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IS GOVERNMENT BROKEN?
STRENGTHENING DEMOCRACY THROUGH ELECTION AND GOVERNMENT REFORMS

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P R O C E E D I N G S

MR. WEST: I'm Darrell West. I'm vice president and director of Governance Studies here at the Brookings Institution. And it is my pleasure to welcome you to this forum on "Is Government Broken? Strengthening Democracy Through Election and Governance Reforms."

A recent CNN opinion research survey found that 86 percent of Americans said they believe the federal government is broken. And when you look at things that have happened, it's no wonder they feel that way. In the last year we have faced a series of governance challenges that have complicated our nation's capacity to address issues such as the economy, health care, climate change, and financial regulation. And our difficulties in confronting many of these many problems has led many to question whether it is possible for the United States to face its short- and long-term policy challenges.

Today we are going to focus on two parts of the problem: the electoral and campaign finance aspects of the issue, as well as the governance issues involved with that. In both of the panels we're going to look at the nature of the problem and some of the reforms that our panelists believe will contribute to our problem-solving capabilities. There are many people who are cynical about electoral and governance reforms. They believe our system is broken and that it always is going to be dysfunctional. But today we're going to hear from a variety of speakers who will put specific ideas on the table for improving our institutional capacity. And at the conclusion of those panels, Carolyn Lukensmeyer, the president of America*Speaks* and my colleague, E.J. Dionne, will explain what they think needs to happen in order to improve the performance of our political system.

In addition, I want to point out that my colleague, Bill Galston has put out a paper today on "Why Institutions Matter" and his thoughts on changes that could make a

difference in terms of improving the performance of our political system. So if you have not yet picked up a copy, there are copies still available out in the hallway. You can get one after the event.

This forum is hosted by a number of different organizations in addition to Brookings. We are pleased to welcome Demos, America*Speaks*, the Ash Center for Democratic Governance and Innovation at Harvard, and Everyday Democracy. I want to thank those organizations for helping us to organize this event. We have a broad range of voices represented here today and we look forward to a terrific conversation.

To launch the forum I would like to introduce Miles Rapoport, who is the president of Demos. Miles has been the president of Demos since 2001. Demos, I'm sure all of you know, is a public policy research and advocacy organization based in New York City. It focuses on a wide variety of issues, but in recent years it's looked particularly at questions of economic justice, as well as ways to encourage a vibrant and inclusive type of democracy. Miles has a long history of involvement in Connecticut politics. He's been involved in Connecticut for 15 years. For 10 years he served as a state legislator, and as part of his duties he chaired the Election Committee and he also served as the Secretary of State in Connecticut.

So please join me in welcoming Miles Rapoport to Brookings. (Applause)

MR. RAPOPORT: Good afternoon, everybody. I want to thank all of you for coming to what I think will be an excellent discussion of some of the critical issues facing our democracy and what we can do about it and how we can work together and the best possible way to do it.

I want to thank the Brookings Institution for hosting us. Darrell, thank you very much. And I particularly want to thank E.J. Dionne and Tom Mann, who were the people who sort of got this whole conversation going about what we might do together

today. I also want to very much thank the other three organizations who are co-sponsors, Everyday Democracy and America*Speaks*, both of whom have in one way or another been leaders of the effort to get genuine civic participation and public dialogue in our country over the last number of years, and also the Ash Institute at the Kennedy School at Harvard where Archon Fung has been a terrific member of our planning team. So, I'm delighted that they have been participants from the beginning, and I think that we are going to have a really good conversation today. I especially want to thank Norm Eisen, who I will introduce shortly for coming and representing the White House. We're delighted to have a conversation with you as well.

There are really two strands of developments that have brought us to today's event. The first is a long history of work in a variety of ways to make our democracy work better. This work has been done over, you know, hundreds of years I suppose, but just in the last 10 or 20 years on a variety of important issues. There's been work on lowering barriers to participation and encouraging people to vote and to participate in the process and to improve the voting process itself. There has been work to increase transparency and accountability and utilizing technology to open up the whole process of governing. There has been a lot of work on public deliberation to create ways, innovative ways, thoughtful ways of involving the public in genuine conversation and deliberation about the choices we face. There has been work on campaign finance reform. Excellent work seeking to reduce the undue influence of money in our nation's politics. There has been work to make our democracy more inclusive through work around civil rights, immigration reform, and the inclusion of people who have been excluded from the process heretofore.

There has been a tremendous amount of work on community and national service seeking to engage people in work on behalf of their communities. And of course as a New Yorker I would not want to be in Washington, D.C., without saying there's been a

tremendous amount of work to get D.C. voting rights and one more part of our unfinished agenda, but to all of you in Washington, D.C., it will come. It will come. In each of these areas there has been real progress. I think that you can point. And if you're a participant in any of these parts of what I would consider a full democracy movement, you can point to real progress at the state level and occasionally at the federal level as well.

But there has been a sense I think that many of us share that in some ways the efforts to make our democracy work as well as we can, in that effort we are less than the sum of our parts rather than greater than the sum of our parts. Too often the work that we have done has been in silos, often without knowledge of what each other is doing, often without even an understanding of the language and the concepts that are part of the other people who are doing work to make democracy better. And sometimes even competition for what is the most important reform, with a capital M and a capital I. But we know that in a strong and healthy democracy it will only be achieved when we have made progress on the full democracy reform agenda, from participation to voting to evening the playing field and all of the issues that we've talked about.

It is this reality that the campaign for a stronger democracy is seeking to address. In the summer of 2008, before we knew who our next president was going to be, we had a conference in Washington that really discussed a whole range of issues. Fifty representatives from various groups actually sponsored originally by the Kellogg Foundation came together to see if we could develop and articulate a full democracy agenda. We did so with Carolyn Lukensmeyer as our facilitator and presented it to both campaigns, both the Obama campaign and the McCain campaign. To our -- not surprise, but to our appreciation, the Obama campaign as a campaign, and then the Obama Administration once President Obama was elected, took up our issues and has been having a real dialogue with us on them.

In the summer of 2009, an even larger group of people came together, over 100 from a wider number of organizations and groups, and continued the work of moving that agenda, discussing it with the administration, trying to make real progress. The progress of that meeting was a report called "Strengthening Our Nation's Democracy," which is in the folder that you have. And we're not releasing it today because it's been out, but we are sort of wanting to make the recommendations in it real and more resonant as we go forward.

Today, there also has been work with federal managers that America*Speaks* has led to make them work and talk to each other and govern in a more collaborative and participatory way. And there has been a tremendous amount of work on election reform, campaign finance reform as used in the meantime as well. Today we seek to talk about all of those issues, look at where we stand on them, see where the barriers exist, and see if we can make progress.

So that first strand, the continuation of ongoing work on democracy issues, is one of the reasons why we're here. But the second reason that we're here is we're also in an extraordinary moment in our nation's public life. It's not only a continuation moment as I see it; it's a change moment, even a crisis moment for our democracy. Our country is debating fundamental enormous economic and social issues and is at a deep political crossroads. We've had deep and prolonged economic crisis, a fight over financial regulation, health care reform, immigration reform, and our environmental future. And yet, at just the moment when we need our democracy to work as well as it possibly can, there are fundamental ways in which it seems broken and simply not up to the task that history has set before it.

There are many issues that are involved here and on the panels today. You're going to hear about a lot of the different issues, both what the problems are, where

they stand, what we can do, and how they relate to each other. We may not agree on every aspect of the situation we face, but we all agree on the need to elevate these issues to the front burner of public debate. We need energetic advocacy from organizations and people and citizens and communities from the outside, and we also need real leadership from the administration, from Congress, and from people who have the ability at the state and national level to help make things happen.

What do we hope to accomplish today? No one gathering can obviously solve our problems or wrap them up in a neat sandwich. It's a wrap. It's a wrap. That's what it is. And serve them as a finished product. But we think that we can move the agenda forward in several ways and that's what we hope to do. Number one, we will explore in two panels some of the most important democracy issues we face, the current state of play on them, and where they can go from here.

The first panel on electoral and campaign finance reform will deal with our election process itself. Practitioners with long experience in expanding the franchise, lowering barriers to participation, creating an even playing field. We'll talk about where we stand and how these issues can relate to each other. The second panel will connect to governance reform, exploring issues of open government, ending legislative gridlock, finding ways to expand true and positive civic engagement. I think together we will try to make a case secondly for a holistic and multifaceted agenda for democratic reform and try to move that agenda forward.

I think we'll take some additional steps towards ending the siloization of the work that goes on, on so many of those issues, sharing information about the efforts for change, viewing ourselves as part of a more comprehensive effort for reform, and, hopefully, begin to work even more closely in the future. We'll also develop some common ideas in thinking about how we message, how we talk about these democracy issues in a way that

not only brings them together, but also resonates with the public that has to be engaged in these issues if we're going to make real progress.

