

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE HEARING

STATE CAPITOL  
IRVIS OFFICE BUILDING  
ROOM G-50  
HARRISBURG, PENNSYLVANIA

TUESDAY, AUGUST 19, 2008  
10:09 A.M.

PRESENTATION ON HOUSE BILL 2738  
STATE TREASURY:  
CAMPAIGN FINANCING/INVESTMENT RELATIONS

BEFORE :

HONORABLE DAVID K. LEVDANSKY, MAJORITY CHAIRMAN  
HONORABLE STEVEN R. NICKOL, MINORITY CHAIRMAN  
HONORABLE SCOTT W. BOYD  
HONORABLE STEVEN W. CAPPELLI  
HONORABLE GORDON DENLINGER  
HONORABLE BRIAN L. ELLIS  
HONORABLE JOHN T. GALLOWAY  
HONORABLE JARET GIBBONS  
HONORABLE C. ADAM HARRIS  
HONORABLE WILLIAM C. KORTZ II  
HONORABLE DARYL D. METCALFE  
HONORABLE THOMAS J. QUIGLEY  
HONORABLE DAVE REED  
HONORABLE CHRIS SAINATO  
HONORABLE DANTE SANTONI, JR.  
HONORABLE RICK TAYLOR  
HONORABLE RANDY VULAKOVICH  
HONORABLE ROSITA C. YOUNGBLOOD

\* \* \* \* \*

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ALSO PRESENT:  
ROBERT T. KASSOWAY  
MAJORITY EXECUTIVE DIRECTOR  
ANDREW RITTER  
MINORITY EXECUTIVE DIRECTOR

DEBRA B. MILLER  
REPORTER

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## P R O C E E D I N G S

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CHAIRMAN LEVDANSKY: Good morning.

I would like to call to order this meeting of the House Finance Committee, and the subject of today's hearing is House Bill 2738 dealing with the subject of campaign finance contribution limits for candidates for the State Treasury.

Before I turn to my colleague, Representative Nickol, I would just like to have the members of the committee introduce themselves, starting to my immediate right.

REPRESENTATIVE HARRIS: Representative Adam Harris, the 82nd District, Juniata, Mifflin, and Snyder.

REPRESENTATIVE ELLIS: Representative Brian Ellis, 11th District, Butler County.

REPRESENTATIVE REED: Dave Reed, Indiana County, 62nd District.

REPRESENTATIVE QUIGLEY: Representative Tom Quigley, the 146th District in Montgomery County.

REPRESENTATIVE GIBBONS: Representative Jaret Gibbons from the 10th District, Beaver, Lawrence, and Butler Counties.

1           REPRESENTATIVE GALLOWAY: John Galloway, the  
2 140th District, Lower Bucks County.

3           REPRESENTATIVE SANTONI: Dante Santoni,  
4 Berks County.

5           REPRESENTATIVE BOYD: Scott Boyd, the 43rd  
6 in Lancaster County.

7           REPRESENTATIVE DENLINGER: Gordon Denlinger,  
8 99th District, Lancaster County.

9           REPRESENTATIVE SAINATO: Chris Sainato. I  
10 represent the 9th Legislative District, which is a  
11 section of Lawrence and a small section of Beaver  
12 County.

13           REPRESENTATIVE KORTZ: Good morning.  
14 I'm Bill Kortz. I'm from Allegheny County, the  
15 38th District.

16           REPRESENTATIVE VULAKOVICH: I'm  
17 Randy Vulakovich, the 30th District, Allegheny  
18 County.

19           REPRESENTATIVE METCALFE: Daryl Metcalfe  
20 from the 12th District of Butler County.

21           REPRESENTATIVE CAPPELLI: Steve Cappelli,  
22 the 83rd, Lycoming County.

23           REPRESENTATIVE NICKOL: Steve Nickol.  
24 I represent parts of York and Adams  
25 Counties.

1           CHAIRMAN LEVDANSKY:  And I'm David Levdansky  
2 from Allegheny and Washington Counties.

3           The subject of today's hearing is campaign  
4 finance reform legislation pertaining to candidates  
5 for the Office of State Treasurer.

6           Going back to, I think, my sophomore term  
7 in the Legislature, I started working with  
8 Representative Allen Kukovich and Representative  
9 Tom Michlovic and others that were interested in a  
10 more comprehensive approach to campaign finance  
11 reform in Pennsylvania.

12           And I have introduced legislation, actually  
13 House Bill 1720 and House Bill 1721, to in fact  
14 provide for contribution limits to candidates for  
15 public office throughout Pennsylvania.

16           Notwithstanding my greater interest in a  
17 more comprehensive approach, my colleague and chair,  
18 Minority Chair, Representative Steve Nickol, has  
19 offered legislation I think modeled after an  
20 amendment that he had prior, a couple of months ago,  
21 offered to a bill on the floor.

22           So Representative Nickol has an interest in  
23 pursuing this matter and this issue, and I thought  
24 that it would be beneficial for the members of the  
25 committee and for the public as well to learn more

1 about his proposal.

2 And with that, let me turn it over to  
3 Representative Nickol.

4 REPRESENTATIVE NICKOL: Thank you,  
5 Mr. Chairman.

6 This bill essentially reflects an amendment  
7 that was added to Senate Bill 1297, a Fiscal Code  
8 bill, pertaining to prudent-person investment  
9 standards for Treasury.

10 In the days leading up to final budget  
11 deliberations in July, I think it was July 2 that  
12 this amendment was offered and unanimously approved  
13 by the House of Representatives.

14 The bill went to the Senate. The amendment  
15 was ultimately, though, left out of the final  
16 Fiscal Code vehicle due to the reluctance on the part  
17 of some of the parties to including that.

18 I'm thankful, because Chairman Levdansky  
19 agreed to allow us to hold a hearing on this  
20 legislation as a result of the budget outcome.

21 From a political perspective and the reason  
22 I offered that amendment on the floor was I think  
23 that the current opportunity to enact language like  
24 this is probably the best opportunity that exists,  
25 because we have a nonelected Treasurer that will not

1 be running for reelection. That opportunity does not  
2 often exist in Pennsylvania, and so you are not  
3 stepping on anyone's toes who is currently in office.

4 Understanding there is currently an election  
5 under way, future and prospective application  
6 language would certainly be merited so that it does  
7 not affect the current election.

8 From a policy perspective, I serve on the  
9 Public School Employees' Retirement Board, and our  
10 board and the State Employees' Retirement Board both  
11 have conflict-of-interest policies prohibiting a  
12 board member who has received campaign contributions  
13 from an investment person from participating in  
14 investment decisions with said investment person.

15 They have these policies in place, and the  
16 pension boards have a different situation, because  
17 although you might have a member recuse themselves  
18 from a vote because of a conflict, the full board can  
19 still take action because there are many other  
20 members of the board who wouldn't have a similar  
21 conflict.

22 The Office of Treasurer is somewhat  
23 different. The Treasurer is the custodian of  
24 billions of dollars of taxpayer moneys and  
25 Commonwealth funds, and with prudent person investor



1 authority, it does not have an investment board to  
2 act as a check over investment decisions, nor are  
3 they precluded from participating in investment  
4 relationships with campaign contributors.

5 This legislation aims to close the door on  
6 the possibility of pay-to-play investment decisions  
7 and instead is designed to foster investment  
8 decisions based on sound investment advice and  
9 targeting returns.

10 In offering this, I'm not making any  
11 insinuations of current or past pay-to-play  
12 practices. I just feel it is better to protect  
13 yourself against a potential conflict of interest,  
14 and I think this legislation would be a step in that  
15 process.

16 CHAIRMAN LEVDANSKY: Thank you, Chairman  
17 Nickol.

18 The first person on the agenda to testify:  
19 Barry Kauffman, the Executive Director of Common  
20 Cause of Pennsylvania.

21 Welcome, Barry.

22 MR. KAUFFMAN: Good morning.

23 Good morning, Chairman Levdansky and  
24 Chairman Nickol and distinguished members of the  
25 House Finance Committee.

1 I am Barry Kauffman, the Executive Director  
2 of Common Cause/PA, a 10,000-member citizen advocacy  
3 organization devoted to promoting open, accountable,  
4 responsive, and effective government.

5 For over three decades, Common Cause/PA has  
6 worked to make the Keystone State's elections more  
7 free and equal as required by the State Constitution.

8 Truly competitive elections, unblemished by  
9 the corrupting effects of large campaign  
10 contributions, lie at the heart of government  
11 accountability and government integrity.

12 A challenge in achieving that goal is to  
13 ensure that campaign dollars do not speak louder than  
14 voters in elections or in the government process, and  
15 Chairman Levdansky has been one of our most visionary  
16 and stalwart supporters.

17 Unfortunately, unlike the vast majority of  
18 other States, Pennsylvania does not restrict the size  
19 of campaign contributions, thus jeopardizing the  
20 freeness, the equality, and the fairness of our  
21 elections.

22 The Federal government and all but a dozen  
23 other States have recognized the extraordinary impact  
24 that large campaign contributions can have on the  
25 integrity of government and elections and have

1 limited the amount of monetary and incoming  
2 contributions individuals and political committees  
3 can give to candidates.

4           Some government entities further restrict  
5 or ban contributions from certain parties that  
6 have more direct relationships with government,  
7 such as government contractors and regulated  
8 industries.

9           Sadly, while other States and municipalities  
10 have recognized the need to protect their voters and  
11 taxpayers from the undue influence of political  
12 contributions, Pennsylvania continues to keep its  
13 head buried very deeply in the sand, ignoring the  
14 serious problem.

15           I am delighted to report, however, that  
16 Pennsylvania's municipalities are beginning to jump  
17 into the breach to provide reform leadership. Like  
18 many New Jersey municipalities, Philadelphia has  
19 adopted pay-to-play restrictions that limit  
20 contributions from no-bid contractors and established  
21 general contribution limits.

22           Pittsburgh City followed suit, but its  
23 inexperienced new mayor foolishly vetoed the measure.  
24 More cities and even some counties and townships are  
25 exploring similar restrictions.

1           Fortunately, there are signs that the  
2           Pennsylvania Legislature is coming to terms with the  
3           potential damage that large and unlimited campaign  
4           contributions can inflict on State government.

5           The statute that legalized casino gambling  
6           in Pennsylvania contains fairly strict limits on  
7           campaign contributions from officials of the gambling  
8           industry, and it appears that the Senate is moving to  
9           expand those restrictions.

10          Now Representative Nickol's proposals in  
11          House Bill 2738 could provide further protection in  
12          its coverage of bond counsel, investment bankers, and  
13          others who bid to invest massive amounts of State  
14          revenues.

15          The need for such restrictions has even been  
16          recognized by professional associations who warn  
17          against the practice of making campaign contributions  
18          to obtain or retain government financing engagements.  
19          The Municipal Securities Rulemaking Board also has  
20          established restrictions in its Rule G-37 standards  
21          for municipal bond dealers.

22          Therefore, Common Cause/PA commends  
23          Representative Nickol for taking the next step to  
24          protect Pennsylvanians from abuses that could evolve  
25          from campaign financing transactions between

1 candidates for State Treasurer and professionals in  
2 the financing industry.

3 We would, however, like to note some  
4 concerns and suggest some improvements to House Bill  
5 2738.

6 In Section 311(a)(1) and (2), it appears  
7 that these components would include a situation in  
8 which a sitting Treasurer is running for another  
9 office, such as Governor or Auditor General. If not,  
10 they should.

11 Does this section also apply to other  
12 decisionmakers in the Treasury Department who may run  
13 for office? If not, it should.

14 Could a Deputy Treasurer set up a PAC and  
15 accept contributions from other sources banned by  
16 this act and then distribute to others, including the  
17 Treasurer?

18 In Section 311(b), under this section's  
19 2-year cooling-off period, it appears that a person  
20 who gives, say, a \$25,000 contribution to a candidate  
21 for Treasurer in 2008 could be eligible to receive  
22 contracts from that successful candidate in 2011,  
23 while that same Treasurer/contribution recipient is  
24 still in office.

25 Why not just make the bill applicable to

1 "persons" who have made contributions to a State  
2 Treasurer while that Treasurer is a candidate or in  
3 office and 2 years thereafter?

4           Furthermore, as we understand it, since the  
5 restriction on making contributions ends upon the  
6 termination of the investment relationship, a shrewd  
7 Treasurer could award a variety of very lucrative  
8 contracts, perhaps a year or 2 before leaving office,  
9 and immediately receive contributions from that  
10 contractor if the contract has expired.

11           The ban for contractors giving contributions  
12 to that Treasurer or any of his deputies should  
13 extend 2 years beyond the date that State Treasurer  
14 leaves office.

