

## **Testimony to the Joint Committee on Governmental Reform March 16, 2009**

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Politics in Illinois is in crisis. It is a crisis of corruption and a crisis of public confidence. This crisis did not develop over night. Nor is it solely the result of the actions of corrupt individuals. We need to arrest and prosecute bad people, but we also need to change laws and change attitudes. The roots of our problems are systemic, the result of a corrupt political culture that is defined by the attitudes and beliefs as well as the actions of our public officials and citizens.

The last decade has seen an endless series of indictments, trials, and convictions of public officials at all levels of government. Unfortunately, other than an increase in the intensity, there is little that distinguishes the last ten years from previous decades. I will not repeat the long litany of corruption in Illinois politics, but it is well documented.<sup>1</sup> The impact of “business as usual” in Illinois politics on the public’s support of our political system has been devastating. The picture painted by recent public opinion polls conducted for the Illinois Campaign for Political Reform is very troubling.<sup>2</sup> Consider another indicator. When Illinois citizens had the opportunity to participate in the gubernatorial election in 2006, fully 63 percent of those who could have voted took a pass. The arrest of former Governor Blagojevich and all that has followed has provided a window for the rest of the county to see what those of us in Illinois have been dealing with year in and year out.

The costs of political corruption for our state go far beyond the money we spend on investigations, trials and incarcerations. At a time when we need public confidence and support for the tough choices we face, the citizens of Illinois are questioning the very legitimacy of our political process. As a time when we need every citizen to be involved and engaged, the public is withdrawing from all forms of political participation. Good people are leaving public service and

it is getting more and more difficult to attract young people to careers in government. Ultimately, corrupt government is bad government which is inherently inefficient and ineffective.<sup>3</sup>

In the long term there are many ways in which we can reform Illinois politics to the benefit of our citizens, our public officials, and those who deliver or receive public services. If ever there was a target rich environment for reform, this is it. But short-term we need immediate, dramatic changes that will reduce corruption and the appearance of corruption in Illinois politics. To borrow a phrase from a recent political campaign, restoring the public's confidence in Illinois politics will take "Change you can believe in." Campaign finance reform can be the source of that change.

Specifically we need to adopt reasonable, effective contribution limits. Unlimited campaign contributions are a key factor in what has become a culture of corruption in Illinois politics. They enable the corrupt, tempt the weak, and fuel cynicism in the press and among citizens. Adopting limits on campaign contributions will make our politics better by making it more difficult to be corrupt and less tempting to be corrupt. And it will go along way toward convincing our citizens and the news media that we are serious about fixing Illinois politics by making a significant change that, in addition to actually reducing corruption, will also eliminate the appearance of corruption that invariably follows when someone who has made a big campaign contribution wins a fight in the legislature or gets a state job or a state contract. Of equal importance, adopting contribution limits will alter the relationships between citizens, elected officials and private interests in positive ways that constitute an important first step in fundamentally changing the nature of Illinois politics.

The current crisis highlights the tremendous need for change in our politics. But it also presents us with an opportunity to accomplish real, significant change. It would be a tragedy if we react to this latest corruption crisis with our old, familiar way of addressing problems. Will we ask, as we have far too often in the past, "how can we make this go away?" If we do, we will settle for the quick, easy fix that will allow us to muddle through until the next corruption crisis.

We need the courage and leadership to ask “what is the right thing to do?” Asking the right question does not guarantee success, but asking the wrong question does guarantee failure.

## **The status quo is not working**

We also need to dramatically improve our system for disclosing and reporting campaign contributions and to make our enforcement mechanism more effective and proactive. But fixing disclosure and enforcement is not going to be enough. The public needs and expect change that will make a dramatic difference in business as usual in Illinois politics. The news media has the same expectations. Better disclosure will not get the job done. Better disclosure and contribution limits will.

Illinois’s current campaign finance laws both reflect and reinforce the worse tendencies of our political culture. I have had more opportunities than I would like to count since December 9, 2008 to explain our campaign finance laws to people outside Illinois (mostly to national reporters). They have one of two reactions. One is “WOW”! The other is “Of course.” Illinois has exactly the kind of campaign finance laws that you would expect Illinois to have – which is to say, out side of reporting requirements, we have no laws. Except for the limited “pay to play” law that recently took effect, any person, corporation, union, association, or group can contribute as much as they want, whenever they want to those seeking or holding public office. Those receiving campaign contributions can spend that money on anything they want (except for their direct personal benefit) and they can continue to spend campaign money after they no longer hold public office.