And lastly, we'll ask for some next steps from the President and from Congress. Passing legislation, much of which is up for discussion that will make a real difference. Developing and embracing new ways of governing with greater civic participation. What about the idea of a White House Summit on democracy issues? We've had a summit on economic issues. We have had a summit on the fiscal deficit. What about on democracy's deficit and what we can do about it? What about engaging and leading a national discussion on these issues going forward?

These will not be easy things to do. Tremendous challenges remain for all of us who are in the field, but the stakes are too high, the consequences of continuing failures of our democratic system too frightening for us not to make every effort that we possibly can to make real progress on these fundamental democracy issues. It's a tall order, but we have no choice but to attempt it and I want to welcome all of you who have come here to participate today.

We're starting out before we go to our panels with a real treat I think. As we begin, we'll hear from Norm Eisen. Let me introduce him properly. Norm has served as special counsel to the President for Ethics and Government Reform since the beginning of the Obama Administration. In that capacity he has helped lead the administration's initiatives on government ethics, lobbying regulation, and open government. His portfolio has also included financial regulatory reform, campaign finance, whistle blower protection, and many other reform issues. Prior to joining the administration he was the general counsel for the presidential transition team and before that was a litigation partner in the Washington, D.C., firm of Zuckerman Spaeder where he practiced for 18 years. He also was one of the founders of the Citizens for Responsibility in Ethics in Washington, the

organization CREW, a government watchdog group. So this is a man who has been on both sides of the inside and outside divide, and we're delighted to have a conversation with him. He's going to talk a little bit about the administration's perspective on these democracy issues, and then we'll have some time for some questions and answers.

Norm Eisen, thank you very much for joining us. (Applause)

MR. EISEN: Thanks, everyone. It is a pleasure to be here. I think my job description is represented the first effort to break down the silos that Miles was talking about. Of course, this is the first White House to have a special counsel who works on both government ethics and reform issues and has been, I think, a useful perspective to tie those together. And the ways in which the different issues that we are so pleased you are addressing today inform each other.

I'd like to talk today a little bit about the administration's efforts to make our democracy work better. The President, of course, was very eloquent on the campaign trail in constructing his commitment to the American people to change Washington. The notion that our democracy is a living and vital entity that in every generation needs to change and grow and adapt in order to meet the challenges that that generation presents. And so that theme of change, which of course applies across the board, is a critical one in the area of -- in the areas in which I spend my day: government ethics, lobbying reform, government openness and transparency, and then substantive reform issues such as campaign finance reform.

So I thought that I would just take a few moments to walk through our experiences, the lessons we have learned. I think the successes that we have enjoyed, very often with the help of folks who are participating in today's seminar. I will tell you that one of the -- not everybody here agrees with every one of the initiatives we've take in these areas. As I look around the room I see friends who have been vocal, sometimes privately, more

often publicly, in articulating their disagreement. That, too, is a part of a healthy and functioning democracy and it is not -- when we talk about the three values that inform our open government work, for example, there's transparency, which is the notion that government should be -- government information, what government is doing should be available to the people. So they, and all of you, can see what's going on in government.

Participation. Allowing folks in the nation, experts and ordinary citizens alike to participate in the functions of government. And I think the highest value of the three that kind of captures all the three is collaboration, which is actually actively working together, harkening back to the spirit with which our nation was founded of every member of the country having a direct investment and experience and engagement with the operations of the country. Part of that notion of collaboration is candidly to tell us when you agree and when you disagree, and many of you have taken that virtue to heart in sharing with us publicly and privately.

At the end of the day, of course, there needs to be an assessment of overall how we're doing, and I'm pleased that we have overall -- the administration has gotten high marks for its efforts in the Executive Branch. And I'm going to talk about some of them and relive the history of the past 18 months or so with all of you to the extent that our efforts to make these virtues and these values real in government I think inform the ongoing discussion that you've having and the larger mission that is addressed by today's meeting.

So, of course, the very first thing that the President did his first full day in office included commitments to -- in two of the areas that we're talking about today. He signed the Executive Order on ethics in front of an international television audience. It actually was done at a ceremony on January 21st where all of the White House staff were also sworn in. So we had the eyes of the world upon us as we took our oath and then the President signed the Executive Order on ethics. Among the contents of the Executive Order

on ethics are the administration's historic commitment to closing the revolving door in government.

As I think all of you know, I hope all of you know, it's been extensively discussed and debated and written about that this president has asked everyone joining his administration to make a commitment not to lobby the administration for the life of the administration. So he's closed the revolving door moving forward, historically. He has also set up the first ever reverse revolving door limitations where for lobbyists and non-lobbyists alike there are very strict limits on your ability to work on issues that you worked on before coming into government so that the American people can be reassured that folks who are joining the government will put the interests of the American people first and not the interests of their former employers and their former clients.

These tough revolving door rules were not without controversy. They occasioned a vigorous debate. Really, a series of debates, which has persisted throughout the life of the administration. It was at its strongest in the opening months of the administration. The debates included whether there should be different rules for for-profit and non-profit lobbyists. Whether the rules as some said were too tough. Others thought they were too lenient. Whether there should or should not be exceptions to the rules and a variety of other issues. We, and this is one of the themes of my greeting to you, probably my overly long greeting to you, we welcomed and continue to welcome that debate. And one of the objectives of our rules, we believe very strongly in the content of the rules. We both thought them through carefully in the run-up to the President taking office. We, of course, worked on them over the course of the campaign and then intensively in the transition.

One of the things that we hope to do with the rules, in addition to having sound well founded rules that function as a matter of policy, which we think they do, we think

it's critical that the revolving door be closed, was also to inspire a conversation, not just within the Beltway, but a national conversation about how government can be rededicated to the American people -- and we think that the rules have done that -- is important for the American people not only to know that -- is important not only for the revolving door to be closed, but also for the American people to know that the revolving door is closed.

A critical part of our mission of the President's objective is to restore the trust of the American people in their government. Lest there were any doubt that this message was getting through, I vividly remember several months into the administration on the front page of The New York Times there were two articles. One article was running down the left column, both above the fold. One article was a discussion of the Executive Order and the pros and cons of the Executive Order, and then on the column running down the right side of the paper was a discussion about allegedly improper lobbying contacts in Washington. If you had any doubt that The New York Times was engaging in this great national debate you only had to flip over to page A-17 where they had put the two stories directly together.

So those types of anecdotes bring home for us the reality that we had joined these issues in a great national debate, and this administration is welcoming of that conversation. Indeed, it's part of the reason that we're so pleased that this conference and ones like it -- I try to come whenever I can, whenever invited, and I've been privileged to appear at a large number of them. So pleased that they are taking place.

A second pillar of our reform efforts in our first year and a half was also commenced on that first full day in office and that took place when the President signed -- shortly after signing the Executive Order on ethics -- signed a memorandum on open government. And as I think about the innovations, and I do think the revolving door rules and the other ethics innovations are critical -- we're going to talk a little bit about some

additional breakthroughs that I think we have had in the area of lobbying regulation. But certainly there is no more -- no greater hallmark of the ways in which we have tried to rescue and rebuild and restore governance and democracy than our efforts in the area of open government.

So let me focus on those for a moment. And I will talk not just about the outcome, but also the process. And again, as with our revolving door rules, the objective here was not just to get a set of policies in place that made sense, but also to send a powerful message to the American people that this was not business as usual in government. Perhaps the first way in which we tried to do that, we started work right away on our open government plans. And once again many of you -- many of the organizations and individuals in the room were critical really in collaborating with the government in ways that have been -- I have blogged about, all of you have blogged about -- really extraordinary exchange of government itself reflects on our open government website -- in soliciting your ideas. How can government be more open? How can it be transparent? How can it be collaborative? How can it be participatory? We did that both at a general level, but also on an agency by agency level -- had scads of not just electronic exchanges, but in-person conversations. There is no substitute.

We were talking about this in the green room before. There is really no substitute for talking face-to-face to folks. That's part of the reason the president tries to get out of Washington and really talk directly to the American people whenever he can. And those of us who work for him try to exemplify that virtue by talking personally to the experts, the authorities, and to average folks about these issues.

So while we were doing the work of building our open government plans on an agency by agency basis, we decided that we need in the White House -- that we wanted to seize on opportunities, both to send a message to our colleagues in government and also

to the American people that we were going to conduct our business in a more open and transparent way.

And perhaps the best known example of that is the decision of the White House to put its visitor access records, so-called WAVES records, on the Internet for everyone in the press and in the American people to see. So that everyone in the country can know exactly who is coming and going from the White House. As some of you may know, other administrations had fought for many years to protect just a handful of visitor records having to do with various task forces that had operated in the White House. They had litigated those issues. We resolved open litigation and announced a policy moving forward of posting our visitor records monthly. And I am pleased to tell you that as of Friday, we put up another batch, a regular monthly batch on Friday as we do. We had over 350,000 visitor records available on the Internet for everyone to review.

