

MARCH 5, 2007

TO: COLLEAGUES, FRIENDS, AND ASSORTED FELLOW TRAVELLERS

FROM: LARRY HANSEN

RE: QUARTERLY PROGRAM UPDATE

CURRENT CONTEXT AND NEWS

For the Money and Politics Program, the period between early December 2006 and late February 2007 was hectic and extraordinarily productive. The reform breakthroughs already achieved at the federal and state levels during this three-month period and the many other proposals still in the pipeline have been largely fueled by the public's well-documented unhappiness with the political system's performance. The Jack Abramoff, Duke Cunningham, Bob Ney, George Ryan, and Bob Taft-Thomas Noe scandals, to mention but a few, seemed to confirm voters' worst fears about politicians and government. In the November elections, angry voters in huge numbers sent a strong and clear message to elected officials: get busy and clean house, or we will. The message appears to have gotten through.

Nobody heard the message more clearly than U.S. Representative Rahm Emanuel, the principal architect of the Democrats' take-over of the House. In a November 21, 2006 memorandum to all his House colleagues, Emanuel discussed in some detail why "the 2006 Midterm Elections were about changing the way business is done in Washington," and why "Americans want their leaders in Congress to take the focus off of the special interests and put it back on the interests of families." The Congressman went on to exhort his colleagues to take reform seriously. "Failing to deliver on this promise," he warned, "would be devastating to our standing with the public, and certainly jeopardize some of our marginal seats. The voters are looking to us for leadership, and it starts with reform."

There is not enough space in this paper to discuss in detail every policy development of consequence. A cursory review of newspaper headlines during this three-month period tells much of the story, as the examples below illustrate. However, what the headlines do not reveal is how intimately involved in these matters the Foundation's grantees were and continue to be—and how influential they have been in developing proposals and framing the debate on issues ranging from government ethics and lobbying reform to campaign finance and judicial independence.

Federal Developments

Democrats Take Control on Hill—New Speaker Pelosi Shepherds Ethics Bill To Passage in House

Washington Post—1/5/07

Just hours after it convened on January 4, the U.S House of Representatives—on a 430 to 1 vote—passed the most comprehensive revisions of House ethics and lobbying rules since the

Watergate era. Under the new rules, House members and staff cannot accept gifts or meals from lobbyists or organizations that employ lobbyists. They are also prohibited from participating in travel that is planned or financed by lobbyists or groups that employ lobbyists. Members and staff must now obtain pre-approval from the House Ethics Committee for travel provided by private organizations to ensure that trips are related to their official duties, and those decisions must be made public. To prevent official abuses, such as former Representative Tom DeLay's infamous "K Street Project," the new rules prohibit House members from trying to influence the employment decisions of private organizations based on a prospective employee's political affiliation. And finally, the sponsors and content of appropriation earmarks, members' heretofore hidden pet spending projects and tax breaks, must now be fully disclosed in all bills and conference reports before members are asked to vote on them. Although the House postponed action on a proposal to create a new and independent ethics watchdog that would monitor the conduct of both House and Senate members, both chambers are expected to take up this matter in March or April.

Senate Passes Vast Ethics Overhaul

New York Times—1/19/07

After two weeks of intense and at times acrimonious debate and negotiation, the U.S. Senate passed a bill amending its ethics and lobbying rules that was more sweeping than the House bill. The bill, among other things, bans gifts to members and staff from lobbyists and companies that employ them; requires lawmakers traveling by private jet to pay full charter rates; increases to two years the "cooling off period" before a former senator can work as a lobbyist; and establishes a point of order against bills that do not disclose earmarks and their sponsors. Senators Russell Feingold and Barack Obama teamed up in offering additional strengthening amendments which were enacted over the strenuous objections of several Democratic caucus members. Most significantly, lobbyists will now be required to disclose certain favors provided lawmakers, including hosting fundraisers, soliciting campaign contributions, and bundling checks from clients and friends. In addition, lobbyists and their employers will no longer be allowed to host and pay for expensive parties to honor lawmakers at presidential nominating conventions.

