

IG S. 223, TO REQUIRE
SENATE CANDIDATES TO FILE
DESIGNATIONS, STATEMENTS, AND REPORTS IN ELECTRONIC FORM

- - -

WEDNESDAY, MARCH 14, 2007

United States Senate,
Committee on Rules and Administration,
Washington, D.C.

The Committee met, pursuant to notice, at 9:56 a.m.,
in Room SR-301, Russell Senate Office Building, Hon. Dianne
Feinstein, Chairman of the Committee, presiding.

Present: Senators Feinstein, Bennett, and Cochran.

Staff Present: Howard Gantman, Staff Director;
Jennifer Griffith; Veronica Gillespie, Elections Counsel;
Adam Ambrogi, Counsel; Matthew McGowan, Professional Staff;
Sue Wright, Chief Clerk; Carole Blessington, Executive
Assistant to Staff Director; Mary Jones, Republican Staff
Director; Matthew Petersen, Republican Chief Counsel; Shaun
Parkin, Republican Deputy Staff Director; Michael Merrell,
Republican Counsel; Trish Kent, Republican Professional
Staff; and Rachel Creviston.

OPENING STATEMENT OF CHAIRMAN FEINSTEIN

Chairman Feinstein. The meeting will come to order.

I would like to begin by welcoming Commissioner Ellen Weintraub from the Federal Election Commission, better known as the FEC in Washington, who is here today. Delighted to have you. I would also like to welcome my Ranking Member, Senator Bennett, and hopefully other members of the Committee.

In the coming months, our Committee will be taking a hard look at a wide range of campaign reform issues: 527 organizations, finance reform issues, leadership PACs, public financing, and the high cost of television ads, to name but a few. We also have several nominees to the FEC pending, and we will be considering them for this important Commission. But one of the first things we should do is consider a bill, S. 223, which requires that Senate campaign finance reports be filed electronically rather than in paper format. We will have its two lead sponsors here today, Senators Feingold and Cochran, and we will be hearing from them shortly.

Currently, House candidates, Presidential candidates, political action Committees, and party committees are all required to file electronically. But Senate candidates and

National Congressional party committees are exempt. As a result, we have a cumbersome system in which paper copies of disclosure reports are filed with the Senate Office of Public records, which scans them to make a digital copy and sends the copy to the FEC on a dedicated communication line. But that is not all. The FEC then prints the report and sends it to a vendor in Fredericksburg, Virginia where the information is keyed in by hand and then transferred back to FEC databases in electronic form, at a cost of approximately \$250,000 annually to taxpayers. Frankly, this makes no sense to me.

Some may wonder why we are even having a public hearing for such a common-sense proposal. But after looking at the difficult path that this legislation has had in the past, I felt it was important this Committee establish a legislative record which, among other things, will demonstrate the strong support that is out there for electronic filing I wanted to build the case for urging my colleagues to refrain from holding this bill hostage over other campaign finance battles that have been going on for years. In other words, I am hopeful that we will be able to pass a clean bill without amendments and keep it that

way so that we may be able to pass it in the Senate easily. This is exactly the type of good government law that the Senate could adopt as a stand-alone measure, and I anticipate that we will be marking up the bill in the coming weeks.

So if I might, now I would like to turn the microphone over to my Ranking Member, the distinguished Senator Bennett, and thank you for being here this morning.

OPENING STATEMENT OF SENATOR BENNETT

Senator Bennett. Thank you very much, Madam Chairman, for calling this hearing. I agree with you that we need to get out of the Industrial Age with respect to disclosure and on into the Information Age, and I think it is appropriate that this be one of the first things we deal with in the Rules Committee.

I will, in the spirit of full disclosure, tell you that I hope we can add a little bit to this bill. I do not want to make it a battleground for the more controversial aspects of campaign finance reform. But I think there are some things we can do in the spirit of this bill that are basically noncontroversial that can work together with the same spirit that we are trying to get this common-sense

solution in place.

So I welcome the activity of our colleagues and look forward to their testimony here today.

Chairman Feinstein. Thank you very much, Senator Bennett.

The first panel will be a Members panel. It is comprised of two distinguished members--the Honorable Russ Feingold and The Honorable Thad Cochran, who is sitting up here as a member of the Committee. I am going to ask all speakers, if it is possible, to limit your remarks to 5 minutes. We will run the clock. If you request extra time, I am sure the Committee would give it to you, but we do have two votes at 11 o'clock. I hope that we will be able to finish our hearing by that time.