15           Section 311(c): The report of findings of a  
16 violation should not go just to the Treasurer, and  
17 also, there are components requiring that it be  
18 delivered to the Legislature, but it also should be  
19 delivered to the Attorney General.

20           Section 311(d): It appears that a person  
21 found to be in violation of this section is  
22 prohibited from acquiring future contracts for  
23 2 years and would lose any current contracts. If  
24 that is not the case, it should be.

25           Furthermore, a person found to be in

1 violation also should be liable for a fine of up to  
2 three times the amount of the violation.

3 Section 311(f): Does this definition of,  
4 quote, "Person," unquote, apply to all employees of  
5 such a firm? If not, it should.

6 And finally, the committee should give  
7 serious consideration to establishing aggregate  
8 election-cycle limits on contributions to candidates  
9 for State Treasurer for all those persons who are  
10 permitted to make contributions, and that is in  
11 addition to the bans established by this legislation.

12 Campaign contributions should never operate  
13 as legalized bribes. They should not be enticements  
14 that leave public officials to reward supporters with  
15 lucrative contracts or encourage the shortcutting of  
16 the kind of due diligence that guarantees taxpayers  
17 get the highest quality services for their tax  
18 dollars.

19 Improving the integrity of government in  
20 elections through campaign finance reform has been  
21 the flagship issue for Common Cause/Pennsylvania  
22 since its founding in 1974.

23 We urge you to enact the Nickol proposal  
24 with strengthening amendments, and I thank you for  
25 considering our concerns and suggestions.

1           CHAIRMAN LEVDANSKY:  Are there any questions  
2 from the members for Mr. Kauffman?

3           Representative Reed.

4           REPRESENTATIVE REED:  Thank you very much  
5 for your testimony.  I just have a quick question.

6           On the bottom of page 2 of your testimony,  
7 you talk about -- and it is the second to the last  
8 paragraph of the sentence -- "The ban for contractors  
9 giving donations to that Treasurer (or any deputies)  
10 should extend two years beyond the date that  
11 Treasurer leaves office."

12          MR. KAUFFMAN:  Yes.

13          REPRESENTATIVE REED:  And obviously that is  
14 geared towards folks who receive contracts from the  
15 Treasurer's Office.

16          Should we not, when we look at the macro  
17 picture of State government, and it is really the  
18 Executive branch and the Governor who have the  
19 authority over most contracts that occur in State  
20 government, should that not also include the Governor  
21 and all Executive branch employees?

22          You know, if you really want to hit at the  
23 heart of what you are trying to get at, no-bid  
24 contracts in particular, isn't that where we really  
25 should be going as opposed to just focusing in on the



1 Treasurer's Office?

2 MR. KAUFFMAN: I think so. I think that  
3 makes sense.

4 Obviously the new authors of this decided to  
5 break off a piece which has some very high volatility  
6 and some very high impact. Some contracts may only  
7 involve -- I shouldn't say "only" -- a couple hundred  
8 thousand dollars, but in some of these cases, with  
9 the Treasurer, it could be hundreds of millions if  
10 not billions of dollars.

11 So certainly this is the biggest, most  
12 high-impact sector of those kinds of financial  
13 relationships. But you are correct. I mean, we  
14 should extend these kinds of restrictions and bans to  
15 a wide range of contractors.

16 Other States have done it certainly with  
17 regulated industries and other related pay-to-play  
18 situations. In New Jersey, I think there now 70-some  
19 municipalities who ban those kinds of relationships.

20 REPRESENTATIVE REED: Thank you.

21 CHAIRMAN LEVDANSKY: Any other members with  
22 questions?

23 Chairman Nickol.

24 REPRESENTATIVE NICKOL: Thank you,

25 Mr. Kauffman.

1 I really do appreciate your sharing your  
2 concerns and suggestions for improvements. I do have  
3 a couple of questions.

4 I'm curious, as I become more and more  
5 familiar with Rule G-37, I'm curious, in your  
6 perspective, should we be looking at that as a model  
7 and trying, for the ease of the industry as much as  
8 anyone, to try to tailor legislation that dovetails  
9 as closely as possible to those requirements so we  
10 do not end up inadvertently setting two different  
11 separate standards that may be conflicting or  
12 overlapping?

13 MR. KAUFFMAN: I do not proclaim to be an  
14 expert on Rule G-37, but I think, you know, when you  
15 have consistency in standards and practices, I think  
16 it is helpful. So that may be a good starting point  
17 and a good model.

18 REPRESENTATIVE NICKOL: Also, I believe,  
19 from my understanding and my reading of Rule G-37,  
20 that the limitations of contributions do not apply  
21 when contracts are competitively bid. Under my  
22 proposal as presently drafted, it would apply to all  
23 contracts, even those competitively bid.

24 Because of the competitive bidding process,  
25 do you think it would be fair to exclude competitive

1 bid contracts from coverage under the legislation, or  
2 is it important to include them?

3 MR. KAUFFMAN: Again, I do not proclaim to  
4 be really an expert on Rule G-37, but I think the  
5 Treasurer, as your legislation suggests, is a special  
6 case because of the mammoth size of the investment  
7 decisions which are being made. So that may be a  
8 special consideration which needs to have even more  
9 restriction.

10 REPRESENTATIVE NICKOL: One of the comments  
11 -- I have read some of the testimony being offered by  
12 other presenters today, and one feature of G-37 and  
13 some of the comments from some of the other  
14 presenters deal with the \$250 threshold that exists  
15 in G-37, where someone who would otherwise be  
16 precluded from making contributions to a State  
17 Treasurer or other elected officials can make a  
18 contribution up to \$250 if they live in the district,  
19 in the case of a legislator, or I guess the  
20 Treasurer, if they live within Pennsylvania, they  
21 could make a contribution up to that level but not  
22 beyond that.

23 I'm curious as to your thoughts. I mean,  
24 should \$1 be the limit or should \$250? Is that an  
25 appropriate threshold to protect against intruding

1 anyone's constitutional rights to support someone who  
2 is running for office?

3 MR. KAUFFMAN: Certainly. The Federal  
4 courts have long found it appropriate to have  
5 restrictions on campaign contributions to protect the  
6 integrity of government. They found that to be a  
7 compelling governmental function to protect its own  
8 integrity.

9 So we do not really have any First Amendment  
10 problems here with free speech. We are not  
11 restricting the freedom of speech; we are restricting  
12 the volume of speech. And in this particular case,  
13 certainly a \$250 limit done at a reasonable range  
14 does protect a good bit of protection.

15 I do not think too many people are going to  
16 be influenced by \$250, but when we start talking  
17 about thousands or tens of thousands of dollars as we  
18 see in Pennsylvania, the problem is pretty severe.

19 REPRESENTATIVE NICKOL: And one final  
20 question.

21 You talk about the need perhaps to extend  
22 the definition of "Persons" to apply to all employees  
23 of a firm. In this case, we may be talking about  
24 banks with tens of thousands of employees, and the  
25 prospect of then being tripped up by some clerk in,

1 you know, the Altoona office making a contribution to  
2 the State Treasurer, especially if zero is still, you  
3 know, the threshold, that would preclude them from  
4 doing any business, you know, a contribution totally  
5 unknown to them.

6 Do you truly feel that we should extend it  
7 to all employees, including, you know, no matter  
8 where they work, for a large institution, or  
9 just the professional employees that might be  
10 involved in such an arrangement, an investment  
11 arrangement?

12 MR. KAUFFMAN: Well, certainly you need to  
13 extend it to all the professional employees who are  
14 in a decisionmaking capacity.

15 I do not think it would be that difficult to  
16 extend it to everybody else. I mean, you could  
17 simply make it in the employees' manual say, it is a  
18 condition of your employment that you not make  
19 campaign contributions to those, let's say to the  
20 State Treasurers if that becomes law. So you could  
21 make that kind of blanket policy.

22 REPRESENTATIVE NICKOL: Thank you for your  
23 testimony.

24 CHAIRMAN LEVDANSKY: Barry, just one final  
25 comment.

1 I, too, am heartened by the fact that  
2 Philadelphia, and recently Pittsburgh, enacted, you  
3 know, really substantial and meaningful campaign  
4 finance reform legislation, and like you, I regret  
5 that the mayor of the city of Pittsburgh I think got  
6 some bad advice and in fact vetoed that.

7 You know, I, too, want to commend  
8 Representative Nickol and others that have taken a,  
9 not as comprehensive an approach that I would prefer  
10 to take relative to campaign finance reform, but I  
11 think any effort that promotes campaign finance  
12 reform in any venue or in any area of government is  
13 worthy of support, because in the end, the real goal  
14 is to enact campaign comprehensive, but I recognize  
15 the difficulty and challenge that we have been  
16 working under for over more than two decades to try  
17 and make that happen.

18 But we welcome your support and your  
19 continued effort in that regard. Thank you.

20 MR. KAUFFMAN: Well, we certainly appreciate  
21 all the work you are doing on this. Thank you.

22 CHAIRMAN LEVDANSKY: The next person that we  
23 are going to call to testify is Mr. James Biery, the  
24 President and Chief Executive Officer of the  
25 Pennsylvania Bankers Association.

1 MR. BIERY: How are you?

2 CHAIRMAN LEVDANSKY: Good morning.

3 MR. BIERY: Good morning, Chairman  
4 Levdansky, Minority Chairman Nickol, members of the  
5 committee.

6 As the Chairman noted, my name is Jim Biery.  
7 I am President and Chief Executive Officer and also  
8 Treasurer, I guess, of the Pennsylvania Bankers  
9 Association.

10 I appreciate the chance to appear before you  
11 today to present the PBA's views on Representative  
12 Nickol's amendment that would prohibit certain  
13 investment advisors with an investment relationship  
14 with the State Treasury Department from making  
15 campaign contributions to candidates for the Office  
16 of State Treasurer.

17 The Pennsylvania Bankers Association is a  
18 statewide group of a little less than 200 financial  
19 institutions of all sizes located throughout the  
20 Commonwealth and, by the way, in other States around  
21 the United States that are chartered elsewhere but  
22 may have a significant presence here in Pennsylvania,  
23 and it includes national and State banks, bank and  
24 trust companies, trust companies, savings  
25 institutions, and all of their subsidiaries and

1 affiliates.

2 PBA's members currently provide investment  
3 advisory service or serve as State depositories of  
4 Commonwealth public funds. Financial institutions  
5 providing investment advisory services, as defined  
6 in this language, would be impacted by the  
7 prohibitions.

8 Just a couple of words on the provisions as  
9 we see it.

10 Quickly, under the bill, the Treasury  
11 Department would be prohibited from entering into an  
12 investment relationship with a person who has  
13 solicited any campaign contributions on behalf of or  
14 made any campaign contribution to a candidate  
15 committee or election fund of the State Treasurer or  
16 any candidate for State Treasurer.

17 This prohibition would apply to  
18 solicitations and contributions made by the person,  
19 by an individual representing the person, or by a  
20 PAC controlled by the person.

21 In addition, a, quote, "person" that has  
22 agreed to or already entered into an investment  
23 relationship with the Treasury could not knowingly  
24 solicit or make any campaign contribution to a  
25 candidate committee or election fund of the State



1 Treasurer or any candidate for Treasurer, and this  
2 prohibition would likewise apply to solicitations and  
3 contributions made by the person, by an individual  
4 representing the person, or by a PAC controlled by  
5 the person.

6 "Person" you define as an individual, an  
7 organization, or a partnership currently engaged in  
8 or seeking to engage in an investment relationship  
9 with Treasury where the relationship can reasonably  
10 be expected to generate at least \$25,000 annually in  
11 income, fees, or other revenue to the individual  
12 organization or partnership and shall include, one,  
13 authorized or key personnel as defined or identified  
14 by a contracting party being attached to the  
15 contract; two, persons who expect to or do experience  
16 a material financial effect on their economic  
17 interests, including salary, bonuses, options, or  
18 other financial incentives directly deriving from an  
19 investment relationship.

20 This "investment relationship" term is  
21 defined as the relationship between a person and the  
22 Treasury for the purpose of providing investment  
23 services, such as legal services, investment banking,  
24 investment advisory, underwriting services, financial  
25 advisory services, or brokerage firm services for

1 brokerage underwriting and financial services.

2           Now, although the legislation applies only  
3 to contributions made and investments entered into  
4 after November 30, 2010, once the legislation takes  
5 effect, these prohibitions would apply to the time  
6 period which begins 2 years prior to the date upon  
7 which the Treasury Department first announces a  
8 procurement or a search process that could lead to an  
9 investment relationship, which can reasonably be  
10 expected to generate at least \$25,000 annually in  
11 income, fees, or revenue, or the date upon which a  
12 person approaches the Treasury with a proposal to  
13 enter into an investment relationship with Treasury  
14 by discussing the specific facts and financial terms  
15 of a particular investment transaction or strategy  
16 and ends upon the termination of the relationship.