In the mid-1970’s most states adopted new campaign finance laws, prompted by the abuses revealed at the national level during the Watergate scandal. The Illinois General Assembly begrudgingly passed a bare bones disclosure law in 1974 with reporting requirements designed to limit public access to campaign finance reports. When the Buckley decision was handed down by the US Supreme Court in 1976, which prohibited limits on campaign spending and narrowly restricted what limits could be placed on campaign contributions, federal law and the laws of

most states had to be extensively revised. Illinois did not have to change one word in its campaign finance law.<sup>4</sup>

In the mid and late 1990s, we enacted laws which circumscribed some of the conditions under which contributions can be made. Personal use of campaign funds was prohibited. Mandatory electronic filing of reports and the posting of those reports on the internet were also required. A pay to play bill prohibiting contributions in certain circumstance by those holding state contracts took effect at the beginning of the year. But our law remains a basic disclosure and reporting law, what is commonly referred to as a “Sunshine law.”

Others will testify over the next two days about different approaches to dealing with the role of money in politics. Illinois is one of only a handful of states that does not prohibit corporate entities (non-persons) from making contributions. Thirty-eight states have some type of regulation systems that put limits on contributions or prohibit contributions from particular interests. Illinois is not one of them. Twelve years ago, I wrote that “Illinois is the wild, wild west of campaign finance.” That assessment is still accurate<sup>5</sup>.

Campaign finance systems do not exist in the abstract. Each state’s unique political, economic, and demographic makeup effects how a particular approach works. In Illinois we have had 30-plus year experiment in how a campaign finance system works if you do not place any restrictions on campaign contributions. That experiment has been a total failure. This point can not be repeated enough. Before we talk about what changes need to be made in our campaign finance system, we need to be completely clear about what does not work in Illinois. A system without limits - one where you can have campaign contributions in any amount, at any time, from any source - does not work in Illinois.

A decade ago we adopted a system of electronic filing and internet posting for campaign finance reports that has evolved into one of the best electronic filing and disclosure systems in the country. This dramatic change has not been accompanied by any decrease in public corruption in Illinois or any decrease in the public’s distrust and cynicism when it comes to Illinois politics. A

campaign finance system without limits, even one with an exemplary disclosure and reporting system, has not worked in Illinois.

Today, our ability to deal with our public problems is almost non-existent. Unlimited campaign contributions fuel both the centralization of power in the hands of the legislative leaders and the governor and the distortion of the policy process by dominant interest groups. Having a totally corrupt governor for the past six year certainly made things worse. But the system he blew up - the four legislative leaders and the Governor make all the key decisions absent what anyone outside of Illinois would recognize as a legislative process or an appropriation process – wasn't much to write home about. It is not like we were doing a great job of balancing the state budget, paying our bills or addressing long standing problems like school funding and performance, infrastructure needs, pension funding, or access to healthcare prior to Rod Blagojevich taking office in 2002.

Our elections are a mess. Overall we have very uncompetitive legislative elections punctuated by a few hyper-expensive, leadership controlled legislative races, runaway spending on races for Governor and the State Supreme Court, and a citizenry that is disengaged and disaffected.

The case against unlimited campaign contribution can be summarized by the following points. Unlimited campaign contributions:

- distort the political process by increasing the advantage of interests with money over those without money in both elections and the policy process.
- are a major factor in the centralization of power in hands of Governor and legislative leaders which in turn leads to the deterioration of the General Assembly as an institution.
- are a major factor in the centralization of power in the hands of the four legislative leaders which distorts the election process by created a two-tier system of legislative elections.
- facilitate corruption directly which undermines public confidence and trust in all elected official and all public policy. Corrupt politics produces bad politics which produces bad policy.
- increase the temptation for corruption for both the givers and receivers of campaign contributions.
- create conflicts of interest which create the appearance of corruption and undermine public trust and confidence in all public officials and all public policy.

Change in a state’s political culture takes time. But laws do matter. If we could suddenly give Illinois’ campaign finance laws to Wisconsin and give theirs to us, we would not immediately become Wisconsin and they would not immediately become Illinois. Political culture is slow to change. But overtime, our politics would improve and Wisconsin’s politics would get worse.

## **The Numbers Tell the Story**

If we do not dramatically change our campaign finance system, it is clear from our experience over the last three decades what the next decade will look like. The numbers tell the story. By now it is a familiar story. Here are the high lights.