So let me begin with Senator Feingold. Welcome, Senator. Delighted to have you here.

STATEMENT OF RUSS FEINGOLD, A UNITED STATES
SENATOR FROM THE STATE OF WISCONSIN

Senator Feingold. Thank you very, very much, Madam Chairman, Ranking Member Bennett, and thank you for holding this hearing and for inviting me to testify.

I am very pleased, Madam Chairman, that you are an original cosponsor of the Senate Campaign Disclosure Parity Act this year, and I appreciate very much that you have decided to try to move the bill through the Committee.

I would like to also, of course, acknowledge the other cosponsors on the Committee, especially Senator Cochran, who is now the lead Republican cosponsor of the bill; and Senator Durbin, who has supported every version of this bill since it was first introduced in the 108th Congress; Senator Hutchison, who has long been an advocate of improved disclosure legislation dating back to our work together in the 527 disclosure bill in 2000; and Senator Dodd, who I will always be grateful to for his expert managing of the McCain-Feingold bill when it was on the floor in 2001.

The Senate Campaign Disclosure Parity Act fixes the anomaly in the elections law that makes it nearly

impossible for the public to get timely address to Senate campaign finance reports, even though most of the reports are available on the Internet within 24 hours of their filing with the FEC. This bill will finally bring Senate campaigns into the 21st century by amending the section of the election laws dealing with electronic filing to require reports filed with the Secretary of the Senate to be filed electronically and forwarded to the FEC within 24 hours.

The FEC is required to make available on the Internet within 24 hours any filing it receives electronically, so if this bill is enacted, electronic versions of Senate reports should be available to the public within 48 hours of their filing. Now, that will be a vast improvement over the current situation, which requires journalists and interested members of the public to review computer images of paper-filed copies of reports and involved a completely wasteful expenditure by the FEC of hundreds of thousands of dollars each year to re-enter information into the databases, even though every Senate campaign has the information available in an electronic format.

This step is long overdue. There is no excuse for keeping our own campaign finance information inaccessible

to the public when the information filed by the House and Presidential candidates, PACs, parties, and even 527 organizations is readily available almost immediately. The Washington Post has called the outmoded Senate campaign reporting system "obviously unjustified," and Roll Call has called it "indefensible." I could not agree more. Why has the Senate required electronic filing of everyone else but refused to get rid of its own exemption?

The current system means that the FEC detailed coding, which allows the press and the public to do more sophisticated searches and analysis, is completed over a week later for Senate reports than for House reports. It means that the final disclosure reports covering the first 2 weeks of October are often not available for detailed scrutiny until after the election. Indeed, according to the Campaign Finance Institute, prior to the 2006 election, "[i]n all ten of the most closely followed Senate races, voters were unable to search through any candidate reports for information on [donations made after September]." And a September 2006 column by Jeffrey Birnbaum in the Washington Post noted that, "When the polls opened in November 2004, voters were in the dark about \$53 million in

individual Senate contributions of \$200 or more dating all the way back to July." That is really kind of scandalous, Madam Chairman, and there is no good reason for it.

Madam Chairman, let me just say that I know that the election laws have a big impact on campaigns, and all Senators want to scrutinize them carefully for partisan or personal implications. I am very familiar with controversial and contested campaign finance legislation. This is not that kind of bill. This bill is as close to a no-brainer as you can get in this area. We now have 29 cosponsors for the bill--18 Democrats and 11 Republicans. Important major media outlets have endorsed it, as have bloggers on the left and the right. No one that I know actually opposes it, and yet it has been nearly 3-1/2 years since I first introduced it. Now, that is nearly half as long as it took to pass McCain-Feingold. I know McCain-Feingold. You might say that McCain-Feingold is a friend of mine. Madam Chairman, this bill is no McCain-Feingold.

So I sincerely hope that this Committee will act expeditiously and will report the bill without amendments so that we can quickly pass it on to the floor and get it into place for the beginning of next year, well in advance

of the next elections. I know that you have a big agenda on this Committee this year. I have strong views on many of those issues, and I hope to get invited to testify again. But as you said, Madam Chairman, this bill can and should be passed quickly. Let's not have the other difficult and complex issues you will face in this Committee prevent this bill from becoming law very soon.

I thank you.