Now, why is that important? Look, everybody has a right to know who is coming and going. Okay? So that is obviously important in and of itself. We thought it sent a very powerful message throughout government and to the American people that the White House was willing to really lead to take the first step in this new 21st century governance style of being open and transparent. And so it has been -- the visitor access postings have been a big success. They are much visited. It's become a standard part of reporting on stories to check the WAVES records that are on the White House website.

Of course, that's important in and of itself. It sends an important message, but that message of openness needs to spread throughout government. That is why we have really made a cornerstone of our open government efforts, the open government plans. And here we -- and for those of you who are not familiar with the open government plans -- pursuant to the President's initial directive, OMB issued a further directive to all of the agencies to design an open government plan. And we provided a very, very detailed list of

the information that needs to go in the open government plan. The idea here is that the cabinet agencies will internalize, take responsibility for not just the cabinet agencies really throughout government, the agencies will internalize, take responsibility for and implement a series of steps to open up to the American people, to the particular folks who have strong interest relationships with those agencies, to among other things let the world see what is happening inside the agency, to unleash information that is valuable within the agency, to engage with substantive experts and ordinary folks in the agency's business so the agencies can better serve the American people.

The process of -- and all the open government reports are now on agency websites. And I just want to say a word about the process because it really exemplifies this new way of doing business that the President has been so insistent on. We, in doing the open government plans, had a very extensive engagement with subject matter experts and with the American people; folks from all over the country were invited to and did comment on the open government plans. And I think our colleagues -- I see -- many of them are non-governmental colleagues -- I see them in the room -- will say that there was an unprecedented level of willingness to listen, of willingness to hear places we could do better, of improving. The places where we could do better. And an ongoing dialogue that is continuing now about these living documents, these open government plans. So there we tried to have a process that matched our product and very proud of that.

Let me talk for a minute about how these two -- about a way that we combine these two different streams of thought. The idea of doing more open government, but also government that is more ethical. That was in our stimulus lobbying rules. Folks may remember that as part of announcing the stimulus funds, we had a set of rules to make lobbying relating to the stimulus, to regulate it. And there was -- once again we had this same virtue of participation and collaboration. We did something that was very unusual

when we announced our first set of stimulus lobbying regulations. We said this is a 60-day trial period and we want to -- because we are doing something that's new and different in having this regulation that goes above and beyond what's required by the Lobbying Disclosure Act, we want to know what you think about it. And we had a very vibrant public discussion about those stimulus lobbying rules. And lo and behold, we actually learned there were a number of themes that were sounded both from inside and outside of the government.

It also was very refreshing to people in government to have an opportunity to comment and tell us what we could be doing better. And one of the themes that emerged was that we are, and the President has been, vociferous in calling for improvements to the Lobbying Disclosure Act to cover more activity. And one of the recurring themes we heard was that the initial stimulus lobbying rules that we had come up with did not -- that they maintained an unfair distinction between registered and unregistered lobbyists. And as a result of hearing that we, for the first time ever, broke down that barrier and in the final rules that we announced, for every competitive grant for stimulus lobbying funds, whether you are a registered lobbyist or not -- the first set of rules was more focused on registered lobbyists -- whether you were a registered lobbyist or an unregistered lobbyist or what have you, all communications once a competitive grant application is on file for stimulus lobbying funds have to be put in writing and placed on the Internet. And so we broke down that barrier as a result of having participation and collaboration and transparency, and our decision-making processes were able to break down that barrier between registered and unregistered lobbyists for the first time.

There are many, many other instances that I could share with you to illustrate our efforts over the course of the past year and a half. Currently, the White House is deeply engaged with bipartisan leadership in Congress and in the reform community. And

with the American people in the effort to address the aftermath of the Citizens United decision, which opened the floodgates for unlimited corporate independent expenditures in American elections. First time ever.

The American people, it's the place where the President has shown leadership in speaking out against the decision. The American people have responded. Polls show that across parties, across regions, 80 percent of the American people disapprove of the decision, and we're working with bipartisan leadership in Congress to come up with a legislative solution, moving at a rapid clip through the House at the moment, that will address the decision.

I offer this final illustration together with a theme that I think ties all of these efforts together. In all four of these examples and the many other examples that I could offer, what the President has done through his leadership is attempt -- is to recognize that there is too much special interest power that is concentrated in Washington, whether it takes the form of folks riding the revolving door of an excess of a lack of transparency so the American people can't participate in their government, too much special interest money in politics or what have you. His ambition is to level the playing field so that ordinary folks and the public interests have a fair opportunity to have their voices heard in Washington. And so the debate is not dominated by the special interests. It does not mean that lobbyists and their clients have no right to speak; of course they do. The President recognizes that, but the unifying theme has been to balance the playing field out and to create a space in which the public interests and the voices of the public can be heard.

We will continue with that effort. We thank all of you in the room for participating in today's discussion to improve our democracy to continue the tradition of American greatness, and we look forward to working with you in the months and years ahead on that critical national task.

Thank you very much. (Applause)

MR. WEST: To keep on schedule we have time for three quick questions. I'm going to ask that you would ask about something that Norm has not touched on in his speech.

SPEAKER: In the case of Congressman Sestak, isn't that a blemish on this open government?

MR. RAPOPORT: No. For the details of that, you know, I would direct you to the release last week, but would not think so. Our ambition in operating as we have in terms of all of our regulations has been to accomplish the nation's business. I think -- I will say as I look around the room there have been folks in the room who have been tough graders, but the overall grades have been high. I would remind folks if you didn't read about it, sometimes it's a little tougher to get the good news out that a coalition of reform groups, many of whom are represented here, gave us A's for our revolving door policies, As for our transparency policy. And I really think in terms of openness what you've seen in this administration is a historic resetting of the paradigm. We think that it is -- it really sets -- on an agency-by-agency basis what we've done with the open government plans really is historic and we feel very proud of our overall record.

MR. NEAL: Can you comment on the hiring of -- Bill Neal, I write about the financial crisis -- hiring of Secretary Geithner as chief of staff from Goldman Sachs?

MR. RAPOPORT: The question goes to the hiring of the -- Secretary Geithner as chief of staff. We have tough rules. We have lived up to those rules in every instance. I think that the hiring in that case, a series of recusals were put in place that have been strictly observed, so I think that we have -- we've lived up to our standards in that regard. And indeed, I think in all of our hires it makes for a lot more work for us when you have these tough rules, but we have abided by those rules and certainly that case is no

exception.

MR. WEST: Time for one more question.

MR. SNYDER: What do you think of the adequacy of the Obama Administration's definition -- Kim Snyder from I. Sullen. What do you think of the adequacy of the Obama Administration's definition of high value datasets? So should there be one definition basically, which is what the Obama Administration has done or should we subdivide that so there's accountability, for example, for third parties, regulative of these, like the people who build baby carriages and release their data. But distinguish that clearly from high datasets where high level officials in the agency are made more accountable by the data. So should we make that distinction? The current open government directive really doesn't make that distinction.

MR. RAPOPORT: The question is about our high value datasets, which is one of the terms we use in the open government directive. I think the -- and what the content should be of the definition of a high value dataset. The critical question in high value datasets is high value to whom.

You're right. The notion is there are so many consumers of government data that actually the definition of high value datasets will be multifaceted. So it's certainly -- to parents who want to have datasets on nutrition for their children or on what is a safe car seat, that is the highest of high value datasets and we include that. We also include a number of datasets that are critical to high ranking officials. We try to include datasets that are valuable for researchers and others, so we have attempted to leave the definition broad enough to capture everyone's, you know, to capture the multifaceted nature of the users of the datasets.

I will say in that regard just one last tidbit. We haven't confined ourselves to the -- every agency needed to come up with three new high value datasets that were

machine readable, which they did on a timetable as part of the open government plan, but they haven't stopped there. We started data.gov in the early months of the administration with less than 100 datasets. Today there are well over 100,000 datasets on data.gov. So government is releasing data rapidly across government and that does -- is part of, I think, the dramatic innovation in the area of open government that will unlock tremendous value for the American people, for American business, for our economy. And we bear I mind all the different uses of that data in releasing it.

MR. WEST: Thank you, Miles. (Applause)

MR. RAPOPORT: Thanks, everyone. Thanks for having me.

MR. WEST: Three quick things as our first panel begins to come up. One is, Norm, I want to say a very big thank you to you, not just for coming today, but for all the work that you have done. And those of us who are in the field know that, you know, you're someone that walks the walk as well as talks the talk. And so we appreciate it very much and very much to be here.

Let me ask the people -- secondly, if the people who are standing in the back, if you'd like to come and take seats there's definitely room and much to come. Let me ask Karen Hobert Flynn and the first panelists to start making their way up. And while they're doing that I want to do a couple of acknowledgements. I just want to make sure that people are aware of the people who have put this event together.

From America*Speaks*, one of the partners, Carolyn Lukensmeyer and Joe Goldman. Joe, where are you? Where is your hand? Thank you very much.

From Demos, I want to thank Toba Wang; Brenda White, who is not here; and I also want to acknowledge Heather McGee and Kayla Gibson, the two key leaders of our Washington office who are sitting in the back of the room. Thank you very much.

