKER DONOVAN:

The question before the Chamber is adoption of House Amendment Schedule "A." Will you remark on the amendment, sir.

REP. SPALLONE (36th):

Thank you, Mr. Speaker.

Mr. Speaker, House Amendment Schedule "A," which I stated earlier becomes the bill, essentially has three parts to it. Just to give a little bit of history, Mr. Speaker, when this General Assembly passed comprehensive campaign finance reform, known as the Citizen Election Program, in 2005, the law

contained a Section, 9-717, which is commonly known as the reverter clause that provides that if the law were enjoined and in whole or in part by a court of competent jurisdiction, that the certain portions of the program really, for all intents and purposes, the entire public financing program would be effectively repealed after a certain period of time and replaced by the law prior to the passage of campaign finance reform.

Under current law, that period of time in which the General Assembly has to act before the reverter would take effect is seven days. This bill accomplishes three things through this operative amendment.

Number one, in the event of a special election, it retains a reverter period of seven days, but applies the suspension of the law only to that special election. So if one were to occur between now and November, that would be affect that this amendment.

Number two, and I would suggest most important to this General Assembly, the reverter period would be extended from 7 days to 30 days, and that would be effective between April 15th, which is later this week and the primaries in August.

And finally, Mr. Speaker, if the injunction were to come into effect from a court of competent jurisdiction close to on or after the primary date of August 10th, the reverter period would be 15 days.

And finally, the amendment contains existing law stating that, in the event of a reverter taking place, persons who are participating in the program would be able to keep and spend the funds that they had received.

Mr. Speaker, I previously moved adoption. This amendment and bill after adoption of the amendment, are a small but important step towards this General Assembly addressing the court decision by Judge Underhill in the matter of Green Party vs. Garfield, which held certain parts of our landmark campaign-finance law unconstitutional.

The matter is currently pending in the Second Circuit Court of Appeals, the United States Court of Appeals in New York. It was argued on January 13th. We are awaiting a decision from the court and have no idea when that decision will be rendered.

So Mr. Speaker, this bill simply gives the General Assembly a reasonable tool and time to respond in a meaningful manner when necessary, and if

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necessary, to a decision of the United States Court of Appeals for the Second Circuit. So for those reasons, I believe this is a reasonable and responsible act be taken by the General Assembly this time. I urge adoption of the amendment. Thank you.

SPEAKER DONOVAN:

Thank you, Representative.

Will you remark further?

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

I rise to urge adoption. This is a measure that will permit the General Assembly to consider in an orderly and deliberate way what needs to be done with the Citizens' Election Program and its various provisions if the court should affirm the district court's decision and if the operation should be permanently enjoined.

So I believe that this is very much in order. It doesn't go to the merits of the program. What it does is give us a window of opportunity to deal with the program, as I say in a deliberate way and I urge adoption. Thank you.

SPEAKER DONOVAN:

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Thank you, Representative.

Would you care to remark further? Would you care to remark further on the amendment?

If not, I will try your minds. All those in favor, please indicate by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed, nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

If not, staff and guests please come to the well --

REP. CAFERO (142nd):

Mr. Speaker.

SPEAKER DONOVAN:

Sorry, Representative Cafero. I didn't see you. Representative Cafero, you have the floor, sir.

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

Mr. Speaker, ladies and gentlemen of the Chamber, it is my intent to vote yes when the vote is taken.

I think it's important to note however, there has been some discussion around here about today's vote in this bill, and its been, in my opinion, is correctly characterized as the "campaign-finance fix." Fix.

Let us be very clear. This fixes nothing. It does not address the concerns that were brought up by the trial court, the federal court. It does not address many of the concerns that were brought up in committee.

This is simply a bill that de-arms or deactivates, if you will, the time bomb because many of us believe that we did a whole host of campaign-finance reforms. And sometimes it gets lost in the fact that we focus on the public campaign financing portion of those reforms, but there was a whole list and litany of reforms that we passed and supported, such as, no lobbyist money, no ad book money, et cetera.

Public campaign financing, which many of us, myself included, are philosophically opposed to, was just one of many of those reforms. The concern is based upon the federal court decision and the way the bill was written, that if one thing goes they all go. That's the time bomb.

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So what we are doing today is deactivating the time bomb so that those other reforms that many of us believe are important and vital do not go the way of anything that might be ruled unconstitutional. So let us be very clear about what we are doing today; this is not in any way, shape or form a campaign-finance reform fix. This is a temporary deactivation of a time bomb that we've built into the very reform that we passed.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Representative Caruso.

REP. CARUSO (126th):

Thank you, Mr. Speaker.

Mr. Speaker, I would concur with Representative Cafero, and in particular about the deactivating the time bomb. He's absolutely right, and it's good to deactivate the time bomb, because the alternative would be that is the entire program, under the current legislation, would come crashing down if we didn't deactivate this time bomb.

And in addition, we would revert back to the old system of campaigning, which has not always served the

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state or its citizens very well. So, Mr. Speaker, I concur with Representative Cafero, and as he has urged others in this Chamber to support this bill. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Would you care to remark further on the bill as amended? Care to remark further?

If not, staff and guests please come to the well of the House. Members take their seats. The machine will be open.

THE CLERK: —

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber please.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Please check the roll call board to make sure your vote has been properly cast. If all the members voted, the machine will be locked and the Clerk will please take a tally.

Will the Clerk please announce the tally.

THE CLERK:

House Bill Number 5544 with House "A."

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Total Number voting	149
Necessary for adoption	75
Those voting Yea	137
Those voting Nay	12
Those absent and not voting	2

SPEAKER DONOVAN:

The bill as amended is passed.

Will the Clerk please call Calendar 107.