[The prepared statement of Senator Feingold follows:]

Chairman Feinstein. Thank you very much, Senator.

And now we will turn to Senator Thad Cochran, the Senator from Mississippi, a member of this Committee, and an original cosponsor of S. 223. Senator.

STATEMENT OF HON. THAD COCHRAN, A UNITED STATES
SENATOR FROM THE STATE OF MISSISSIPPI

Senator Cochran. Madam Chairman, thank you very much for holding this timely hearing on the Senate Campaign Disclosure Parity Act. I appreciate my good friend from Wisconsin inviting me to be an original cosponsor of the bill. It is the Senate Campaign Disclosure Parity Act and 29 Senators are sponsors of the legislation, including 11 Republicans, 16 Democrats, and both of the Senate's Independents.

The legislation would amend the Federal Election Campaign Act of 1971 to require Senate candidates to electronically file their election-related designations, reports, and statements with the Secretary of the Senate. The Secretary of the Senate would then be required to forward copies of these reports to the Federal Election Commission within 1 working day. The bill would simply change the form, not the content, of existing disclosure requirements.

Current law requires candidates for President and the House of Representatives to electronically file reports, and the Senate has voted several times in recent years to

require electronic filing of reports required of political action committees and lobbyists. This legislation is designed to increase transparency in the legislative process by making campaign finance reports more accessible and searchable.

I also observe that our distinguished Chairman of the Rules Committee, Ms. Feinstein, is an original cosponsor of this bill. And the previous Chairman and Ranking Member of the Committee, Senators Lott and Dodd, are supporting the legislation. We had a hearing back in November in the Rules Committee, and my colleague from Mississippi spoke out in favor of Senators filing financial reports. "It is part of honesty in elections," he said. "It makes it accessible." Senator Dodd also had comments of support at that time.

I do not know of any Senator who has publicly expressed any opposition to the legislation, so I am hopeful that the Committee can act on the legislation favorably and report it to the full Senate.

Thank you, Madam Chairman.

[The prepared statement of Senator Cochran follows:]

/ COMMITTEE INSERT

Chairman Feinstein. Thank you very much, Senator Cochran.

Are there questions? Ranking Member, do you have questions?

Senator Bennett. No.

Chairman Feinstein. I have no questions.

Senator Feingold. Thank you very much.

Chairman Feinstein. Thank you, Senator Feingold, Senator Cochran.

We will proceed to the next panel, if Nancy Erickson and Patrina Clark could please come forward, and I will proceed to introduce them as they come to the witness table.

Ms. Erickson serves as the Secretary of the Senate. She is here to speak about how this bill would impact the Secretary's Office of Public Records.

Patrina Clark is the Staff Director for the Federal Election Commission and will speak about implementing a Senate electronic filing program.

I would like to welcome both of you here today and once again ask you to confine your remarks to 5 minutes on this. A simple and straightforward bill. Hopefully we can

move this along. Thank you.

STATEMENT OF NANCY ERICKSON, SECRETARY OF THE
SENATE

Ms. Erickson. Thank you for the opportunity to testify today about Senate candidates filing Federal Election Campaign Act documents. This morning I am summarizing my remarks and would ask that my complete statement be made part of the record.

Chairman Feinstein. Without objection.

Ms. Erickson. Before I talk about the project's cost and projected timetable to implement electronic filing, should the Senate so decide, I want to take a moment to talk about the Office of the Secretary's responsibilities related to public record filings.

The Office of Public Records is one of 26 departments in the Office of the Secretary. As an Officer of the Senate, the Secretary has traditionally deferred policy-making decisions to the Senate or to the Committee. The office takes seriously its responsibility to implement Senate policy in an efficient and cost-effective manner.

Since enactment of the initial Federal Election Campaign Act of 1972, the Secretary's Office of Public Records has been the filing location for Senate FECA

documents. Throughout the years, Senate candidates have filed their documents with the office in paper form. In addition, Senate candidates may also voluntarily e-file with the Federal Election Commission.

I am aware of the interest in mandating electronic filing of FECA documents, and over the course of my first 2 months as Secretary, I have concluded that my office is fully capable of implementing such a decision. We have the experience.

The Secretary's Public Records Office first implemented a web-based e-filing program for documents filed under the Lobbying Disclosure Act of 1995 in August of 2000. Since that time, the office has made changes to that system, which recently resulted in the filings of over 80 percent of lobbying documents, or over 16,000 filings, during the last filing period. Thus, the office is familiar and has experience with the technical issues related to e-filing.