Although the bill passed 96 to 2, it did not include one measure strongly supported by the reform community. An amendment creating a new Office of Public Integrity, which would be empowered to investigate ethics complaints, was defeated. Another failed, which has generated some disagreement among non-profits, would have forced interest groups and lobbyists to disclose how much money they spend on grass-roots lobbying; currently, paid efforts to encourage the public to contact their representatives and register support or opposition to particular pieces of legislation are not subject to disclosure. This proposal is expected to be revisited later in the session. Several days after the Senate debate ended, the *Washington Post* offered this observation: "This being the season for celebrating Shakespeare in Washington, perhaps the best way to describe the ethics and lobbying bill that passed the Senate on Thursday is to quote the Bard: 'All's Well That Ends Well.' The final package is the strongest legislation to emerge from Congress yet." The editors heaped praise on Senate Majority Leader Reid and Senators Feingold and Obama for their leadership.

It is important to note that long before the House and Senate finally took up ethics and lobbying reform, indeed at least a year before the Abramoff scandal broke, two Joyce

grantees—Democracy 21 and the Campaign Legal Center—along with the **League of Women Voters**, Common Cause, U.S. PIRG, and Public Campaign were relentlessly beating the drum for fundamental changes in these areas. The congressional Ethics Committees, especially in the House, had become hopelessly dysfunctional; its velvet glove treatment of Representative DeLay’s repeated indiscretions created widespread outrage, particularly among editorial writers. In 2006, the “ethics coalition” identified six benchmarks for evaluating the adequacy of any reform package Congress might eventually adopt. To pass muster, any legislation and rules changes would have to (1) break the nexus between lobbyists, money and lawmakers; (2) prevent private interests from financing trips and from subsidizing travel for members of Congress and staff, and executive branch officials and federal judges; (3) ban gifts to members of Congress and staff; (4) establish an independent congressional Office of Public Integrity and increase penalties for violations; (5) slow the revolving door; and (6) shine a light through improved disclosure on lobbying activities and finances. At this point, as already noted, the coalition cannot claim complete victory—and in all likelihood never will be able to make such a claim. On the other hand, there’s no denying the remarkable progress that has been made.

Lawmakers Renew Proposal to Revamp Public Funding of Presidential Campaigns

BNA Report—1/31/07

President Bush raised a record \$275 million during his 2004 re-election campaign, and all of it before the nominating convention in New York. If records are made to be broken, the 2008 presidential wannabes are certain to smash all the old ones. The announced candidates, singly and collectively, have been raising money at a torrid pace for several months. According to most veteran political observers, a presidential candidate’s viability will to a large extent depend on his or her ability to raise close to \$100 million by the end of this calendar year. It is quite possible, experts report, that the candidates will spend a combined \$1 billion and possibly more by November 2008. At this point, all the so-called “first-tier” candidates (including those who have not yet formally entered the race)—McCain, Romney, Edwards, Clinton, Giuliani, and Obama—have announced that due to the law’s unrealistically low spending limits they do not intend to participate in the presidential public financing system during their 2008 primary and general election campaigns. (Senator Obama, it should be noted, has requested a Federal Election Commission opinion on whether or not he might qualify for public grants in the general election, if he is nominated and returns the private contributions collected for the general election campaign—and if his Republican opponent agrees to do the same. This is a question of first impression, and there are indications the agency may issue a favorable decision.)

In late January, Representatives Martin Meehan, Christopher Shays, and David Price reintroduced legislation that would revamp the presidential financing system, primarily by pumping more public money into it. A similar measure was introduced a day earlier in the Senate by Senator Feingold. These proposals—which draw heavily on the research and recommendations developed three years ago by Democracy 21 and the Campaign Finance Institute—would increase the amount of matching funds provided to presidential primary candidates from the current one-to-one match for the first \$250 of each individual private contribution to a four-to-one match for the first \$200 of each contribution. The spending limits would be raised significantly—from \$50 to \$150 million in the primaries and to \$100 million during the general election. Publicly financed candidates would also be eligible for

additional generous public grants if their opponents choose not to participate in the system and spend money exceeding the law's voluntary caps. To finance the system, the federal income tax check-off would be increased from the current \$3 to \$10—and without increasing the taxpayer's total tax bill. To guard against fringe candidates who do not enjoy broad support, eligibility for public grants would be limited to candidates who were able to raise \$25,000 in each of 20 states from individual contributions of \$200 or less—up from the current \$5,000 in each of 20 states. Although it is too late to overhaul the public financing system for this election cycle, reform advocates believe that the fundraising frenzy now unfolding across the country will restore political and public support for a process that once served the country well. As a February 4 *New York Times* editorial reminded readers:

Once upon a time, Washington managed to fully confront a corruption scandal and invent a government solution that actually worked for 30 years. The scandal was Watergate. The solution was the innovative option of providing public financing to presidential campaigns as a means of curbing the influence of big money donors like those who ran amok in President Richard Nixon's 1972 re-election.