THE CLERK:

On page 9, Calendar 107, substitute for House
Bill Number 5371, AN ACT CONCERNING AFFORDABLE HOUSING
REPLACEMENT, favorable report of the Committee on
Housing.

SPEAKER DONOVAN:

The Chairman of the Committee on Housing,
Representative Green, you have the floor, sir.

REP. GREEN (1st):

Thank you, Mr. Speaker.

Mr. Speaker, I move for acceptance of the joint
committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

Question is on acceptance of the joint
committee's favorable report and passage of the bill.

Will you remark?

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upon as indicated and that the agenda be incorporated by reference into the Senate journal and the Senate transcript.

THE CHAIR:

There is a motion on the floor to move all items on Senate Agenda Number 3. Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Mr. President, thank you.

Mr. President, we will proceed to take up business from Senate Agenda Number 2. I would ask the Clerk to first under business from the House, Emergency Certified House Bill Number 5544.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calling from Senate Agenda Number 2, Emergency Certified Bill 5544, AN ACT CONCERNING THE CITIZENS' ELECTION FUNDS. The accompanied by emergency certification signed Donald E. Williams, President Pro Tempore of the Senate, Christopher G. Donovan, Speaker of the House of Representatives.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

I move the emergency certified bill in
concurrence with the House.

THE CHAIR:

Acting on approval of the bill, ma'am.

Would you like to remark further?

SENATOR SLOSSBERG:

Yes, thank you, Mr. President.

THE CHAIR:

Please proceed.

SENATOR SLOSSBERG:

Thank you.

In 2005, the body passed landmark legislation that we refer to as our campaign finance reform bill and what that bill did was that took the special interest dollars out of our campaigns. In that legislation also, though, was a provision that said that if a court found the program to be unconstitutional, we would have seven days to respond to that ruling to address the unconstitutionality of the ruling from the court.

Last year, as we all know, a federal court did find our program to be unconstitutional and enjoined

that program. The state appealed and brought that to the Second Circuit and the Second Circuit stayed the injunction and we are currently waiting for that Second Circuit to rule.

Election season is now upon us. Many people are already starting to participate in the Citizens' Election Program and we don't know when or how the court is going to rule and we don't know, in fact, whether the court will rule before the election. The court could rule at any time, now, tomorrow, the next day. It could affirm. It could reverse. It could affirm in part, reverse in part or remand for further proceedings. We just don't know.

Today, we standing firmly in support of the program and believe it is, in fact, constitutional. However, there's a great deal of uncertainty. If the Second Circuit rules against the program, we need more than seven days to digest an opinion that I'm sure will be complicated and long, craft and negotiate a response, come in to session and pass it.

The bill before us just extends the time for the General Assembly to do that. It takes it from seven days, in most cases, to 30 days and I would ask for the support of the Chamber.

THE CHAIR:

Thank you, ma'am.

Will you remark? Will you remark further on
House Bill 5544?

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

I rise for a point of questions to the proponent
of the bill.

THE CHAIR:

Senator Slossberg.

Please proceed, sir.

SENATOR McLACHLAN:

Thank you, Mr. President.

And to the proponent, I wonder if the sense of
this General Assembly, majority leadership, is that
there is no answer to the Citizens' Election Program
or any part of the program until the appeals court
issues its decision. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

I think that the position of many people is that
it doesn't make a lot of sense for us to try to craft

a response to a ruling that has yet to happen.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

And through you to the proponent, is it -- is it acceptable to the majority leadership that the arguments made in the appeals court process and the decision of Judge Underhill sort of clearly set out some aspects of the Citizens' Election Program that can, in fact, proceed and that, in fact, we should settle the issues that are not under appeal so that we can have a viable campaign cycle this year. Through you, Mr. President..

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Mr. President, if I just may ask, through you, I'm not in a position to stand and respond to the majority leadership's position and so if the proponent of the questions would ask a -- if there is a question here about the bill or the program, I'm happy to answer that. So if I could just ask the -- through the President, of the proponent of the bill if you

wouldn't mind rephrasing your question.

THE CHAIR:

Okay. The proponent of the bill. That's not Senator McLachlan, ma'am, that is you.

SENATOR SLOSSBERG:

The proponent of the question.

Thank you, Mr. President

THE CHAIR:

Okay. I thought there was question -- Senator McLachlan, maybe there's a different way to ask your question.

SENATOR McLACHLAN:

Thank you, Mr. President.

Well, I'll leave the question the same but the point the question to the cochair of the Government Administration and Elections Committee for your opinion, if you will, on what is viable for this General Assembly that's part of the current Citizens' Election Program that we can fix now, some eight or nine months after the Judge Underhill decision. It seems to me that the General Assembly has been remiss in trying to settle this issue, when the appeals process is only part of the program that we, in fact, should be talking about fixing and settling many other

issues of the Citizens' Election Program.

Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

If I understand the question, I agree that there are certain things that I personally would like to see happen but I also understand that there are many people that believe that it makes a lot more sense for us to wait for the court to rule so that we know exactly what we are addressing.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

So for clarification, as you see it now, without this bill we have before us today, if the appeals court does not issue a decision before the nomination process of candidates in this election cycle, what happens to the Citizens' Election Program. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

If the court does not rule before the nomination process, then the program runs as it currently stands. There wouldn't be any change at this time. Part --

THE CHAIR:

Senator McLach --

SENATOR SLOSSBERG:

If I may just add on for clarification.

THE CHAIR:

Please proceed, ma'am.

SENATOR SLOSSBERG:

Because the injunction has been stayed by the Second Circuit, the program stands in existence almost as if the ruling did not happen. So it's going forward.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

Thank you for that answer. And for clarification for those of us who don't follow circuit court of appeals business, how often are appeals granted? I'm understanding that it's very seldom. Through you, Mr.