The Office of Public Records estimates that it would cost approximately \$100,000 and take several months to implement electronic filing of FECA documents. The office would need to undertake the following processes: first,

assess whether our existing server used for the lobbying reports can handle the large FECA documents; second, work with the Federal Election Commission to obtain their e-filing software; and, third, purchase adaptive software to be written in order to fulfill the Secretary's statutory mandates under the FECA.

I appreciate this opportunity to testify, and I especially appreciate your continued support of our office, and I look forward to working with the Committee on this important issue.

[The prepared statement of Ms. Erickson follows:]

Chairman Feinstein. Thank you very much.

Ms. Clark, please proceed.

STATEMENT OF PATRINA M. CLARK, STAFF DIRECTOR,
FEDERAL ELECTION COMMISSION

Ms. Clark. Thank you, Madam Chairman, Ranking Member Bennett, and members of the Committee. I am Patrina Clark, Staff Director of the Federal Election Commission, and I am pleased to have this opportunity to address you on behalf of the Commission.

There is bipartisan support from all six Commissioners for electronic filing of Senate campaign finance reports. Years of experience with a variety of campaigns and committees have shown us that electronic filing is secure and efficient for committees, streamlines processing for the FEC, and provides fast and comprehensive disclosure of campaign finance activity to the public. The infrastructure we have developed over the years has facilitated our effectively processing the largest reports from national party committees and Presidential campaigns, and we are confident that it will support the processing of all Senate filings as well.

For the last several years, the Commission has submitted to Congress and the President a legislative recommendation for mandatory electronic filing, and I have

included for the record a copy of the Commission's 2007 recommendation.

Under current law all Federal House and Presidential candidates, political action committees, and party committees who file directly with the FEC submit their reports electronically once they reach a specified level of activity. Our electronic filing system reduces the workload for campaigns and committees who file these reports and streamlines the FEC's ensuring compliance with the Federal Election Campaign Act.

Campaigns and committees, the vast majority of whom store electronically all of their financial records, submit the reports quickly, with immediate detailed confirmation of receipt from the Commission. There is no need to print and deliver hundreds or thousands of pages of reports, with the attendant expense or risk of loss or delay. In fact, electronic filing would allow the Senate to avoid the delays associated with the stricter mail security procedures implemented over the last several years.

During the 10-year history of the Commission's electronic filing program, we have received hundreds of thousands of electronic reports from nearly 7,000

committees disclosing approximately \$10 billion in financial activity. Our electronic filing program has directly supported the Commission's being more efficient in almost every aspect of our work. We are able to provide comprehensive disclosure in the shortest possible time, which affords public access to individual reports within minutes of our receipt. We are better able to review, analyze, and research reports. This leads to a more accurate public record, improves communication between the Commission and committees, and reduces the amount of field work for our audits.

Implementation of electronic filing for Senate reports would result in direct cost savings associated with the current manual data entry process--a process that can add up to 30 additional days for processing paper-filed reports as compared to those filed electronically.

Madam Chairman, thank you for the opportunity to present highlights of the Commission's experience with electronic filing and our views on this important legislation. We have seen the benefits of electronic filing for the political campaigns, the Commission, and the American public, and we look forward to working with you

and your staff as you bring this process to the Senate.

I welcome your questions.

[The prepared statement of Ms. Clark follows:]

Chairman Feinstein. Thank you both so much for keeping to the time limit. I appreciate it. Thank you. Also for excellent testimony.

It is my understanding that copies of electronic filing software are provided free of charge to each person who is required to file pursuant to the Federal Election Campaign Act. Ms. Clark, will the Commission provide a free copy of its electronic filing software to the Secretary of the Senate for filing purposes?

Ms. Clark. Absolutely, Madam Chairman. The software can actually be downloaded free of charge from our website, and we are committed to working closely with the Secretary's office and her staff to assure a seamless integration of our processes.

Chairman Feinstein. Thank you very much.

Would you state for the record exactly what documents are included in S. 233 when the bill refers to categories of Senate candidate filings for "designations, statements, and reports" in electronic form as defined under the Federal Election Campaign Act?

Ms. Clark. May I have just a moment, Madam Chairman?

Chairman Feinstein. Yes, you certainly may.

[Pause.]