Public financing served the nation well. In three of six races in which an incumbent president ran, the challenger won—a healthy dynamic in a capital city where only one in 20 House incumbents is toppled by a challenger. The new Congress pledged to clean up big-money corruption; it can make a good start by rescuing the good that came of Watergate.

In a related matter, the Senate's second-ranking Democrat—Assistant Majority Leader Dick Durbin—is scheduled to introduce legislation in mid-March that would provide public funding for qualifying congressional candidates; a companion bill will be introduced in the House by Representative John Tierney. Durbin has been working on his bill for more than a year, and in the process has consulted often with a number of current and former Joyce grantees, including Democracy 21, Common Cause, the Campaign Finance Institute, the **League of Women Voters**, and Public Campaign. Although this idea has not been seriously considered since 1993, the support of House Speaker Pelosi and influential House committee chairs, like David Obey and Barney Frank, for congressional public financing could breathe new life into the idea.

***Senators Move Donor Disclosures at a Snail's Pace—They Retain
an Awkward System that Delays Public Release For Weeks***

Los Angeles Times—2/3/07

Candidates for president and the U.S. House as well as parties and political action committees file their periodic campaign finance reports electronically via the Internet and directly with the Federal Election Commission. However, U.S. Senators and senate candidates employ a costly and labyrinthine process that takes weeks or months to complete. As a result, the public, reporters, and watchdog groups are denied access to timely information about the identities and affiliations of campaign donors—sometimes until after an election, as occurred last year in Pennsylvania, Montana, and Missouri. Several Joyce grantees—most notably, the Campaign Finance Institute—have been publicly pushing the Senate to join the modern age, and there are signs of progress. S. 223, which would require Senate candidates and party committee to meet the electronic filing standard, currently has 27 co-sponsors. Senator Diane Feinstein, chair of the Senate Rules Committee and herself a co-sponsor, has promised to take up the matter. Although no

senator has publicly opposed the measure, repeated efforts in the past to change the law have been quietly blocked, and it could happen again this year. However, in the current climate the Senate's foot-dragging could become difficult to explain. In a February editorial entitled "Indefensible," *Roll Call*, the Capital Hill newspaper urged the Senate to do its duty.

Congress has passed legislation requiring lobbyists to report electronically what they spend to influence lawmakers. House Members and candidates, along with House and national party committees, have been required to report contributions and expenditures electronically since 2001 and independent 527 political committees since 2003. What's missing here? Senators, Senate candidates and Senate campaign committees still report on paper, and the process is so cumbersome and slow that watchdog groups, the media and the public can't find out who's getting what until weeks after key votes and elections—not within 24 hours, as is the case with the House and others.

Political Groups To Pay Campaign Fines

AP—12/13/06

In mid-December, the Federal Election Commission—in response to complaints filed with the agency in 2004 by the Bush and Kerry campaigns, the congressional sponsors of the Bipartisan Campaign Reform Act, and Joyce grantees—fined Swift Boat Veterans for Truth, the MoveOn.org Voter Fund, and the League of Conservation Voters a total of \$450,000 for failing to register and file disclosure reports as federal political committees and for accepting contributions in violation of federal limits and source prohibitions. The decision was unanimous. At issue was whether the three independent political groups, organized under section 527 of the Internal Revenue Code, had operated properly during the presidential campaign. In its first such decision, the FEC concluded that the three organizations had violated campaign finance laws, because the expressed aim of their fundraising solicitations, public statements, and broadcast advertising was to influence the outcome of a federal election.. Such activities can only be carried out by political committees that are registered with the FEC and abide by contribution limits and disclosure requirements. The civil penalties in this case were the largest imposed since the Supreme Court's 2003 decision upholding BCRA's key provisions. Although reform advocates welcomed the decision, they criticized the agency for not being more aggressive in regulating 527 committees, which many interest groups still regard as the most serious threat to the law's soft money ban.

