Statement of Senator Arlen Specter
S. 1285, The Fair Elections Now Act
Committee on Rules and Administration
June 20, 2007

Mr. SPECTER. Thank you Mrs. Chairman, Ranking Member Bennett, and members of the Senate Committee on Rules and Administration for holding this hearing and allowing me to testify before you regarding S. 1285, the Fair Elections Now Act. Usually, I am on the other side of this equation and sitting where you are; asking the questions. However, today, I am presenting and explaining the importance of the Fair Elections Now Act and why I am a cosponsor, the only Republican so far, of this much needed legislation.

I joined Senator Durbin on May 3, 2007 to introduce the Fair Elections Now Act to provide for public financing of Senate elections because I believe it will be a significant step in improving public confidence of the electoral process. The public is understandably distrustful of elected officials because of the perception that contributions by interested parties are influencing official decisions. I do not think this is the case, however, there is still great public skepticism and I think that public financing will go a long way to restoring public confidence in our electoral system.

First elected to the U.S. Senate in 1980, I have been through five Senate campaigns with each subsequent campaign requiring more funds and more time fundraising to garner funds. Public financing is important to significantly reducing the very heavy drain on the time of elected officials as we campaign for re-election. Current rules justifiably prohibit Senators from making campaign calls on Senate property, so we have to spend a great deal of time away from our offices making telephone calls. Many times calls are returned later when we are back in our public offices and we have to tell the caller that we cannot talk to them and need to discuss this at a later time. This can be very difficult especially considering the very heavy duties we have and, furthermore, this time ought to be spent on our official duties.

During my last election cycle in 2004, I spent over $25 million which was the most money spent in a Pennsylvania U.S. Senatorial race at that time. This record was shattered when my former colleague, U.S. Senator Rick Santorum, spent about $30 million during his 2006 re-election race. Over the last three election cycles, the average cost of the ten most expensive Senate races has more than doubled; from $16.9 million in 2002 to $34.9 million in 2006. Furthermore, the amount spent on political TV advertising has risen dramatically from $995.5 million in 2002 to $1.722 billion in 2006. Even considering these rising costs, the maximum amount that individuals could contribute to federal candidates in 2002 was only $1,000. For the 2007-2008 cycle, this amount was increased to $2,300, adjusted for inflation under the the Bipartisan Campaign Reform Act of 2002.

The figures are astronomical, considering that when I first ran for the Senate in 1975, I was planning on spending a maximum of $35,000 against then-U.S. Representative John Heinz. A 1974 federal election law allowed a candidate for Senate to spend a maximum of $35,000 of their own money on their campaign. However, on January 29, 1976, the U.S. Supreme Court (The Court) ruled in *Buckley* v. *Valeo* that, as a matter of free speech, candidates could spend millions. And John Heinz did. But the federal law, upheld in *Buckley*, limited non-candidates to campaign contributions of $1,000. I tried to intervene and petitioned the Supreme Court for reconsideration. As one can surmise, I did not win that election.

I have been trying to overturn that ruling for nearly the past three decades, since taking office in 1981. My former colleague, Senator Ernest Hollings, and I had regularly pressed for a constitutional amendment to overrule *Buckley*. The Court got it wrong in *Buckley*, and the nation has suffered ever since. Unlimited campaign funding and soft money are corrosive enough to warrant a constitutional amendment if the Court will not recognize the mischief its ruling has created. Overturning the Court's ruling in *Buckley* does not require amending the First Amendment. I would strenuously oppose any effort to change that language. What is realistically involved is overruling some justices' interpretation of what that language means.

The Court's decision in *Buckley* v. *Valeo* presents an enormous problem by prohibiting the Congress and state legislatures from limiting the amount of money that an individual can contribute to a campaign. The Fair Elections Now Act would be a good start to address this national problem. S. 1285 would establish a voluntary system through which participating candidates would receive public funds for primary and general elections. These participants would need to establish their credibility by collecting enough qualifying contributions at $5 per donation and dependent on the size of the state. Further, they would then need to pledge to not accept any private donations. Once these two criteria are met, participants would be eligible for free media vouchers and discounted commercial advertising rates. This model is based on successful electoral systems in the states of Arizona and Maine.

For example, according to the Maine Commission on Governmental Ethics and Election Practices, general election candidates participated 33% and 62% in the Clean Elections program in the first two years of operation (2000 and 2002). In the 2006 elections, 81% of general election candidates chose public financing through the Clean Elections program for their campaigns. Maine voters first passed the Maine Clean Elections Act in 1996.

More specifically, the Fair Elections Now Act establishes three stages for those candidates that participate in the voluntary system. In Stage One, before a candidate declares an intention to run as a "Fair Elections" candidate for the U.S. Senate, a candidate could solicit, accept, and spend "seed money" contributions of up to $100 per contributor from any state to pay for campaign start-up costs. However, money from Political Action Committees (PACs) could not be accepted. The seed money

expenditures would be limited to a cap equal to $75,000 + ($7,500 x (# of Congressional districts - 1)). Under this system, the seed money would be limited to a cap of $210,000 for candidates in Pennsylvania. Senate candidates could spend seed money for any campaign-related expense, and any excess spending above the cap within Stage One would be deducted from the candidate's Fair Elections allocation which is based on the population of the state, with the allocation for the primary equaling two-thirds of the allocation for the general election.

In Stage Two, major party candidates would need to demonstrate viability as a publicly financed candidate and would be required to gather minimum number of qualifying contributions of exactly $5 each from residents in the candidate's home state. The minimum number of qualifying contributions for any state would be equal to 2,000 + (500 x (# of Congressional districts - 1)). Under this system, the minimum number required would be 11,000 for candidates in Pennsylvania. These qualifying contributions must then be turned over to the Senate Fair Elections Fund to help finance the Fair Elections system. In order to protect the Fair Elections Fund from insincere candidates looking for endless free funding, independent and minor party candidates would have to raise 150% of the number of qualifying contributions that a major party candidate would be required to raise in the same election.

In Stage Three, qualified candidates would receive general election funding in the amount of $75,000 + ($150,000 x (# of Congressional districts - 1)). Under this system, the general election funding for candidates in Pennsylvania would be $3,450,000. The funds available for the primary would be equal to 67% of the general election allocation. Under this system, the primary election funding for candidates in Pennsylvania would be $2,311,500. Candidate participants facing privately funded opponents would be eligible for increased dollar-for-dollar "fair fight funds" up to 200% above the base general election allocation for which they are entitled. If only I had that option in 1975.

This legislation would give the underdog a fighting chance in a primary or general election. From my own experience, privately funded candidates have a significant advantage. By giving them the option of being a Fair Election candidate, we can level the playing field. When the Supreme Court ruled that privately funded candidates can spend as much money as they want, it gave a clear advantage to those candidates. In any case, we need to ensure that serious candidates who may not have the cash on hand to have the same opportunity and advantage to run for the U.S. Senate.