Ms. Clark. As previously testified, I believe, by the Honorable Senator Cochran, there is no change in the content to the information that would be disclosed, only the form, and the reporting forms are currently available for download on our website as well, and I have available to submit for the record, if it please the Committee, the actual forms that would be required as a part of the electronic filing process.

Chairman Feinstein. Thank you very much. That would be very helpful.

Are there any problems if the existing hardware is not robust enough to handle the very large filings?

Ms. Clark. We believe that our current infrastructure is more than capable of handling the additional workload that will result from Senate e-filing. Our current infrastructure could handle, we estimate, an additional 30 percent workload, and the Senate e-filing would only add about 5 percent additional workload. And then we would have additional efficiency savings from processes that we are no longer required to support associated with the manual processing of the paper-filed returns.

Chairman Feinstein. Thank you very much.

Senator?

Senator Bennett. Yes. Madam Secretary, you said it would take several months. Could you be a little more specific about that. The reason I am asking that is I am wondering if we should change the effective date of the bill. Right now it becomes effective on enactment, and if you need a little more time, if we are uncharacteristically prompt in getting this done, would you give us a date that you think would give you adequate time to make the necessary changes?

Ms. Erickson. I appreciate that, Senator Bennett. What we will need to do is make an assessment of our server to make sure that it could accommodate the large FECA reports, which can average from 400 to 500 pagers. Our server can accommodate the lobbying disclosure reports, which average four to five pages. So we will need to make that assessment to make sure that our server is robust enough to accommodate the large reports. But I do not anticipate that our assessment would cause any delay. We will start that process immediately.

In addition, we will need to purchase a middleware

program, which is software, and, again, my staff is confident that we can do that within the next several months. But, succinctly, yes, we will need at least 7 months to make these assessments, if necessary, for--

Senator Bennett. At least 7 or several?

Ms. Erickson. Several, to be safe.

Senator Bennett. Several, all right. Could you be a little more specific? What would you be surprised if it were more than?

Ms. Erickson. Well, for example, if we were required to purchase a new server, we would need to issue an RFP and have that bid competitively. But, again, my staff is quite confident that we can, you know, working with the Rules Committee, expedite that process.

Senator Bennett. Well, between now and markup, could you give us a date that you think would be a safe date.

Ms. Erickson. Certainly.

Senator Bennett. And we would consider changing the effective date of the legislation to that date so that you are not presented with a legislative mandate that you cannot fulfill physically because of these challenges. We want to be sure that we accommodate the realities that you

face.

Ms. Erickson. I appreciate that and would certainly do so.

Senator Bennett. Okay. Thank you.

Chairman Feinstein. Senator Cochran?

Senator Cochran. Madam Chairman, I was interested in hearing the observations about the fact that this will actually make the office more efficient. There will not be as many people needed, almost. I think I heard that. There will not be as many impositions on the time of staff providing hard copies of reports as there will be under the new electronic system. If anybody gets fired over there, they are going to get mad at Russ and me for causing that because you do not need as many people in the future as you have in the past? Or would you absorb that? How would you deal with that?

Ms. Clark. Senator, I did not mean to intimate that we are going to get rid of anybody. Most of the support that we provide for the processing of the manual reports is actually done by contracting resources, so the savings would come from saving on those contract dollars. And any efficiencies that we gain, we would intend to use the human

resource or the personnel to focus their efforts on other types of duties associated with other types of work in the Commission.

Senator Cochran. That is great. Thank you.

Chairman Feinstein. Thank you, Senator Cochran.

Thank you very much Ms. Erikson and Ms. Clark. We appreciate your testimony and look forward to working with you both. Thank you.

The second and final panel comprises Thomas Mann--that is a very famous name. Dr. Mann is the W. Averell Harriman Chair and Senior Fellow in Governance Studies at the Brookings Institution. He is well regarded with respect to campaign finance, elections, and congressional matters.

Steve Weissman serves as Associate Director for Policy at the Campaign Finance Institute, which is well known for tracking the details of campaign financial activity over each election cycle.

Dr. Mann, perhaps we will begin with you. Welcome.

STATEMENT OF THOMAS E. MANN, SENIOR FELLOW,
GOVERNANCE STUDIES, BROOKINGS INSTITUTION

Mr. Mann. Thank you, and I will dispose of a reading from the Magic Mountain and proceed to the matter at hand.

[Laughter.]

Chairman Feinstein. Yes, please do. Thank you.