17           For example, if the Treasury Department  
18 announces a procurement or search process on  
19 December 1, 2012, which results in an investment  
20 relationship commencing July 1 of 2013, the  
21 legislation would apply to contributions made on any  
22 date after December 1, 2010.

23           While the PBA appreciates Representative  
24 Nickol's intent and the proponents of the legislation  
25 to eliminate any appearance of an environment where

1 those who wish to provide investment services or  
2 enter into investment relationships with Treasury  
3 feel they are compelled to contribute to a State  
4 Treasurer candidate's campaign committee in order to  
5 improve their chances of obtaining business with the  
6 Treasurer, we respectfully disagree that a so-called,  
7 quote, "pay-to-play," end quote, environment exists  
8 or has ever existed in dealings with the State  
9 Treasury Department and State Treasurers past or  
10 present.

11 Our members advise us that the majority of  
12 contracts entered into with the Treasury Department  
13 are competitively bid, and decisions by the Treasurer  
14 are based on the terms of service and the conditions  
15 in the bid proposal.

16 I would just add on a personal note, in my  
17 better than 32 years with the PBA and working with  
18 many of you -- or actually, most of your  
19 predecessors, not with all of you, sorry -- and I do  
20 not know the current State Treasurer but I have known  
21 everyone that has served in that capacity in the  
22 past, one of whom has currently found her way to  
23 serve as the Lieutenant Governor of Pennsylvania,  
24 another serving as the United States Senator from  
25 Pennsylvania. I would never have even had a thought

1 that this "pay-to-play" phrase, which I find kind of  
2 offensive, has ever occurred in any of those  
3 circumstances.

4 Just as we do not believe that State  
5 Legislators determine how they are going to vote on a  
6 piece of legislation based on who has contributed to  
7 their campaigns, we simply do not believe that  
8 Treasurers base their investment relationship  
9 decisions on those firms or individuals that have  
10 contributed to their campaign.

11 Individuals, employees of corporations, and  
12 members of organizations such as ours that  
13 participate in the political process contribute to  
14 candidates for elected office for various reasons.

15 Often, it is because the candidate shares  
16 the same beliefs or philosophy, the candidate has a  
17 vision or goal for the office they are seeking  
18 election to that attracts supporters, or perhaps  
19 because there is an existing professional or even  
20 personal relationship with the candidate. These hold  
21 true whether the candidate is for township  
22 commissioner or President of the United States.

23 An outright ban on campaign contributions,  
24 as this legislation seeks to impose, also raises  
25 questions of constitutionality, as it has been argued

1 and can be argued that this prohibition would limit  
2 First Amendment rights. We believe this question has  
3 to be studied further and requires input from people  
4 with more knowledge on the topic than I can give you  
5 today.

6 We are also concerned that a 2-year  
7 look-back provision in the legislation would be very  
8 difficult to comply with and really needs to be  
9 deleted.

10 For an example, if a candidate for State  
11 Treasurer that is currently another officeholder,  
12 such as State Legislator or other statewide  
13 officeholder, would run for Treasurer in 2012 and a  
14 contribution was made to his or her campaign  
15 committee while holding the other office but within  
16 the 2-year look-back time frame, we believe it would  
17 not be possible to have an investment relationship  
18 with that individual if they are elected State  
19 Treasurer.

20 At the very least, the legislation should  
21 clarify that when procurement or search processes  
22 begin on or after December 1, 2010, the look-back  
23 period would not apply to periods prior to 2010.

24 If the committee and the General Assembly  
25 are intent on enacting changes to campaign finance

1 law, we would suggest that campaign contribution  
2 prohibitions should be uniform and be applicable to  
3 candidates for Governor, Auditor General, Attorney  
4 General, Treasurer, and the General Assembly. We do  
5 not believe it is equitable to apply the restrictions  
6 to any one office at any time.

7 To avoid questions on the constitutionality  
8 of campaign contribution prohibitions, the committee  
9 may also wish to look to existing Federal law  
10 contribution limits rather than a complete ban.  
11 These limitations provide that an individual may  
12 currently contribute \$2,300 to each Federal candidate  
13 or candidate committee for election.

14 Multi-candidate PACs, such as the one that  
15 our association operates with many others, may  
16 contribute \$5,000 to a Federal candidate per  
17 election, which is \$5,000 in a primary, \$5,000  
18 in a general. And there is actually a third  
19 opportunity for people who wish to contribute --  
20 \$5,000 more in debt retirement following a general  
21 election.

22 The individual contribution limits set forth  
23 in Federal campaign finance law are adjusted every  
24 cycle to account for changes in the Consumer Price  
25 Index.

1           We also recommend that the committee  
2 carefully review the limitations already imposed by  
3 Rule G-37 of the Municipal Securities Rulemaking  
4 Board, and you are going to hear about that later, so  
5 I will not attempt to talk to you about something I  
6 don't understand anyway.

7           While we disagree with the underlying  
8 assumptions that are prompting this legislation, at  
9 the very least it should be made clear that it is  
10 prospective in its application until some point after  
11 its effective date, and the 2-year look-back  
12 provision should either be eliminated or clarified as  
13 well.

14           We are pleased to be able to present these  
15 comments before you, and I will try, Mr. Chairman, to  
16 answer any questions, if you have any.

17           CHAIRMAN LEVDANSKY: Any questions from the  
18 members?

19           Representative Boyd.

20           REPRESENTATIVE BOYD: Thank you,  
21 Mr. Chairman.

22           Going back to Mr. Kauffman, the previous  
23 speaker, who advocated to expand this to all  
24 employees of any financial institution, I guess my  
25 question is, how would the association and how would

1 the industry apply that?

2 I mean, how do you tell an employee you are  
3 not allowed to give a campaign contribution? I mean,  
4 I do not know what the largest employer, banking  
5 employer, in the State of Pennsylvania is.

6 MR. BIERY: That would be PNC.

7 REPRESENTATIVE BOYD: And their employee  
8 base is?

9 MR. BIERY: Oh, my gosh, 25,000, 30,000.

10 REPRESENTATIVE BOYD: How do you tell 30,000  
11 people throughout the State that you are not allowed  
12 to give campaign contributions to a candidate for  
13 Treasurer?

14 Do you think -- I guess my one question is,  
15 practically, how do you do that? Secondly, how do  
16 you enforce it? And if it is a zero dollar, I mean,  
17 you do not even have to report less than \$50. So  
18 they could hand somebody a check for \$25 and, you  
19 know, have a candidate write a check for \$25.

20 And then do you think that that really  
21 restricts the right to participate in the political  
22 process? I mean, I guess in essence that it is free  
23 speech to do that.

24 So is that a practical request that  
25 Mr. Kauffman made, in your opinion?



1           MR. BIERY: Well, I mean, I certainly think  
2 it is unfair. I'm trying to think of the best  
3 examples, and you gave me kind of a number of  
4 questions there.

5           How do you tell people that they cannot  
6 give? I do not know, other than, you know, there is  
7 newspapers, there is publications, there are laws  
8 that get passed that tell people they have to behave  
9 in a certain way. If you say that if you work in a  
10 financial institution you may not contribute to a  
11 candidate for office, then somehow that word has to  
12 get out.

13           But how do you do that? How can you not  
14 give or force somebody to not give a contribution to  
15 their next-door neighbor who is running for township  
16 commissioner or a county commissioner or, you know,  
17 dog catcher for that matter, whatever it might be?  
18 How do you tell them to not give to people who are  
19 running for the General Assembly?

20           I mean, I happen to have a statewide  
21 officeholder who is a fraternity brother. If I want  
22 to make a contribution, then why shouldn't I? You  
23 know, there are all sorts of issues out there.

24           The larger financial institutions where  
25 there is -- I should not talk about the brokerage

1 firms because I do not know exactly how they are  
2 structured, but I can tell you that in the large  
3 financial institutions that are in Pennsylvania or  
4 that are located elsewhere but do a lot of business  
5 in Pennsylvania tend to have their own political  
6 action committee. They do their own solicitations  
7 within the scope of the law with regard to, you know,  
8 issues like required contributions and stuff. They  
9 live the letter of the law. They may make  
10 contributions to our PAC.

11 So if they are participating in the  
12 political process by making a contribution to their  
13 own organization and you tell them that that is no  
14 longer something they can do, then I guess those PACs  
15 have to go away, which means they will not be able to  
16 support candidates for Congress or for Governor or  
17 for Auditor General or Attorney General or whatever  
18 it might be.

19 So we would object. I mean, you have all  
20 been around; you live this world. This is a very  
21 tough issue, political contributions.

22 I have enough faith in the people that run  
23 for office and continue to run for office. The  
24 process has become enormously better, in my view,  
25 than it may have been many, many years ago, and I

1 would expect that process to continue without having  
2 to restrict people's ability to participate in it.

3           And we have at least 20 banks, bank holding  
4 companies in Pennsylvania, that have their own  
5 PAC and make contributions for candidates anywhere  
6 from the local level perhaps through Governor or  
7 United States Senator or whatever it might be.

8           REPRESENTATIVE BOYD: Thank you.

9           CHAIRMAN LEVDANSKY: Chairman Nickol.

10          REPRESENTATIVE NICKOL: Thank you.

11          Thank you, Mr. Biery.

12          MR. BIERY: Sure.

13          REPRESENTATIVE NICKOL: I do appreciate your  
14 comments and suggestions.

15          MR. BIERY: Thank you.

16          REPRESENTATIVE NICKOL: I am curious with  
17 regard to the Rule G-37 and the operation of your  
18 PAC itself.

19          MR. BIERY: Yes.

20          REPRESENTATIVE NICKOL: Can an investment  
21 bank, someone who would be precluded normally from  
22 making contributions to a candidate by Rule G-37, can  
23 they make contributions to your PAC?

24          MR. BIERY: Well---

25          REPRESENTATIVE NICKOL: If there are any

1 restrictions then on your PAC on who would be  
2 precluded?

3 MR. BIERY: I have to beg off that. This  
4 G-37 is not one that we work with within. My guess  
5 is that they may not, because they are first  
6 restricted.

7 If you are a subsidiary or a third party of  
8 a bank holding company in Pennsylvania, or in the  
9 United States for that matter, and there are  
10 restrictions imposed upon you by G-37, if you are a,  
11 oh, there's a whole host of organizations, one called  
12 Infinex and UVEST and other small investment banking  
13 firms that have affiliations with bank holding  
14 companies, and I am virtually certain that the  
15 restrictions that are in place under G-37 would apply  
16 to that relationship as well.

17 So I think, without knowing 100 percent, I  
18 think that the answer is they may not contribute.

19 Now, you know, other employees of a  
20 financial institution certainly can, but my guess is  
21 that those involved in this business are not  
22 solicited and know that they, because of their  
23 licensing procedures that are in place, know that  
24 they may not contribute. But like I said, I do not  
25 know.

1           REPRESENTATIVE NICKOL: I am aware that you  
2 have a long tenure at PBA---

3           MR. BIERY: Thank you.

4           REPRESENTATIVE NICKOL: ---so that you were  
5 in your position, I think, before Rule G-37 was  
6 adopted. I am not sure how familiar you were with  
7 underwriters and the banks involved in underwriting  
8 and kind of the lay of the land that led to the  
9 adoption of G-37. I had it described to me as kind  
10 of the Wild West before that rule was adopted.

11           I am just curious if you have any comments  
12 with regard to, was Rule G-37 something that was  
13 needed when it was adopted to resolve any endemic  
14 problems with regard to the role of campaign  
15 contributions and making decisions on underwriters?

16           MR. BIERY: Well, you know, I do not know  
17 the answer. I have been doing -- I have been at the  
18 PBA since 1976, so there have been differences in the  
19 structure, vast differences in the structure of the  
20 financial services industry.

21           You were here when we did branching in 1982,  
22 and in the mid-nineties there was a bill that passed  
23 called Gramm-Leach-Bliley which basically tore down  
24 the walls between insurance, the investment business,  
25 and the commercial banking business.

1           So until that time, I really do not have a  
2 very good idea of the performance of the investment  
3 firms with respect to, you know, their contributions  
4 and how they participated in the process.

5           The only experience that I have is hearing  
6 people on a regular basis that are brokers and others  
7 saying that, every time you talk to them, I mean,  
8 even at local events they say, I can't come because  
9 of the business I am in; I can't participate because  
10 of the business I am in.

11           So I would have no anecdotes or experience  
12 to really relate to you of any knowledge there. I'm  
13 sorry.