### **Illinois elections for constitutional offices, the legislature, and seats on the appellate and State Supreme Courts have become very expensive, both in aggregate and individually.<sup>6</sup>**

	Total contributions	Total Expenditures
2001-2002	\$186 million	\$187 million
2003-2004	\$114 million	\$100 million
2005-2006	\$174 million	\$184 million
2007-2008	\$113 million	\$110 million

Number of legislative race where combined spending exceeded \$1 million

2002	9
2004	8
2006	12
2008	10

Spending for Governor – All Candidates

2002	\$58 million	(Rod Blagojevich \$23 million)
2006	\$61 million	(Rod Blagojevich \$29 million)

Cost of 2004 State Supreme Court race – 5<sup>th</sup> District = \$9.38 million

### **Interest Groups and Corporations are far more significant than individuals as contributors<sup>7</sup>**

Interest Groups and Private Interest contributing more than \$1 million

2002	4
2004	7
2006	7
2008	6

Contributions from individuals account for less than 20% of all contributions.

**Not all campaign contributions made in Illinois are about elections. A significant portion goes to elected officials who are not up for office or who have weak or non-existent opponents. Those campaign contributions are not about elections, they are about access to power.<sup>8</sup>**

2007-2008      \$8 million contributed to legislators who were not up for re-election  
                     \$38 million to incumbent legislators with no opponent or a weak  
                     \$14 million to constitutional officers

**The vast majority of legislative elections in Illinois are forgone conclusions with incumbents winning reelection.<sup>9</sup>**

Most legislative elections involve a well know, well funded incumbents facing no opponent or an opponent with neither the name recognition nor resources to mount a serious campaign. During the last 6 elections, approximately 90% of the House races and 80% of the Senate races fell into this category. The percentages are even higher for primary elections.

Over the last 6 elections, 98% of the incumbent legislators running in the general election were re-elected.      (672 of 685 incumbents won)

**Legislative leaders dominate the few competitive legislative elections that take place in Illinois. Unlimited campaign contributions are the foundation of power of their power.<sup>10</sup>**

Every election cycle there are a few legislative races that are competitive in terms of the money spent by the two candidates. With rare exceptions these races are competitive in terms of the money spent because they are heavily funded by the legislative leaders. The races that are targeted by the legislative leaders are also hyper-expensive, usually exceeding \$1 million in combined spending. Whether a particular legislative race will be strongly contested is almost always determined by the legislative leaders. The four legislative leaders controlled at least \$25 million dollars in each of the last three election cycles.

59<sup>th</sup> Senate race      \$2,313,000 million raised

Forby (D) Incumbent Won      \$1,384,000 total contributions received

54%      \$747,000 from legislative leaders, candidate committees, and party committee  
40%      \$554,000 from interest groups, labor unions and corporations  
03%      \$44,000 from contribution of less than \$150  
03%      \$39,000 from individuals

\*24%      \$336,000 in contributions of \$10,000 or more from interest groups, labor unions, or corporations  
\*No contributions from individuals of \$5,000 or more

Burzynski (R)      \$929,000 total contributions received

96%      \$888,000 from Legislative leader, candidate committees, and party committees  
03%      \$29,000 from in interest groups, labor unions and corporations  
<01%      \$7,000 from contributions of less than \$150  
<01%      \$5,000 from individuals

\*No contributions of \$10,000 or more from interest groups, labor unions, or corporations  
\*No contributions from individuals of \$5,000 or more

Power in the Illinois General Assembly has become more and more concentrated in the hands of the four legislative leaders over the past four decades. They dominate the policy process in Springfield and they dominate legislative elections. Our campaign finance laws have played a key role in this centralization of power. The leaders raise money without limits from those who care about policy issues and those who care about who controls the General Assembly. The leaders can transfer money or spend directly on legislative campaigns without limit. As they have become stronger in Springfield, they have become stronger in elections and as they have become stronger in elections they have become stronger in Springfield. Money is not the only factor in this development. Other factors such as the leaders' monopoly over legislative staff and the members' lack of staff have played a role. But unlimited campaign contributions are the key. As legislators have become stronger, individual members and the legislature as an institution have become weaker.