From Everyday Democracy, Martha McCoy, who is here, and Pat Scully,

who couldn't make it today, but has been part of the process every since. And Archon Fung from the Ash Institute at the Kennedy School at Harvard has been a fabulous, fabulous participant. And I do want to thank Ginny Kanduju, who has done a huge amount of logistics work just in the last week to make sure that we get here. So thank you to all who have been part of it.

Perfect timing. And I want to introduce Karen Hobert Flynn. You have her bio in your packet, but Karen is someone who is the vice president for state governments and state chapters for Common Cause. She's also a Connecticut -- a leader of democracy work in Connecticut where she and I have worked together for going on 25 years. And it's been a delight to work with her and I'm very happy to have her doing the panel. And she will introduce the panelists.

Karen, come on up.

MS. FLYNN: Thank you, Miles.

Good afternoon, everyone. I'm very pleased to be here. I'd like to thank the Brookings Institution, Demos, Everyday Democracy, America*Speaks*, and the Ash Center for pulling together this very timely and important event. As Miles has said, this first panel will focus on electoral and campaign finance systems and how they can be reformed. They will be charged with discussing the obstacles to governance and what reforms need to be implemented to ensure the U.S. is equipped to face its short-term and long-term policy challenges.

We're going to give each panelist seven minutes to talk and make their presentations. And after each panelist speaks, then we will take questions from the audience, and we're hoping to have some robust participation from all of you. I would like -- as Miles had mentioned, everyone's bio is in their packets, but I would like to make a brief introduction of each of our speakers in the order that they will be speaking.

We first have Nick Nyhart, who is co-founder and president and CEO of Public Campaign. Public Campaign is a nonprofit, non-partisan organization dedicated to sweeping campaign finance reform that aims to dramatically reduce the role of special interest money in American politics. I've had the pleasure of working with Nick for more than 15 years as he's been working since the early '90s with national and state organizations, legislators in the media, to build a movement for publicly financed elections in cities, states, and at the national level.

Next to speak will be Eddie Hailes, who is the general counsel and managing director of the Advancement Project. The Advancement Project is an action tank, a policy, communications, and legal action group that works on racial justice issues like the right to vote initiative, voter protection, immigrant justice, quality education for all and felon re-enfranchisement. Eddie is an experienced civil rights attorney, an ordained Baptist minister, and a former general counsel on the U.S. Commission on Civil Rights.

Next we have Clarissa Martinez De Castro, who is director of Immigration and National Campaigns at the National Council of La Raza, where she works on immigration advocacy and strategy and manages work on immigration efforts and efforts to expand opportunities for Latino engagement in civic live and public policy debates. In the past, Clarissa was also the manager of the Coalition for Comprehensive Immigration Reform.

Finally, we'll have Jon Greenbaum speak, who is the legal director for the Lawyers Committee for Civil Rights under Law where he is responsible for overseeing the Committee's effort to seek racial justice in the areas of education, employment, environmental justice, community development, housing, and voting rights. For several years, Mr. Greenbaum directed the Committee's Voting Rights project, which during his tenure led the Election Protection, which was the largest non-partisan voter protection

program and provided the largest and most significant component of the Congressional record in support of the 2006 reauthorization of the Voting Rights Act.

So we'll start with Nick. You have seven minutes, and I'll give you the one minute time before we move on to our next speaker. Thank you. (Applause)

MR. NYHART: Thanks, Karen.

I'm going to talk about the current public opinion environment a little bit, about how it relates to reform, and also talk a little bit about the status of public financing legislation now before Congress.

But first I want to do something different. How many people in this room -- and maybe the government officials can just stay out of this -- but how many people in this room think the system of government is broken, broadly speaking? Raise your hand if you do.

Okay. And how many people would say it's not?

Okay. And how many people didn't raise their hand during those?

Okay. All right. So it's maybe three-quarters of the people I think, or two-thirds raised it -- raised their hands the first time and a very small minority didn't -- or was in the other categories.

Second question. How often do you think politicians base their votes on a legislative bill on the preferences of their campaign contributors rather than -- on their campaign contributors rather than their actual voting constituents?

Now, first raise your hand if you think all of the time or often they vote in favor of their contributors over their constituents. So all the time or often is one category. Raise your hands if you're there.

The other category is sometimes or never. So often, all the time, sometimes, or never. So I'll do it again. That's a good question. Often or all the time?

Okay, a few more. Okay. Sometimes or never? Okay. All right. So I'm going to come back to this in a few minutes. It was about even there. Oh, how many people either didn't know or didn't want to vote in public? (Laughter)

Okay. All right. Well, I'll come back to it. But it was split.

I would say at least that our governing system, as far as being an effective means to reflect voters' voices and to make change isn't working so well. And by contrast, the most unrepresentative and least democratic parts of the government or the government system remain very strong. And I'm not referring here to the Supreme Court. I'm referring to the fact that voters voted for change in 2006 and again in 2008, but in the first 16 months of the new Congress and the administration, I think it's shown that the permanent, unelected infrastructure in Washington, the one that belongs to the lobbyists, the campaign contributors and the industry representation within the apparatus, the revolving door remains quite strong. I think you need to look at the contours of the very, very lengthy health care battle, the ongoing financial regulation battle. And it's not done yet. We'll see what happens in conference. Or the recent I think scandalous BP oil eruption and what's happened. And once that has revealed about a couple decades of regulatory capture and influence over government policy as far as drilling goes. You look at that and I think you see the influence of the unelected part of the government.

And so what do voters think of this? Well, in the invite to come here it was noted that 86 percent of the voters think government is broken, and that's a lot higher -- that's somewhat higher than we saw here. And I think -- I'm going to talk about part of that public sentiment that is about government's capacity to -- not about to fix problems, but how government inclination or disinclination, how that plays in favor or against the interests of the everyday people it governs.

There was another poll, not the CNN poll that was mentioned in the

invitation here, but one out of the University of Texas late last year that gave some insight into how voters ranked various influences on a lawmaker's legislative decision-making. Clustered at the top of the influence chain they were saying who's going to influence lawmakers' votes the most. At the top, clustered within a fraction of a percent together, were campaign contributors, lobbyists, and the politicians' own political party. Lower down were the White House, a lawmaker's fellow makers, the lawmaker's staff and their own ideology. And again, this is a poll of ordinary voters. Trailing badly at the very bottom of these seven factors as the lawmaker's own constituents. In other words, the factor that would most measure the functioning of a representative democracy was dead last. And this is voters evaluating their own voice.

In the same poll, when asked how often a contributor's views were trumped -- rather a constituent's views were trumped by constituents' views. The question I asked -- sorry, were trumped by contributors' views, the question I asked second. It was over two-thirds. It was 68 percent. So here it's about 50-50. The public view is two-thirds to 18 percent saying not often or never. So there's a huge difference there between what people in this room think and what the public thinks.

More recently, we -- and I mean Public Campaign, Common Cause, the Brennan Center for Justice, and a number of other reform organizations -- commissioned a deeper look into attitudes on money, power, and politics, including how every day citizens would view a public financing solution on money and politics issues. We're less than halfway through the research process, but I want to share with you some of the early learning from two sets of focus groups in May that actually took place before the May 18th primaries. The work is being led by Drew Westen from the University of Georgia, with assistance from Democratic pollster Celinda Lake and Republican strategist Mark McKinnon. And so here are some early findings based on our focus groups, public polling

that's out there that everybody can see that data and their own proprietary work for other clients. They integrated that into an early set of advice -- pieces of advice or findings.

The major takeaway is that voters want to have their voices heard in Washington and they think the special interests and lobbyists are calling the shots. Now, this is similar to the University of Texas poll I mentioned before, but I think significantly, when given a chance to answer, voters will say they want their own voices heard. They haven't given up on the system. There is something they want out of it still that they're not getting. And I think that's important to remember. It's not simply low self-esteem on the part of voters. They actually want something and aspire to something better than they're getting right now.

In the observations of our research team they said a number of other things. The rebellion is not from the right or the left. Voters across the board are dissatisfied. They see it as the focus groups were done just with swing voters and they saw a really angry middle. So some people say, well, it's the far left or the far right that's out there, but this anger probably spans all those groups.

Just one quick digression. Public campaign and our allies in Arizona were working to preserve the clean election system there. And because it's a very conservative state, as I know people have seen from what the state legislature there has put out, we needed all the Democrats to support retaining the clean election system, but we also needed Republicans. And these Arizona Republicans are really conservative Republicans. They're not sort of the old-fashioned 70s moderate Republicans or New England Republicans. These are rock solid, conservative Republicans.

And so one of the things we had to do was hold a number of conservative legislators and we were able to exert grassroots pressure from conservative voters. Right? Conservative, registered Republicans on those legislators to keep the system and held the

Republican votes through grassroots effort from the right to keep the public financing system in place. So I just wanted to note that. It isn't just pollsters finding this. We've seen in actual practice you can mobilize right wing voters on the issue of money and politics.