On February 28, the FEC, in response to complaints filed in 2004 by Democracy 21 and the Campaign Legal Center, struck again—and this time with a vengeance. The agency announced that the Progress for America Voter Fund—a major 527 group that raised nearly \$45 million to support President Bush's 2004 re-election campaign—was also being fined \$750,000 for violating federal campaign finance laws. The Commission concluded, as it had in the earlier Swift Boat Veterans and MoveOn cases, that Progress for America had failed to register as political action committee with the FEC, disclose its financial activities, and abide by federal contribution limits. Astonishingly, the FEC found that over 70 percent of the Fund's resources had come from just 13 individual donors. In announcing the Commission's decision, Chairman Robert Lenhard made it clear that the activities of 527s as well as 501(c)s would be subject to increased scrutiny in the future: "These rules are

conduct-based. If these organizations engage in these kinds of activities [i.e., activities intended to influence federal elections], they become PACs regardless of their tax status.”

FEC Submits Explanation of 527 Policy—Judge Gives Challengers Time to Study It
BNA Report—2/2/07

In 2004, the chief House sponsors of BCRA—Representatives Chris Shays and Martin Meehan, with legal assistance provided by the Campaign Legal Center and Democracy 21—sued the FEC for failing to regulate section 527 committees. The FEC takes the position that new regulations are unnecessary; instead, it prefers a case-by-case analysis of a specific organization’s conduct and the application of current rules when violations are found. In early February, the agency filed a 44-page document with the Federal District Court in Washington explaining how its proposed approach to 527s would work. According to FEC chairman Lenhard, groups found to be advocating for or against the election of a specific federal candidate would be subject to regulation. Judgments in such cases would be based on an analysis of how groups word their appeals for contribution, how they describe themselves, and how they spend their. The judge hearing *Shays v. FEC* have granted petitioners and their lawyers additional time to consider and respond to the agency’s document.

Regardless of what the FEC eventually does or doesn’t do on 527s, there are signs Congress itself may take another run at the issue. In late February, *The Hill* reported that the Democrats’ new interest in curbing 527s might be the result of growing support for Republicans from these largely unregulated funds; there is increasing evidence that the Democrats’ once significant advantage with such groups is declining. Senate Rules Committee Chairwoman Dianne Feinstein is expected to hold hearings on a range of campaign finance-related matters, including the possible regulation of 527s and other non-profit advocacy groups.

High Court to Revisit Campaign Finance Law
Washington Post—2/20/07

The Supreme Court announced that it would revisit in April its decision upholding a key provision of the landmark BCRA legislation. At issue is whether so-called issue advocacy ads paid for with the general treasury funds of special interest groups and broadcast during periods immediately before a federal election can or cannot mention specific candidates. BCRA, as currently written, prohibits groups from using corporate, union or interest group resources to pay for electioneering ads that name or use the image of federal candidates 30 days before a primary election and 60 days before a general election. This prohibition does not apply to PACs and other political committees that register with the FEC and must abide by the disclosure requirements and contribution limits that apply to such committees. *FEC v. Right to Life* involves 2004 radio ads in which voters were encouraged to contact and ask Senators Feingold and Kohl to oppose the filibuster at a time when Feingold was running for reelection. Two U.S. Court of Appeals judges concluded earlier this year that ads in question were “textbook” examples of issue ads and as such should not be regulated under BCRA. The dissenting judge contended that the ads must be viewed in context; Wisconsin Right to Life has been a long time opponent of Feingold and considers his retirement from the Senate a high priority. If the Supreme Court sides with the lower court, reform advocates warn that a Pandora’s Box will be opened.

State Developments

New Ethics Agency Wins Approval of Legislature

Milwaukee Journal Sentinel—1/30/07

In January, Wisconsin Governor Jim Doyle called a special legislative session to consider political reform. After more than two weeks of debate, the legislature merged the state's current Elections and Ethics Boards into a new nonpartisan Government Accountability Board. The consolidated agency will be governed by a board consisting of former or retired judges (nominated by a panel of appellate judges) who will have the authority and responsibility to investigate wrongdoing, provide ethics training to officials, track campaign finance practices, and help administer elections. Although the board is empowered to investigate civil and criminal matters, its prosecutorial authority will be limited to civil matters. Criminal prosecutions will be delegated to district attorneys in the county in which the officials being investigated reside. The new board will have an open-ended budget for investigations, thus eliminating the need to request additional funds from legislators who may be the targets of the board's inquiries.