14           REPRESENTATIVE NICKOL: Okay.

15           I am curious on one more point that I would  
16 like to follow up on.

17           You questioned the 2-year look-back in the  
18 legislation.

19           MR. BIERY: Yes.

20           REPRESENTATIVE NICKOL: But then mentioned  
21 something which I fully agree with about the need  
22 for consistency with Rule G-37. I assume that is to  
23 help remove any confusion, because you would have  
24 banks trying to otherwise follow two separate sets of  
25 rules.

1           My understanding of Rule G-37 is they do  
2 have a 2-year look-back in Rule G-37---

3           MR. BIERY: For the investment firms.

4           REPRESENTATIVE NICKOL: ---is my  
5 understanding. Do you feel a consistency would trump  
6 your concerns or---

7           MR. BIERY: Well, I guess I would feel more  
8 strongly that to have the look-back would make  
9 circumstances -- I do not know how you could comply  
10 with those circumstances. I do not know how the  
11 investment firms or investment individuals may do it,  
12 and as I said, I am not familiar with G-37 and that  
13 is why I didn't want to talk about it.

14           But how do you look back over a 2-year  
15 period to a contribution you made? I mean, I do not  
16 know about you folks, but I would probably forget in  
17 2 years about a contribution that I made or that our  
18 PAC would have made, you know, to any individual.

19           So I guess the key there would be, we do not  
20 think the 2-year look-back is fair.

21           REPRESENTATIVE NICKOL: All right. Thank  
22 you for your testimony.

23           MR. BIERY: Sure.

24           CHAIRMAN LEVDANSKY: Mr. Biery, I just want  
25 to follow up---

1 MR. BIERY: Please call me Jim.

2 CHAIRMAN LEVDANSKY: Jim.

3 MR. BIERY: Thank you.

4 CHAIRMAN LEVDANSKY: I just want to follow  
5 up on one area that you point to.

6 You raised concerns with Representative  
7 Nickol's approach, but you seem to suggest that  
8 contribution limits, you know, may be patterned  
9 or modeled after the Federal contribution limits  
10 as something that may be even a little more  
11 appropriate.

12 MR. BIERY: And we all have our personal  
13 views on limiting campaign contributions to a wide  
14 range of candidates for a wide range of offices.

15 What my personal views might be are not  
16 really relevant here. We raised the issue of what  
17 the FEC uses because it is an alternative that is out  
18 there.

19 Two hundred and fifty dollars, I mean, you  
20 all have campaigns. We get involved in campaigns. I  
21 do not think it is much of a contribution. And  
22 \$2,300 for an individual or \$5,000 for a PAC in the  
23 case of a congressional seat in Pennsylvania, look at  
24 some of the areas that are covered; they are  
25 enormous.



1           And if there is an organization, whoever it  
2 might be, you know, if we are for them, against them,  
3 or whoever they might be, and if they feel strongly  
4 enough about a candidate being elected or reelected,  
5 why shouldn't they be able to marshal their resources  
6 to the extent they determine is best and put all  
7 those resources that they can into an individual  
8 race.

9           I just personally do not see the objection  
10 to that taking place.

11           CHAIRMAN LEVDANSKY: So, I mean, just to  
12 paraphrase -- now, I am not trying to put words in  
13 your mouth either -- you are comfortable with the  
14 reasonable limits that the Federal Election  
15 Commission has placed on Federal candidates for  
16 Congress and the United States Senate, those  
17 contribution limits being \$2,300 from an individual  
18 per election cycle and \$5,000 from a PAC. You are  
19 comfortable with that?

20           MR. BIERY: I think they are a good  
21 alternative to a \$250 limitation. But my personal  
22 preference would be that those limitations would not  
23 exist.

24           CHAIRMAN LEVDANSKY: Okay. And they don't  
25 in Pennsylvania.

1 MR. BIERY: Right.

2 CHAIRMAN LEVDANSKY: I mean, it is a little  
3 more than ironic that a candidate for Congress or for  
4 the United States Senate---

5 MR. BIERY: It is.

6 CHAIRMAN LEVDANSKY: ---is limited to \$2,300  
7 from an individual and \$5,000 from a PAC, but a  
8 candidate for the State Legislature, a candidate for  
9 local government, a candidate for, you know, anything  
10 else in Pennsylvania, for a statewide office or a  
11 legislative office or a county and local office,  
12 there are absolutely no contribution limits at  
13 all.

14 And I guess even though the subject that I  
15 am going to ask you is a little bit different than  
16 this particular bill, I guess what I am asking is, if  
17 we have Federal limits on contributions for Federal  
18 candidates, how would you feel about a system that  
19 would take those Federal limits and apply them to  
20 statewide candidates, for Treasurer, Auditor General,  
21 Attorney General, Governor, Lieutenant Governor,  
22 statewide judiciary, adopt the Federal limits for the  
23 statewide offices and something less than the Federal  
24 limits of \$2,300 and \$5,000, something less than that  
25 for candidates for the Legislature and local office?

1 How do you generally feel about that kind of  
2 approach?

3 MR. BIERY: Well, I think you are making a  
4 very strong case for anyone who believes in limiting  
5 campaign contributions in any way, and what you say  
6 would be a very consistent situation to be in.

7 If I am to answer the question on a personal  
8 basis, I do not support campaign contributions at any  
9 level. But, you know, we are talking about State  
10 Treasurer races here, and I might use that as an  
11 example.

12 Over the years, our association, you might  
13 say the Bankers Association, sure, we are very active  
14 in electing Treasurers, but we are not, and the  
15 reason is because we have different institutions that  
16 are members of ours who might have different views on  
17 who the best candidate might be.

18 Those are all institutions that support the  
19 Pennsylvania Bankers Association PAC, so why would  
20 we, you know, be more or less playing to both sides  
21 of the coin here with respect to Treasurer  
22 candidates? So we, you know, maybe in a very modest  
23 way, at an event or two, we do not participate.

24 So the board of our political action  
25 committee, which is 18 volunteer bankers from around

1 the State, the issue of limiting contributions to  
2 candidates for any State office would, I am certain,  
3 say that they do not support it.

4 If you were asking me on a personal basis, I  
5 do not support it either. But, you know, using the  
6 Federal limitations, I think, would certainly be a  
7 better approach than imposing a \$250 or a \$500  
8 limitation, which I think is way too low.

9 CHAIRMAN LEVDANSKY: Okay.

10 MR. BIERY: And I am sorry to hedge. I'm  
11 not hedging; I just do not support it.

12 CHAIRMAN LEVDANSKY: Okay.

13 Well, we appreciate your testimony and your  
14 insights.

15 MR. BIERY: Thank you very much.

16 CHAIRMAN LEVDANSKY: Thank you, Jim.

17 MR. BIERY: Glad to be here.

18 CHAIRMAN LEVDANSKY: Next, I would like to  
19 call on Mr. Michael McCarthy, the Director of  
20 Legislative Affairs at the Pennsylvania Department of  
21 the Treasury.

22 MR. McCARTHY: Chairman Levdansky, Chairman  
23 Nickol, my name is Mike McCarthy. I am the Director  
24 of the Office of Legislative Affairs for the Treasury  
25 Department.

1           Unfortunately, Treasurer Robin Wiessmann  
2 could not be here today and asked me to read her  
3 testimony for the record. She thinks this is a very  
4 important piece of legislation and looks forward to  
5 any questions you might have about her position and  
6 is willing to work with the members of the committee  
7 on this legislation if it moves forward:

8           Chairman Levdansky and Chairman Nickol,  
9 thank you for the opportunity to address the House  
10 Finance Committee today regarding Representative  
11 Nickol's proposal to limit political contributions by  
12 financial services providers to candidates for the  
13 Office of State Treasurer.

14           Before I begin, I would be remiss if I did  
15 not take this opportunity to thank the Chairmen for  
16 their work on legislation extending the prudent  
17 person investment authority.

18           Your cooperation and dedication on this  
19 issue, as well as that of your staffs, was  
20 instrumental in the passage of this quality piece of  
21 legislation that will benefit the Commonwealth and  
22 its residents for years to come.

23           I pledged during my swearing-in that I would  
24 utilize my many years of experience in public and  
25 private finance to serve as a prudent investor and

1 effective steward of the Commonwealth's funds.

2 The extension of this authority is critical  
3 for Treasury to obtain higher returns on Commonwealth  
4 investments. This is especially significant as we  
5 continue to navigate the economic volatility and  
6 market turmoil that has plagued our nation since last  
7 summer.

8 In addition to extending this authority, I  
9 am particularly pleased that we included a  
10 significant improvement to the transparency of  
11 Treasury's investment processes and operations and  
12 expansion of Treasury's annual report.

13 Increasing the efficiency, accountability,  
14 and transparency of the Treasury operation has been  
15 and continues to be a top priority for me. It is of  
16 paramount importance that the public understands the  
17 mechanism used to invest their hard-earned tax  
18 dollars, and this annual report will provide more  
19 information about Treasury's investment activities  
20 than ever before.

21 It is my commitment to these principles that  
22 drove me to speak out on this proposal which deals  
23 with those businesses upon which we rely for  
24 financial services.

25 The prudent person investment authority

1 guides my significant investment responsibilities as  
2 Pennsylvania Treasurer, as similar provisions guide  
3 our State investment entities, most notably,  
4 retirement boards.

5 Treasury's investment returns have an impact  
6 on Commonwealth revenues, taxes, and spending. In  
7 the case of the retirement boards, poor investments  
8 also would be borne by Pennsylvania taxpayers.

9 A point of pride for myself, and I am sure  
10 for the pension boards, is the quality of our staff  
11 -- capable, dedicated public servants who recognize  
12 that each investment action eventually has a  
13 significant economic impact on all the people of the  
14 Commonwealth, that we cannot manage portfolios of  
15 this magnitude alone.

16 To properly do our job for the benefit of  
17 all Pennsylvanians, we employ the assistance of the  
18 private sector. Specifically, we need the  
19 specialized investment advice and management services  
20 that we can only obtain through contractual  
21 relationships with financial service providers.

22 I appreciate Representative Nickol asking  
23 me to comment on this draft legislation. The  
24 proposed legislation would amend Section 311 of the  
25 Fiscal Code to limit contributions to the campaigns

1 of candidates running for the Office of State  
2 Treasurer.

3 Generally, the draft bill would prohibit the  
4 Treasury Department from entering into investment  
5 relationships with a person who was solicited or made  
6 any contribution to a candidate for Treasurer.

7 It would also prohibit that person who has  
8 an investment relationship with the Treasury  
9 Department from soliciting or making contributions to  
10 candidates for Treasurer. Contributions to a  
11 candidate's committee or election fund also would be  
12 prohibited.

13 A person who violates this prohibition would  
14 be prohibited from engaging in an investment  
15 relationship with the Treasury Department for a  
16 period of 2 years.

17 If a person already has an existing  
18 investment relationship with the Treasury Department,  
19 no additional investment services could be provided  
20 for the Treasury Department for a period of 2 years.

21 I strongly agree with Representative  
22 Nickol's intent to make certain that the Treasury  
23 Department's selection of financial service providers  
24 is in no way based on the making of political  
25 contributions.



1           However, the draft legislation is solely  
2 focused on candidates for the Office of Treasurer.  
3 As such, the proposal does not go far enough.

4           To fully ensure that selection is not in any  
5 way based on contributions, the General Assembly  
6 should restrict all contributions from financial  
7 service providers. This is the only way to proceed  
8 if the General Assembly wishes to eliminate entirely  
9 the possibility that financial services can, quote,  
10 "buy" influence.

11           If the legislation only limits contributions  
12 to candidates for Treasurer, those seeking to  
13 influence their selection will find an alternative  
14 way to achieve their goal. Such individuals, for  
15 example, might contribute to other candidates or  
16 officials who may perceive as having the ability to  
17 influence no matter how tenuous or indirect such  
18 influence might be.

19           That is why I urge you to consider enacting  
20 an across-the-board limitation on contributions by  
21 those providing financial services. The contribution  
22 limitations should apply to all State offices in  
23 addition to local officials and political parties.

24           There is a model for such restrictions  
25 adopted by the Municipal Securities Rulemaking Board,

1 the MSRB, known as G-37.

2 G-37 provides, in part, that no broker,  
3 dealer, or municipal securities dealer shall engage  
4 in municipal securities business with an issuer  
5 within 2 years after any contribution to an official  
6 of such issuer.

7 The rule allows for contributions of no  
8 greater than \$250 by municipal finance professionals,  
9 but only if they are eligible to vote for the  
10 official.

11 California recognized the need to have an  
12 expanded limitation on contributions when it enacted  
13 a statute encouraging Treasury oversight committees  
14 for local governments.

15 Part of this optional legislation prohibits  
16 the use of security brokers and dealers who have made  
17 political contributions, not only to the Treasurer  
18 and a candidate for that office but also members of  
19 the governing boards of the governmental body and  
20 candidates for those offices.