President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

I don't know the answer to that question.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

If the General Assembly took a proactive roll in trying to address the concerns of Judge Underhill in his decision, do you think it's viable that this legislative body could, in fact, fix the problem based upon his decisions and an anticipation of the appeal failing. Is there -- because of the short time frame we have in this election cycle, does it make any sense at all for this General Assembly to be trying to settle this issue promptly as opposed to waiting for an appeals court process. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

I believe that, you know, we could be -- we could come up with something right away and negotiate that and pass it and then the court could turn out and rule and rule something different. In which case, we could find ourselves back in or we could find that we haven't addressed it or that we've changed it in a way that the court still finds problematic.

And rather than addressing right now, when we don't know how the court is going to rule, all this does is give us a little more opportunity to understand what happens when the court does rule, if the court rules, in fact, before the election actually happens.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

And through you, there is any -- any idea, in your opinion, as to when the appeals court decision may be coming. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

I wish I knew but I don't.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

And is there, in your opinion, anything that we could do beyond what is being proposed today that can settle issues that are clearly stated in Judge Underhill's decision that are not part of the appeal. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Through you, Mr. President, your question being, could we --- could we change particular portions of the Citizens' Election law that are not part of the appeal. The answer to that question is yes and we have a number of bills from GAE that do make changes to the Citizens' Election Program, as it currently stands. Items that do not deal -- are not dealt within the lawsuits pending before the Second Circuit.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

So just for clarification, do you believe that there are issues that this General Assembly would entertain changes that were part of Judge Underhill's decision but are not part of the appeal process. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

No. That's a different --

THE CHAIR:

Senator --

SENATOR SLOSSBERG:

If I understand your question, that's a different question. So the difference between what's in Judge Underhill's decision, what's in the Second Circuit and what other changes we could possibly make that relate to the Citizens' Election Program are all different matters. We can address those things that are not in the appeal, that are not in the case but, at this time, if we were to address items that are in that appeal that is pending before the Second Circuit that's -- that would be premature at this time.

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Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

And -- and through you, Mr. President, to the proponent of the bill, for matter of opinion, if I may, do you believe that the time that has passed since Judge Underhill's decision and the filing of the appeal has been overly burdensome by way of the court system to sort of leave us hanging here in the state of Connecticut with our election law. Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Well, I clearly think that's been difficult for us to be operating under this particular ruling but it is -- it is stayed at this time. So we are moving forward and doing the best we can with a difficult situation.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

And so I'm sensing, then, that you don't -- you

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feel like your hands are tied. That there's absolutely nothing that can be accomplished by this General Assembly since Judge Underhill's decision and, yet, I've read of and heard about ideas that have been discussed, mostly in the media I guess, where this General Assembly could take certain steps to settle many issues of this Judge Underhill decision and settle issues of campaign election law here in Connecticut so that we could be settled through this election cycle.

Am I mistaken in that understanding or not?

Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Well, there are certainly different schools of thought. There are some people in this building who believe that we could make changes now in anticipation of a court ruling and hope that we have addressed some of the questions. And then there is the other school of thought that believes that it doesn't make a lot of sense for us to be trying to address a ruling that we haven't seen as of yet.

The -- Judge Underhill has permanently enjoined

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the entire program. So if we start taking pieces out of it, right now, we may not -- we may not be making things better or more stable. We may, in fact, be changing laws now and find that we have to change them again in another month or another day.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Mr. President.

Thank you for that answer. So is there, in your mind, nothing that can be done, no changes that can be done that we should be just waiting. And so if -- assuming that that is your -- your feeling on this, what happens if the appeals court process is denied. What will happen then? Through you, Mr. President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

I'm not sure I understand. Appeals aren't generally denied. If -- appeals are affirmed or reversed or affirmed in part or reversed in part or reversed remanded with further instructions. I'm not exactly sure how to answer the question.

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THE CHAIR:

Senator McLachlan, could please rephrase your question?

SENATOR McLACHLAN:

I'll rephrase my question. For a layperson's question to an attorney, if the appeals process by the -- by the Attorney General of the state of Connecticut is unsuccessful, what happens? Through you, Mr. President.

THE CHAIR:

Senator McLachlan -- I mean, Senator Slossberg. Sorry.

SENATOR SLOSSBERG:

Thank you, Mr. President.

Well, that all depends upon how the court rules. If the court -- the court could affirm. The court could in part, which means the court agrees with Judge Underhill on certain points. The court could decide that they don't agree with certain points, in which case, they'd reverse. So in some things they might affirm and some things they might reverse. Then they could also decide to affirm some things, reverse some things and send some things back to the trial court for more findings of fact.

So I can't tell you what we would respond to until we know what the court is going to do. And all this bill does is just give us a little more time to do that intelligently.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Okay. Thank you, Mr. President.

And thank you for answer. So I guess your feeling as though the only thing we can do is stop the time bomb, so to speak, which is this seven day rule has been referred to, that there's little else we can do then to give the General Assembly an additional 30 days for the process. And, yet, I don't think this General Assembly has any substantive conversation about anticipating what -- what the new rules can look like or should look like with the what if scenarios.

So it seems to me that, if we had really done our homework and anticipated what the changes may be based upon a given decision by the appeals court, then we would have answers ready to go in a quick forum to address it promptly.

My concern has been, since the court decision, that the General Assembly has really not taken the

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lead in trying to save what this General Assembly believes is such an important piece of legislation. And, yet, we're essentially by -- by sort of dragging our feet with us, I fear that it is -- it is as much of incumbency protection as anything.