Fundamentally, the broad anger isn't simply anti-special interest; it's also anti-Washington and anti-government. Voters want big change. They are skeptical actually of incremental change and change around the edges. You have to work hard to convince them that any change can be effective. So big change works better. Small change people are ready to dismiss quite easily. The problem is not a few rotten apples, again in the voters' views, but a system that corrupts even those who come to Washington with the best of intentions. And only sweeping dramatic change has a chance of producing impact and results that will allow Congress to address issues that affect their lives in their favor.

Voters believe that politicians and special interests are too cozy. They see legislation at best as a compromise between their interests and the interests of -- sorry, I'm missing a page here. Well, anyway, the compromise between their interests and the broader interests -- I'm sorry, their interests and the interests of the special interest elites.

Let me just -- hold on one second. Here we go. All right.

So I want to argue that small donor driven public financing is an answer to this kind of voter discontent. It turns the current system on its head. Under the legislation that's currently being considered in Congress, a candidate, instead of depending on large numbers of big contributions typically from outside their district and outside their state, instead to achieve financial competitiveness in the race has to get large numbers of small donations, $100 or less from within their district. This means -- and then they get a match of public funds at a 4-to-1 ratio. This means the higher the pressure on a candidate to raise more money, they will be successful under this kind of a system only if they expand their base of local supporters. So it turns candidates 180 degrees. Instead of focusing on going

further away to find money to keep them in, perhaps the vested interests that you voted for on your committee, instead what's incentivized is the kind of behavior that voters want to see. And that's increasing the contact of elected officials or candidates and their constituents. So it drives people in the right direction as far as voters are concerned. It's also a big change. I think there are a number of proposals out there, but voters want big changes. So, something that changes 180 degrees gets the candidates doing what voters must want. Paying attention to their needs works here.

The other thing it does is it relieves participating candidates of any need to court big oil lobbyists for their money or go to Wall Street for their money. Instead, that cozy relationship right now between special interest lobbyists and candidates is rendered unnecessary if you participate in this program.

So, one final note. This is out there. It's on the table. There are 150 co-sponsors right now for the bill in the House. There are 20 in the Senate. Previous high-water mark in the House was shy of 60. We have organizers. A coalition of reformers put together organizers in 24 states. We've generated 20,000 phone calls into legislative offices over the past month in favor of this. The numbers are going up. We've also gotten support from unlikely sources. We have business leaders lining up, since the Citizens United decision, lining up in increasing numbers to support this; and political donors themselves who are tired of this system are lining up and calling themselves into lawmakers' offices to express their views.

So, last word, we need big change. I think it's up to reformers to think big, because we don't want to let the voters down. So, thanks.

MR. HAILES: Thank you, Karen, for your introduction, to the sponsors of this forum, and to Nick for giving me a great idea how to start off.

I'd like to see hands of people who think that the right to vote is

fundamental in American society. Ah, that's about consistent with what a recent poll showed, which said that 93 people of all Americans believe that the right to vote is one of the most fundamental rights in our society, and yet most Americans are surprised to find out that there is no affirmative, explicit right to vote in the United States Constitution. The United States is 1 of only 11 nations in the 119 democracies around the world that does not have an explicit affirmative provision in its Constitution to guarantee the right to vote and that it has severe consequences for our electorate. Right now we have over 13,000 jurisdictions that independently determine whether people will be able to exercise their franchise on Election Day. And while many people have long ago given up the notion that there are poll taxes and literacy tests that prevent people from exercising their right to vote, we see a time tax where certain communities stand in line longer than other communities, and this burden on working people often presents an inequality and an inefficiency in our government that ultimately prevents certain people from having their voices heard by government officials.

And, actually, that's what really is the point and the focus of the message that I want to share with you today, and, hopefully, you will leave with the thought that it is very important for us to guarantee the right to vote in ways that perhaps our courts and our election officials have not done it, because indeed there's no other way for adult citizens in our nation to share their voices, their opinions on matters that count that affect their daily lives than through the precious right to vote.

Dr. Martin Luther King, Jr., once said that, "Violence is the language of the unheard," and voting in America is supposed to be the language of our democracy, so if people can't vote and cannot express themselves through the franchise, then indeed there is trouble ahead. Every election cycle -- and you will hear my colleagues enumerate some of the documented difficulties people face, especially in communities of color, people with -- among people with disabilities, among people who are new voters, what they face every

election cycle; and every Election Day we see a thousand points of fights with election officials about whether people who are eligible to vote and want to vote, but are prevented from voting because of different barriers. In the registration process, people with felony convictions -- the only group of mentally competent adults in our country that cannot vote, especially in certain states, even after they have paid their debt to society and are now part of the taxpaying population -- cannot express their voices through the ballot box because of disenfranchisement laws that keep them unable to participate.

And so in a forum such as this where we attempt to strengthen relationships among organizations and leaders within the greater democracy reform, I encourage all of you to consider that there is this great possibility of joining the many rivers of -- or many streams I should say -- of separate movements and efforts to reform our democracy and come together as a mighty river of change through a right-to-vote initiative, which can fix the problem of too many Americans being unable to express their voices in our democracy.

I won't be able to cover all of my points, so I encourage you to go iwantmyrighttovote.org, and you'll get specific information about what that will entail. I will say this. As you go to different states, you have different laws when it comes to who can vote and whether they can vote through early voting, by provisional ballot, and, again, if they have a past felony conviction. The laws will be interpreted differently county to county. And then within counties, different bureaucrats will have different practical ways of implementing their interpretations and their perspectives on what the law says that makes it an unequal opportunity for every American to vote. And while there are laws that protect the right to vote, both in our Constitution and as interpreted by federal courts, those rights again have been interpreted differently circuit by circuit and from time to time. And so now we live in a situation where unless we come to together in the form of a movement to build a

constituency around the fact that we should not be one of only eleven nations without an explicit affirmative right to vote in our Constitution, but that we should model something that is big and better than places that we often challenge to do more in giving citizens a right to vote.

And so I will make myself available for questions, but there is something that I read and it just stuck with me, and it goes back to the fact of what it really takes to make something big and necessary happen, and it goes back to the fact of a story that was seized on by A. Philip Randolph, a civil rights activist and union organizer who founded the Brotherhood of Sleeping Car Porters. He had an early meeting with President Franklin Roosevelt early in his administration, and Randolph asked about the possibility of adopting a policy that would grant the largely African-American porters rights under federal law. The President replied that he had been convinced by Randolph of the legitimacy of pushing for such legislation, but that he needed a constituency that would make him do it. A constituency was indeed mobilized, and the Railway Labor Act came into law in 1934.

This is the challenge before us. So, let's dare to hope. Let's work to make change possible. We've never had a better opportunity to do it.

MS. MARTINEZ DE CASTRO: Good afternoon, everyone. I was trying to gain whether you could see me better from my chair or behind the podium.

My name is Clarissa Martinez, and as you heard I work on immigration right now and on national campaigns, which is an interesting mix. But it's not so rare. I was working on civic engagement programs for the National Council of La Raza for quite some time, looking at the citizenship process, the voting process, you know, removing barriers to voter participation in the Latino and immigrant communities, and I would always run into the immigration issue from a civic engagement perspective. So, you know, might well start looking at both, and obviously now that I'm working more on immigration policy it's very clear

to see how the two issues interact even in ways that should not have anything to done one with the other. And I'm going to talk a little bit about that and a couple of other things.

But let me take a step back and say that, you know, I think to the naked eye you could say that we're actually seeing a great deal of political participation in the country right now, you know, whether it is on the Tea Party side -- obviously, in my world of immigration we continue to see peaceful demonstrations of size unseen before, and they continue to happen in cities across the country, very diverse in both the color of people and the legal status of people who are part of those. So, actually, some people would say that we're seeing a very energized time of political participation.

And so to the question of is government broken, I would say well, you know, let's take a closer look, and I think that that political participation in that engagement that we're seeing tells us a lot of things. But I think that we also cannot talk about government as if it was a detached entity from ourselves, because we all contribute to whether government is broken or is functioning. So, we can't simply continue to buy into the notion of doing an indictment of government, which I always find very interesting how the number 1 campaign tactic of most politicians is to run against what they are dying to be part of. It just doesn't make sense to me.

And that guy that comes after and then we'll do the same thing.

So, in terms of looking at this participation, I think that two of the broad themes that seem to me to be very present in what we're looking at right now, among others, but to me there's two very present themes. One is our need to safeguard the public square, the space where constructive dialog that we can engage in meaningful debate about our shared challenges and opportunities. So, I think that right now we're seeing a lot of participation, a lot of engagement, but somehow that space for that meaningful and constructive conversation is what seems to be a little bit elusive; and, therefore, our ability to

come together to really talk about the problems we need to solve keeps escaping us while our frustration by engaging in speaking about the problems then grows.