21 California employees sought to prevent  
22 influence that can be gained through direct and  
23 indirect contributions. Similarly, G-37 prohibits  
24 any act which directly or indirectly, through or by  
25 any other person or means, results in a violation of

1 the rule.

2 In addition, the General Assembly also  
3 should consider adopting language similar to MSRB  
4 Rule G-38. The rule prohibits various individuals  
5 and companies from providing or agreeing to provide,  
6 directly or indirectly, payments to any person to  
7 solicit a municipal securities business on behalf of  
8 the covered person.

9 Rules G-37 and G-38 have been effective in  
10 reducing problems throughout the country in the  
11 municipal securities business. Adoption of such  
12 rules by the General Assembly covering solicitations  
13 on behalf of financial service providers would be  
14 helpful in reducing possible problems that could  
15 result from contributions from the financial services  
16 sector doing business in Pennsylvania.

17 In addition, any legislation should focus on  
18 and include the retirement boards. At this time, the  
19 retirement boards have policies or policies under  
20 consideration relating to campaign contributions to  
21 board members.

22 Those policies would require board members  
23 to recuse themselves if they were beneficiaries of a  
24 contribution from a provider of financial services  
25 who was seeking a contract.

1           Clearly, however, limiting the voting  
2 capabilities of board members is not the most  
3 effective nor in the best interests of the board or  
4 the people in Pennsylvania.

5           The public and the law place a greater  
6 amount of responsibility on the Office of the  
7 Treasurer and the members of the retirement boards.  
8 The public needs to know that government entities in  
9 Pennsylvania have obtained the best financial  
10 services available. The people of Pennsylvania  
11 need and deserve to know that investment decisions  
12 are not subject to the influence of campaign  
13 contributions.

14           I urge the General Assembly to adopt a ban  
15 on all contributions from any financial services  
16 provider to any Pennsylvania government official,  
17 political candidate, political party, or political  
18 action committee.

19           Thank you for allowing me to address the  
20 committee on this important issue. I look forward to  
21 further discussions on this important matter.

22           Thank you very much, Mr. Chairman.

23           CHAIRMAN LEVDANSKY: Representative Nickol.

24           REPRESENTATIVE NICKOL: Thank you. I do  
25 appreciate your testimony.

1           I must comment that our current State  
2 Treasurer is probably the only Treasurer I can  
3 remember that got into office without raising a dime.  
4 So at least no one can accuse her of any conflict  
5 with regard to campaign fundraising.

6           And I do greatly applaud her efforts to help  
7 improve transparency with investment processes over  
8 at Treasury.

9           I have a couple of questions, not so much of  
10 the issue but just on Treasury generally. And as  
11 Mr. Biery had pointed out, the Treasury, the banks  
12 not only provide investment advisory services but  
13 they serve as State depositories.

14           Now, I'm not sure I wanted to cover the role  
15 of banks serving as State depositories or not, but I  
16 am just kind of curious as to how State depositories  
17 are chosen.

18           Are they competitively -- I understand some  
19 things the Treasurer competitively bids, some are  
20 not. But, you know, I gather from the testimony that  
21 the Treasurer would like to take things further as  
22 opposed to further restricting the legislation.

23           Just if you could help me as to what the  
24 difference is between the State depository and what  
25 our -- would a State depository be covered by the

1 bill as currently written?

2 MR. McCARTHY: Representative, I really do  
3 have to take it back and discuss it with our office  
4 and have the Treasurer respond directly, because I  
5 think you have raised an interesting question which I  
6 think she would love to respond to.

7 REPRESENTATIVE NICKOL: With regard, and my  
8 final question, and I'm just curious, and I don't  
9 know if you know or if you could get back to me.

10 I see that Rule G-37 seems to preclude  
11 any prohibition on contributions if the investment  
12 was competitively bid, and I am not certain myself  
13 what is competitively bid at Treasury and what is  
14 not.

15 MR. McCARTHY: Well, we would be glad to  
16 provide that information to you.

17 REPRESENTATIVE NICKOL: Okay. Thank you.

18 CHAIRMAN LEVDANSKY: Thank you,  
19 Mr. McCarthy.

20 MR. McCARTHY: Thank you, Mr. Chairman.  
21 Thank you.

22 CHAIRMAN LEVDANSKY: Next, Mr. Ernesto  
23 Lanza, Senior Associate General Counsel with the  
24 Municipal Securities Rulemaking Board.

25 Welcome, Mr. Lanza.

1 MR. LANZA: Thank you.

2 Chairman Levdansky, Chairman Nickol, and  
3 members of the committee, my name is Ernesto Lanza,  
4 Senior Associate General Counsel of the Municipal  
5 Securities Rulemaking Board.

6 I appreciate the opportunity to testify this  
7 morning before the committee on behalf of the MSRB  
8 concerning our Rules G-37 and G-38 relating to  
9 political contributions and solicitation of municipal  
10 securities business.

11 These groundbreaking rules have been  
12 developed by the MSRB to address the real or  
13 perceived conflict of interest that may arise when an  
14 elected State or local government official receives  
15 political contributions from an underwriting firm and  
16 also awards contracts for the underwriting of  
17 municipal securities to that firm.

18 The MSRB's efforts to forcibly address  
19 pay-to-play practices are generally acknowledged  
20 as having substantially reduced this type of behavior  
21 in a municipal securities market to the benefit  
22 of the investor, issuer, and underwriting  
23 community.

24 Now, I should note at the outset that my  
25 testimony this morning will focus solely on the

1 purpose, operation, and history of MSRB Rules G-37  
2 and G-38.

3           Neither I nor the MSRB have any opinion with  
4 regard to legislation under consideration by this  
5 committee or pending before the Pennsylvania  
6 Legislature or with regard to any facts or  
7 circumstances relating to such legislation or to any  
8 political campaign that would be impacted by the  
9 legislation.

10           By way of introduction, the MSRB is a  
11 self-regulatory organization, or SRO, established by  
12 Congress in 1975 to write rules with respect to  
13 transactions in municipal securities by  
14 broker-dealers and bank dealers.

15           Under Federal statute, the MSRB's board of  
16 directors is composed, with equal weighting, of  
17 broker-dealers, bank dealers, and public members.

18           Of the public members, at least one must be  
19 an issuer of municipal securities and another must be  
20 an investor. The MSRB's operations are funded  
21 through assessments made on broker-dealers and bank  
22 dealers.

23           The MSRB's jurisdiction and authority are  
24 unique among the SROs active in our national  
25 securities marketplace in several important respects.



1           First, our regulatory authority is product  
2 specific; that is, municipal securities. Municipal  
3 securities generally can be divided into two  
4 principal classes. They are traditional bonds,  
5 notes, and other debt obligations issued to finance  
6 State and local government capital needs, which make  
7 up one class, while certain pooled investment  
8 instruments, such as 529 college savings plans and  
9 local government investment pools, make up a newer,  
10 less traditional class of municipal securities.

11           The MSRB's jurisdiction is also unique in  
12 that our rules apply not only to broker-dealers but  
13 also to commercial banks that deal in municipal  
14 securities.

15           At the same time, Congress vested authority  
16 to enforce our rules in other existing regulatory  
17 bodies, such as the Financial Industry Regulatory  
18 Authority, or FINRA, for broker-dealers, and the  
19 Federal Reserve, the U.S. Treasury Department, and  
20 the FDIC for bank dealers.

21           The Securities and Exchange Commission, or  
22 SEC, also has overall enforcement authority with  
23 respect to our rules. The result is that MSRB rules  
24 cut across traditional fragmented regulatory  
25 boundaries to provide a single set of consistent

1 standards for broker-dealers and bank dealers active  
2 in a municipal securities market.

3           It is important to note, however, that due  
4 to the unique position held by issuers of municipal  
5 securities in our Federal system of government, the  
6 MSRB's regulatory authority does not extend to State  
7 and local governmental issuers.

8           From the beginning, the MSRB has recognized  
9 its role at the boundary between the Federal  
10 government seeking to establish an efficient national  
11 marketplace and the 50 States exercising their  
12 sovereign powers to order their affairs and  
13 those that are subdivisions and municipalities  
14 in a way that best meets the needs of their  
15 citizens.

16           As such, and MSRB always considers carefully  
17 and monitors closely how the activities of  
18 broker-dealers and bank dealers and how our  
19 regulation of such activities may impact State and  
20 local government issuers.

21           With that background, let me now turn to  
22 discussion of our rules on political contributions by  
23 underwriting firms and our engagements to underwrite  
24 and provide financial advisory services with respect  
25 to new issues of municipal securities.

1           As I noted at the start of my remarks,  
2   our Rule G-37 was adopted in 1994 in an effort to  
3   remove the real or perceived conflict of interest  
4   arising from political contributions that may be tied  
5   to the awarding of underwriting or a related  
6   business.

7           At the core of the rule is a general  
8   prohibition on broker-dealers and bank dealers from  
9   underwriting or serving in a financial advisory  
10   capacity with respect to municipal securities of an  
11   issuer if certain political contributions have been  
12   made to elected officials of an issuer as well as to  
13   candidates for that office by firms, their municipal  
14   finance personnel, and any political action  
15   committees controlled by the firm or by their  
16   municipal finance personnel.

17           In effect, a broker-dealer or bank dealer  
18   that has made a contribution either directly or  
19   through his personnel or PAC to an issuer's elected  
20   official would generally be banned from underwriting,  
21   on a negotiated basis, a new offering of municipal  
22   securities for that issuer for the next 2 years if  
23   that elected official has the power, directly or by  
24   appointment power, to hire the underwriter for the  
25   issue.

1           Rule G-37 also prohibits the solicitation or  
2 bundling of contributions for elected officials of  
3 issuers with which such firms are engaged, as well as  
4 for State and local political parties operating  
5 within the jurisdiction of the issuers.

6           Finally, underwriting firms are required to  
7 disclose their political contributions as well as  
8 their underwriting and related engagements to the  
9 MSRB. These disclosures are made available to the  
10 public by the MSRB on our Web site at [www.msrb.org](http://www.msrb.org) to  
11 allow public scrutiny.

12           The MSRB has also adopted related Rule G-38.  
13 This rule initially provided for public disclosure of  
14 the activities of paid outside consultants used by  
15 underwriting firms to solicit State and local  
16 governments on their behalf.

17           In recent years, as the MSRB sought to  
18 address potential abuses through the use of paid  
19 consultants, the rule evolved to become an outright  
20 prohibition on the use of outside consultants to  
21 obtain underwriting and related engagements.

22           Among other things, Rule G-38 helps to  
23 ensure that broker-dealers and bank dealers cannot  
24 use paid third parties to do an end-run around the  
25 prohibitions and disclosures imposed by Rule G-37.

1           Now, MSRB's Rule G-37 has not been without  
2 controversy, having been challenged in court as a  
3 potential violation of the First Amendment to the  
4 United States Constitution as a result of its  
5 potential impact on the ability of firms and  
6 municipal securities personnel to make political  
7 contributions.

8           The appellate court in *Blount v. SEC* found  
9 that Rule G-37 was in fact constitutional since the  
10 rule was narrowly drawn and served a compelling  
11 governmental interest under the strict scrutiny test  
12 applied to First Amendment cases.

13           Characteristics of Rule G-37 that help  
14 ensure that it is narrowly tailored to meet its  
15 purposes include, first, not creating a prohibition  
16 on the making of contributions themselves but instead  
17 prohibiting broker-dealers and bank dealers from  
18 engaging in business with issuers where a  
19 contribution has been made.

20           Thus, the rule has no impact at all with  
21 respect to contributions made to elected officials of  
22 issuers with which the firm does not seek to do  
23 business, and a rule violation is never triggered  
24 merely by a firm or its personnel making a  
25 contribution.

1           The rule is further tailored by, number two,  
2 limiting the reach of the rule solely to municipal  
3 securities personnel who are likely to benefit from  
4 their firm being selected to engage in underwriting  
5 or a related business.

6           A third limitation is permitting municipal  
7 finance personnel to make contributions up to \$250  
8 per election to candidates for whom they are entitled  
9 to vote, thereby ensuring that such personnel are not  
10 unduly restricted in supporting candidates in which  
11 they have a direct electoral interest.

12           And the rule is further tailored by  
13 triggering the ban on business by a contribution to a  
14 political party only if such party contribution was  
15 likely to have been made as an end-run around the  
16 direct contribution limits of the rule; that is,  
17 where the contribution to the political party  
18 ultimately reaches an elected official and issuer  
19 with which the firm is seeking to do business.

20           Again, these limitations are designed to  
21 ensure that Rule G-37 remains within the bounds of  
22 First Amendment case law.

23           Rules G-37 and G-38 operate in an  
24 environment of ever-increasing costs of political  
25 campaigns resulting in ever-increasing pressure to

1 raise large sums of money.