If -- if the Citizens' Election Program is supposed to be an open process of encouraging more people to run and, yet, we're not aggressively trying to fix the program and we're dragging our feet now approaching a few weeks before the nomination process of candidates. Here we are with minority or potential opponents to incumbent elected officials are sort of left hanging.

And so my question is aren't -- aren't we or shouldn't we be taking a much more aggressive stance than just extending the time frame to fix this when, in fact, we probably could make changes that will get us through this next election cycle.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator McLachlan.

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Good afternoon.

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THE CHAIR:

Good afternoon, sir.

SENATOR RORABACK:

Through you, if I may, a couple of questions to Senator Slossberg.

THE CHAIR:

Senator Slossberg, please prepare your answers.

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

I just listened to the exchange between Senator McLachlan and Senator Slossberg and it leaves me confused because, through you, Mr. President, to Senator Slossberg, my understanding is that the district court struck down certain components of our Citizens' Election Program as being unconstitutional. Through you, Mr. President, to Senator Slossberg, does she have the same understanding?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you, Mr. President.

And thank you for the question. Yes, certain provisions were held to be unconstitutional. However,

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the entire program has been enjoined.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

And my understanding is that we could pass a bill today addressing those components of the program, which were found unconstitutional, and if -- were we to do so, the Second Circuit would no longer have a case to decide. The Second Circuit would say the case is moot, the Legislature has addressed those things, which are identified as constitutionally deficient. Therefore, the program is reinstated and move on.

So through you, Mr. President, to Senator Slossberg, would she agree that we have the ability today to make those changes, which the court identified as being in need of repair. And if we do that then we don't need to delay for any reason. Through you, Mr. President, to Senator Slossberg.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

Not necessarily. We could make changes based on

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what we think the Second Circuit is going to rule on or based even on Judge Underhill's decision. We could go point-by-point and try to address them but that does not guarantee that this makes the appeal moot and reinstates our program.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

Respectfully to Senator Slossberg, I think the only thing that's under appeal is Judge Underhill's finding that certain aspects of our program our unconstitutional. Therefore, if we address those specific areas that he identified in ways which address the constitutional concerns he raised, the Second Circuit -- my understanding is the Second Circuit they may be, in fact, watching us now hoping that we do the right thing so that they can take tomorrow off and play golf.

Mr. President, the Second Circuit has no desire to decide a case if we do the right thing. They're dragging their feet in the hopes that we do do the right thing. We're dragging our feet, I'm not sure why, but through you to Senator Slossberg, why

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wouldn't we -- if wanted -- if want to revive this program, why wouldn't we act today to address the constitutional infirmities knowing that by so doing we likely -- I think we're 99 percent certain to have the Second Circuit say, thank you very much, you're back to the races, we're -- we're checking out. Through you, Mr. President, to Senator Slossberg.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

I think the issue here is that that argument presumes that the Second Circuit would agree that whatever fix we make would be adequate to them. Not only that, it also presumes that both plaintiffs and the defendants would also agree that whatever fix we've made adequately addresses all of the problems. As well as the fact that, you know, during some of the discussion, there were pieces and -- during the last oral argument -- actually the oral argument before the Second Circuit, there were questions raised that left some people, who were there, with the impression that perhaps that there would be additional facts finding necessary.

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There's no guarantees here. And that's really the, you know, the issue that we're dealing with.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

And I understand, Mr. President, that there no guarantees but there are realities. And the reality is Judge Underhill pointed to two or three sections of our bill, which he said are unconstitutional. Those are the questions which are being decided on appeal. Mr. President, if we act affirmatively to address those areas, which Judge Underhill said are unconstitutional, such as, to make our law constitutional in the eyes of the court.

What matters isn't the opinion of the plaintiffs or the defendant, what matters is the opinion of the court. If we address the court's opinion, so as to make this law constitutional, I think that's -- if we are eager to preserve this program, the thing that we should be doing today is addressing the constitutional infirmities not proverbial speaking, kicking the can down the road.

Mr. President, I appreciate Senator Slossberg's answers. I think we can do better and I wish we

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would. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark? Will you remark further on
House Bill 5544?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Good afternoon.

THE CHAIR:

Good afternoon, sir.

SENATOR FASANO:

Mr. President, you know, we are in probably the
state of Connecticut -- a unique time in the state of
Connecticut history. Never before have so many seats
been up for election from U.S. Senator right on down
to representative. This is probably the biggest
election facing the state of Connecticut in moderns
times, if not probably the entire history of the state
of Connecticut.

And the very essence of having a campaign is the
ability to know what you're doing as a candidate.
Now, incumbents, we sit around this circle. We're
pretty much okay. People know us. We get in the

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paper. We have our frank mail. We have certain advantages that come with incumbency. And the idea of Citizens' Election Fund was to somehow even the playing field were the words I heard and I voted for it. I voted for it because it was even the playing field. To make things fair, equitable and give people chances to run who never had chances before.

So where is the urgency to correct that. Where is the urgency to step up since August of 2009 and say, Judge Underhill said these are three or four problems with our bill and said these are the ones that are unconstitutional. Where was the urgency to fix it?

As we sit here today in this chamber, on April 14th, there are two bills, as I understand it, being passed around committees and the chambers that talk about fixing the problem. One could very well be argued doesn't fix the problem because minority candidates are not treated equally and that's one of the Judge -- Judge Underhill's biggest issues and the second one is to stay forget about state representatives and forget about state senators, we're not going to deal with them. We're going to pass that issue.

Well, I thought the whole purpose of this was to deal with that issue. This isn't a surprise. This decision didn't come out yesterday. This decision has been here since August and we have done nothing. There are people on both sides of aisle, and probably with minority party, saying you should run. We want you to run and questions get asked, in this economy, how am I going to fund my election. Well, we have this Citizens' Election Fund, perhaps, maybe, kind of, we hope, we think, and we'll fix it.