And then the other thing is that I think we're also faced with a time -- not a strange time to us, we've had this time in previous episodes in our history -- where we also need to work to ensure that our notion of who is deemed to be an American is actually as diverse as America itself, and so I think that what we are experiencing is growing pains, and some of them feel very painful, around both of these broad areas, themes, challenges, if you would.

To me, on the first one of safeguarding the public square, I think one of the biggest ironies that I see is that, again, we are participating in ways that are helping -- rather than build a public space for constructive debate they're helping polarize and not the coming together of and finding those solutions. So the irony in that is that I strongly believe that we actually -- once we get down to business and we start trying to identify what workable and effective solutions are, we actually have more common ground as an electorate, as a public -- but the polarizing of the conversation makes it seem that we are irreparably divided and therefore unable to arrive at solutions.

Immigration -- can't stay away from that for too long. Immigration is a perfect case in point. I think that most folks who don't deal with the issue as much would think from the media coverage -- I mean, just -- NBC had a whole special last week, *A Nation Divided*, right? Univision had a town hall debate. I think it was exactly the same name. The irony there is that this is an issue where there is a great deal of consensus in terms of what needs to be done, and Congress -- the public is in a much more pragmatic place than Congress is on that issue. But we continuously fail to enact a solution, and therefore the frustration within the public continues to grow, and when there is no response and no action to meet that frustration, then you end up with things like Arizona. And there is

no surprise in looking at the polls where a majority of Americans would support their state doing something similar to Arizona, because on the face of the inaction, any action seems better, particularly if you are not going to be the one paying for the consequences, right? If you look at polling of Latinos, registered votes -- meaning citizens, not immigrants, not undocumented immigrants or not-yet citizens -- over 70 percent of Latinos oppose the Arizona law, because they know they're the ones that are going to get stopped, right, and asked for papers. But, again, in the absence of action, frustration takes over and then obscures that notion. In the same polls, actually, even a higher number of people support a comprehensive immigration reform solution than the Arizona law, but I think are getting really frustrated with expecting the federal government to act.

So, that's one set of things. And I think that the issue here -- and I was listening to the talk about the elections and what candidates do -- in my mind, particularly looking at the Latino electorate, it's clear to us that, you know, what drives elections is either money or sheer numbers, and then you make the political calculations of how those are going to add up. But I think that right now, part of what's affecting the process is that we have a very shallow system of engaging voters. So, even when voters are being pursued or supposedly listened to, the reality is that it's very shallow, and so politicians tend to engage in a pushing-your-buttons type of game where maligning certain issues becomes a lot more important and gives a higher payback, even if it's in short lived up-and-down polling, but where you also need to create a boogeyman to energize that base and to be able to communicate with that electorate you are hoping is going to turn out or distract it from other things that you don't want to deal with.

And so what it also means to have a system like that is that you are much less likely, because you are driven by elections and winning an election, you are much less likely to tackle the controversial problems or the difficult problems, which means that they get

worse and worse and worse, and the frustration of voters around them only deepens and deepens and deepens. So, you know, health care is one of those things. Financial reform is one of those things. Immigration reform. Any of these are things that we are in the midst of trying to deal with right now and that all of a sudden we feel overwhelmed and feel that the problem is too big as a result of those things.

So, in terms of the second notion about ensuring that who is deemed to be an American is as diverse as we are as a nation. Let me just say that that is a conversation that we as a country are very intensely having right now, even if it's often cloaked under other issues and under other debates. And there again, you know, we go back to Arizona whether it is through the show-me-your-papers law in Arizona or through previous cases we have seen, such as in North Carolina, a few elections back where the local sheriff wanted to get a list of the Latino registered voters in his county so he could go door to door and ask them to prove to him, the sheriff, that they were citizens. It's sort of where we're going in Arizona where you have between 18 and 20 states saying that it's a good thing to go in that direction. It is about a lot more than immigration. This is really about who is perceived to be an American, who is going to be regarded as suspicious when they show up to a polling place or to any other thing.

And connected to that piece of who is deemed to be an American and perhaps in the civic sense who is deemed to be a citizen, you start looking at some of the other challenges we're facing in terms of who is deemed worthy of being a voter. And so with that, we have voter identification requirements, which introduce under the guise of immigration and voter fraud that has been largely in existence to now, we've been trampling the ability to vote of U.S. citizens, many of them minorities or low income or the elderly or women. Again begging the question who is deemed worthy to be a citizen or a voter?

So, I think in terms of tackling these issues, we really need to -- and I need

to wrap it up, so -- we need to really stand against the Trojan horse that in this case is immigration, but it -- often other issues that are used as a Trojan horse to advance, in this case in many states, voter restriction laws that actually affect citizens, not noncitizens. Because when you think that you have 5 years in prison, $10,000 fine, and, if you are an immigrant, deportation, it's a pretty steep penalty to gamble to try to cast that vote. So, we need to stand against those. We need to engage in a more realistic debate to make sure that the buttons that are getting pushed on us when we react as voters and condone the forward movement of these things that we take a step back and think about that.

And last but not least, for Latinos particularly, as a building block to a strong electoral block as it is for other communities, we go one step back to the process of citizenship in having a government that really invests in the process of citizenship in the same way that it values the integration of immigrants into American society and the true adoption of these immigrants of America as their country.

And right now I'll just leave you with the thought that on the citizenship process, we have seen between 1990 and 2007 a 561 percent fee increase of the citizenship application process, a process that is already rigorous, but often maligned and politicized.

Anyway, hopefully we can get you a lot more in the conversation. Thank you very much.

MR. GREENBAUM: Good afternoon, everybody. I want to thank Brookings and the four other organizations that have been among the leaders in trying to bring us together and work on strengthening democracy.

When it comes to democracy, voting is an indispensable part. In 1964, the Supreme Court perhaps said it best when saying that voting is a preservative of all other civil rights. The fact that we're able to vote and we have the right to vote makes a big difference

in terms of the way government operates, because simply you can change who sits in government through the vote. And we've seen that happen in the 2008 presidential election, and we've also seen that happen in some of the congressional elections that have occurred since.

At the Lawyers' Committee we've done a number of things over the last several years working in conjunction with private organizations, the private bar, and with other nonprofits to try to strengthen the right to vote, including the election protection efforts, which in 2004 and 2008, we had more than 200,000 in each year to the 1-866-ARVA hotline. We had over 10,000 legal volunteers in 2008. We've also done things like the National Commission on the voting Rights Act where we had ten hearings across the country, had more than a hundred people speak to talk about the degree to which discrimination still exists in voting. And then we've done other things like litigation, for example, suing Ohio after the 2004 election based on, in our view, what was an unconstitutional system of administrating elections.

And the one thing that through all this work and then studied very closely -- the one thing that -- the one area of the process that we saw most needed reform where most people were getting kicked out of the system than anywhere else was our system of voter registration.

And I want to talk about how we can do a better job of registering voters now under the current law and what we can do to change the law to make voter registration nearly universal.

So, one of the things that we've done under the current law, most of you are familiar with the Motor Voter Law, otherwise known as the National Voter Registration Act, and you think of it as Motor Voter because when you go get your driver's license you can also register to vote. Another provision of that Act involves public assistance agencies,

so if you're going to go down and get food stamps you're also supposed to be asked whether you want to register to vote. However, one of the things that we saw was most public assistance agencies weren't complying with the law. So, Lawyers Committee and Demos and Project Vote a few years ago started an effort to increase compliance at public assistance agencies, and in a number of states that's led to reaching agreements with these states to better comply, and in some cases we've had to sue, and the results have been extraordinary.

I can give you two examples. Missouri: We sued them in the middle of 2008 and got an order from the court, because they were not offering voter registration at public assistance agencies. In 18 months since that order and then reaching settlement in the case, over 200,000 people at public assistance offices have registered to vote, which is about a 1,600 percent increase. More recently, in Ohio, we sued Ohio in 2006, and they fought us for about three and a half years, and we had to go up to the Court of Appeals at one point, and finally we reached a settlement with Ohio at the end of last year. The first 4 months of this year, over 68,000 people submitted voter registration applications at Ohio agencies, and that is -- that's an increase of about 1,000 percent. And if you think about that over the course of the year, that means 200,000 in Ohio. If we keep the same rate for the next 4 years, that's 800,000 people in Ohio. So, that's one thing that we've tried to do, and we've tried to work on the Department of Justice to improve their enforcement efforts as well, because, really, that's something that -- Department of Justice has primary enforcement responsibilities, and we hope and expect that they'll really start engaging with us in this effort.

The second piece is how can we really improve the system. Well, we have an outmoded system of voter registration where it puts the onus on the individual to register to vote. And, really, in this day and age with all the technology out there we should be way

beyond that. I mean, as it is right now, what most -- for example, if you, to use an example, get a motor vehicles and a public assistance, you have to provide almost all the information at each of those agencies that is needed for voter registration when you get a new driver's license, when you apply for food stamps, and so why not have a system of automatic registration where you take all of -- from these agencies that collect this data, that will use that data to automatically register people to vote, and if somebody doesn't want to vote or is otherwise ineligible they'll have the opportunity to opt out.