In his state of the state address, Doyle called the bill "a model for what can happen when people in both parties set aside differences, compromise when they have to, and do what's right." Others were more subdued. The *Milwaukee Journal Sentinel* called the ethics bill "highly imperfect," but "still leaps and bounds better than the status quo. Now," the editors advised, "on to the vital task of campaign finance reform." The *Green Bay Gazette* also saw the bill's passage as an opportunity to address other issues: "There is no better time to fix and enforce campaign financing in Wisconsin than right now. Waiting will only be a signal to the public that our elected officials are seeking a painless way to do it." And this is essentially the position taken by the Foundation's Wisconsin grantees, all of whom were invited to attend the Governor's bill signing ceremony. Many of the concepts incorporated in the final legislation had been actively promoted for at least three years by the Wisconsin Democracy Campaign, Wisconsin Common Cause, and the **League of Women Voters**.

Republicans Call Doyle Hypocritical for Proposing Campaign Reform

La Crosse Tribune—2/1/07

In his state of the state address, Doyle not only celebrated the passage of the Government Accountability Board, but for the time called for the regulation of issue ads. He proposed that ideological and special interest groups that pay for ads designed to influence elections without advocating the election or defeat of candidates within 60 days of an election be required to disclose the names and organizations that fund them. The Foundation's grantees have long regarded "campaign ads masquerading as issue advocacy" as the most conspicuous loophole in Wisconsin's campaign finance law. In 2006, such third-party groups spent nearly \$10 million on such ads in the governor's race, and since Doyle was a major beneficiary of this spending, some Republicans were quick to accuse him of hypocrisy. However, others were quick to endorse the idea. For example, the editors of the *La Crosse Tribune*, echoing the long-held views of the Wisconsin Democracy Campaign and Common Cause, put it this way: "Candidates are required by law to disclose where their money comes from—so voters can clearly see the major donors who contribute to the candidates.

Not so for issue ads. Unless voters are savvy enough to know that Wisconsin Manufacturers and Commerce is pro-business conservative group, or that the Greater Wisconsin Committee is a liberal group, it's hard to show what sort of people are behind each candidate. So why not require disclosure of people who contribute to these 'issue ads?'"

A Fine First Step—Ted Strickland's Embrace of Ethics and Openness Shows the

New Governor Has the Right Priorities (editorial)
The Plain Dealer—1/9/07

Immediately after taking the oath of office on January 8, Ted Strickland, Ohio's new governor, issued an executive order imposing sweeping ethics standards on state employees and emphasizing the importance of open and transparent government. The *Cleveland Plain Dealer* called the move "an impressive start" and a "powerful message" in a state that had endured a succession of high profile political scandals. The order lays out in considerable detail the limited circumstances in which state workers may accept gifts; such gifts from lobbyists and state contractors are prohibited altogether. It requires each state agency to name a chief ethics officer and to institute a formal ethics education program for all staff within two months. Finally, the executive order directs cabinet officers and agency heads to make their public meeting more accessible to the public, including through the Internet.

Strickland Creates Screening Panel for Judicial Picks
The Plain Dealer—1/30/07

In late January, Governor Strickland issued an executive order creating the Ohio Judicial Appointments Recommendation Panel "to ensure that the most qualified judges will carry out the critical role of presiding over the courts in Ohio." The bipartisan, five-member panel consisting of lawyers and non-lawyers, will be responsible for screening judicial candidates and recommending three to the Governor whenever a vacancy occurs. The new procedure represents a significant break with past practices; for example, in his final two weeks in office, former Governor Bob Taft named 12 judges—all Republicans—to court vacancies. The Foundation's grantees which focus on judicial independence welcomed Strickland's initiative as did the Ohio State Bar Association. Ohio Citizen Action observed that "in past administrations this process has been limited to recommendations from local political party officials" and "based on backroom deals." Justice at Stake, another Joyce grantee, said the screening process offered an opportunity to alter Ohio's reputation as "a national poster child for judicial campaigns run amok."