**Most large campaign contributions go to legislative leaders or constitutional officers, not rank and file legislators.<sup>11</sup>**

Contributions from Individuals - 2006 Election Cycle

Contributions in excess of \$4,600 from individuals to 307 legislative candidate committees (excludes leaders) (\$1,300,000)

225	None
57	One
25	More than one

Legislative leader or caucus committees received 46 contributions from separate individuals which exceeded \$4,600. Those contributions had a total value of \$447,000

Constitutional officer candidate committees received 752 contributions from separate individuals which exceeded \$4,600. Those contributions have a total value of \$12,832,000

Contributions from interest groups, corporations, and unions - 2006 Election Cycle

Contribution from non-individuals in excess of \$10,000 to 307 legislative candidate committees (excludes leaders) (\$5,358,000)

200	None
53	One
54	More than one

Legislative leader or caucus committees received 283 contributions of more than \$10,000 from interest groups, corporations, or unions with a total value of \$7,865,000

Constitutional officer candidate committees received 411 contributions of more than \$10,000 from interest groups, corporations, or unions with a total value of \$17,146,000

**Only a few interest groups, corporations, unions, or individuals make large campaign contributions (\$10,000). These contributions go primarily to legislative candidates in targeted races, legislative leaders and constitutional officers.<sup>12</sup>**

Interest group campaign contribution patterns – 2005-2006 election cycle

The **Illinois Education Association** through its PAC gave made \$2,173,000 in contributions in 2005-2006. 86% of those contributions were in amounts of \$10,000 or more (\$1,863,000). Of their top 20, 7 were candidates in targeted legislative races, 3 were legislative leaders, and 3 were constitutional officers. In all the IEA gave to \$10,000 or more to 15 candidates in targeted legislative races.

**Altria/Philip Morris** contributed \$318,000 in 2005-2006. 70% of those contributions (\$220,000) went to committees controlled by the four legislative leaders.

The **Associated Beer Distributors of Illinois** (ABDI) contributed \$964,000 in 2005-2006 to 176 committees. 152 of those committees (86%) received less than \$10,000. They made two contributions of \$10,000 or more to candidates in targeted legislative races.

The **IL CPA Society** contributed \$279,000 in 2006-2006 to 189 committees. 184 of those committees (97%) received less than \$10,000. They made no contributions over \$10,000 to candidates in targeted legislative races.

**Allowing unlimited campaign contributions helps key interest groups dominate an issue area. Allowing unlimited campaign contributions also makes it easy to put big money into our system in a hurry. The result is a distortion of the policy process.**<sup>13</sup>

2007-2008 Top 20 Contributors		Top 20 Contributors 1993-2008	
\$1,708,000	IL Education Assn IPACE	\$14,123,000	LL Education Assn IPACE
\$1,248,000	IL Fed of Teachers/CTU	\$10,557,000	IL State Medical Society
\$1,201,000	IL State Medical Society	\$8,872,000	IL Fed of Teachers/Chi Teachers
\$1,173,000	Assoc Beer Dist IL ABDI	\$6,898,000	IL Hospital Assn
\$1,163,000	Health Care Council of IL	\$6,529,000	Laborers Unions
\$1,083,000	AFSCME Council 31	\$6,101,000	AT&T SBC Ameritech
\$944,000	AT&T PAC	\$5,965,000	Service Employee Unions SEIU
\$898,000	IL Hospital Assn IHA	\$5,662,000	Assoc Beer Dist IL ABDI
\$760,000	IL Assn of Realtors RPAC	\$5,351,000	Operating Engineers Unions IUOE
\$720,000	Duchossois Co & Family	\$4,612,000	Duchossois Co and family members
\$718,000	Exelon PAC ComEd PAC	\$4,605,000	Illinois Trial Lawyers Assn
\$708,000	IL Pipe Trades PAC	\$4,517,000	Electrical Workers Unions IBEW
\$685,000	Ameren	\$4,456,000	Ameren/Dynagy/IL Power
\$634,000	IL Trial Lawyers Assn	\$4,316,000	IL Assn of Realtors RPAC
\$627,000	IL Laborers Leg Committee	\$4,161,000	Manufacturers PAC
\$613,000	Comcast	\$4,093,000	AFSCME Union
\$612,000	Assoc Firefighters of IL	\$3,935,000	US Chamber of Commerce
\$584,000	Personal PAC	\$3,795,000	Pipe Trades & Plumbers Unions
\$523,000	Altria	\$3,793,000	Teamsters Unions
\$456,000	Credit Union PAC	\$3,453,000	IL Bank PAC

The teacher unions dominate debates about education policy and play a significant role in the favored status of funding for schools in state budget decisions. Campaign contributions are not the only sources of their influence. But with combined contributions of almost \$3 million in 2007-2008 and almost \$23 million in campaign contribution since 1993, the role of money in their success is hard to minimize. The same is true for the other groups on these two lists. Of particular note are the companies and family member associated with Richard Duchossois. The numbers go a long way in explaining why we are giving subsidies to the owners of horseracing tracks that, by some estimates, exceed what the state takes in from gambling taxes on horseracing.