Mr. Mann. Madam Chairman, Senator Bennett, Senator Cochran, thank you for inviting me to share my views on S. 223. I have to tell you, in all my decades of testifying before Senate and House Committees on Congress as an institution and the rules and practices that pertain to it, never have I had such an easy task. I want to congratulate you on bringing this matter forward and running such an efficient and expeditious hearing.

The fact is the Senate exemption from the electronic filing system is a source of, frankly, public ridicule, of embarrassment to the world's greatest deliberative body. It forces the institution and the FEC and the country to absorb unnecessary costs in terms of timely availability of campaign finance data. And in terms of having to adopt one of the most bizarre set of procedures perhaps ever encountered in the Senate and at the FEC of moving from

electronic reports to hard copies back to electronic images, then to have those hard copies keyed in manually to create the data in a form that the FEC can make it available in a useful fashion, it is truly bizarre.

Now, I think I can assure you that there is no public opposition to this bill, among Senators, among scholars, and advocacy organizations of all ideological stripes. Unlike many matters that will come before your Committee this Congress, including those in the campaign finance arena, this is a consensual matter. In these polarized times, it would be so wonderful if you could move this expeditiously and consensually through your Committee and the Senate and move it quickly through the House. I urge you to keep it as lean and clean and as simple as possible.

The evidence and arguments are overwhelming. My friend and colleague from the Campaign Finance Institute, Steve Weissman, he and his institution have produced extraordinarily good reports on the costs associated with these practices. I get into fights all the time with people outside the institution on campaign finance, on congressional procedure, but on this one there are no fights. Madam Chairman, this is something that has to be

done for the good of the Senate as an institution and for the good of the country. I strongly support your efforts and am happy to help in any way that I can.

Thank you.

[The prepared statement of Mr. Mann follows:]

Chairman Feinstein. Thanks very much, Dr. Mann.

Mr. Weissman, please proceed.

STATEMENT OF STEPHEN R. WEISSMAN, ASSOCIATE
DIRECTOR FOR POLICY, THE CAMPAIGN FINANCE
INSTITUTE

Mr. Weissman. Thank you, and thank you, Senator Feinstein and Ranking Minority Member Senator Bennett and Senator Cochran, and the now absent Senator Feingold for the leadership that you have shown on this issue, for past statements and for your current leadership.

I do not want to elaborate on what everyone else has said. Let me emphasize just a couple of points.

First, this is an issue of basic democratic government. This is an issue of the voters' right to be informed before casting their vote. It is one of the most basic issues you can possibly imagine. And no one has said it better perhaps than the Supreme Court in the Buckley v. Valeo campaign finance decision in 1976 when it said disclosure "allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of

future performance in office." And, you know, a lot of the campaign finance law is based on fear of corruption or potential corruption. But the main emphasis of the Supreme Court in defending disclosure was the right of the voter to be informed. And whether it is just before an election when they cannot get the information about the contributions going back to July, whether it is on the eve of some vote in the Senate that is occurring when they cannot get information about recent contributions, this current situation interrupts the voter's ability to hold people accountable. And, therefore, it kind of creates a cynicism about the process, and I think in many ways, therefore, this issue is qualitatively different from many of the other issues that come before this Committee. It is a basic issue of democracy.

We were very pleased, on behalf of the Institute to hear Senator Bennett discuss his support of the legislation and his support of not putting controversial amendments on this bill. There are five reasons why this bill is qualitatively different from the various controversial campaign finance reform measures that some people might say could also be attached to this bill.

First, as you have heard, it is noncontroversial, not only among Senators, of whom 29 have cosponsored it, of both parties, all across the ideological spectrum; it is also noncontroversial with the Federal Election Commission and the campaign reform groups, who are usually at war with each other, both supporting it, with conservative newspapers like the Dallas Morning News and liberal newspapers on this type of issue like the Washington Post or the New York Times.

Second of all--and there is no other issue like this--the Senate has voted repeatedly for electronic disclosure of everybody else's campaign reports. It has voted on this. It has voted in 1999 when it applied it to all the other Federal candidates and party committees and PACs; in 2002 when, on unanimous consent, by the way, not even going through Committee, the Senate approved electronic disclosure of 527s. It just approved it again for the lobbyists, but not the Senators whom they lobby. So, in this respect too, it is different from many other pieces of campaign finance-oriented legislation or ones that have to do with the campaign finance laws.