**** panel includes a member of the LWVO Board***

Election Suits May Be Settled
The Columbus Dispatch—1/18/07

In 2004, the **League of Women Voters of Ohio**, a Joyce grantee, sued Governor Taft and Secretary of State Ken Blackwell in order to remedy what the organization argued were long standing breakdowns in the administration of state elections; the complaint cited problems with voter registration, poll worker training, the processing of provisional ballots,

and the reliability and distribution of voting machines, all of which, in the League's view, raised serious constitutional concerns. In January, Ohio's new Secretary of State, Jennifer Brunner, and Attorney General, Marc Dann—both Democrats—moved quickly to resolve all the election-related lawsuits their offices inherited. They did so in part because of cost (26 lawyers were involved in the League suit alone), but also because Brunner and Dann said they agreed with some of the claims cited in the lawsuit. As Brunner noted at a late-January conference on election administration, “When there’s a constitutional challenge, if it’s a meritorious challenge, we shouldn’t fight it; we should resolve it as quickly as possible.”

An Attack on ‘Pay-to-Play’ (editorial)
Chicago Tribune—1/3/07

For a time in January, one could have reasonably concluded that newspaper editors across Illinois were overdosing on steroids. We were treated to an unprecedented collective call for political reform, led by the *Chicago Tribune*, which endorsed an end to the state’s notorious “pay-to-play politics.” Specifically, the paper embraced HB 1, which would prohibit any individual or business with more than \$25,000 in state contracts from contributing to the officeholder who awarded those contracts. Moreover, the bill would require bidders to disclose how much they had given to the officeholder awarding the contract in the previous two years. And the contribution ban would be in effect for two years past the completion of the contract, or for the length of the officeholder’s term. The *Tribune* acknowledged that its opinion in this matter represented a shift in thinking.

This page dislikes limits on free speech. But enough is enough. Private-sector workers often accept as a condition of employment limits on what they may say. The limits in House Bill 1 would fall on firms as a condition of doing business with the state. Fair enough.

Days later, the *Moline Dispatch*, *Rock Island Argus*, *Bloomington Pantagraph*, and *Champaign News-Gazette* chimed in with similar calls to action. They all endorsed HB 1 and praised state Comptroller Dan Hynes and state Treasurer Alexi Giannoulias for supporting the legislation and taking steps on their own to institute such procedures in their offices. The *Pantagraph* went further: “Illinois should pass contribution limits that mirror those at the federal level.” Editorial writers were unsparing in their criticism of Governor Blagojevich, who, despite a pledge four years earlier to end “business as usual,” had virtually ignored the issue of ethics in his recent state of the state address. “Of course,” the *Dispatch* observed, “it’s not hard to see why Gov. Blagojevich, whose administration remains under investigation by federal prosecutors, didn’t bang the drum for ‘reform’ this year. He wisely left that to others who have some standing on the issue.” This editorial chorus was not the result of serendipity. Cindi Canary, executive director of the Illinois Campaign for Political Reform (ICPR), had visited at least once and in some case multiple times with these and other editorial boards over the past two years, often in partnership with Comptroller Hynes.

In late February, several reform measures—HB 1, HB 8 (which would tighten up lobbyist registrations procedures), and HB 473 (which would make legislative earmarks more transparent)—passed unanimously out of committee and headed to the House floor; all are expected to pass. Pursuant to a request by the chair and ranking member of the House Elections Committee, Canary testified on behalf of these bills—and at the request of the

Speaker's staff, provided a detailed critique of a pending proposal (HB 3497) to cap campaign contributions.

Illinois Bill Would Finance Judicial Elections

St. Louis Post-Dispatch—2/7/07

In early February, Republican State Senator Kirk Dillard and Democrat Kwame Raoul (Barack Obama's successor) introduced legislation (SB 222) that would establish a voluntary public financing system with contribution limits for state Supreme Court and appellate court elections in Illinois. The legislation is a response to such occurrences as the \$9 million election campaign in 2004 for a Supreme Court seat and \$3.5 million contest in the 5th District Appellate Court race in 2006. On February 28, SB 222 passed unanimously out of committee. ICPR was joined by the Chicago Bar Association, AFSCME, and Comptroller Hynes in testifying in favor of the bill, and the Illinois State Bar Association is now expected to formally endorse the measure. Although versions of SB 222 have passed the state Senate twice before, the Speaker's staff have indicated that the bill will likely be reviewed this year.