2 Further, due to the fungibility of money, it  
3 can often be difficult to trace the flow of funds  
4 from their initial contribution to the ultimate  
5 beneficiary.

6 Given the increasingly complex realities of  
7 political fundraising practices and the care that the  
8 MSRB must take not to overstep constitutional bounds,  
9 there can never be complete assurance that every  
10 avenue for using political contributions to influence  
11 the selection of underwriting firms by State and  
12 local governments will be completely closed.

13 Nonetheless, the MSRB has remained vigilant  
14 with respect to the operation of its rules and  
15 continues to provide interpretive guidance and to  
16 make necessary adjustments to the rule language to  
17 address new realities.

18 In summary, the impact of Rules G-37 and 38  
19 has been very positive. The rules have gone a long  
20 way towards severing the real or perceived connection  
21 between political contributions and the awarding of  
22 municipal securities business to broker-dealers and  
23 bank dealers.

24 These rules will greatly reduce the stigma  
25 of pay-to-play that once hovered as a stain on the

1 municipal securities industry and have greatly  
2 assisted in maintaining public confidence in the  
3 State and local government capital markets.

4 Thank you, and I'll be happy to answer any  
5 questions you have.

6 CHAIRMAN LEVDANSKY: Thank you, Mr. Lanza.  
7 Very insightful testimony.

8 Any questions from members?

9 Representative Nickol.

10 REPRESENTATIVE NICKOL: Thank you. I  
11 greatly appreciate your testimony.

12 I am curious, I have read several times  
13 comments by Arthur Levitt, the former head of the  
14 SEC, about the need to extend rules like G-37 and  
15 G-38 to asset management and other areas that are  
16 under the jurisdiction of the SEC.

17 I take it from what you have presented is  
18 that you could not extend it, that your MSRB could  
19 not extend the rules to apply to asset managers  
20 because they are not within your jurisdiction.

21 MR. LANZA: That is correct.

22 REPRESENTATIVE NICKOL: Is there a parallel  
23 SRO that would have jurisdiction, or would the SEC  
24 themselves have to take action if they wanted to  
25 extend the rules to asset managers?



1           MR. LANZA: I do not recall the specifics,  
2 but I believe several years after the MSRB adopted  
3 Rule G-37, there was an attempt on the part of the  
4 SEC to extend it to include some investment advisory  
5 services, but that did not ultimately move forward.

6           REPRESENTATIVE NICKOL: I have heard it  
7 described, and I don't know if you can comment on  
8 this or not, but I have heard it described as the  
9 Wild West before 1994, before these rules were  
10 adopted.

11           And you were pretty tepid in your comments  
12 before that about them, but in the last you said that  
13 the "'pay-to-play' that once hovered as a stain on  
14 the municipal securities industry." You were rather  
15 strong in your final comment.

16           Could you comment at all about the types of  
17 abuses that might have existed if these rules  
18 apparently were addressed successfully?

19           MR. LANZA: I think there are a limited  
20 number of cases where there is actually a direct  
21 showing of activities.

22           For example, to be clear, first of all, in  
23 the case of a direct, you know, quid pro quo where a  
24 contribution needs selected, it really isn't a G-37  
25 issue. It is more of a gift or a corruption issue

1 there in that case.

2           Pay-to-play really deals with the question  
3 of, you know, are you on the good list versus the bad  
4 list, and so which firms have made contributions?  
5 Those are the firms, you know, that you as a person  
6 selecting the underwriting firm to work on a  
7 particular issue are saying, if you are on the good  
8 list, I'm going to pick you; if you are not on the  
9 good list, I'm not going to consider you.

10           So I think what typically broker-dealers  
11 faced were situations where -- and this is kind of  
12 anecdotal, so don't misunderstand -- that personnel  
13 would often be asked to make, you know, good  
14 contributions on a regular basis to their client  
15 list, so to speak.

16           In terms of kind of actual proof of the  
17 quid pro quo, I don't think there were a lot of cases  
18 that went to court and came to final judgment. But  
19 there was a significant amount of the flow of funds,  
20 you know, from broker-dealers to campaigns.

21           REPRESENTATIVE NICKOL: One concern I have  
22 heard over the rules is that there is not a level  
23 playing field for banks, for underwriters, in that  
24 various underwriters are structured differently, some  
25 as part of a holding company. The company that

1 underwrites securities may be prohibited from making  
2 the contributions, but an affiliated company that  
3 might be a commercial bank, for example, can still  
4 make contributions, whereas a company, say, like  
5 Goldman Sachs that is not under a holding-company  
6 arrangement, that they themselves cannot compete  
7 perhaps in other States because they cannot make any  
8 contributions at all since they do not have an  
9 affiliate that is legally able to do that.

10 I am curious, do you see any problems with  
11 the playing field between different banks as a result  
12 of how they are organized?

13 MR. LANZA: Well, there certainly are some  
14 complexities that are raised resulting from our  
15 jurisdiction.

16 You know, our jurisdiction is over  
17 broker-dealers and bank dealers who are doing  
18 municipal securities transactions, and I will come  
19 back to that issue in a second.

20 The rule also reaches those associated  
21 persons of a broker-dealer. So, for example, if a  
22 broker-dealer is an affiliate of a bank and a bank  
23 personnel makes a contribution and solicits business  
24 on behalf of the broker-dealer, that bank personnel  
25 is an associated person of the broker-dealer, and so

1 the rule would in fact cover that contribution, that  
2 solicitation of business.

3 In terms of a bank, you know, banks that are  
4 active in the marketplace do structure themselves a  
5 couple of different ways. They can incorporate  
6 separate broker-dealer, and our rule would apply  
7 directly on that broker-dealer and it would reach the  
8 bank only in the case of an associated person doing  
9 that kind of activity. It ties into the  
10 broker-dealer activity.

11 Or the banks can -- and there are only a  
12 limited number of banks that do this now -- can  
13 organize an internal, it is called a separately  
14 identifiable department, that is treated as kind of a  
15 separate subtle organization.

16 So to the extent that the bank organizes  
17 itself so that all the decisionmaking and municipal  
18 securities activities are within that subunit in the  
19 bank, then the rest of the bank is treated as a  
20 separate organization for purposes of our rule, and  
21 that actually was written into the statute that  
22 created us, is to create that separate ability to  
23 create a subunit.

24 So it does create an amount of complexity in  
25 the sense that, for example, when it comes to PAC

1 contributions, you know, broker-dealers may have a  
2 paid PAC that they control, and that falls squarely  
3 within the rule. A bank, and if you have a  
4 broker-dealer from an affiliated bank, that bank may  
5 have a PAC which, to start off with, may not be  
6 directly controlled by the broker-dealer, and  
7 therefore, is not covered by the rule.

8 We have provided significant interpretive  
9 guidance over the years to deal with a situation  
10 where there is some degree of control exercised by  
11 the affiliated banks. For example, if the bank PAC  
12 has, as part of its leadership, members of the  
13 broker-dealer who have the ability to control it,  
14 then that would be considered a PAC controlled by  
15 that broker-dealer or its personnel.

16 But you are correct; it creates more  
17 complications. And there are some cases where a bank  
18 that has a truly independent PAC from its  
19 broker-dealer activities would be able to make  
20 contributions.

21 Now, having said that, there is also a  
22 prohibition to do indirectly what you can't do  
23 directly. So if you have the bank PAC making a  
24 contribution specifically to get business for the  
25 affiliated broker-dealer and the broker-dealer

1 somehow knows about this and is kind of part of the  
2 plan, that would then be attributed back to the  
3 broker-dealer as a potential violation of the rule.

4 So it is more complicated to trace the  
5 violation, but you still can trace the violation.

6 REPRESENTATIVE NICKOL: Within your  
7 testimony, you talked about, you comment on pooled  
8 investment instruments such as 529 college plans and  
9 local government investment pools.

10 Now, the Pennsylvania Treasury already has  
11 such entities. Would they be covered by the MSRB's  
12 regulatory authority?

13 MR. LANZA: 529 plans generally are.

14 In both cases, the touchstone is whether a  
15 broker-dealer or a bank dealer is involved with the  
16 plan.

17 In the case of 529s, most States do in fact  
18 have a private sector partner that they work with who  
19 helps market the plan, and so our rule would apply,  
20 you know, to that relationship, the primary  
21 distributor for your 529 plan.

22 In the case of local government investment  
23 pools, in most cases, there in fact is not an outside  
24 vendor who is helping to, quote, "market" them to the  
25 individuals and local governments who are investing,

1 but in some cases there are.

2 In cases where there is a broker-dealer or a  
3 bank dealer involved in that process, then our rule  
4 would apply to them as well.

5 REPRESENTATIVE NICKOL: So it would  
6 currently apply to candidates for State Treasurer as  
7 well if they oversee those---

8 MR. LANZA: If a candidate for State  
9 Treasurer has the power to appoint the underwriter or  
10 to appoint someone else who can appoint the  
11 underwriter, then it would apply to them.

12 Again, the definition of an "official of an  
13 issuer" includes both the person who holds the office  
14 and someone who is elected by that office where that  
15 office has the power to select the underwriter or to  
16 appoint someone else to select the underwriter.

17 So it is always kind of the exact  
18 examination of the authority of a particular office  
19 to determine whether or not the contributions of that  
20 office would be covered by the rule.

21 REPRESENTATIVE NICKOL: I note that you  
22 require underwriting firms to disclose their  
23 political contributions to you. Would that be  
24 something that we would have to require as part of  
25 law? Do you need that in terms of enforcement

1    itself, or is that just a public service that you are  
2    doing by reflecting that information?

3           MR. LANZA:   It certainly assists  
4    enforcement.   It also provides sunshine on the  
5    activities in the marketplace.

6           I would say "assist enforcement" in two  
7    ways.   One is, it has a record.   They are available  
8    to the enforcement agency, and you can look and see  
9    if any of the potential violations have occurred.   Of  
10   course, that is self-reporting, so the potential is,  
11   if someone wants to be a bad actor, not to report.

12           The other thing it does on the enforcement  
13   side, which is kind of a private Attorney  
14   General-type of enforcement, is that you will find  
15   that broker-dealers are often calling each other out  
16   and saying, hey, you know, I made a contribution; you  
17   are coming to do business here; you know, let me  
18   report you to the enforcement agency, so it helps in  
19   that way as well, as well as the reporters who come  
20   to the site and look at the information and will dig  
21   into the situation.

22           REPRESENTATIVE NICKOL:   Thank you so much  
23   for your testimony.

24           CHAIRMAN LEVDANSKY:   Mr. Lanza, thank you  
25   very much for your insightful testimony.



1 MR. LANZA: Thank you.

2 CHAIRMAN LEVDANSKY: Next, I would like to  
3 call Ms. Marin E. Gibson, the Managing Director and  
4 Counsel of the Securities Industry and Financial  
5 Markets Association, and she is joined by  
6 Joe Holston.

7 MS. GIBSON: Good morning, Chairmen  
8 Levdansky and Nickol, committee members and staff.

9 My name is Marin Gibson. I'm Managing  
10 Director and Counsel of State Government Affairs at  
11 the Securities Industry and Financial Markets  
12 Association. We represent about 650 securities  
13 firms, asset managers, and banks. We appreciate the  
14 opportunity very much to come in today on HB 2738.

15 As you know and you have heard essentially  
16 today, our member firms have been subject to a rule  
17 very similar to HB 2738 since 1994, the Municipal  
18 Securities Rulemaking Board Rule G-37.

19 Rule G-37 prohibits a broker-dealer from  
20 engaging in municipal securities business, for  
21 example, underwriting or providing financial advisory  
22 services on the primary offering of municipal  
23 securities, with an insurer for 2 years if the  
24 broker-dealer, its PAC, or its employee who meet the  
25 definition of "municipal finance professional" makes

1 a political contribution to an official of that  
2 issuer, which includes a candidate for or an  
3 incumbent of an elected office that has the authority  
4 to influence the selection of a broker-dealer for a  
5 municipal securities business or to appoint somebody  
6 to such office. G-37 also prohibits the solicitation  
7 of such contributions.

8 A municipal finance professional includes  
9 but are not limited to employees who directly or  
10 indirectly communicate with a governmental issuer for  
11 the purpose of obtaining or retaining municipal  
12 securities business.

13 Rule G-37 also includes several exemptions,  
14 such as contributions made by a municipal finance  
15 professional to a candidate for whom he or she is  
16 entitled to vote and which do not exceed \$250 per  
17 election; a safe harbor automatic exemption from  
18 Rule G-37's 2-year ban if a contribution is made by a  
19 municipal finance professional, does not exceed \$250,  
20 is discovered by the broker-dealer within 4 months,  
21 and a refund of the contribution is obtained within  
22 60 days of discovery.