And then we have a bill now that says, we've got to wait 30 days. Thirty days. We have passed budgets in two days. We have written massive laws on massive topics in 24 hours in this building. We've had enough public hearings on this issue for years when it first began all the way through. We can do this in seven days. Call us in. We'll get it done in seven days.

Why do we have to ask for 30 days?

We have a convention coming up in May. People ought to know how they stand and what they're going do. In the case of Citizen United, the Supreme Court case that made changes to the federal law. That court said, people have to understand the rules. People have to know what they're doing. Time frame is

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important. That's all we're asking to do here.

So Mr. Clerk, if I may, I would ask you to call
LCO 3402.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 3402, which will designated Senate Amendment
Schedule "A," is offered by Senator Fasano of the 34th
District, et al.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Mr. President, I move the amendment and I request
permission to summarize.

THE CHAIR:

Please proceed, sir.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, what this bill does is say let's
stick with the seven days. And let's put a kicker in
there. Let's say if we don't do it in seven days and
we don't do our job, let's wipe out the money. The
money set aside. That's putting our mouth where our
actions are. If don't solve the problem in seven

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days, let's wipe out this account. Let's not hold on to the taxpayers money anymore. Let's not look for tax increases to solve our budgetary problems. If we don't have the heart and determination to solve a problem we've known for nine months, and we can't solve that in seven days, then let's wipe out the money and let's move on.

Mr. President, I ask for support of this amendment because it's important to the state of Connecticut. It's important for those who are going to run either for reps, for senators, Republicans, Democrats, Green Party, Yellow Party, Working Families Party, whatever, that they know where they stand and they know this system is alive and the onus and the pressure should come upon us because we are the ones who pushed this through.

We were the ones who said it was an important and we were the ones who demanded that we even the playing field. Therefore, Mr. President, I ask for support of this amendment. I ask that we vote by roll call, too. Thank you.

THE CHAIR:

Thank you, sir. Roll call will be ordered.

Will you remark further on Senate A to House Bill

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5544?

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

And I rise reluctantly to oppose this amendment from my friend Senator Fasano because I believe that, ultimately, if the court rules against and if the General Assembly can't address the court's concerns and if the reverter kicks in, then this would be -- this would be -- this would make sense. And my expectation is that if all of those things happen that is, in fact, what we will do.

You know, the underlying bill gives up 30 days -- extends us to 30 days. It's really more of a security blanket. There's nothing that prevents this body from acting sooner if we can find an agreement. But, at this time, there's just too many ifs in that sentence. It's a little bit -- to me, this seems unnecessary to this at this time in order to address this.

But my expectation is that if all of those things happen and everything goes south, that we would, in fact, transfer the funds from the Citizens' Election Program into the General Fund but it's my hope that that won't happen. Thank you, Mr. President.

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THE CHAIR:

Thank you, ma'am.

Senator Frantz.

SENATOR FRANTZ:

Thanks, Mr. President.

I rise to speak in favor of the amendment. And I'll tell you, I think of all us getting into government, when we first made that choice, understood that democracy is a wonderful system but we know that it's reactive. It's almost impossible to be proactive. But here we find ourselves in a debate over how we're going to deal with the court's decision having to do with the Citizen's Election Fund.

It kind of reminds me another subject that we've been discussing here recently, Mr. President, which is the budget. And it's -- it's endemic to democracy that these issues take forever, entirely too long in my judgment to get through. Yes, this body is capable of doing yoeman's work very quickly to address any issue that's put before and I'm sure that this group is capable of doing this in much less than 30 days, let alone a week or even a couple of days because essentially the complaints by the -- by the Supreme -- by the judge have been made very clear.

So in the way that we operate in our private lives and in the way that we operate in, maybe, our business or professional lives, we look at these problems and if the -- the answer is right there sitting in front of you, why not at least start to try to address them and we haven't addressed the issues after that decision was made and I believe that was as long as nine months ago.

So, again, time works against us. This is something that I think we could absolutely address right now and we why are considering postponing the remedy to 30 days as opposed to one week at this point. It doesn't make the process move or work very efficiently. And in terms of the money being paid back, I think it's very important. In a perfect world, yes, we'd either have a pure Citizens' Election Program or we wouldn't have it at all is the way I look at it. So if we're not going to have it, then let's take the money and let's put it to where it's needed.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Frantz.

Will you remark further on Senate A?

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Senator DeBicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

And Mr. President, speaking in favor of this amendment, this is just common sense and I actually think Senator Slossberg laid out the argument for this amendment is that what this amendment says is if the court overrules this bill -- or rules this bill unconstitutional and if the Legislature fails to act within the prescribed time frame, then the money goes to the General Fund for the year 2011, FY 2011.

We all know we have a \$700 million deficit for next year and if we are not going to have this program because it's unconstitutional and we fail to act, what else are we going to do with the money. Are we just going to let it sit there? We need this money to close our federal deficit and this is not proposing sweeping it tomorrow but only if it's ruled unconstitutional and we fail to act.

I think this is the height of common sense and that the amendment should be adopted. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

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Will you remark further on Senate A? Will you
remark further on Senate A?

If not, Mr. Clerk, please call for a roll vote.
The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the
Senate. Will all Senators please return to the
chamber. Immediate roll call has been ordered in the
Senate. Will all Senators please return to the
chamber.

THE CHAIR:

Have all Senators voted? Have all Senators
voted?

If all Senators have voted, please check your
vote, the machine will be locked, the Clerk will call
the tally.

THE CLERK:

Motion is adoption of the Senate Amendment
Schedule "A."

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	12
Those voting Nay	23
Those absent and not voting	1

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THE CHAIR:

Senate "A" fails.