Another important piece of that is the idea of permanent registration, because, you know, in our country we're very mobile. People move around a lot. And one of the things that we've been told -- this is something I was told in Missouri in 2008 -- about 75 percent of the registrants were people who were not new registrants, but people who had moved from one place to another in Missouri. So, why not have a system, again using that agency system of when people move within the same state their registration moves with them.

And then, finally, for those who fall within the cracks, why not enable them to vote on Election -- register and vote on Election Day. And, in fact, the states that have the highest participation levels generally in this country are those that have Election Day registration.

So, those are some ways we can really advance the process forward, have millions more people vote during the process, and create a simpler, more effective system of voting. Thank you.

MS. FLYNN: Thank you, Jon. We're going to move into the portion where we do a question and answer, but before we do I wanted to welcome and thank Spencer Overton, who's here from the Department of Justice for being with us. Thank you very much for coming.

We're going to open this up for questions and answers and then give our panelists a chance to make brief closing remarks. We have about 15 minutes for questions. We have some folks who have microphones that can take your questions if you want to raise your hand, and if you have a specific question for a speaker, you know, please let us know when you do that.

Right there?

SPEAKER: Thank you for a wonderful panel. If we're discussing threats to democracy, why haven't we discussed gerrymandering, because that gets to the issue of multiparty competitive elections, which are a core democratic right?

MS. FLYNN: Going to take that, Jon?

MR. GREENBAUM: Sure.

Well, yes, redistricting's going to coming up in the next year and the issue of how districts should be drawn is a very important one. I'll tell you from the perspective of the Lawyers Committee one of the things that we've really sort of fought for in the redistricting process is redistrictings that have allowed minority voters to better be able to participate in the process, which sometimes have been at odds with the idea of having competitive elections. But I'll tell you that in terms of having minorities being able to elect their candidates of choice, it really did not come about until there was concerted effort to keep minority communities together in the context of redistricting.

I'm sure others have things they want to say about the issue.

MS. FLYNN: Eddie?

MR. HAILES: I would only weigh in by saying yes, that's a very important point. Technology will play a major role in ensuring that people are in communities where they can participate fairly in electing the representatives of their choice, so you will see a lot of groups providing both legal assistance and technological assistance in ensuring that

maps are developed that appropriately take into consideration the diverse communities that the Census data will show are more diverse than ever before.

MS. FLYNN: Any questions? Right there.

MR. BURKE: I'm William Burke. This question's for Nick Nyhart. You say that the voters are ready for a big change, but it seems to me you have to be pretty selective in the way you pick examples to argue that. For instance, if one believes in majority rule as a way of solving -- picking candidates, the results of elections, you look at the presidential election 2000 where we elected the man with the fewer votes as President, but there were very few calls at the voter level for electoral college reform, and whatever there was has long dissipated by now. It seems to me like a pretty big deal when the presidential candidate with the fewer votes gets elected President and I wonder why there isn't more voter interest in this sort of thing.

MR. NYHART: I think there's voter interest in a variety of outcomes that the lawmakers they elect actually represent them. And if you look at the 2006 and 2008 elections, there was certainly a mandate for change and yet there was an infrastructure in Washington that those voters who elected people with raw majorities, not tight races, there was a lot of change expected, and I think voters were quite disappointed. So, I think there are a variety of reforms, but they all have to be put in terms of voters' voices being heard, and I think an Electoral College reform is one of them.

I think the money, though -- as you watch people talk about the issues, the money stuff comes up fast. We just did focus groups in Charlotte, North Carolina, and Denver, Colorado. I sat in on four hours of a video feed of the one from Denver, and without any prompting at all, the money just comes right up. So, I think the voters have seized on that.

And I think electoral reform is harder to talk about in some ways because

the Electoral College is sort of hard for people to understand. The 2008 election I think brought people to understand it better. But I think that goal of having voters' voices being heard is sort of a rubric under which you can place a lot of other reforms on good electoral college reform in that. And there's interesting work going on right now the Common Cause is working on with popular vote to make sure that the person who receives the popular vote actually wins. So, I think that's progressing.

And, Karen, do you want to mention that, because Common Cause is doing a lot of work on it, yeah.

MS. FLYNN: (inaudible) the national popular vote. I think that there is a movement in states to adopt a compact for national popular vote, and so we are seeing that that is -- and actually I believe there'll be a vote in that in Massachusetts in the next week or two, so we'll see what happens there. But I do think that there are voters that are interested in that and they tend to focus on it when we come closer to election time.

Let me ask another question as we think about some of what Nick has talked about, about public opinion, because I do think the research by Drew Westen and Celinda Lake bring up some interesting points about that voters want their voices heard and that they haven't given up on democracy entirely, and I just would be interested to hear from the rest of the panel about, you know, what kind of lessons learned for some of the reforms that they're advocating for if you're taking a look at some of that public opinion research.

Jon, do you want to start, then Nick?

MR. GREENBAUM: Yeah, I think there's a real difficulty in terms of -- if you're talking about legislative reforms -- in terms of getting anything done because of the way that Congress is set up to act, and particularly in terms of the Senate and in terms of an increasingly polarized body that unless you have 60 votes in the Senate you can't things done. And I will say that to my (inaudible) there were some good things as a result of

effectively the 60-vote rule in the 2003 to 2006 era. Clarissa was talking recently about voter ID and proof of citizenship laws. That passed for federal elections in the House of Representatives in 2005, but they didn't get 60 votes in the Senate. Now that we're trying to make voter reforms happen and other reforms -- I mean, not limited to just voting -- what has gotten accomplished in this Congress? Very little beyond health care reform, which, you know, a lot of people consider to be watered down to begin with. So, I think that's a real impediment in terms of taking what voters want and actually creating policy as a result of that.

MS. FLYNN: I'd like to note that also we're going to be talking in the next panel about filibuster reforms, so I want to booknote that for later and also see if Nick wanted to add anything.

MR. NYHART: Yeah, I mean, I do think there's sort of a disconnect often when I'm in groups of reformers about the level of anger in the room among reformers who are looking at this and the level of anger that's out there in the public. I actually think the level of anger out there in the public, which goes right to left, left to right -- I mean, it's very broad and, you know, centers on a common complaint: My voice isn't being heard; Washington isn't listening to me.

There's a huge opportunity -- I mean, this should be a golden moment for reformers and connecting to that anger where the polarization is not right and left; it's top and bottom. This ought to be an opening. We have reform-sympathetic, I think, lawmakers in the majority party and in -- it's certainly, at present, friendly on many of these issues in the White House. There should not be a better time to actually win reforms over the next two, four, six years than we're in right now. I think a key, though, is a lining of voters in mood, right? People here said, you know, government works. People here were actually warmer to that proposition than people outside this room or outside the Beltway, and I think there

needs to be a connecting with that kind of anger. You know, and rather than disputing people about whether the government works, we need to say, you know, you're right, I know it isn't working well for you, how can we make your voice better heard. Whether that goes to making sure everybody can vote -- I mean, who would be against that?

Or I think about transparency. I think that's a pretty milquetoasty word. I think we'd get a lot further if we talked about being against government secret-keeping, all right? If you want to get the public going and you want to connect with the anger and the feeling that's out there, we need to change our language, and I think we need to embrace the anger and move with it rather than stave it off.

MS. MARTINEZ DE CASTRO: I think one of the challenges is that the people are very frustrated, and rightfully so, and there's not necessarily a constructive space for people to gravitate towards. There are negative spaces for people to gravitate towards, and there's a reason you go there. I mean, even if a space allows you only the opportunity to vent, that makes you feel slightly better, you know, and then you take a breath and then you may realize a little later that it didn't actually solve the problem, but it made you feel better at that particular moment. I do it plenty. Just ask my husband. So, but I think at some point, it's sort of like a mutual accountability equation.

We as voters also have to be held accountable and it says it's a shared responsibility. We are engaged in a ping-pong match of elections and politics. I see all these studies about how mid-term elections always go against the party that is in the presidency, and there's tons of econometric models to look at them, and I'm not an economist, so to me the thing that is -- the easiest reason is people are over-adjusting, are over-compensating. Our expectations were really high with the new president coming in -- and this is not just this one, but before -- and in the mid-term, you adjust course because didn't meet your every wish, and right now, again, just because we're living in a much more

pressured world with the economy, with other challenges, that adjustment is happening even with greater force. But at the end of the day it continues to be a ping-pong match and it doesn't allow us to move a great deal forward.

So, to me again I think as advocates, because I don't necessarily see this as coming from partisan structures, which unfortunately are the more established structures that shore up or that operate the participation system when you think about participation mostly in electoral terms, I don't think that we're going to get through that with just having or relying on those structures, because they have a self-preservation interest, and therefore, the pushing of the buttons and the creation of the boogeyman continues to happen.