Third, this has been sitting in this Committee for 3

years--over 3 years, even though, as Senator Cochran pointed out, there have been remarks made by Senator Lott and Senator Dodd previously supportive of this bill.

Fourth, unlike all other legislation you could imagine, it applies only to the Senate, only to the Senate candidates at least, and the party committees--nobody else.

And, finally, it does not change at all the substance of what people have to report. It is the same thing they have to report. It is only the format. It is only bringing this into the 20th century--7 years, probably, after it was adopted for all other Federal candidates and party committees.

So in the end, as Senator Dodd said at one of the hearings that was not about this bill that was held in 2004, this is not partisan, this is good government. And Senator Lott said--and Senator Cochran quoted him--before the Chamber of Commerce in November 2003, "I'm for the electronic filing of your reports...People say, well, wait a minute, we don't want people being able to get that quick an access. Look, what are you--who are you--trying to keep secret? That's part of honesty in elections, I think Make it accessible." Right now disclosure is delayed, so

disclosure is denied.

Finally, it seems to me that the Committee bringing this to this point has done a great thing, but it needs to complete its action by moving a bill rapidly to the floor as a stand-alone bill, not controversial. We would like it only to be Senate electronic disclosure because we fear that anything else might be controversial, and that will be a recipe, really, for killing the bill. Let's put the onus on those who would attach other things that might kill the bill. Bring this, I hope you will bring this out of the Committee as a clean bill.

Thank you very much, Chairman.

[The prepared statement of Mr. Weissman follows:]

Chairman Feinstein. Let me begin by thanking both of you for your testimony. I think it is very significant testimony. I think you hit the nail on the head. The key to passage of the bill is a clean bill, and what has happened before is the bill has gotten loaded down with other things and, therefore, is difficult to bring up for one reason or another. So hopefully this can be a clean bill that can go through by unanimous consent, and if that is the case, it will become law. If it is not, I think it will not.

Let me ask two questions. Over the years, there has been a continuing debate regarding whether the point of entry for filing Senate candidate disclosure documents should be changed from the Senate to the FEC. Could you each discuss the benefits and whether you think such a transition should take place?

Mr. Mann. Madam Chairman, in purely substantive terms, I would change the point of entry, and have the same practice apply to the Senate that now applies to all other committees that file campaign finance information. But I think a judgment was made by those proposing this bill that that would be perhaps too big a step for the Senate to take. The Senate prides itself on its unique

characteristics and special place in the constitutional system, and it has one. It is not obvious to me how that applies in this particular instance, but if I had my druthers, I would simplify it even more. Imagine how the Secretary of the Senate's task would be simplified if she did not have to see about a server. All she is doing is receiving and transmitting.

So I would argue on the merits of arguing for the FEC being the point of entry for all Senate reports.

Chairman Feinstein. Thanks, Dr. Mann.

Mr. Weissman?

Mr. Weissman. Well, I could not substantively disagree, but putting on the lobbyist hat, when we first discussed this legislation, we found that at least one very important Senator felt that there is a sort of symbolism of the Senate controlling its own documents when the reports come in to the Secretary of the Senate. He expressed that point of view also to Senator Dodd, who mentioned it in his statement in July 2004. And on the advice of others, it was our judgment that there would be no significant difference if we maintained the existing system, and we did not want to repel the political support of a very important

Senator. So that is the reason why that is preserved.

Now, what happens under this bill is that the Secretary of the Senate receives the reports, but within 24 hours sends them to the Federal Election Commission, so the delay is only 24 hours. And we felt that that price could be paid because of the importance of having this legislation adopted, not having somebody withholding unanimous consent, and that sort of thing.

Chairman Feinstein. Let me ask one other question, and that question is whether the proposed electronic disclosure program should be used procedurally for audits and enforcement matters before the FEC.

Mr. Mann. I do not have a strong feeling on this, and, you know, the FEC would probably be a better party to direct that question to.

In general, my view is that such electronically filed materials are the starting point for all work done by the FEC. In the course of conducting audits and following up on various complaints, they may seek additional information, but certainly it is the starting point, and presumably is the starting point now, Madam Chairman, that it is just that they have to go through the various silly

bureaucratic procedures to get to that point.

So I do not think this would be any substantive change in how they operate now.

Chairman Feinstein. Thank you.

Do you have a comment, Mr. Weissman?