Will you remark on House Bill 5544? Will you
remark further on House Bill 5544?

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, in light of the fact the fact that
the amendment went down and we're not going to sweep
the account after seven days, I would ask the Clerk to
call LCO 3406.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 3406, which will be designated Senate
Amendment Schedule "B." It is offered by Senator
Fasano of the 34th District, et al.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, I move the amendment and request
permission to summarize.

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Please proceed, sir.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, in light of the fact, as I said, the seven day amendment failed, this sort of keeps intact that we do it in 30 days, because there doesn't seem to be a will to shrink down the days. However, in the event that the Second Circuit were to find and conclude that Judge Axelrod was -- was correct in his decision that the lobbyists still not able -- will still not be able to give to the campaign.

As I understand the law now, at the end of the 30 day period, we would revert back to the way we had campaigns funded in previous years. Mr. President, what this does, is it says that lobbyists contributions will not be allowed should we have that reversion happen. So if after 30 days, we don't correct the bill, no lobbyist contributions can come into our campaigns. It keeps it a clean campaign, once again, not that we wont act in 30 days but if we don't act, we should preserve what we have in term so keeping what we deem special interest money out of our campaigns.

So Mr. President, in the event that the decision

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were to come down and in the event that we don't act within the 30 days, as we know, we're probably not prompt in a lot of things that we do, that we enact this amendment to prohibit lobbyist contributions from coming into our campaigns. And I ask that the circle support the amendment.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate B?

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

I unfortunately rise in opposition to this amendment, as well. We clearly believe, everyone in this room, that this lobbyist ban is a good idea and that's why we passed it in the first place and it is currently in effect and even if the court were to rule and even if the were 30 days -- the 30 days passed and even if we didn't get everything done, we have the ability to fix that lobbyist ban depending upon how the court rules, again, not knowing how the court is going to rule.

But we also have the ability, each one of us, to not take lobbyist contributions on our own

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voluntarily. I stand behind these prohibitions and any more that may be coming and it is clearly our intent to maintain them however unnecessary, at this time, to pass this legislation.

Thank you, Mr. President.

THE CHAIR:

Thank you, ma'am.

Will you remark further on Senate "B" to House Bill 5544?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President.

I appreciate Senator Slossberg's commitment but I've believed that there is no time like the present and each of us has the opportunity, at this moment, to put -- wear our hearts on our sleeves and to speak as to whether or not we wish for the bans on the lobbyist contributions to survive come thick or thin.

Mr. President, I would ask that when this vote is taken it be taken by roll. I urge -- urge support of the amendment. Thank you, Mr. President.

THE CHAIR:

A roll call vote will be ordered, sir.

Will you remark further on Senate B?

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Senator Fasano for the number two time.

SENATOR FASANO:

Thank you, Mr. President.

Mr. President, I said Judge Axelrod. I meant Judge Underhill. I misspoke. So I want to correct the record for that.

Number two, Mr. President, while I recognize what Senator Slossberg said, I don't understand what the failsafe valve of saying that if for whatever reason we don't act, maybe it falls during a time period of Fourth of July weekend, whatever the issue is that we don't act, that this protects our system against the special, which was the -- the main reason and the mainstay of passing our law with respect to protecting our elections.

So by having the public financing campaigns, it was to keep the special interest out. This only enhances that principle and furthers that spirit. It doesn't do anything to derail. If we're going to act in 30 days, then the language is superfluous. If we don't act within 30 days, then it's got some serious meat on it. So I don't understand what the downside is.

And the only fear would be is we don't act in 30

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days and we don't act 35 days and we don't act in 40 days or 50 days and the people who want to take special interest money from lobbyists because you're going to be able to. That's the only fear I see in voting against this because there is no downside. There is absolutely no downside. All upside.

So if we don't act and God knows we have not acted in a timely manner before. So Mr. President, I urge adoption.

THE CHAIR:

Thank you, sir.

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Mr. President.

For the second time, I just -- would just like to remind people that when the court made the decision on the lobbyist and the contractor ban that was done by summary judgment. There wasn't any trial. So if the Second Circuit determined that this was unconstitutional and wanted to strike down the ban, they would have to send it back for a trial, in which case, the ban would still be in place. So there is -- even if it was struck down, there's no ruling until that happens and -- so still -- we would still have

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this lobbyist ban in place. It's just unnecessary for us to -- we can't just turn around and re-enact something that's been held unconstitutional even when there hasn't been a ruling.

Thank you, Mr. President.

THE CHAIR:

Thank you, ma'am.

Senator Fasano, would you like to rise for the third time?

SENATOR FASANO:

With the permission.

THE CHAIR:

Without any objection, seeing none, please proceed, sir.

SENATOR FASANO:

I will keep it short.

Mr. President, the reversion clause absolutely, positively puts us back. It's a reversion for the Public Act 05. In Public Act 05, we have lobbyist ban. So if the reversion clause takes effect after 30 days unequivocally, no matter what the court says, unequivocally, that reversion clause kicks in. We go back to pre-05 bill, which means lobbyists, ad books, contractors can all give to our campaigns. That's

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unequivocal. It's what the law. That's what we did in 05.

So after the 30 days, if we don't act, the reversionary clause when from seven to thirty, we go back to 05, where apparently majority -- and I voted with that majority -- felt we need campaign financing to clean up the elections and we all stood high on soapboxes and talked about how we're doing all these great things for campaigns. We're going right back in there if we don't do this amendment.

Sorry, Mr. President. I apologize for --

THE CHAIR:

It's quite all right, Senator Fasano. If you want a fourth one, just let me know.

Will you remark further on Senate B? will you remark further on Senate B?