23 There is also a mechanism so that if a  
24 covered contribution is made, a broker-dealer may  
25 apply with a regulator -- formally NASD, now FINRA --

1 for a discretionary exemption from the 2-year ban and  
2 also appeal any exemption denial.

3           Since Mr. Lanza had testified for MSRB  
4 already, I won't go into any further detail on the  
5 depth of the rules now regulating our industry,  
6 except to say that the rules have been regularly  
7 modernized, and they are vigorously enforced.

8           In assessing the bill, we wondered if a gap  
9 had been identified between activity covered by  
10 Rule G-37 and activity of concern that has occurred  
11 in Pennsylvania. The specifics of that gap,  
12 including the type of activity and the professionals  
13 engaging in it, would be helpful, but I know that  
14 Chairman Nickol is also discussing this as a  
15 forward-looking legislative piece.

16           Generally, the bill would ban a person or an  
17 individual representing the person or their PAC from  
18 making or soliciting campaign contributions to a  
19 candidate for State Treasurer during the 2-year  
20 period prior to having an investment relationship  
21 with the State Treasury Department and through the  
22 completion of that relationship.

23           The bill would also prohibit the State  
24 Treasury Department from entering into an investment  
25 relationship with a person that has made such

1 prohibited contribution.

2           The State Ethics Commission would  
3 investigate any reported violations, and the finding  
4 of a violation would result in a 2-year lockout from  
5 engaging in an investment relationship with the  
6 Treasury Department. A limited safe harbor for  
7 inadvertent, unintentional, or unknowing  
8 contributions self-reported within 90 days applies.

9           Our industry expends significant resources  
10 to comply with myriad State, Federal, and  
11 self-regulatory organization laws and rules. We  
12 certainly appreciate the overall effort to provide  
13 clarity within this proposal. There are a few areas  
14 for compliance purposes where some additional detail  
15 might be helpful, however.

16           One question we had arises in Section  
17 311(a)(1) and (a)(2), which is in the bill on page 2,  
18 lines 11 and 19, which refer to "an individual  
19 representing the person."

20           In particular, this does not specify before  
21 whom the individual must be representing the company  
22 in order to be covered under the ban. Without such  
23 clarification, the provision could be read very  
24 expansively to cover all employees of a company,  
25 given that all employees represent a company to some

1 degree, even though it may have nothing to do with  
2 the Treasury Department or the activity that we are  
3 trying to target here today.

4 Thus, the provision should be modified to  
5 cover "an individual representing the person before  
6 the Treasury Department" to more accurately reflect  
7 the purpose of the bill.

8 The bill also has no exemption for a  
9 de minimis contribution. In particular, a law that  
10 regulates an area of political speech, such as  
11 political contributions, should weigh any dangers  
12 that political contributions may pose to the  
13 government contracting process against legitimate  
14 interests that an individual may have in politically  
15 expressing him or herself completely unrelated to the  
16 business.

17 One way to strike such a balance is to  
18 provide an exemption for a de minimis contribution.  
19 For example, one good benchmark is the Rule G-37  
20 exemption for a \$250 contribution made by an  
21 individual to a candidate for whom he or she is  
22 entitled to vote. A small contribution of \$250 would  
23 not influence a State Treasurer and the requirement  
24 that the individual be entitled to vote for the  
25 Treasurer ensures that the individual has an interest

1 in the candidate apart from the business. Thus, we  
2 suggest the same de minimis exemption be included in  
3 this bill.

4 We certainly do appreciate the opportunity  
5 that this bill is being heard today, also that it is  
6 not effective until November 2010, which gives us  
7 plenty of opportunity to give our firms advance  
8 notice. Compliance is critical in our industry,  
9 and we expend a great deal of resources on it, and we  
10 do appreciate the opportunity to be involved with  
11 this.

12 I am available at any time to discuss this  
13 issue with you or your staff, and I would love to be  
14 your resource on this.

15 CHAIRMAN LEVDANSKY: Thank you, Ms. Gibson.

16 Any questions from any of the members?

17 Chairman Nickol.

18 REPRESENTATIVE NICKOL: Thank you. I do  
19 greatly appreciate your testimony, and we will be in  
20 contact as things move forward to get your  
21 perspective on the issues.

22 I think from, you know, your presentation,  
23 it dawns on me that many of the firms that we are  
24 dealing with are national and international in scope,  
25 and that to better---

1 MS. GIBSON: With many based in  
2 Pennsylvania.

3 REPRESENTATIVE NICKOL: And some based here.  
4 But the better we track G-37 and have some  
5 consistency, the easier it will be to digest these  
6 types of requirements.

7 MS. GIBSON: You are absolutely right.

8 REPRESENTATIVE NICKOL: I am curious about  
9 one point. My understanding, and correct me if I am  
10 wrong, is that G-37 would not apply if there is  
11 competitive bidding in the process of selecting  
12 someone to manage the funds.

13 MS. GIBSON: I cannot speak to the specifics  
14 of that.

15 REPRESENTATIVE NICKOL: Or for underwriting  
16 purposes.

17 MS. GIBSON: I will tell you that now that  
18 compliance is long established with G-37 and the  
19 penalties are so high, that the firms do not run up  
20 to the edge.

21 So they typically have restrictions on  
22 employee contributions. They do track them very  
23 closely, and it wouldn't be a situation where they  
24 would allow it in some cases. They, of course, would  
25 have known perhaps 2 years ahead of time the nature

1 of the bid or no-bid situation.

2 So I think for the most part you have people  
3 who would already be complying, even if that is not  
4 extended officially.

5 REPRESENTATIVE NICKOL: And I am curious if  
6 you are familiar with the track record. I mean, is  
7 the whistle blown on firms quite frequently?

8 MS. GIBSON: I do not think that there is  
9 noncompliance that goes unrecognized.

10 You know, we have had some very unique  
11 situations, and Mr. Lanza would be able to talk to  
12 that. The rules are very strict, and where people  
13 have had issues, we have had people where their  
14 family members were the candidate running where they  
15 haven't been able to support them in the way that  
16 they would like to. We have people who, which is, as  
17 you know, common with your constituents, who thought  
18 that they may have been in one election district  
19 but it turns out that the line runs down the road  
20 and they are in another, and these are all good  
21 faith.

22 You know, that is why it is very helpful to  
23 have a mechanism for that, where you can see that  
24 something was done very unintentionally.

25 REPRESENTATIVE NICKOL: Okay.



1           My understanding is that G-37 also applies  
2 to spouses?

3           MS. GIBSON: Yes, which causes some  
4 interesting compliance situations for people who do  
5 not have lifelong marriages -- in the gray area.

6           REPRESENTATIVE NICKOL: So in other words,  
7 you do not want to marry someone if they have been  
8 active making campaign contributions in the previous  
9 2-year period of time?

10          MS. GIBSON: Exactly. And amicable divorces  
11 should be the norm.

12          REPRESENTATIVE NICKOL: Is there a 90-day  
13 period for an annulment?

14          MS. GIBSON: You laugh, but our compliance  
15 people actually wrestle with it.

16          REPRESENTATIVE NICKOL: I thank you so much.  
17 And as we move forward, we will be in contact with  
18 you.

19          MS. GIBSON: Thank you. I appreciate that.

20          CHAIRMAN LEVDANSKY: No other questions?

21          Ms. Gibson, thank you so much.

22          MS. GIBSON: Thank you.

23          CHAIRMAN LEVDANSKY: The next person  
24 we are attempting to reach via conference call is  
25 Mr. Robert Stern, the President of the Center for

1 Governmental Studies.

2 (Trouble placing conference call.)

3 REPRESENTATIVE NICKOL: I might note this  
4 was done flawlessly 3 hours ago, when it was  
5 considerably earlier in California.

6 MR. STERN: Hello.

7 CHAIRMAN LEVDANSKY: Hello. Mr. Stern?

8 MR. STERN: You dialed 1-1-7; you dial  
9 1-1-1. I mean, I'm sure you dialed 1-1-7; it's  
10 1-1-1.

11 CHAIRMAN LEVDANSKY: Okay. Mr. Stern, this  
12 is State Representative David Levdansky.

13 MR. STERN: Yes.

14 CHAIRMAN LEVDANSKY: I'm Chairman of the  
15 Finance Committee. We are here in Harrisburg.

16 MR. STERN: Yes.

17 CHAIRMAN LEVDANSKY: I appreciate the  
18 opportunity for you to testify via teleconferencing.  
19 This is not the normal practice of the House Finance  
20 Committee, but if this works well, we may want to try  
21 more in the future.

22 MR. STERN: All right.

23 CHAIRMAN LEVDANSKY: But anyway, we have  
24 members sitting here present and people in the  
25 audience, so let me welcome you, and go ahead and

1 begin your testimony.

2 MR. STERN: Well, thank you very much.

3 I was listening to you trying to reach me on  
4 the wrong extension, so it was a little frustrating  
5 here, but thank you for allowing me to appear before  
6 your committee.

7 My name is Robert M. Stern. I am President  
8 of the Center for Governmental Studies. We are a  
9 nonprofit, nonpartisan organization located in  
10 Los Angeles.

11 We are a think-tank that studies campaign  
12 financing, ethics, and other governmental process  
13 issues throughout the United States, and I have been  
14 with the center since 1983.

15 In addition, I was the first general counsel  
16 of the California Fair Political Practices  
17 Commission, a California agency equivalent to your  
18 Pennsylvania Ethics Commission.

19 I was a principal co-author of the  
20 California Political Reform Act of 1974, which  
21 enacted California's campaign disclosure, ethics, and  
22 lobbying laws.

23 I was also the staff counsel to the  
24 California Legislature's Assembly Committee on  
25 Elections, where I analyzed all bills relating to

1 elections, campaign financing, and the governmental  
2 process.

3 I am sorry I cannot appear by television.  
4 Probably the connection didn't work so well, although  
5 it has worked in the past. I have testified twice  
6 before Pennsylvania legislative committees by video,  
7 one on a lobbying bill being considered by your  
8 Legislature, and then 2 years ago I appeared before  
9 the House Urban Affairs Committee which held a  
10 hearing in Philadelphia.

11 I am even sorry I could not come to the  
12 hearing, because I have visited 39 State Capitols,  
13 and I find yours is the most beautiful Capitol, and I  
14 would have loved to have seen it again.

15 You are considering a very important  
16 proposal, mainly to prohibit campaign contributions  
17 by persons who have a financial interest in decisions  
18 made by the Treasury Department, and I applaud your  
19 bill.

20 As far as we can determine, if enacted, this  
21 would be the only or one of the only bans enacted  
22 anywhere in the country.

23 As you have heard, the proposal is very  
24 similar to a rule adopted by the Municipal Securities  
25 Rulemaking Board that applies to all municipal

1 dealers and brokers. However, their rule does not  
2 apply to non-dealers and brokers such as attorneys,  
3 so your proposal goes further.

4 As a former consultant to legislative  
5 committees, I have analyzed your bill, and I have a  
6 number of suggestions that could improve the bill.

7 Number one, the biggest problem with the  
8 bill is that it only covers campaign contributions to  
9 the Treasurer's campaign committee. It does not  
10 include campaign contributions solicited by the  
11 Treasurer for contributions to a party or a  
12 legislative caucus or any other political committee.

13 The bill also does not include non-campaign  
14 contributions, such as gifts or income to the  
15 Treasurer. It does not include money for  
16 non-campaign purposes.

17 We are engaged in the study of all the ways  
18 that public officials raise money that are not  
19 considered campaign contributions, and examples of  
20 these include inauguration funds, officeholder funds,  
21 legal defense funds, reimbursement for trips, and  
22 charitable contributions.

23 So I would urge you to take a look at  
24 expanding the bill beyond just campaign contributions  
25 to the committee of the Treasurer or a candidate for

1 Treasurer.

2           Number two, the bill does not have a  
3 threshold. You had heard about this earlier in the  
4 testimony.

5           By the way, I have been listening to the  
6 testimony since about 10:30. I was able to start  
7 listening when the President of the Pennsylvania  
8 Bankers Association appeared. I did not hear  
9 Barry Kauffman's testimony.

10           I do not like a total ban, because that  
11 means a \$1 contribution violates the law. I would  
12 suggest a threshold of somewhere between \$50 and  
13 \$250.

14           The \$50 threshold reflects the level by  
15 which contributors in Pennsylvania must be disclosed.  
16 The \$250 threshold is the one set forth in the  
17 Municipal Securities Rulemaking Board and also at the  
18 level where contributors' occupations and employers  
19 must be listed on Pennsylvania's campaign disclosure  
20 form.

21           Now, we have been involved in a campaign  
22 disclosure project where we have rated Pennsylvania's  
23 campaign disclosure law a B, ranking it the 16th best  
24 in the country.