With no limits on the amount of campaign contributions and no prohibitions on direct contributions from corporations and unions, huge amounts of money can flow into the political system very quickly. Sometimes this occurs in response to a change in policy like the legalization of riverboat gambling when gambling contributions jumped from less than \$100,000 in one election cycle to more than \$1 million in the next (1993-94). In 2004 when the State Supreme Court race in the 5<sup>th</sup> District became a battleground for the national debate over tort reform, the US Chamber of Commerce, which had never participated in statewide elections in Illinois, passed over \$2 million through the State Republican Party to the Republican candidate in the race. The Illinois Justice League, whose 2001-2002 contributions totaled \$75,000, contributed \$1.3 million to the Republican candidates. Much of that total came from interests outside of Illinois. Three law firms, whose contributions in 2001-2002 totaled \$250,000, contributed \$1.75 million to the Democratic candidate.

The same patterns can be seen in legislative fights over issues such as electrical utility deregulation, telecommunication law rewrites, big tobacco and clean air legislation, and regulating payday loan companies. One of the clear messages that interests quickly learn is that if you have business in Springfield, the more money you can contribute the better. In 2005-2006 the two major nursing home associations contributed \$525,000. One of their responses to the continuing deterioration the state's ability to pay medical providers was to combine the two groups into one association in 2007 and increased their campaign contributions to \$1.2 million for 2007-2008.

## **Fixing disclosure – we need to do it, but it will not be enough**

By all means fix disclosure, but understand that it will not be enough to fix out campaign finance system. Just as important, it will not be seen by either the citizens of Illinois or the news media as an adequate response to the crisis in which we find ourselves. That being said, there are important steps we can take to make disclosure better.

### Sunshine (disclosure and reporting) as a tool to fight political corruption and the appearance of corruption

As noted earlier, the logic of sunshine is that reporting and disclosure requirements will cause those seeking or holding public office to modify their behavior because of publicity that could be politically or personally damaging or embarrassing. The concept is that a completely unregulated system of campaign finance can be self-enforcing with an adequate system of disclosure and reporting.

Illinois has conducted a 30 plus year experiment with a campaign finance system that relies solely on sunshine requirements administered by the State Board of Elections to deal with corruption and the appearance of corruption in campaign finance. Most observers and participants consider this experiment a complete failure. In 1999 Illinois put into place an electronic filing and reporting system that is now regarded as one of the best in the country. Statutorily mandated reports are filed electronically and instantaneously posted on the internet. The State Board of Elections has developed a powerful search engine which allows citizens and the news media to access the data in a variety of meaningful ways. However, the implementation of this marvelous system has not resulted in any demonstrable decrease in public corruption or increase in the confidence of the public in the integrity of their elected officials during the last decade.

It seems unlikely that merely requiring that campaign finance reports required under current law to be filed every three months rather than every six months will do much to restore public confidence in our elected officials or reduce public corruption or the appearance of corruption. The current system produces reports that are basically historic documents that tell you what happened between seven months and one month ago. They have very little real time impact on the behavior of candidates, elected officials, political parties or contributors. The current system essentially provides a document dump every six months, where citizens and reporters are buried under a pile of reports that are all filed in a couple of days. The exception is the A-1 process whereby contributions of over \$500 made within 30 days of an election must be reported to the State Board of Elections within 2 days. This real time model suggests a way that our current reporting system could be modified to make it much more effective.

We need to be clear that there is only so much we can do with sunshine or regulation such as contribution limits. My preference would be to combine improved disclosure with a system on contributions limits. More frequent reporting and contribution limits would have reduced Governor Blagojevich's \$25,000 club to a \$4,600 club and made it easier to identify and investigate what was going on. But they would not have prohibited him from using his office to leverage campaign contributions. The question is what is the most effective way to do what we can do?

Given the uncertainty of the legislative process, contribution limits may not happen this session and improved sunshine may be the primary focus. If sunshine is going to be our only tool within the campaign finance system for trying to reduce corruption and the appearance of corruption associated with campaign contributions, then it needs to be real sunshine.