On a related matter, former U.S. Supreme Court Justice Sandra Day O'Connor is scheduled to headline an April conference in Chicago on judicial independence issues—one in a series being held across the country. The event is being organized and hosted by the Illinois State Bar Association. The Illinois Campaign for Political Reform, at the insistence of former Illinois Supreme Court Chief Justice Mary Ann McMorrow, has been invited to participate in the forum's planning, and is the only non-legal organization in the state to have been given a seat at the table.

Retention Elections Proposed for Judges

Minneapolis Star Tribune—2/23/07

An unofficial but influential panel of citizens organized by former Minnesota Governor Al Quie, a Republican, and state Supreme Court Justice G. Barry Anderson recommended in late February that Minnesota scrap its current judicial election system in favor of one in which all judges would be appointed by the governor and subject to retention elections within four years. All judicial appointees made by the governor would be chosen from nominees screened by a selection committee, and sitting judges placed on retention ballots would be evaluated and rated as "qualified" or unqualified" by a "performance review commission," whose members would be appointed by the governor. TakeAction Minnesota, a Joyce grantee, and the League of Women Voters, a prospective grantee, participated in the panel's proceedings; both groups have endorsed the proposals which before they can go into effect will require legislative approval first and then voter approval in the form of a constitutional amendment.

***Let Voters Track Rising Tide of Lobbyists' Cash* (editorial)**

The Detroit News—2/28/07

The editors of the *Detroit News* urged Michigan lawmakers to give serious consideration to a number of pending government and ethics bills which, among other things, would give voters and taxpayers "a fair chance to keep track of who is giving money and gifts to their

representatives.” To help bolster the case for reform, the editorial cite the findings of a study released just days earlier by Joyce’s primary grantee in the state.

The flow of lobbyist dollars in Lansing is increasing—but state regulations haven’t kept up. The Michigan Campaign Finance Network has issued a study noting that lobbyists reported spending \$29.9 million on their activities last year—an increase of 28.2 percent compared with 2002, the last year in which there was an election for governor. The nonpartisan watchdog group reported that close to half a million dollars of that spending—nearly \$451,000—went for food and drink

The editors conclude by urging “new lawmakers” to set themselves apart from incumbents by adopting regulations that would make lobbyist spending more transparent.

A Minnesota Post Script

Although it has not attracted headlines or much news coverage at this point, the Minnesota legislature is poised to pass a package of election reforms which enjoy the support of the reform-minded new Secretary of State, Mark Ritchie, and the broad-based Voting Rights Coalition, which is led by TakeAction Minnesota (a grantee) and the League of Women Voters (a prospective grantee). Bills that would institute no-fault absentee voting, automatically register voters who apply for and receive driver licenses, and expand the permissible forms of personal identification that can be used for Election Day Registration are expected to easily pass both houses before mid-March. Whether Governor Pawlenty will sign the bills remains an open question. The Voting Rights Coalition has not widely publicized these proposals in order to avoid stirring up a potential hornet’s nest of opposition; instead it has engaged in a quiet, stealth-like campaign that members concluded would better serve their purposes. It’s a strategy that bears watching, especially if it succeeds.

OTHER GRANTEE ADVANCES AND SETBACKS

Many of the “advances,” “setbacks,” and “unfinished work” experienced by the Money and Politics Program and the Foundation’s grantees have already been discussed in this report’s opening section. However, several other notable developments deserve to be highlighted.

Model Code of Judicial Conduct

In February, the ABA’s House of Delegates at its February Midyear Meeting in Miami unanimously approved the report and recommendations of the Joint Commission to Evaluate the Model Code of Judicial Conduct. This nearly three-year project—underwritten entirely by Joyce—was prompted largely by the need to adjust the canons so as to take into account recent federal court decisions concerning the unconstitutionality of certain long-standing restrictions on the conduct and public pronouncements of judges and judicial candidates. The new Model Code, the most sweeping revision since 1990, defines acceptable and unacceptable political activities that judges and candidates may engage in; prohibits them from making pledges or commitments regarding cases that may come before them; identifies permissible election activities by judicial candidates; and places restrictions on the acceptance of gifts.