25           As a footnote, I would suggest that your

1 employer and occupation threshold be the same as the  
2 contributor's threshold, which is the way it is in  
3 most States, perhaps \$100 for both.

4 But going back to my suggestion in terms of  
5 the bill should also have a threshold, clearly at  
6 least \$50 and maybe up to \$250.

7 Number three, the bill applies its  
8 provisions to anyone who makes a contribution to any  
9 candidate for Treasurer, even if the candidate lost  
10 the election. See page 2, line 9, of the bill. That  
11 means that the department has to keep track of all  
12 contributions, not just contributions to the  
13 incumbent.

14 In addition, a contribution to one candidate  
15 disqualifies a contributor from doing business with  
16 the department, even though the candidate did not  
17 win. This provision may raise a constitutional  
18 question since there is no nexus between the  
19 contributions made to the losing candidate and the  
20 contracts made by the winning candidate.

21 Number four, the penalties in the bill are  
22 weak. As I read the bill, the only penalty for  
23 someone violating this provision is being suspended  
24 from appearing in front of the department. This is  
25 probably appropriate in some instances, but if

1 someone deliberately violates the law, he or she  
2 should be subject to criminal penalties and fines.

3 In addition, the only penalties that apply  
4 are to the person making the contribution. If  
5 someone in the Treasury Department violates the law,  
6 that person should be punished as well.

7 Number five, the Ethics Commission currently  
8 has subpoena power, but the bill doesn't  
9 cross-reference its enforcement section, so it is not  
10 clear whether the Ethics Commission's procedures and  
11 powers apply to these sections.

12 I would add to Section (c), page 3, line 4,  
13 "The State Ethics Commission pursuant to 65 Pa.C.S.,  
14 Sections 1107..., " et cetera, so that the  
15 enforcement provisions that the Ethics Commission  
16 currently is under apply to this bill since you are  
17 giving the Ethics Commission the power.

18 Six, the provisions of the bill don't go  
19 into effect until after November 30, 2010. I do not  
20 really understand the reason behind this delay. I  
21 understand that you want everyone to be on notice  
22 about the new law, but why wait so long?

23 In conclusion, while I have primarily  
24 pointed out the deficiencies in the bill, I don't  
25 want my list to diminish the fact that the intent of



1 the bill is laudable. If you enact this legislation,  
2 you will be ahead of most other States across the  
3 country.

4 I hope my testimony has been helpful, and of  
5 course I will be willing to answer any questions from  
6 the committee.

7 CHAIRMAN LEVDANSKY: Thank you. Thank you,  
8 Mr. Stern.

9 Any questions from members?

10 Representative Gordon Denlinger.

11 REPRESENTATIVE DENLINGER: Thank you,  
12 Mr. Chairman.

13 Thank you, Mr. Stern, for your comments.

14 You know, I appreciate the sentiment which  
15 you share, but as I regularly get out in front of  
16 citizens and speak in front of groups and take  
17 questions and answers from the audience, I think the  
18 impression that I get as a Legislator is that the  
19 realm of campaign finance is an abysmal failure from  
20 a Federal standpoint.

21 Obviously, we operate at the Federal level  
22 under McCain-Feingold, but what we find is that money  
23 continues to fight its way into the process -- the  
24 creation of 527s; the thank-you ads that now are  
25 popping up.

1           You know, I guess the cynical side of me  
2 says we could pass any number of regulations, and  
3 ultimately when people want to influence the process,  
4 they will figure out a way to get their dollars into  
5 it.

6           You know, not to be narrowly partisan here,  
7 but Senator Obama, I guess, is setting all kinds of  
8 records, which tells us that as far as fundraising, I  
9 don't know what the total is now, \$300, \$400 million,  
10 some estimates getting close to the  
11 half-a-billion-dollar mark in terms of raising money,  
12 I mean, some of that, I am sure, is people who are  
13 motivated by his effort, believe in him and want to  
14 support him. The cynical side of me says, how much  
15 of that is pay-to-play? People perceive a winner,  
16 and they want to get on the horse.

17           I hate to be that direct about it, but how  
18 do you feel we are doing -- I mean, you are a  
19 national-level scholar on these issues -- I mean, are  
20 we getting anywhere as far as this issue is  
21 concerned?

22           MR. STERN: Well, I think you are raising a  
23 very, very valid point, and it is something that I  
24 have been tracking now since probably 1971.

25           If you go back to 1971 and see the situation

1 of campaign financing then as compared to today, we  
2 are in much, much better shape. We have much better  
3 disclosure than we did in 1971. Many States have  
4 contribution limits, which I think are very  
5 important. Many States have public financing, which  
6 I think is very important.

7 But here is the situation: You have to  
8 update your laws every 5 or 10 years. You cannot  
9 wait, because people will get around the laws, just  
10 as you update tax laws. People have offshore tax  
11 loopholes, and we do not say, well, we should abolish  
12 the IRS or the tax laws just because people find  
13 loopholes.

14 Now, it is very important to point out,  
15 there is a big difference between contributions, I  
16 think, in competitive races versus contributions in  
17 noncompetitive races. And in California and I think  
18 in most States, most of the races are noncompetitive,  
19 and yet we still see large contributions coming in to  
20 people who have noncompetitive races. And so I think  
21 you have to limit contributions in those instances.

22 You will have independent expenditures, but  
23 you can still -- you do not have independent  
24 expenditures in any race that is noncompetitive, at  
25 least we don't out here in California.

1           So I think it is always important to be  
2 looking at reforms, at new reforms, and make sure  
3 that the laws that are on the books are continually  
4 updated.

5           I hope that answers your question.

6           REPRESENTATIVE DENLINGER: That is helpful.

7 Thank you.

8           Thank you, Mr. Chairman.

9           CHAIRMAN LEVDANSKY: Any other questions  
10 from members?

11           Before I recognize Representative Nickol,  
12 Mr. Stern, I introduced sort of related legislation  
13 over the years that would provide for limiting  
14 campaign contributions from individuals and political  
15 action committees to all candidates for office in  
16 Pennsylvania, for State office in Pennsylvania.

17           My understanding is Pennsylvania is one of a  
18 very few States that has absolutely no limit on the  
19 size of contributions from PACs or individuals to  
20 candidates for public office in Pennsylvania.

21           Notwithstanding the Federal FEC limitations  
22 for Federal candidates, do you know of any other  
23 States that are similarly situated like Pennsylvania  
24 that don't have any limitation on campaign  
25 contributions?

1           MR. STERN: Well, there are a number of  
2 States. I don't know if there are any States as  
3 large as Pennsylvania, and especially to call you the  
4 Wild West even though you are in the East. But there  
5 are a number of smaller States that don't have  
6 contribution limits.

7           I think -- and we had a discussion on this  
8 earlier -- I think applying the Federal limits makes  
9 a lot of sense. If a candidate for the United States  
10 Senate in Pennsylvania or the House in Pennsylvania  
11 cannot receive more than \$2,300 from an individual  
12 or \$5,000 from a PAC, I think that the same limit  
13 should apply to all races in Pennsylvania as  
14 well.

15           CHAIRMAN LEVDANSKY: At least for statewide  
16 races, maybe we could pattern the contribution limit  
17 after the Federal.

18           I would argue that for, like for candidates  
19 for the Legislature or a lesser office, that the  
20 Federal limits are a little bit too high. But I  
21 appreciate your insight on that.

22           Finally, let me turn to Chairman Nickol for  
23 additional questions.

24           REPRESENTATIVE NICKOL: Thank you,  
25 Mr. Stern. I appreciate your testimony.

1           I am curious, and I am not sure of the  
2 degree to which you are familiar with Rule G-37, and  
3 I guess to the extent that you can't answer any of my  
4 two questions on that, Mr. Lanza is still here and I  
5 can ask him following the hearing.

6           Do you know if that rule, you give the  
7 examples of where money kind of flows around the  
8 system -- inauguration funds, officeholder funds,  
9 legal defense funds, reimbursements for trips, and  
10 charitable contributions. Are you aware if Rule G-37  
11 effectively reaches out and precludes those options  
12 to give money to candidates for office?

13           MR. STERN: No; I haven't studied the rule  
14 that carefully to see and we haven't actually  
15 examined to see the effect. I know the rule has been  
16 very effective in reducing the contributions to State  
17 Treasurers throughout the country.

18           It really was the Wild West when it came to  
19 State Treasurers. In fact, our State Treasurer,  
20 Jess Unruh, led the way in soliciting contributions  
21 and I think was maybe one of the reasons why the rule  
22 was adopted several years ago.

23           But one suggestion I would certainly make  
24 with the rule is that it is very, very hard to track  
25 down the contributions that they report on their

1 Web site. You have to look only at the dealers, you  
2 can only look up the dealer, and then you cannot look  
3 up -- for example, we tried to look up Pennsylvania  
4 and we tried to look up the Treasurer's name in  
5 Pennsylvania, and they don't have a database allowing  
6 you to do that. You have to go through each of the  
7 dealers' contributions, and there are thousands of  
8 them. And in many cases, they are not giving any  
9 campaign contributions, so it was very tedious to try  
10 to go through this. So they certainly need a  
11 database where you can look up each State and look up  
12 each officeholder, and that would improve their  
13 disclosures dramatically.

14 But overall, I think that it has really  
15 resulted in a sea change in terms of how people used  
16 to deal with the Treasurer's Office. It is like  
17 there has been a major step forward.

18 However, it doesn't have any teeth in the  
19 sense that, I know there are a lot of violations. In  
20 fact, it would be interesting to ask the  
21 Representative what happens when there is a violation  
22 and what they do about that, and that is why I think  
23 that your bill needs a little bit more teeth as well.

24 REPRESENTATIVE NICKOL: Yeah; I guess that  
25 was the second point, so you have kind of answered

1 that, or my second question, and I will go to  
2 Mr. Lanza later to try to get an answer.

3 But I was curious, you had suggested that in  
4 our case, if someone in Treasury violated the law, a  
5 State Treasurer, and accepted a contribution from  
6 someone affiliated with a financial institution that  
7 might do asset management, that they would be in  
8 violation of the law and punished as well.

9 Do you know, on G-37, Rule G-37, does that  
10 extend to the person receiving the contribution, or  
11 are the penalties under that rule limited to the  
12 individual or the firm that makes the contributions?

13 MR. STERN: Well, again, I do not want to  
14 hold myself out as an expert. I couldn't find any  
15 enforcement provisions in the position, particularly  
16 against the State Treasurer.

17 And by the way, in terms of the Treasurer  
18 accepting it, if the Treasurer's campaign accepted a  
19 \$250 contribution and there is no occupation, or  
20 let's say a \$100 contribution and there is no  
21 occupation or employer listed on the \$100  
22 contribution, I certainly wouldn't bring a penalty  
23 proceeding against the State Treasurer.

24 I am talking about where the Treasurer  
25 deliberately violates the law, goes out and solicits



1 the contribution, and is really flaunting the law,  
2 and that is what I'm talking about, not just  
3 inadvertent mistakes.

4 REPRESENTATIVE NICKOL: Okay. Thank you.

5 And just in response to your number six, you  
6 ask why the bill goes into effect November 30, 2010?  
7 I notice it will come to a huge shock to you, but it  
8 is all politics.

9 We are in the midst of a campaign for State  
10 Treasurer, but we have the fortune, perhaps, at this  
11 point in time of having a State Treasurer who is  
12 appointed and not running for the office, so we are  
13 not stepping on anyone's toes.

14 So rather than inject this issue into the  
15 current campaign in the middle of the campaign and  
16 making limitations, we are looking at doing a favor  
17 for the future essentially and picked out a date  
18 2 years in the future that would have this go into  
19 effect.

20 MR. STERN: Well, I don't think it is  
21 important to put people on notice. I think it is  
22 more important to get something through than  
23 necessarily an effective date.

24 But it just puzzled me as to why you didn't  
25 pick January 1 of 2009 when the campaign was over.

1 Although, still, the bill has a 2-year window, so you  
2 could argue, obviously, you want it to apply to  
3 contributions until 2 years before the election.

4 Although certainly the campaigns will be run 2 years  
5 before the November election 2012.

6 So I just thought that maybe the effective  
7 date, I would suggest a compromise, maybe 2010 or so,  
8 so that it really does apply to contributions being  
9 given in the 2012 election, even in November.

10 REPRESENTATIVE NICKOL: Thank you for your  
11 testimony.

12 MR. STERN: It was a pleasure. Thank you  
13 very much for having me.

14 CHAIRMAN LEVDANSKY: Thank you, Mr. Stern.

15 I appreciate the testimony of all the  
16 presenters here today regarding House Bill 2738, and  
17 this meeting of the Finance Committee is adjourned.

18

19 (The hearing concluded at 12:03 p.m.)

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