If not, Mr. Clerk, please call for a roll vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

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THE CHAIR:

Have all Senators voted?

If all Senators have voted, please check your
vote, the machine will be locked --

A VOICE:

Senator Stillman.

THE CHAIR:

Is she here? Oh, Senator Stillman. Okay.

Is the machine still open?

The machine will be locked. The Clerk will call
the tally.

THE CLERK:

Motion is adoption of the Senate Amendment
Schedule "B."

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	12
Those voting Nay	23
Those absent and not voting	1

THE CHAIR:

Senate Amendment "B" to House Bill 5544 fails.

Will you remark further on House Bill 5544?

My good friend, Senator Fasano, please proceed.

SENATOR FASANO:

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Thank you, Mr. President.

Mr. President, I am not going to call the other two amendments that I have. One is -- which deals with the same issue with the lobbyist but deals with the ad book and the second one is the same issue with the lobbyist but does state contracting. The reason being is if we're not going to do it with respect to lobbyist, I doubt that we're going to do it with respect to the next two and it's not my intention to hold the circle for votes that I know would not be supportive of my amendments.

That being said, Mr. President, I do want to say that I believe we have this very serious issue and now I assume the bill is going to go through to gives us the 30 days and I don't think that that's fair. I don't think that's fair to anybody who's running. I don't think that's fair to anybody our parties have asked to run. I know it's not fair to the minority party because Judge Underhill has indicated it was not fair to the minority party. And I know it's not fair to the state of Connecticut.

We hold an awesome responsibility in this chamber to speak for the people and we hold an awesome responsibility that we are going to live by the rules

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and values that we set. And the majority of us spoke loud and clear when we said we wanted this bill, for whatever reason. Although, there were some people who spoke in the circle who told us it was probably unconstitutional. Senator McKinney was actually one of them who did say it was going to be unconstitutional.

And while I appreciate the yeoman work of the GAE Committee to try to resolve this issue, we need an answer. We cannot wait on the day one, if the Second Circuit agrees with mostly of what Underhill said, which I believe it will. Even if it adds more things, we could start and have a bill ready to go out of the box now.

And it's my hope that although we gave ourselves 30 days, we don't come in on the 28th day or the 29th day and sit around here at 5:30 in the morning on the 30th day and take a vote while the bill is being talked about with chamber 1, chamber 2, amendment here, amendment there, fiscal note, everybody weighing in on it and changing every 30 seconds like we do a lot of business in this chamber. I hope we have more respect for the laws, for the elections than to treat it like that. And it is my hope that the day after

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the Second Circuit rules that we immediately start working on this bill because I think it's only fair.

We have a stay, which means what has happened is the court has ruled our election bill unconstitutional and our Attorney General to protect our interest, rightly so, stood up there and said we need a stay to keep this in affect. The people out there now trying to deal with Citizens' Election Fund and raising money -- if the Second Circuit comes out and says we agree it's unconstitutional and you got money from Citizens' Election Fund and that court says you have to return that money, what do you do?

How do you run a campaign if you're under Citizens' Election Fund? I don't understand it. If it's unconstitutional, you're under notice. You get that money. You get your matching grant. It's July. Second Circuit says we agree it's unconstitutional. In fact, we want you to give the money back. I don't know what happens. I don't know if your treasurer takes the fall. I don't know if you take the fall. I know one thing, it's a mess.

I know one thing that people aren't going to run because of the uncertainty and what in my view is disheartening, we can correct 95 if not 100 percent of

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that certainty and we won't do it. We won't take a shot. We won't even take a shot.

I didn't go under Citizens' Election Fund for this campaign coming up for those reasons. I have no idea what's happening. I haven't got a clue. I can't protect my treasurer. I don't know what's going to happen to him or her. So I'm not going to do it because I don't know the ramifications and I don't think anybody around this circle can guarantee what those ramifications are.

We have in the bill before that says you can keep the money unless the court says otherwise. The court may say otherwise. We don't know. This is a problem and this is a problem we, as a Legislature, can fix or ignore. In my view, we're ignoring it. I'm going to vote against the underlying bill. Not because I don't believe that we need Citizens' Election Fund but I believe we need to act now. We need to act today. Fix what Judge Underhill said were the problems.

If the Second Circuit -- I don't know if it makes it moot or not -- but anyway, if the Second Circuits comes out and adds a few more, we'll deal with those few more but we know the problem today and we can't fix it. We may not like to fix this and our budget

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upstairs and downstairs chambers who don't like to fix this. They don't like some of the ways that Judge Underhill says we have to do it but that's too bad. That's the law and that's the constitution. We all swore we were going to hold up that when we were sworn in.

So I'm very afraid. At a worst time for it to ever come is at a time when the state of Connecticut is facing historic elections. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

Mr. President, I listened very carefully to what Senator Fasano said and he said he's not going to take campaign finance reform money. You know, Mr. President, I'm not going to take it because I don't believe that in this tough economy, we should be spending \$42 million on political campaigns and \$3 million just to pay for the staff that's going to oversee this public financing of campaigns. That's \$45 million that we could be putting into other

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programs in this state and not into political campaigns.

I believe in the concept of public financing. I think it's important and that's why I voted for Senator Fasano's amendment because I don't think lobbyists should be allowed to contribute nor should contractors nor should we be raising money by the ad books. I think we need to get out there and old fashioned campaign where we talk to people and shake hands and understand what's going on. I -- I'm not going to vote for the underlying bill because I don't believe that this is the time to be spending this kind of money on political campaigns whether they're statewide campaigns, whether they're senatorial campaigns, whether they're for the House of Representatives.

I believe in my heart of hearts that we need this money for other things. Thank you.

THE CHAIR:

Thank you, ma'am.

Will you remark?