It think a big part of voters' frustrations is that every election, every administration that goes by or every Congress, which is controlled by one party or the other, all of a sudden what was good yesterday is bad today, and what is bad today was good yesterday depending who is in power. And at the end of the day, the voter ends up in largely a similar situation. At least that is the case with a lot of folks in the Latino community. And so you start detaching from that system and simply railing against it. And I think that's what we're experiencing.

MR. HAILES: Just real quickly. We're also experiencing beyond anger, beyond indifference there's also competition for a voice at the table through the media, through Congress. We have a lot of different streams, as I mentioned before. There are people who are working on campaign finance issues, people who are working on election integrity issues, re-enfranchisement of people with felony convictions, and we have all of these different streams, and the joy I have today in this forum is the fact that there's an effort to bring together all of these smaller streams into a mighty river of a movement to push for reform.

MS. FLYNN: Great, let's take some more questions.

Right over there.

MR. WOLFENSBERGER: Thank you. I'm Don Wolfensberger with the Woodrow Wilson Center. This is for Mr. Nyhart. You have a good grasp for public opinion. The one thing I didn't hear -- maybe I missed it -- is public opinion on public financing of campaigns. Last I looked, there was -- taxpayers don't want their dollars to be used for politicians to campaign. Maybe that has changed since. But even if we assume that they support it and you do get that, how do you shut out the special interests from giving? I mean, is this going to be a replacement without a constitutional amendment?

And then finally in relation to that, what kind of an example do you think President Obama set in opting out of public financing for the general election campaign?

MR. NYHART: Let me start with the last one, because I think reform groups all face that in a Washington candidate who had been pro-reform in word and in deed in the Illinois State Senate, then turn around and say no to the public financing system as a presidential candidate. I think it's important to remember the reform community spoke pretty loudly four years earlier and said this system is broken. And I think most of us said quite publicly that, you know, forcing people to -- for us as a community saying the system's broken, but you better use it was not the position we take, and the leading reform groups I think were pretty clear about that, but worked hard to push him to pledge to support a system -- to fix the presidential system and to support a system of congressional public financing, and he made both those pledges.

In as far as popularity of public financing, the Gallop survey, which has been asking that question since the late '60s, has shown above 50 percent support for years and years. If you ask it about a system that actually allows participating candidates not to take any big contributions, the numbers are from the high 60s to the mid-70s pretty steadily again and again and again. If you ask people completely separately, you know, how do you

feel about your taxpayer money being used for, you know, any list of things, they tend to say no. So, there is sort of a battle there between the good of getting rid of the private money and replacing it with public financing. And certainly people who are against it will focus only on the fact, hey, you're going to pay for it and that's it. I think in the balance from the polling I've seen, but also real life experience, the yeas win out over the nays.

We can't eliminate -- to be constitutional, we can't eliminate private money, but you can create a system that will offer a candidate a success -- the route to financial liability and success as a candidate. So, a robust public financing system needs to be made, and certainly at the state level we've seen successful systems in Maine and Arizona in terms of candidates at the 80 percent or higher level in -- actually Connecticut and Maine -- well above 50 percent in Arizona -- using the system. So, you've got to make it enticing to use, because you need to keep a private -- you're competing against a private option. There will always be money in the system. Our goal is not to eliminate the ability of people to express their opinions in the election context by buying ads, but to give candidates who don't want to run that way an alternative and to create a system in which small contributions -- 10, $50, $75, $25 -- are important, and that's what this system does. It makes voters more important in the system. It doesn't cancel out the ability of other voices to act.

MS. FLYNN: Over here.

SPEAKER: Thank you for this forum and it's nice to hear some truly deep criticism. One thing I want to offer that I think is a real conundrum is basically we have established a system of governance that was based on a lot of old compromises, be it the states or whatever, whatever. We are, for the most part, stuck in that system. That system has established a lot of vested interest, and now we're in a position sort of where we have to go to those established vested interests to say we need a change. The two problems are: one, the interests aren't going to be that agreeable to it; and, two, a lot of the changes that

need to be made are beyond the understanding of the everyday person. Because when our Constitution was written, it was written by a small number of people who did a lot of studies and talked to one another. So, how are we going to get out of this mess when we have to go to the same people who are doing it to us to ask them to change it?

MR. GREENBAUM: I have a quick answer on the public financing question. I think the old assumption is that incumbents would never vote to change the system that got them elected. I think -- because they would say it isn't in their interests. What we're seeing now in terms of people supporting leadership in the majority party, being the leaders on the Fair Elections Now Act, is that that equation doesn't hold anymore and that if you give an incumbent -- not all of them yet, not a majority yet -- but increasingly, if you give an incumbent the choice between being able to be financially successful based on campaigning for small donations in their home state versus being on the phone endlessly talking to total strangers all over the country and being in a compromising position when you have to go to the people who might fund you because of where you stand on the committee, that they take the small donor system. And we're seeing that increasingly because the current system has become so untenable.

I think, you know, if you look at the whole financial regulation debate, you have lawmakers who for years have depended on Wall Street money saying how do I take that money, because I need that money to run, but on the other hand how do I look good taking any of this money when the public is focused on this issue? And so all of a sudden that system doesn't work so well anymore for a lot of the incumbents. Again, we're not at 50 percent yet, but I think if a vote were held tomorrow in the House, we would win it, and I think the Senate is perhaps one Congress away from being able to embrace that.

MS. FLYNN: Now, I think we're going to have to wrap this up, but give everybody a chance to make a minute or two of closing remarks, because we need to move

on to the next panel. So, do you want to start, Eddie?

MR. HAILES: Once again, I'm grateful for this opportunity to talk about a reform effort that did not begin in this room, but certainly it can be enhanced and move forward by people coming together and thinking about ways to sort of mobilize efforts to fix government starting, in my view, with the significance of the right to vote. We need a constitutional amendment that enshrines the right to vote in very explicit and affirmative ways. Thank you.

MS. MARTINEZ DE CASTRO: I know it sounded kind of gloomy, but I do think that part of seeing so much participation even if maybe it's not happening in what some of us may regard -- you know, leads to perfect outcomes. I do think that part of that participation is a reaction to people feeling like they were shut out of the process before, and so we might not -- we might still need some work to make sure that it gets to a place where participation equals strong civic society. But I think that when you're calibrating, there's a certain amount of *adjibo* (?) that happens in that process, and so we are seeing a lot more people jump in trying to figure out how they engage, and we may overshoot in some places and fall short in others.

But I think the challenge for us is whether we get back to the middle of -- or I would say to a balanced center of that participation where we as citizens are able to hold our elected leaders accountable, and they are able to listen, but they're also able to lead, which I think, frankly, is a lot of what we are not seeing right how. The equation of basing your calculations on a -- on winning an election and combined with a very shallow method of engaging with your voters had led really to an inability to lead and the overuse of being on campaign mode all the time I think to a disservice to voters as well as to that service to issues.

Again, in terms of I think in engagement, we need to look at what are the

mechanisms that strengthen democracy and whether this may be ironic, try to move away from the politicizing of those structures. Citizen is often talked about in very political terms rather than in the hoped for and valued immigrant integration the same way that voter identification requirements are talked about in terms of who is being prevented from voting as opposed to trying to make sure that we all have access. So, balancing the fact that it's a political process with trying to decouple the politicizing of the various structures. I think it's going to be an important challenge and opportunity for us.

MR. GREENBAUM: A number of us here participated in a conference last summer sponsored by most of the groups that are up there, and one of the things that was really interesting was to hear what was happening in other countries and to hear about how a lot of other countries that maybe in terms of their history of democracy maybe don't have the same history that we do in this country, but they're moving very fast in terms of doing some very interesting things regarding opening up their government to the citizenship in a way that we haven't, and, you know, I really wish everybody in the room could have been at that conference, because it really opens you up, going back to your question about, you know, we have sort of this closed system and this form and what can we do given the fact that we have this form. I think there's actually a law that potentially can be done, but the question's going to be part of will, and in some of these countries there was the will within the government and usually within the executive branch within the government to create a space to allow for some really robust public participation.

MR. NYHART: I guess I think that the -- my one piece of advice for all of is both to connect, because I think we want -- our ideals and values are very much the same, but also to think big, and every time I'm a little depressed about what I see going on inside the Beltway, when I step out and meet with local activists or listen to local voters talk about the political system, I'm actually encouraged because they so much simply want a

democratic process that works for them as well as other people, and that's a basic belief that I think is bedrock out there and should allow us to proceed with confidence. The anger we're seeing there and seeing right now is because that process or that ideal is not lived up to, but we share with all these angry people that ideal, and our job is to sort of live up those hopes that people have out there around the country.

MS. FLYNN: Well, I wanted to thank our panel for coming together, and as Nick has said about thinking big I also think it's important that many of us that work in our individual silos think more broadly and think together, and some of the things that we've talked about will be discussed further at the Governance Reform Panel that will be taking place in about ten minutes. So, thank you again to our hosts for pulling this together.

(Applause)

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I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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