Before the report was submitted to the delegates late last fall, the Joint Commission decided, due to concerns about vagueness and due process, to further amend proposed Rule 1.2 which, as originally drafted, read: “A judge shall act in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and avoid impropriety and the appearance of impropriety.” The decision to strike “avoid impropriety and the appearance of impropriety” ignited protests from, among others, the Conference of Chief Justices (in the form of a resolution) and the editors of the *New York Times* (“The ABA’s Judicial Ethics Mess”). The Commission finally backtracked and restored the disputed phrase. By the time the debate on the proposed canons took place on February 12, the Commission had lined up a dozen influential co-sponsors (ranging from the American Judicature Society and the City Bar of New York City to the associations representing appellate judges, federal trial judges, and state court trial judges) as well as an endorsement from the Conference of Chief Justices. Although four hours were allotted for considering the Joint Commission’s handiwork, the matter was disposed of in half that time. In an email to staff, Commission chair Mark Harrison said he was satisfied that a process involving nine public hearings, dozens of commission meetings and drafting sessions, three rough drafts and a final report had come to a successful conclusion. Now the ball moves to the individual states, where each Supreme Court will have to determine whether to adopt and implement, either in part or whole, the new Model Code.

Brennan Center Campaign Finance Reports

In late February and early March, the Brennan Center for Justice issued four of five campaign finance reports being underwritten by Joyce—*Campaign Finance in Wisconsin*, *Campaign Finance in Illinois*, *Campaign Finance in Ohio*, and *Campaign Finance in Michigan*. These critiques by a nationally respected non-Midwest group, which worked closely with the Foundation’s state-based grantees in developing the reports, take a fresh and crisp look at the strengths and weaknesses of each state’s campaign finance law, compare major provisions of the five states’ laws, recommend specific reforms, and make the case for some form of public financing. Brennan and its state partners will disseminate the reports to every legislator, statewide elected official, major news organization, state election agency, and political reform organization in the Midwest. *The Chicago Tribune*, *St. Louis Post Dispatch*, *Bloomington Pantagraph*, and the *Capital Times* were among the newspapers that ran stories on the first two reports.

Chicago Campaign Finance Database

Shortly before Chicago’s late-February city elections, the Illinois Campaign for Political Reform and the Sunshine Project (University of Illinois at Springfield) unveiled a new searchable database detailing contributions to and expenditures by mayoral and aldermanic candidates. The database (www.ilcampaign.org/blog/blogger.asp) which contains information on the 36,000 individual contributions to every candidate for citywide office, all 50 aldermen and their opponents, and the richest ward-based political committees covers the 2005-2006 election cycle as well as the largest contributions made in 2007. This was a huge undertaking, and the first attempt by Joyce grantees to create a municipal-level database. Data entry was made possible by a group of Columbia College students who volunteered for the job in exchange for their no-cost enrollment in a symposium on political reform taught by ICPR staff.

Michigan Stirs—At Last

When it comes to political reform, Michigan has long been the most quiescent of the five Midwest states served by Joyce. A weak civic infrastructure, a lack of political leadership (including from the Governor's office), a relatively conservative philanthropic community, and the absence of high profile political scandals have combined to make Michigan tough territory for reformers. However, the results of last fall's elections—both in-state and nationally—and the Michigan Campaign Finance Network's revealing analyses, especially in the campaign finance area (like those alluded to earlier in the Context section of this report), appear to be having an effect on the policy landscape. A bevy of reform bills have been introduced, and with the Democrats now in control of the Michigan House, many are expected to receive a fair hearing, and several have a decent chance of passing. Among the measures being given a serious look are ones that would slow down the revolving door between lawmaking and lobbying; increase personal financial disclosure requirements for elected and key appointed officials; regulate election-related issue advertising; institute early voting, election day registration, and no-fault absentee voting; fund state Supreme Court elections through a public financing system; and elevate "competition" as an explicit redistricting criterion.

Columbus Town Meeting on the Future of Media

Under the terms of a grant previously awarded to Free Press, a media reform organization, the second of three public meetings scheduled for Wisconsin, Ohio and Illinois on issues related to media ownership and the broadcasters' public interest obligations was held in Columbus on March 7. The two Democratic members of Federal Communications Commission—Michael Copps and Jonathon Adelstein—were joined at the town hall meeting by Republican Commissioner Robert McDowell, who in his short time on the panel has demonstrated an open mind on issues of concern to the public interest community. Among the co-sponsors of the event were two other Joyce grantees, Ohio Citizen Action and Ohio Common Cause.