Mr. Weissman. I agree. All of the other reporting is electronic. It is not on paper. So that must be the starting point for all of the auditing that occurs now by the FEC.

Chairman Feinstein. Thank you.

Senator?

Senator Bennett. Thank you, Madam Chairman. I am intrigued by your first question about where the entry point ought to be, and at the risk of offending people, my own experience is that voters do not pay any attention to this information, wherever it is, but politicians do. The only use I have seen of this information in actual campaigns has been for opposition research, where one candidate wants to know who is contributing to the other candidate so he can stand up and blame the other candidate for having taken the money. And that is fine, that is part of the process.

I do not understand the desire of the Senate to somehow keep control of this information that is so seldom used except in an atmosphere where the FEC is the paramount source that everybody turns to. I do not know of anybody who turns to the Senate to get this information. They all wait for it to come out in the FEC.

I do not know if we can recall the Secretary of the Senate, Madam Chairman, but what would happen if we went directly to the FEC and she does not have to worry about new software, new computers, and all the rest of this? If we can save a little money and a little headache in the Senate to have it going directly to the FEC, that strikes me as a pretty good idea.

Chairman Feinstein. Would you like to ask her that question now?

Senator Bennett. If she is willing to respond to that.

Chairman Feinstein. Ms. Erickson, if you would not mind responding. Mr. Weissman vacated his chair. Please just take it and that way you are on the microphone and can be recorded. Thank you.

Ms. Erickson. As Mr. Weissman said, it is my

understanding that it has been the customary view held by Members of the Senate since enactment of the Federal Election Campaign Act that these Senate candidate FECA documents are considered legislative branch documents and should be retained by the Senate.

With respect to our operations, we have a lean, mean office. We have one person who works full-time on FECA filings. But I will be honest with you. During filing periods it is all hands on deck.

Senator Bennett. Sure.

Ms. Erickson. And you are right that if the point of contact were changed, my office would not have to worry about whether our server can accommodate the large reports and would not be, purchasing software to accommodate the filings if the Senate so decides to move that way.

Senator Bennett. Well, I do not want to diminish my respect for the Senate and its traditions or my standing in terms of the eyes of my fellow Senators on the issue of my respect for the Senate and its traditions. But it seems to me if the Senate needed to have that information, you could download it from the FEC.

Ms. Erickson. Right.

Chairman Feinstein. Exactly.

Ms. Erickson. I just wanted to add that there is no 24-hour delay in our transmitting the FECA information to the FEC, that the information comes in to us and nightly at 8:00 p.m. we send that report information over a secured T-1 line, so it is done, it does not require 24 hours for us to transmit that data.

Senator Bennett. Okay. Well, this has been very helpful, and the whole purpose of this is to make the whole thing as painless and efficient as possible. And right now it is cumbersome, inefficient, and expensive. So if we are going to make it as painless and efficient as possible, let's keep that as our goal, and I say, somewhat facetiously but I am afraid with some accuracy, that the Senate is superbly structured to deal with the problems of the 19th century, and we need to structure it a little better for the 21st, and this is one way we could do it.

Mr. Mann. Senator Bennett, I just think on the merits, there is no question about how it ought to be done. But what would really be sad and unfortunate for the Senate and for the country is if you boldly move forward and mark the bill up for the FEC being a direct point of entry, and

then the only way to really move this is by unanimous consent and you fail to get that unanimous consent.

So what I would urge you to do is check with your colleagues, make the arguments. Sometimes Senators have a way of holding onto a position that they do not--that has not been challenged--in which they have not been challenged. And I have a feeling a serious talk with a couple of Senators whose names come to mind might lead you to have some hope here.

The other point I would just add very briefly, Senator Bennett, you are right about ordinary members of the public not leaping on to these data as they become available. They are very useful, though, to journalists, to outside groups of various kinds that monitor and synthesize the information. And, therefore, it is important for it to be available.

Senator Bennett. I agree that it is important to be available, and I do not denigrate the role that it plays. But sometimes people get carried away in their assumption of how certain electoral decisions are made in various households.

Mr. Mann. Yes.

Senator Bennett. Thank you.

Chairman Feinstein. Thank you very much, and thank you very much to our witnesses. We appreciate your testimony. I think we know what we have to do, and now the question is how to get it done.

Thank you very much, the hearing is adjourned.

[Whereupon, at 10:45 a.m., the Committee was adjourned.]