One general point need to be stressed before going into specifics on how to make reporting and disclosure more effective. The highest priority in an effective sunshine system is to provide maximum public disclosure in order to create the greatest incentives for those seeking or holding elected office to modify their behavior. Maximizing public disclosure is more important than trying to minimize the administrative burdens the system might impose on candidates running for office, elected officials, contributors, or the State Board of Elections. If we reduce the effectiveness of reporting or disclosure in order to provide for the convenience of candidates, elected officials, or contributors or to reduce the administrative costs, we will forfeit any chance of making sunshine an effective deterrent. Campaign finance records are public records. They belong to the public.

#### Maximum public access

The State Board of Elections' system of posting reports on the internet and the search engine on their website are exemplary. You can not appreciate how good their system is unless you spend time searching for contribution and expenditure information at the federal level or in most states.

#### Complete disclosure and reporting by candidates and contributors

Everyone (candidates, elected officials, political parties, ballot question groups, and all contributors) who exceeds a contribution or expenditure threshold should be required to file electronic reports which are posted on the internet. Verifying the completeness of campaign disclosure reports requires that everyone who make or receives contributions (or makes expenditures in the case of electioneering communications) in excess of a threshold amount file reports that can be cross-checked against each other.

A report on Illinois's campaign finance law by the Brennan Center<sup>14</sup> noted serious problems with both how our law is written and how it is enforced. Current law and administrative practice is clear as to candidates, elected officials, political parties, and groups trying to influence ballot questions. They have to form political committees under state law and file reports. It is less clear as to whether all groups who make contributions are required to file. Individuals who make campaign contributions are exempted from filing reports. My experience with trying to track campaign contributions in Illinois over the past fifteen years confirms the conclusions of the Brennan Center's report. If anything, it understates the problem.

Giving the current state of the law and State Board of Elections' administrative rules as to who has to file reports, the best course of action would be to **completely repeal these sections of the law and write a new section, based on clear distinctions, that set out who is required to**

**file reports. The new law would then be implemented by a new set of administrative rules adopted by the State Board of Elections.**

My recommendation is that any individual who exceeds a certain amount in aggregate contributions during a filing period should be required to file an electronic report with the State Board of Elections which includes all contributions made by the individual and the occupation and employer of the individual. This is not as important if we adopt contribution limits that place a cap on the total amount an individual can contribute during an election cycle. But under the current system where individuals contribute hundreds of thousands of dollars we need disclosure and reporting from individuals who are big contributors. Any group, association, corporation, labor union, or non-profit organization that makes contributions or electioneering expenditures in excess of a certain aggregate amount during a reporting period should be required to form a political committee under state law and file electronic reports of receipts and expenditures in relation to their election activities. Once a group, association, corporation, labor union, or non-profit organization had met the reporting threshold, they would have to continue to file reports.

In terms of the content of the reports, we need to strengthen the reporting requirements for occupation and employer information for individual contributors by making them more specific, strengthen the reporting requirements for reporting of purpose and beneficiary information for expenditures by making them more specific, and provide adequate fines for non-compliance.

#### The need for real-time reporting

In order for a sunshine system to work, the information about contributions and expenditures must be available to the public and the news media in a timely manner. The closer we can get to real-time information the better. There are four steps that need to be taken. Two can be done in the short term. They will help, but they should be seen as transitions to a real-time system of reporting. A more detailed discussion of these options was distributed to the committee and is appended to this statement (See Appendix A and Appendix B).

Three month reports: Cumulative, comprehensive reports should be filed every three months instead of the current six month requirement. Because of nature of the State Board of Elections reporting software, this change appears to require the development of new software and the construction of a new campaign finance reporting system. This makes implementation prior to the 2010 election problematic.

Year-round A-1 reports: The requirement for reporting large contributions within 2 days during the 30 day period before an election needs to be extended to a year-round system. Allowing for a period longer than 2 days to report large contribution received more than 30 days before an election seems reasonable. It appears this change could be accommodated within the State Board current campaign finance reporting software and could be implemented for calendar year 2010.

Transaction-based reporting of contributions: Instead of the report based system currently in place, we should adopt a transaction based system for contributions to candidates, elected officials, political parties and ballot question groups which requires receipts greater than \$150 to be reported electronically within 21 days to the State Board of Elections and posted the State Board on their website 7 days after filing. Committees would be able to amend receipt reports during the 7 day holding period. This transaction based system for all receipts is basically an extension of our current A-1 reporting system. Our information about political contributions would never be more than 30 days old. This would require the State Board of Elections to

develop a web-based system whereby committee would log on to a secure server to enter and report transactions.

Transaction-based reporting of all committee records: This would extend the transaction based system to all receipts and expenditures of a committee.

#### Adequate Funding for the State Board of Elections

We can not claim to be serious about sunshine as a regulatory mechanism without providing adequate funding for the State Board of Elections. This means funding to hire the staff necessary to carry out the functions we assign to the State Board. It also means providing the funding necessary to build a transaction-based, web-based system. Without the necessary expenditures on technical staff, software, and hardware, all that will be possible is the illusion of sunshine.

Adequate funding should be paired with enabling the State Board to make changes in their procedures that allow them to capture technological savings. For example, more committees should be required to file electronically. One of the advantages of a web-based reporting system is that a committee treasurer could keep records online in a secure computer file and then file all reports electronically. In addition, all committees that file electronically should be required to accept official notices from the State Board by email. The savings in mailing cost would be substantial. In the same vane, if we adopt year round A-1 reporting we could eliminate both pre-elections reports of receipts and notices of non-participation.

#### Auditing and Oversight

Keeping in mind that campaign finance records are public records and that the effectiveness of a sunshine system rest on full disclosure and the fear of disclosure, at a minimum we should require incumbent legislators, constitutional officers, and state political party organizations to file certified audits of their political committees on a regular basis. We should also require the State Board of Elections to conduct random audits of committees who are not required to file certified audits and provide the State Board with adequate funding to perform this duty.

With adequate funding and staffing, the State Board of Elections could take a more proactive role in insuring that committees comply with state law.

#### Rethinking the State Board of Elections

The current structure of the State Board of Elections with its 4-4 balance between the two major state parties often results in delay, inaction, and a lack of independence.<sup>15</sup> While there are constitutional parameters, the legislature can change the structure of the board. A simple change such as increasing the size of the Board to nine members by adding an independent or a Green Party member would dramatically change the dynamics of the decision making process.

#### **The time is now for contribution limits**

First, I want to associate myself with everything that Cindi Canary had to say about the need for contribution limits. They will not fix everything that is wrong with Illinois politics. We

will not get everything right the first time. But they will make a real difference and they will be seen by the citizens of Illinois and the news media as making a difference.

We need to begin by hardening the target – make it harder to be corrupt and less tempting to be corrupt. We also need to demonstrate to the public and the news media that we get it and we are doing something about it. Contribution limits will accomplish these goals.

We need to be clear about the relationship between contribution limits and political corruption. Political corruption is more than just criminal behavior. It is also the subtle wink and nod of unethical behavior that is difficult to prosecute unless the politician is as arrogant and stupid as former Governor Rod Blagojevich. Michael Malbin, in his testimony before the Illinois Reform Commission, makes this point eloquently. “Criminal corruption is not the main problem a contribution limit is designed to correct. Rather, the contribution limit is aimed at behavior that is improper and a corruption of the system without necessarily being criminally illegal. The normal form of corruption in legislative politics involves lawmakers pressuring donors as often as it involves donors buying lawmakers. It looks more like extortion than a bribe, but the point is that we are not looking at either criminal extortion or criminal bribery. We are looking at public officials implying to people that unless they contribute, it will be bad for their business. This is far too subtle to be made criminal, but it is a corruption of public office.”<sup>16</sup>

Over time contribution limits can be an important part of more systematic, positive changes in our politics. They are not sufficient to accomplish this change by themselves, but they are necessary if change is to take place.

All systems of campaign finance which rely on contribution limits to regulate the role of money in the political system begin with disclosure and reporting as their foundation. Illinois has adequate disclosure system and an excellent reporting system. It needs to be made much stronger, making changes along the lines of those suggested above.

Most campaign finance systems with limits at the state level and the federal system also prohibit direct contributions to candidates and parties by corporate entities such as business

corporations, unions, and trade and professional organizations. Prohibiting direct contributions by such “non-persons” rests on the simple principal that “only people vote and only people should be able to make campaign contributions.” This has been the case at the federal level in terms of contributions to candidates for more than 60 years for unions and 100 years for corporations. It is sound public policy. This type of prohibition does not bar unions, corporations, or associations from setting up segregated funds, separate from their corporate treasuries, to which their members can make contributions, and then using those funds to make contributions to candidates. This is the essence of a “multi-candidate committee” or a PAC. Aggregating contributions from individuals in this manner is usually allowed as long as the contributing individuals and the PACs are subject to contribution limits. While I favor this prohibiting direct corporation or union contributions, I realize that it unlikely to be adopted at this point.

Once we decide who can contribute, we need to decide what limits will placed on those who are allowed to contribute. HB 24 provides a reasonable approach to a system of contributions limits. Limits are applied to contributions from individual and private interests (corporations, unions, associations, etc.) and to transfers of money from other candidate committees and party committees. Higher contributions limits are provided for transfers from political party organizations or legislative leader committees to candidate committees.

If we are going to deal with the role of money in Illinois politics and turn our politics around, we need to make a commitment to campaign contribution limits. As we pursue this goal we need to keep three principles in mind.<sup>17</sup>

- There is no perfect system that will accomplish every worthy policy goal related to the role money in politics. The pursuit of perfection ultimately leads to the perfect being the enemy of the good. Designing a campaign finance system requires making hard choices - trade-offs between competing policy goals and trade-offs between competing interests.
- Some policy goals are clearly beyond the limits of any campaign finance system. Increasing the level of competition in legislative elections may be a worthy goal, but there are many legislative districts in Illinois so dominated by one political party that no amount of public financing would make them competitive in the general election.
- Because spending cannot be legally limited, any campaign finance system will produce behavior designed to frustrate the policy goals of the system as those who have money and want to influence politics search for ways to do so. Campaign finance systems must

adapt over time in order to continue to achieve the policy goals of the system. Campaign finance systems are always a work in progress.

Campaign finance reform, as well as political reform in general, is process, not a policy. It will always be a work in progress – just like the insurance code, the medical practice act, and the school code are works in progress. As with other difficult policy areas, it will not be easy. Hard times and hard choices demand leadership. That is why you are here.

#### Endnotes

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<sup>1</sup> Kent D. Redfield, *The Cost of Corruption: Political Corruption in Illinois and What to Do About It – Rev 2008*, (Springfield, Illinois: The Sunshine Project), 2008, Kent D. Redfield, "Living up to low standards: The sad state of political ethics in Illinois" in Amy S. Karhliker, ed., *Almanac of Illinois Politics - 2006*, (Springfield, Illinois: Center Publication/Illinois Issues) 2006, Mike Royko, Boss, Anne Freedman, Patronage: an American Tradition, Hartley, Paul Powel: A life long Democrat, Merriman, George Ryan and the Death Penalty,

<sup>2</sup> Survey conducted by Beldon, Russonello and Stuart, January 9-12, 2009, for the Illinois Campaign for Political Reform, <http://www.ilcampaign.org/>

<sup>3</sup> Kent D. Redfield, "Living up to low standards: The sad state of political ethics in Illinois" in Amy S. Karhliker, ed., *Almanac of Illinois Politics - 2006*, (Springfield, Illinois: Center Publication/Illinois Issues) 2006

<sup>4</sup> Kent D. Redfield, *Show Me the Money: Cash Clout in Illinois Politics – Rev 2008*, The Sunshine Project, 2008; Kent D. Redfield, *Money Counts: How Dollars Dominate Illinois Politics and What We Can Do About It*, Institute for Public Affairs, University of Illinois at Springfield, 2001; Kent D. Redfield, *Cash Clout: Political Money in Illinois Legislative Elections*, Institute for Public Affairs, University of Illinois at Springfield, 1995

<sup>5</sup> See endnote 4

<sup>6</sup> Kent D. Redfield, *Show Me the Money: Cash Clout in Illinois Politics – Rev 2008*, The Sunshine Project, 2008; Illinois Campaign for Political Reform, <http://www.ilcampaign.org>

<sup>7</sup> Kent Redfield, Sunshine Project database; Illinois Campaign for Political Reform, <http://www.ilcampaign.org>

<sup>8</sup> See endnote 7

<sup>9</sup> Kent D. Redfield, "What Keeps the Four Tops on Top? Leadership Power in the Illinois General Assembly" in Jack R. Van Der Slik, ed., *Almanac of Illinois Politics - 1998*, University of Illinois at Springfield, 1998; also endnotes 4 and 6

<sup>10</sup> See endnote 9

<sup>11</sup> See endnote 7

<sup>12</sup> See endnote 7

<sup>13</sup> See endnotes 4 and 7

<sup>14</sup> Susan Novak, *Campaign Finance in Illinois*, Brennan Center for Justice, NYU Law School, 2007

<sup>15</sup> See endnote 14

<sup>16</sup> Michael J. Malbin, Testimony before the Illinois Reform Commission, February 23, 2009

<sup>17</sup> Kent Redfield, IGPA White Paper on Governmental Reform in Illinois, forthcoming.