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

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Mr. President, speaking in support of the bill, first i would like to commend Senator Slossberg for all of her hard on this -- on this issue in dealing with everything related to our campaign finance system and the implications of the -- of the federal district court decision and the -- and the pending appeal. I think she has shepherded this process very effectively.

I would also like to, looking back, commend Senator DeFronzo for his work and originally helping to craft the bill as chairman of GAE Committee when it was -- when it was initially passed in that very difficult process back in -- in 2005.

But the reality is that should the Second Circuit rule that portions of our statute are unconstitutional, either along the lines argued by Judge Underhill or otherwise, the bill will give us some additional time to craft an appropriate response and that I think is -- is important that we will not be, in effect, stampeded or under the (inaudible.) We'll have the time to react.

And it is not as if we have not been anticipating how we might react. The GAE Committee has been looking at a -- at a variety of alternatives that

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might be offered as ways to address the -- the proposed findings of -- of unconstitutionality in Judge Underhill's decision should they be upheld. So it is not as if there has been a vacuum that we're suddenly going to be scrambling to address if that becomes necessary.

But the reality is, we don't yet know that will be necessary. The Attorney General has -- has defended the statute in the Second Circuit. And we also know as a complicated factor going back that some of the very provisions that Judge Underhill found objectionable for one reason or another are some of the things that helped get the law passed in the first place in 2005 particularly issues having to deal with distinctions between major and minor parties. That was a reality of the time and continues to be so.

So I think that what this bill does, having passed the House and now proposed in the Senate, is give us an orderly way to respond should that become necessary to deal with an issue that has been much in our minds since 2005 when the bill was first passed. As I said, there are a variety of options out there that have been proposed within the GAE Committee about how to address provisions regarding minor parties, how

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to address provisions regarding the issue of a -- of a candidate addressing a self-funded candidate as an opponent. Also, the issue of the distinctions regarding single party or party-dominate districts in the grants available for that.

All of those issues that were raised in Judge Underhill's decisions, there are proposals contingent -- contingent proposals to address those that we will be ready to consider should they become necessary. So it is not as if we have been waiting in a vacuum. All of those contingencies have already been sifted. They've been evaluated and the issue is we don't know which ones we will be required to take action upon but we've had a considered process all the way through and this bill will give us the chance to make sure that we have a deliberative process to whatever end becomes necessary.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator Williams.

SENATOR WILLIAMS:

Thank you, Mr. President.

I rise to support the bill and also to thank Senator Slossberg and those who have worked tirelessly in the past on campaign finance reform and the clean elections program that we have in this state to help clean the influence of -- and eradicate the influence of special interest.

A lot of things have been said in terms of our anticipating what the second circuit might do. Senator Fasano, who I have a lot respect for, said we know what the problem is today. Actually, we do not. We know what the district court did but we do not know what the Second Circuit is going to do and how they are going to rule. If we were to act today, we would simply be taking a shot in the dark. Not knowing whether the Second Circuit would agree or disagree.

And quite frankly, there are two major issues here that are stake. The district court took a look at how we treat third parties and how they qualify for public financing. And another issue is the issue of matching funds. If you have a candidate that is either self-funded or receives help from special interests whether the other candidate is entitled to matching funds to help make up the difference.

Now, I would like to just say for the record, we

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do not concede that these provisions in our campaign finance law are deficient. I am hopeful that the Second Circuit will uphold those provisions. For example, the third party provision does require some additional process and procedure in terms of obtaining signatures and other thresholds. That is absolutely true but we modeled that on the federal presidential public financing system, which actually has more obstacles in terms of process and procedure.

And for many third parties, they can not get funding prior to the election. They can only obtain funding after the election if they have met the thresholds. Our system provides funding up front for the third parties that meet the thresholds so that they can use the dollars in the campaign. I would argue that our system, as to third parties, is better for third parties than the presidential public financing system nationally that has already been upheld.

As for the matching funds, the district court makes the argument that it somehow chills the first amendment rights of a big spender who is is outspending his or her opponent if we provide some amount of matching funds that do not necessarily

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continue to match the funding that the other candidates spends if they go over a certain amount but provides some additional funding to help meet that excessive funding coming from either a self-funded wealthy candidate or special interests. How in the world does that impair the first amendment rights of the person who is outspending the other candidate. That makes no sense to me. If anything, our matching funds enhances first amendment rights by providing more resources for both sides to be heard.

So I'm hoping that the Second Circuit not only upholds this, as to the third party provisions in this law, which I believe are better than the public financing provisions in the presidential law that has been upheld. And also, upholds the matching fund provision, which I believe enhances first amendment rights, not detracts from first amendment rights. So it makes all the sense in the world for us to wait for that opinion and not to take a shot in the dark.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further? Will you remark further?

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If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is passage of Emergency Certified Bill 5544 in concurrence with the action of the House.

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	24
Those voting Nay	11
Those absent and not voting	1

THE CHAIR:

House Bill 5544 passes.

Senator Looney.

SENATOR LOONEY:

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Thank you, Mr. President.

Mr. President, I would move for immediate transmittal of Emergency Certified House Bill 5544 to the Governor.

THE CHAIR:

Without objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President.

Mr. President, if the Clerk would call as the next item from Senate Agenda Number 2, Emergency Certified House Bill 5545.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calling from Senate Agenda Number 2, Emergency Certified Bill 5545, AN ACT CONCERNING DEFICIT MITIGATION FOR THE FISCAL YEAR ENDING JUNE 30, 2010, as amended by House Amendment Schedule "A." The bill is accompanied by emergency certification signed Donald E. Williams, Jr., President Pro Tempore of the Senate, Christopher G. Donovan, Speaker of the House of Representatives.

THE CHAIR: