

**U.S. PROGRAMS
JEHT Emergency Fund
Summary of Recommended Grants
Docket II - June 26, 2009**

Organization	Requested	Recommended	Term
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JEHT Emergency Fund (Program Code 59959)

National Security and Human Rights Campaign (NSHR)

American Society of International Law	\$ 225,000	\$ 225,000	1 year
Aspen Institute	\$ 225,000	\$ 125,000	1 year
	Recommended:	\$ 350,000	

Transparency and Integrity Fund (TIF)

Brennan Center for Justice	\$ 155,000	\$ 155,000	1 year
Campaign Finance Institute	\$ 200,000	\$ 200,000	1 year
Campaign Legal Center	\$ 150,000	\$ 150,000	1 year
Center for Political Accountability	\$ 175,000	\$ 175,000	1 year
Common Cause Education Fund (Connecticut)	\$ 125,000	\$ 125,000	1 year
Democracy 21 Education Fund	\$ 100,000	\$ 100,000	1 year
Democracy North Carolina	\$ 125,000	\$ 100,000	1 year
Demos	\$ 280,000	\$ 165,000	1 year
Justice at Stake	\$ 350,000	\$ 350,000	1 year
University of Wisconsin	\$ 55,000	\$ 55,000	1 year
	Recommended:	\$ 1,575,000.00	

TOTAL RECOMMENDED: \$ 1,925,000.00

Approval Signature

Angel Weir

Date

June 25, 2009

MEMORANDUM

To: Aryeh Neier
From: Ann Beeson & Erlin Ibreck
CC: Nancy Chang, Sophia Conroy, Thomas Hilbink, Laleh Ispahani
Date: June 17, 2009
Re: JEHT Emergency Fund Docket II

You will be meeting with U.S. Programs staff next week on June 26 to discuss the next round of recommendations for the JEHT Emergency Fund. Recommendations come from: the National Security and Human Rights Campaign and from the Transparency and Integrity Fund. The attached package contains thirteen recommendations for your review in advance of that meeting.

Consistent with our original plans for the JEHT Emergency Fund, we have assessed the impact of lost JEHT funding on groups that are grantees as well those that are not current grantees, but whose work is critical to our priority policy areas. In determining levels of funding recommendations we have evaluated JEHT's unpaid commitments or expected renewals to these groups for the balance of the year. In addition, staff has continued to consult with Atlantic Philanthropies and the Ford Foundation in regard to the grants under review so as to inform our recommendations. We have just learned that Atlantic Philanthropies has approved one JEHT related grant as part of their final package, which is on this docket, to the Aspen Institute. Both foundations have indicated that they are unlikely to make further JEHT related grants.

The National Security and Human Rights Campaign and Transparency and Integrity Fund are recommending two grants to support judicial training on international law. A grant to the **American Society of International Law** will support a project to mainstream international law in judicial training at the federal and state levels that will include the development of training curricula and teaching materials. A grant to the **Aspen Institute** will support the development and presentation of a two and a half day seminar for federal court judges on international human rights and international humanitarian law and their application in American jurisprudence.

The Transparency and Integrity Fund (TIF) is recommending ten organizations for funding. TIF and JEHT's Fair and Participatory Elections Program shared many programmatic priorities related to electoral administration reform and judicial selection reform. Each of the recommended organizations is engaged in efforts connected to current TIF priorities and was expecting funds from JEHT in 2009.

Several organizations that are being recommended by TIF advance its priority of supporting fair and impartial courts. The **Justice at Stake Campaign** is TIF's flagship judicial independence grantee, serving as the information hub and organizer for allies in the field. The **Center for Political Accountability** works to increase the transparency of campaign finances (including in judicial elections) by pressuring and persuading major

corporations to reveal the recipients of corporate political spending – a major source of campaign contributions for judicial elections.

On electoral reform, TIF prioritizes broad and equal access to the ballot. The **Brennan Center for Justice** and **Demos** each lost funding for electoral reform projects that advance this priority in the short-term while new reform efforts are developing over the longer-term. The relevant recommendations in this docket are for Brennan's Ballot Design project and Demos' work on enforcing the National Voter Registration Act at the state level. TIF is also recommending **Democracy North Carolina**, which works to increase government transparency and accountability, promote electoral reforms that increase access to the ballot and build coalitions of pro-democracy organizations, all in a key Southern state that is likely to receive ongoing support from other USP funds.

TIF is recommending several grants in this docket on campaign finance reform to preserve gains that have been made at a time when the confluence of events of recent years, including OSI's and Carnegie's departure from the field, the closure of the JEHT Foundation and the current economic downturn; has understandably left campaign finance groups struggling financially. OSI support to these organizations on an emergency basis would recognize its funding history with them and allow the groups to continue their work to protect progress made in this arena while seeking potential longer-term funding.

Two of the grants recommended by TIF are engaged in the legal defense of current campaign finance laws; a priority given the desire to protect the gains of recent years. The **Campaign Legal Center** and **Democracy 21**, along with the Brennan Center for Justice, are spearheading the effort to defend campaign finance laws at the state and federal level. The attacks on current law take aim at disclosure requirements and transparency standards which make possible the ongoing work of TIF grantees such as the Center for Responsive Politics and the National Institute for Money in State Politics.

Also being recommended are three organizations engaged either in supporting or conducting research on current campaign systems to better understand their effects on the electoral process and public participation in campaigns, and identify approaches with likely future success. A grant to the **Campaign Finance Institute** would allow for completion of research into the impact of small donors on campaign financing and identify opportunities for future finance reform strategies. Support to **Common Cause Education Fund (Connecticut)** would similarly allow that group to complete its work defending the state's public financing system and engage in community outreach to support that advance. Finally, a grant to the **University of Wisconsin** would allow completion of research into the effect of Connecticut's public financing system on electoral competitiveness. The study is one of three that JEHT was financing at the time it closed. TIF is collaborating with Rockefeller Brothers Fund (RBF) and Carnegie Corporation to support the three studies, with OSI agreeing to support the Wisconsin study while RBF and Carnegie cover the other two. Although TIF does not presently fund projects to advance broad public financing policies such as Connecticut's, it does seek to preserve and defend past advances as well as to promote public financing as a solution to the corrupting effects of money in judicial elections. Thus, the above mentioned recommendations would allow for the responsible closing-out of past OSI funding efforts and be of ongoing value to TIF's judiciary-related grantmaking efforts.

Name of Organization: American Society of International Law

Tax Status: 501(c)(3) public charity

Purpose of Grant: To support the Mainstreaming International Law in Judicial Training and Education Project

Previous OSI Support: None

Organization Budget: \$2,700,000

Project Budget: \$237,000

Major Sources of Support: ASIL Annual Fund \$12,000

Amount Requested: \$225,000 over one year

Amount Recommended: \$225,000 [JEHT Foundation Emergency Fund, T1: 59959]

Term: One year (June 1, 2009 – May 31, 2009)

Description of Organization:

The American Society of International Law (ASIL) is a nonprofit membership organization dedicated to advancing the study and use of international law. Founded in 1906, its 4,000 members include the field's leading scholars, practitioners, advocates, and jurists. ASIL publishes the *American Journal of International Law* and compiles *International Legal Materials*, an authoritative collection of primary source international law documents. The organization annually convenes the world's largest gathering of scholars, practitioners, and students to address contemporary issues in international law; its 2009 meeting drew 1276 participants from 73 countries. Based in Washington, D.C., ASIL has ten full-time staff members and is directed by Elizabeth Anderson.

Description of Program for Which Funding Is Sought:

ASIL has requested funding for its Mainstreaming International Law in Judicial Training and Education Project. The Mainstreaming Project is a three-year intensive effort to systematically introduce a sustainable and far-reaching program of international law education for U.S. judges through strategic partnerships with key judicial institutions and courts, and by supporting the integration of international law curricula into the programming of international judicial educational programs around the country.

Prior to the start of this three year initiative in January 2009, with funds from an earlier JEHT Foundation grant, the Mainstreaming Project laid the groundwork for this effort. It developed contacts with major judicial education institutions and assessed how these institutions develop, shape, and implement their educational programming and why international law so often does not make it onto the agendas of mainstream judicial education conferences and workshops.

Over the course of the next three years, ASIL will develop and provide to judicial education institutions a reliable and accessible supply of reference works, curricular materials, online resources, trainers, and presenters on international law; tailor resource materials to meet the specific needs of a range of forums; deepen and broaden its partnerships with judicial institutions and organizations; and organize and provide trainings and seminars to partner institutions. ASIL will also seek to and build demand for judicial education in international law. It plans to expand the number of educational fora that offer international law training and will make a concerted effort to reach state court judicial training centers. To help avoid redundancy, coordinate calendars, share lessons learned, and compile a pool of effective trainers, ASIL will also support the development of, and participate in, an informal network of judicial educators seeking to expand judicial understanding of international law.¹

Over the proposed one year grant period, ASIL will prioritize the development of educational curricula and teaching materials and the strengthening of its ties to the mainstream judicial sector, as these are essential steps to achieving ASIL's long-term goal of encouraging mainstream judicial institutions to take up the cause of international law training for jurists. ASIL is developing a *Benchbook on International Law*, which will be edited by Professor Diane Marie Amann. ASIL's current and widely distributed *Handbook on International Law for Judges* is invaluable, but is somewhat out of date and has been critiqued for being too academic and theoretical to be of practical use to judges. The upcoming benchbook will be a subject-by-subject reference source available in electronic and "binder" formats, and ASIL will distribute it to every federal court judge and many state court judges in the U.S. The benchbook will complement previously developed ASIL resources, including its handbook and *i.lex*, an on-line resource of leading U.S. decisions on international law.

Rationale for Recommendation:

The JEHT Foundation's International Justice Program was the sole supporter of the American Society of International Law's Mainstreaming International Law in Judicial Training Education Project, and the foundation's closure has endangered the project's survival. JEHT had approved a three-year grant of \$750,000 in December 2008, out of which \$250,000 was to have been paid in early 2009. But because JEHT closed its doors later that month, no payments were ever made on this grant. ASIL is seeking \$225,000 in 2009 support from OSI and has been strategic in scaling back the Project's first-year work plan to adjust for the loss of JEHT funding and the downturn in philanthropic giving in the current economic crisis while keeping its goals in sight. This project has been of interest to U.S. Programs, but OSI staff did not previously consider funding it because JEHT was funding it in full.

The recommended grant will advance the National Security and Human Rights Campaign priority of advancing a progressive national security policy that respects civil liberties,

¹ In developing this network, ASIL will build on its existing partnerships with other judicial trainers, including the Federal Judicial Center, the International Judicial Academy, the Aspen Institute (also recommended in this JEHT Emergency Fund docket), the Brandeis Institute for International Judges, the International Association of Women Judges, the Hague Judicial Education Forum, the Hague Institute for the Internationalization of Law, and the International Organization for Judicial Training.

human rights, and the rule of law. The recommended grant will also complement the work of the Transparency and Integrity Fund, as jurists who use international law to strengthen their own jurisprudence often come under political attack - an outcome that TIF's grantees defend against.²

Increasingly, state and federal judges in the U.S. are being asked to adjudicate cases that present international law questions, such as: custody cases where a child has been abducted across international borders, cases presenting Alien Tort Statute claims, immigration proceedings raising refugee and asylum claims, situations that test the limits of extraterritorial jurisdiction, suits involving overseas military and law enforcement activities, claims by non-citizen suspects that they were denied consular access while in detention, enforcements of foreign judgments and arbitration awards, and disputes arising out of transnational business transactions. And the “war on terror” has produced an especially challenging docket of international law questions under the Geneva Conventions and the Convention Against Torture, and in cases involving extraordinary rendition, the detention of “enemy combatants,” and extradition.

The realization of rights protected under international law is dependent upon a U.S. judiciary that is well versed in international law. Unfortunately, whether out of ignorance of, or outright hostility to, international law, U.S. jurists often handle these questions poorly and resolve them in ways that not only leave important rights unrealized, but put the U.S. at odds with its treaty partners and damage the credibility of the U.S. around the world.

American judicial education on the use of international law is still in its nascency at a moment when the need to ensure that judges are equipped to make informed decisions on areas of international law with which they lack familiarity is becoming urgent. But federal, state, and local budgets are severely strained, and the training of jurists on international law may well depend on the leadership offered by non-governmental groups such as ASIL that are able to offer issue expertise, training materials and curricula, and a roster of outstanding trainers.

The JEHT Foundation’s International Justice Program supported a number of programs to increase U.S. judicial understanding of international and humanitarian law and to counter U.S. exceptionalism and advance the rule of law. ASIL’s project was a key part of this strategy. ASIL has an excellent reputation among jurists and the bar, and a

² In recent years, the Supreme Court has cited to international legal standards and practices in several progressive rulings, including *Hamdan v. Rumsfeld* (2006) ([holding the](#) Detainee Treatment Act of 2005 in violation of the [Uniform Code of Military Justice](#) as well as Common Article 3 of the Geneva Conventions insofar as the act permitted indefinite detention without access to counsel or judicial review based on executive branch designation of individuals as “enemy combatants”), *Roper v. Simmons* (2005) (holding the imposition of [capital punishment](#) for crimes committed by juveniles under the age of 18 to be in violation of the Eighth Amendment by considering, in its evaluation of “evolving standards of decency that mark the progress of a maturing society,” practices in other nations), and *Lawrence v. Texas* (2003) (striking down a Texas consensual [sodomy law](#) after considering a European Court of Human Rights ruling striking down a similar law). These cases have provoked a fierce backlash from those who perceive the consideration of international law and rulings of foreign courts by American courts as posing a threat to American “sovereignty.”

commitment to the study and use of international law that spans more than a century, and is extremely well positioned to undertake this project. ASIL also has strong leadership in Elizabeth Anderson, who joined ASIL as Executive Director in 2006. Previously, she served as Executive Director of the American Bar Association's Central European and Eurasian Law Initiative, was the Executive Director of Human Rights Watch's Europe and Central Asia Division, and served as Legal Assistant to Judge Georges Abi-Saab of the International Criminal Tribunal for the former Yugoslavia and as a law clerk to Judge Kimba M. Wood of the U.S. District Court of the Southern District of New York.

ASIL is working to identify funds for the project beyond 2009, but a 2009 JEHT Emergency Fund grant from OSI will allow ASIL to meet its existing obligations and capitalize on the investments made in the first phase of this project.

For the above reasons, OSI staff recommends a grant of \$225,000 to the American Society of International Law.

Name of Organization: The Aspen Institute

Tax Status: 501(c)(3) public charity

Purpose of Grant: To support the Justice and Society Program's judicial seminars on international human rights and humanitarian laws and their application in national jurisprudence

Previous OSI Support: \$730,000
\$390,000 from TAPI / US Justice Fund (2006)
\$50,000 from RJI / US Justice Fund (2004)
\$65,000 from Gov & Pol Dev (2000)
\$25,000 from President's Grants (1998)
\$200,000 from Repro Rights Int'l Grants (1998)

Organization Budget: \$35,381,456

Project Budget: \$355,575

Major Sources of Support: The Robina Foundation \$130,575

Amount Requested: \$225,000 over 18 months

Amount Recommended: \$125,000 [JEHT Foundation Emergency Fund, T1: 59959]

Term: One year (July 1, 2009 – June 30, 2010)

Description of Organization:

The Aspen Institute (the Institute) is an international nonprofit organization dedicated to informed dialogue and inquiry on issues of global concern. Founded in 1950, its mission is to foster enlightened leadership through seminars, policy studies, and fellowship programs. The Institute is headquartered in Washington, D.C. and has campuses in Aspen, Colorado and Wye, Maryland.

The Institute's Justice and Society Program, which seeks to promote an understanding of and adherence to international human rights, has led seminars to educate federal judges on human rights and humanitarian law for over 20 years, and is directed by Alice Henkin.

Description of Program for Which Funding Is Sought:

The Institute has requested funding to support two presentations of its judicial seminar, *International Human Rights and Humanitarian Laws: Their Application in National Jurisprudence*, which will introduce approximately 40 U.S. federal court judges to international human rights and humanitarian law, a body of law that is largely unfamiliar to the judiciary but increasingly relevant to its work. The programs will introduce the historical and political background of the human rights movement and the development of international human rights standards, including declarations, treaties, and customary

law; examine the implementation of international and foreign law in U.S. case law and in cases of constitutional and federal statutory interpretation; cover international humanitarian law with a particular focus on the Geneva Conventions and the obligations of the U.S. as a state party; and review the implementation of international human rights law in the European, Inter-American, and U.N. systems, and the role of nongovernmental organizations in those systems.

Participants will be selected on the basis of recommendations from former judicial participants and from leading advocates and academics. The Institute will prioritize participation by judges from the Fourth, Fifth, and Eleventh Circuits. Anticipated presenters for the 2010 trainings include: Sarah Cleveland, Elisa Massimino, Juan Osuna, Judge Nicolas Bratza, and Jelena Pejic.³ The two and a half day seminars will be held at the Greentree Estate in Long Island.

The Institute has requested funding to present its seminar twice, first in January 2010 and then in November 2010. Because of the one-year limitation on JEHT emergency grants, OSI staff are recommending funding for only the first year of this project, to include one seminar through to its presentation, and preparation for the second seminar.

Rationale for Recommendation:

The JEHT Foundation's International Justice Program was the sole supporter of the Aspen Institute's judicial seminars on international and humanitarian law, and the foundation's closure has endangered the project's survival. The Institute's last grant from the JEHT Foundation expired in February 2009. At the time of its closure, JEHT was considering a two-year grant renewal of \$325,000, but the Institute has scaled back its plans in its proposal to OSI. This project has been of interest to U.S. Programs, but OSI staff did not previously consider funding it because JEHT was funding it in full.

The recommended grant will advance the National Security and Human Rights Campaign priority of advancing a progressive national security policy that respects civil liberties, human rights, and the rule of law. The recommended grant will also complement the work of the Transparency and Integrity Fund, as jurists who use international law to strengthen their own jurisprudence often come under political attack - an outcome that TIF's grantees defend against.⁴

³ Former presenters have included professors Alex Aleinikoff, Sarah Cleveland, Louis Henkin, Harold Hongju Koh, David Martin, Juan Mendez, and Dian Orentlicher; judges Nicolas Bratza, Thomas Buergenthal, Rosalyn Higgins, Richard Goldstone, Gabrielle McDonald, and Jon O. Newman; ICRC legal advisor Jelena Pejic; Juan Osuna, Board of Immigration Appeals; and nongovernmental advocates Stefanie Grant, Sidney Jones, Anthony Lester, Michael Posner, and Jerome Shestack.

⁴ In recent years, the Supreme Court has cited to international legal standards and practices in several progressive rulings, including *Hamdan v. Rumsfeld* (2006) (holding the Detainee Treatment Act of 2005 in violation of the [Uniform Code of Military Justice](#) as well as Common Article 3 of the Geneva Conventions insofar as the act permitted indefinite detention without access to counsel or judicial review based on executive branch designation of individuals as "enemy combatants"), *Roper v. Simmons* (2005) (holding the imposition of [capital punishment](#) for crimes committed by juveniles under the age of 18 to be in violation of the Eighth Amendment by considering, in its evaluation of "evolving standards of decency that mark the progress of a maturing society," practices in other nations), and *Lawrence v. Texas* (2003) (striking down a Texas consensual [sodomy law](#) after considering a European Court of Human Rights ruling striking down a similar law). These cases have provoked a fierce backlash from those who perceive the

Increasingly, state and federal judges in the U.S. are being asked to adjudicate cases that present international law questions, such as: custody cases where a child has been abducted across international borders, cases presenting Alien Tort Statute claims, immigration proceedings raising refugee and asylum claims, situations that test the limits of extraterritorial jurisdiction, suits involving overseas military and law enforcement activities, claims by non-citizen suspects that they were denied consular access while in detention, enforcements of foreign judgments and arbitration awards, and disputes arising out of transnational business transactions. And the “war on terror” has produced an especially challenging docket of international law questions under the Geneva Conventions and the Convention Against Torture, and in cases involving extraordinary rendition, the detention of “enemy combatants,” and extradition.

The realization of rights protected under international law is dependent upon a U.S. judiciary that is well versed in international law. Unfortunately, whether out of ignorance of, or outright hostility to, international law, U.S. jurists often handle these questions poorly and resolve them in ways that not only leave important rights unrealized, but put the U.S. at odds with its treaty partners and damage the credibility of the U.S. around the world.

American judicial education on the use of international law is still in its nascency at a moment when the need to ensure that judges are equipped to make informed decisions on areas of international law with which they lack familiarity is becoming urgent. But federal, state, and local budgets are severely strained, and the training of jurists on international law may well depend on the leadership offered by non-governmental groups such as the Aspen Institute that are able to offer issue expertise, training materials and curricula, and a roster of outstanding trainers.

Inaugurated two decades ago to encourage the implementation of international human rights law through judicial enforcement, the Institute’s seminars are well regarded. Approximately 360 federal court judges (including judges from each Circuit court, as well as Justices Anthony Kennedy, Ruth Bader Ginsburg, and Stephen Breyer, and former Justices Harry Blackmun and Sandra Day O’Connor) and a number of foreign judges⁵ have participated in the seminars. The Institute has made note of dozens of decisions involving international law that were written by judges that have completed its training, and recent human rights decisions by the Supreme Court on terrorism, the applicability of the Geneva Conventions, the rights of detainees, the death penalty, racial discrimination, and the Alien Tort Statute have been authored or joined by Justices who took the course.

The Institute’s project was a key part of the JEHT Foundation’s International Justice Program’s strategy of supporting programs to increase U.S. judicial understanding of

consideration of international law and rulings of foreign courts by American courts as posing a threat to American “sovereignty.”

⁵ Foreign judge participants have come from countries including South Africa, Egypt, The Gambia, Zimbabwe, Uganda, Kenya, Israel, Australia, Ireland, Canada, Argentina, Chile, Guatemala, Sri Lanka, Bangladesh, Philippines, Pakistan, Russia, the International Court of Justice, the Inter-American Court of Human Rights, and the International Criminal Tribunal for the Former Yugoslavia.

international and humanitarian law and to counter U.S. exceptionalism and advance the rule of law. JEHT found the Institute's seminars to be unrivaled in content and effectiveness as a way of introducing U.S. judges to international human rights and humanitarian law, and of instilling an understanding of the importance of U.S. participation and leadership to ensure the rule of law and adherence to human rights and humanitarian standards and norms, at home and abroad.

The Institute is working to identify funds for the project moving forward, and is currently in discussions with the Ford Foundation. In the meantime, a JEHT Emergency Fund grant from OSI will allow the Institute to complete one seminar and undertake substantial preparation for the second. We have just learned that Atlantic Philanthropies has approved a JEHT emergency grant to the Institute; before our June 26 docket meeting we will ascertain whether this should affect the amount of our recommendation.

For the above reasons, OSI staff recommends a grant of \$125,000 to the Aspen Institute.

Name of Organization: Brennan Center for Justice at NYU School of Law

Tax Status: 501(c)(3) public charity

Purpose of Grant: to support the Ballot Design Project

Previous OSI Support: \$11,465,347
 \$807,715 from Strategic Opportunities Fund (2009, 2006, 2005, 2003)
 \$68,414 from JEHT Emergency Fund (2009)
 \$2,881,218 from U.S. Justice Fund (2008-2004, 2002-2000, 1997)
 \$2,625,000 from Progressive Infrastructure (2007, 2006)
 \$60,000 from OSI-Baltimore (2006)
 \$1,223,000 from Independence of Judiciary (2004-2002, 1997)
 \$1,000,000 from Governance and Policy (2002)
 \$2,270,000 from Law and Society (2001-1997)

Organization Budget: \$7,357,278

Project Budget: \$300,888

Major Sources of Support:

Carnegie Corporation	\$600,000
Atlantic Philanthropies	\$450,000
Rockefeller Foundation	\$250,000

Amount Requested: \$155,000 over one year

Amount Recommended: \$155,000 over one year

Term: July 1, 2009 – June 30, 2010

Description of Organization

The Brennan Center for Justice at NYU School of Law is a hybrid public interest law firm/policy institute dedicated to developing and implementing an innovative, nonpartisan agenda through scholarship, public education and legal action that ensures fairness to the poor and promotes equality and democracy.

Brennan’s Democracy Program seeks to eliminate barriers to full and equal participation and to ensure that public policy and institutions reflect the diverse voices and interests that make for a rich and energetic democracy.

Description of Program for Which Funding Is Sought

The Brennan Center’s Ballot Design Project aims to ensure that the choices made by American voters are accurately recorded by analyzing ballot design problems across the country and working with allies to implement solutions to these problems. In the first phase of the project, supported by the JEHT Foundation, Brennan formed a Task Force

on Ballot Design, composed of several of the nation's usability experts, political scientists, and election officials, and together with staff, they conducted extensive empirical research on ballot design across the country. The results of this research were released in July of 2008 in a report titled *Better Ballots*. The report contained an extensive analysis of election ballots that showed how poor design and confusing voting instructions disenfranchised hundreds of thousands of voters in recent elections. Thirteen specific ballot design problems were identified and recommendations were outlined to enable county, state and federal government officials to improve ballot design, with an emphasis on local measures. On the basis of the ballot design report, the Brennan Center worked intensively with state and county election officials in seven states to improve ballot design in anticipation of the November 2008 election.

For the next phase of the project, five target states have been identified for concerted reform efforts, including California, Florida, Missouri, New York and Ohio. These states have been targeted based on the following criteria:

- significant ballot design problems were evident in recent elections and/or state legislation and regulations impede good ballot design;
- election officials and legislators have expressed interest in working with the Brennan Center to improve their ballot designs, election codes and regulations;
- all states other than Ohio have one type of system (i.e., DRE or optical scans) throughout the state, which should make it easier to pursue statewide changes;
- local partners are ready and able to assist with the work.

In each of these target states, the Brennan Center will work with local partners such as Common Cause and the League of Women Voters to conduct state and municipal level advocacy and training around the proposals contained in *Better Ballots*. Task Force experts will be available to assist with election official trainings, usability testing and reviews of ballots. The project will help state election officials to advance better ballot design regulations and templates for each brand and model of voting machine used in the state and implement procedures to review county ballot designs for usability.

Rationale for Recommendation

The JEHT Foundation had been providing significant support for the Brennan Center's Democracy Program (\$450,000 per year), and at the time of the foundation's closure, JEHT staff were planning to recommend a grant of \$155,000 for Brennan's Ballot Design Project. The Transparency and Integrity Fund (TIF or the Fund) is recommending an emergency grant of \$155,000 to help mitigate the losses of a valued partner due to the closure of JEHT, ensure that if the organization has to realign its priorities the Ballot Design project does not go unfunded, and advance the Fund's priority of supporting broad and equal access to the ballot.

The first docket of JEHT Emergency Funding (JEF) prioritized groups for whom JEHT's board had approved funds that had not been paid at the time of its closure. In that docket Brennan received \$68,414. If this recommendation were to be approved, Brennan would be receiving in total from OSI's JEF fund approximately half of what it lost due to the closure of JEHT.

TIF supports an electoral system that is broadly accessible and accurately records each and every vote, so that in part participation is not discouraged. Poor ballot design can result in large numbers of what experts call residual or lost votes, the difference between the total number of people voting in an election and number of votes counted for a particular office. Studies by the Brennan Center and others have shown that confusing ballot design disproportionately impacts low-income voters, people of color, language minorities, new voters and the elderly, creating additional inequalities and potentially a loss of faith in the accuracy of the U.S. electoral system. Supporting the Brennan's Ballot Design Project would address these problems.

The Brennan Center is well positioned to accomplish the outlined project objectives, with proven expertise, credibility and contacts at the state level. Its Democracy Program is well regarded for its research and litigation in the areas of voting rights and elections, campaign finance reform, and government accountability. It is led by Susan Liss, who during the Clinton-Gore administration was Deputy Assistant Attorney General for Policy Development in the Department of Justice and Chief of Staff and Counselor in the Civil Rights Division.

Name of Organization: Campaign Finance Institute

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$125,000 from Governance and Policy (2003, 1999)

Organization Budget: \$1,661,349

Project Budget: N/A

Major Sources of Support:

Smith Richardson Foundation	\$200,000
Rockefeller Brothers Fund	\$100,000

Amount Requested: \$200,000 over one year

Amount Recommended: \$200,000 over one year

Term: May 1, 2009 – April 30, 2010

Description of Organization:

Affiliated with The George Washington University since 1999, the Campaign Finance Institute (CFI) engages in research and education that straddles the academic and advocacy communities. It also empanels task forces and makes recommendations for policy change in the field of campaign finance.

CFI's current focus is on an ambitious research project to investigate what policies stimulate small donor participation in elections, and whether small donor participation gives a boost to other forms of political and civic participation beyond giving. Only a small fraction of the population contributes to political candidates, and donors are disproportionately wealthy. Little is known about whether the goal of equality in elections might be accomplished by empowering those who tend not to participate as donors.

Description of Program for Which Funding Is Sought:

This recommendation is for general support.

Rationale for Recommendation:

When the JEHT foundation announced in December 2008 that it would be closing immediately, CFI was positioned for a renewal grant of \$400,000 over two years. This recommended grant would cover the 2009 installment of that commitment, and also advance the Transparency and Integrity Fund priority of supporting broad and equal access to the ballot and its goal of investigating innovative and promising campaign finance reforms.

TIF is recommending the current grant related to campaign finance in part to preserve and support progress on timely research at a moment when a confluence of events, including OSI's and Carnegie's departure from the field, the closure of the JEHT foundation and current economic decline, has led to a situation where campaign finance groups are understandably struggling financially. OSI support to CFI now on an emergency basis would recognize OSI's role in past campaign finance efforts and would support CFI in its work, particularly in researching small donors and political participation, while it seeks additional funding from renewable sources. TIF will not be providing ongoing support to advance public financing for campaigns for legislative or executive office at the state or federal level.

The campaign finance field itself needs a fresh direction, given current challenges to reform schemes that appear to conflict with freedom of speech principles. The initial findings of CFI's research are intriguing as to the behavior and effect of small donors, and additional data has the potential to expand discussions around campaign finance policy – moving the debate beyond corruption and limits to promoting equality through participation.

Questions about small donor participation were raised in the 2004 election, which saw candidates raising more money from small donors than in previous elections and marked an upsurge in civic participation generally. CFI collaborated with George Washington University's Institute for Politics, Democracy and the Internet to analyze the online small donor phenomenon, including the extent to which small donors also participated in off-line civic activities. The findings reveal that small donors did not just give money online, but an impressive percentage also worked to raise money, persuade friends and colleagues to vote, and organize election-related gatherings. This study, and other anecdotal analyses of the small donor phenomenon in 2004 from within the campaigns themselves, point to promising links between small contributors and civic engagement more broadly.

This agenda was brought sharply to the public spotlight in 2008 by the apparent transformation of political giving by the Obama Campaign. The question that emerges is if this trend can be sustained in other political races without a charismatic candidate, potentially transforming the structures and systems of financing elections in this country, as well as the impact on other forms of civic participation.

Michael J. Malbin, founder and Executive Director of the Campaign Finance Institute, will serve as principal investigator for this project. Mr. Malbin is a Professor of Political Science at the State University of New York at Albany and has written three books on campaign finance. He has also been a reporter for the National Journal, a resident fellow at the American Enterprise Institute, a guest scholar at The Brookings Institution, and Associate Director of the House Republican Conference. The work of CFI is influential and respected across party lines.

With much excitement over the anecdotal evidence related to the small donor “revolution” in the 2008 election, it is critical that the research CFI is engaged in be completed to inform future policymaking in an era when the Supreme Court is unfriendly to reform.

Name of Organization: Campaign Legal Center

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$150,000 from Strategic Opportunities Fund (2004)

Organization Budget: \$1,200,095

Project Budget: \$442,000

Major Sources of Support: Stuart Family Foundation \$150,000
Joyce Foundation \$10,000

Amount Requested: \$150,000 over one year

Amount Recommended: \$150,000 over one year

Term: July 1, 2009 – June 30, 2010

Description of Organization

The Campaign Legal Center is a nonpartisan, nonprofit organization that works in the areas of campaign finance and elections, political communication and government ethics. CLC offers nonpartisan analyses of issues and represents the public interest in administrative, legislative and legal proceedings. The Center also participates in generating and shaping policy debate about money in politics, disclosure, political advertising, and enforcement issues before the Congress, the Federal Communications Commission (FCC), Federal Election Commission (FEC) and the Internal Revenue Service (IRS).

Description of Program for Which Funding Is Sought

This recommended grant is for general support.

Rationale for Recommendation

CLC previously received support from the JEHT Foundation and anticipated a grant of \$150,000 from JEHT in 2009 to support its work. The Transparency and Integrity Fund (TIF) therefore recommends an emergency grant of \$150,000 for one year. The recommended grant would advance the TIF priority of promoting transparency in government and its goal of preserving the gains of previous campaign finance reform efforts.

TIF is recommending the current grant related to campaign finance to preserve and defend past advances when a confluence of events, including OSI's and Carnegie's departure from the field, the closure of the JEHT foundation and current economic decline, has led to a situation where campaign finance groups are understandably

struggling financially at a time when past gains are particularly threatened. Opponents of campaign finance regulation have brought an unprecedented number of cases in the past year to challenge campaign finance laws at the federal, state and municipal levels. The challenges are being brought by national party committees, trade associations, ideological groups and 527 organizations (groups created primarily to influence the nomination, election or appointment of candidates for public office). The current wave of litigation against campaign finance laws puts at risk almost all of the gains made at the national, state, and local levels since the modern campaign finance reform movement began some forty years ago. The invalidation of either a state or federal law would negatively impact campaign finance disclosure efforts nationwide.

Since its creation in 2001, the Campaign Legal Center has played a vital role in crafting and then defending campaign finance reform legislation at the municipal, state and federal level. It works to protect a wide range of campaign finance law provisions, including contribution limits; state and federal “electioneering communication” disclosure laws; regulation of independent groups as “political committees”; and the constitutionality of state public financing programs.

CLC is currently participating in a dozen different lawsuits. Chief among these is the *RNC v. FEC* case, in which the Republican Party is challenging the McCain-Feingold ban on soft money. If the RNC were ultimately successful, it would dramatically undermine the established contribution limits and prohibitions that have been the hallmark of preventing corruption and influence buying over government decisions. CLC has filed an *amicus* brief in the case on behalf of the Bipartisan Campaign Reform Act sponsors.

Opponents of campaign finance reform have filed this and other legal challenges partly in response to the Supreme Court appointments of Chief Justice John Roberts and Justice Samuel Alito. Their appointments moved the Court from a consistent majority in support of the constitutionality of campaign finance laws to a majority that is skeptical, if not hostile, to those laws. However, with the newly nominated Supreme Court appointee Sonia Sotomayor, and the reform track record and philosophy of President Obama, an opportunity exists to halt backsliding on fundamental campaign finance reform, both nationally and in the states. CLC’s overriding goal is to protect the longstanding constitutional principles, developed over decades that provide the framework for upholding the constitutionality of campaign finance laws.

OSI support to CLC now on an emergency basis would recognize OSI’s role in past campaign finance efforts and would support CLC in its work while it seeks additional funding from renewable sources. TIF will not be providing ongoing support to advance public financing for campaigns for legislative or executive office at the state or federal level.

Name of Organization: Center for Political Accountability

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$820,000
 \$200,000 from Transparency and Integrity Fund
 (2008)
 \$100,000 from Progressive Infrastructure (2007)
 \$320,000 from Independence of Judiciary (2006-
 2005)
 \$200,000 from Strategic Opportunities Fund (2004)

Organization Budget: \$810,105

Project Budget: N/A

Major Sources of Support:

V. Kann Rasmussen Foundation	\$100,000
Nathan Cummings	\$50,000
Carnegie Corporation	\$50,000

Amount Requested: \$175,000 over one year

Amount Recommended: \$175,000 over one year

Term: May 1, 2009 – April 30, 2010

Description of Organization:

The Center for Political Accountability is a non-partisan organization that seeks to bring transparency and accountability to the political contribution policies and practices of U.S. companies. Founded in 2003, the Center has pioneered a unique method for reforming the political financing system: presenting to companies a corporate governance case for accounting for their political spending, both direct and indirect. It works with shareholders, mutual funds, and others to persuade companies to disclose their political contributions, explain the business purpose of the contributions, and introduce oversight policies.

Description of Program for Which Funding Is Sought:

This recommendation is for general support.

Rationale for Recommendation:

When the JEHT foundation announced in December 2008 that it would be closing immediately, the Center was positioned for a renewal of its general support grant. This recommended grant would cover that commitment and enable the Center to continue its important work in an under-funded arena. This recommended grant would also advance

the Transparency and Integrity Fund's priority of supporting fair and impartial courts by reducing the influence of money in judicial elections.

In the metastatic growth of money in judicial elections, the largest contributions have come from corporations giving directly to candidates and through business organizations such as the U.S. Chamber of Commerce. Current law does not require companies to report or account for their political spending, nor does it require trade associations and groups with 501(c)(4) status to report funds they spend on political activity. As a result, hundreds of millions of corporate dollars flow into the political process, often without transparency, internal or external controls, or public knowledge. This secret flow of money allows corporate officers to use a firm's resources for political purposes that do not necessarily serve the interests of companies and their shareholders, as well as to exercise undue influence over the political process.

CPA's approach focuses on changing the behavior of corporate donors rather than pushing for legal limits on donations, thus addressing the issue of money in politics from a unique and promising direction, complementing the work of other organizations who seek greater government accountability. The Center will expand its operations this year and pursue innovative initiatives, including the creation of a corporate political activity database. The electronic database will enable users to view company trade association memberships, policy conflicts posed by the memberships, political spending histories (including contributions to 527 groups and state-level donations), and disclosure policies and practices, as well as state and federal campaign finance compliance actions taken against companies. An association with the Wharton School of Business will reinforce the Center's credibility and access to leaders of S&P 500 companies. The collaboration will also help bring corporate political transparency into the mainstream.

As corporations are primarily responsible for the rise of special interest money in government, CPA is increasingly valuable as a partner on judicial and government reform issues. CPA is a member of the Justice at Stake Campaign (JAS) and brings a valuable set of strategies and connections to the coalition and its work on judicial independence.

Bruce F. Freed, co-director of the Center for Political Accountability, has 30 years of experience in politics, strategic public affairs, and journalism. He served for a decade as chief investigator for the Senate Banking Committee, staff director of a House subcommittee, and senior aide and strategist to members of the House leadership.

Name of Organization: Common Cause Education Fund

Tax Status: 501(c)(3) public charity

Purpose of Grant: To support Common Cause Connecticut's Citizen Election Program in defending the state's campaign finance system

Previous OSI Support: \$2,026,000
 \$600,000 from Progressive Infrastructure (2007, 2006)
 \$800,000 from Strategic Opportunities Fund (2006, 2004)
 \$625,000 from Governance and Policy (2003-2000)
 \$1,000 from President's Grants (2003)

Organization Budget: \$4,049,141

Project Budget: \$385,750

Major Sources of Support: *Project*

Major Donors	\$120,000
Proteus Fund (Piper)	\$75,000

Amount Requested: \$125,000 over one year

Amount Recommended: \$125,000 over one year

Term: May 1, 2009 – April 30, 2010

Description of Organization

Common Cause Education Funded (CCEF) is the 501(c)(3) branch of Common Cause, a nonpartisan nonprofit advocacy organization founded in 1970 by John Gardner. Common Cause state chapters and the national organization seek to strengthen public participation and faith in U.S. institutions of self-government; to ensure that government and political processes serve the general interest, rather than special interests; to curb the excessive influence of money on government decisions and elections; to promote fair elections and high ethical standards for government officials; and to protect the civil rights and civil liberties of all Americans.

Description of Program for Which Funding Is Sought

This grant would support the Connecticut chapter of Common Cause (CC/Ct) in their efforts to ensure that Connecticut's landmark campaign finance law is successful. CC/Ct will educate citizens and promote the program; monitor implementation; and help to defend the program from legal challenges.

The passage of the landmark public financing program in Connecticut, known as the Citizens Election Program, was a key victory for the campaign finance reform movement.

Goals of CC/Ct include:

- educating citizens and promoting the Citizens' Election Program (CEP);
- working with litigation partners to defend the CEP in the courts and Legislature and serving as a watchdog to investigate potential problems or abuses under the new system;
- monitoring and ensuring the successful implementation of CEP;
- evaluating its effectiveness in its first test, the 2008 election; and
- laying the groundwork to push for improvements in the law.

The work includes important on the ground outreach to key constituencies, including traditionally underrepresented communities, Republicans and grassroots leaders to ensure they are aware of the opportunity of running under the public financing program

Rationale for Recommendation

When the JEHT Foundation announced in December 2008 that it would be closing immediately, CC/Ct was positioned for a renewal grant. Funding from JEHT would have allowed CC/Ct to undertake important evaluation activities and continued defense and promotion of the state's public financing program. The Connecticut program was hard-won and was a centerpiece of the JEHT campaign finance reform agenda; it also advanced historic goals of OSI's U.S. Programs. This recommended grant will allow CC/Ct to sustain its efforts and focus on developing new funding streams for the future. It would also advance the TIF priority of supporting broad and equal access to the ballot and its goal of preserving the gains of past campaign finance reform efforts.

TIF is in part recommending the current grant related to campaign finance to preserve and defend past advances at a moment where a confluence of events, including OSI's and Carnegie's departure from the field, the closure of the JEHT foundation and current economic decline, has understandably left campaign finance groups struggling financially. OSI support to CC/Ct now on an emergency basis would recognize OSI's role in past campaign finance efforts and would support CC/Ct in its work while it seeks additional funding from renewable sources. TIF will not be providing ongoing support to advance public financing for campaigns for legislative or executive office at the state or federal level.

This recommended grant would also advance priorities of the Transparency and Integrity Fund by defending, promoting and evaluating the newest public financing program in the nation, and the Democracy and Power Fund, by expanding opportunities for members of under-represented constituencies to engage in public life.

Common Cause, well known for its successful leadership for over 30 years on campaign finance and related issues, has 35 state chapters and a main office in Washington, DC. The organization has suffered in recent years at the national level as a result of

management changes and funding difficulties. However, national leadership has recently stabilized under the leadership of Bob Edgar, and key state chapters have continued to have an impact and make a difference locally. For example, CC/Ct was instrumental in the organizing and outreach that led to passage of the new campaign finance law. Following the resignation of ex-Gov. John G. Rowland amidst charges of corruption, CC/Ct led a coalition of 50 groups to help pass comprehensive campaign finance reform, and subsequently worked to successfully fix several holes in the new law. They are the natural local resource to help ensure the new program is implemented successfully.

Andy Sauer is Executive Director of Connecticut Common Cause. Mr. Sauer was a leader in the campaign for passage of Connecticut's landmark public financing reform for statewide elections in 2005 and for defending and fixing the law in 2006 and 2007. Prior to joining Common Cause, Sauer was a journalist working for daily newspapers such as The Syracuse Post-Standard, the New London Day and the Waterbury Republican-American.

Name of Organization: Democracy 21 Education Fund

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$385,000
\$315,000 from Governance and Policy (2002-1999)
\$75,000 from Political Campaign Reform (1998)

Organization Budget: \$490,450

Project Budget: N/A

Other Sources of Support: Carnegie Corporation
Joyce Foundation
Pew Charitable Trusts

Amount Requested: \$100,000 over one year

Amount Recommended: \$100,000 over one year

Term: June 1, 2009 – May 30, 2010

Description of Organization

Democracy 21 Education Fund, the 501(c)(3) arm of Democracy 21, works to eliminate the undue influence of big money in American politics and to ensure the integrity and fairness of government decisions and elections. The organization promotes campaign finance, ethics, lobbying disclosure and related reform measures to accomplish these goals. It was founded in 1997 by its current president, Fred Wertheimer, and is located in Washington, DC.

Democracy 21 Education Fund's efforts are roughly split between its litigation and legal work and its work to promote government integrity and presidential public financing. Its agenda currently includes: repairing the presidential public financing system and establishing a similar system for congressional races; defending in the courts the constitutionality and proper interpretation of the campaign finance laws; monitoring the implementation and enforcement of the precedent setting congressional ethics rules and lobbying disclosure law adopted in 2007; and working on new ethics, lobbying and transparency reforms for Congress and the Executive Branch.

Description of Program for Which Funding Is Sought

This recommendation is for general support.

Rationale for Recommendation

When the JEHT foundation announced in December 2008 that it would be closing immediately, Democracy 21 Education Fund and the Committee for Economic Development had a proposal pending with the foundation for \$150,000 over one year, \$100,000 of which would have been directed to Democracy 21 Education Fund. JEHT staff were intending to recommend funding at this level. This recommended grant would cover that commitment to Democracy 21 Education Fund. It would also support the TIF priorities of promoting transparency in government and broad and equal access to the ballot and its goal of preserving and defending the gains of previous campaign finance reform efforts.

As campaign finance laws are challenged in state courts and at the Supreme Court level by a coordinated opposition, there is the potential for disclosure requirements to be rolled back to pre-Watergate standards. This would significantly hamper TIF's efforts, and those of its grantees, to increase government transparency, specifically around money in politics. Democracy 21 Education Fund established and manages "Project Supreme Court," a uniquely experienced team of law firms and campaign finance lawyers that defend the constitutionality of campaign finance laws and ensure that they are properly interpreted and enforced. The team includes Seth Waxman, former U.S. Solicitor General in the Clinton Administration, and Randy Moss, former head of the Justice Department's Office of Legal Counsel in the Clinton Administration.

Democracy 21 Education Fund's president, Fred Wertheimer, is recognized by many in the community as one of the premier attorneys organizing around and litigating campaign finance cases. He is the former president of Common Cause, was an attorney on the landmark *Buckley v. Valeo* and *McConnell v. Federal Election Commission* cases, and in 2008 was named one of the 90 greatest Washington lawyers of the last 30 years by *Legal Times* and as one of Washington's top lobbyists by *The Hill*.

TIF is not making a longer term commitment to Democracy 21 Education Fund. Rather, this emergency grant would support an ally at a critical juncture while it seeks out renewable sources of funding.

Name of Organization: Democracy North Carolina

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$240,000 from Governance and Policy (2001-2000)

Organization Budget: \$820,000

Project Budget: N/A

Other Sources of Support:

Z. Smith Reynolds Foundation	\$350,000
Individual donors	\$175,000
Carnegie Corporation	\$80,000

Amount Requested: \$125,000 over one year

Amount Recommended: \$100,000 over one year

Term: January 1, 2009 – December 31, 2009

Description of Organization

Democracy North Carolina (Democracy NC) is a nonpartisan organization that works statewide to ensure that the promise of “one person, one vote,” is fulfilled, by combining research, organizing and advocacy to increase voter participation and government accountability. Democracy NC was incorporated in 2003 and is based in Durham.

Democracy NC is committed to a range of reforms that (a) improve disclosure of the flow of money in politics, (b) protect the integrity of the election process, (c) hold public officials to high standards of ethical conduct, and (d) provide public campaign financing. It is also committed to expanding voting rights and participation by, in part, making voting more accessible through Election Day Registration, out-of-precinct voting, and enforcement of the Voting Rights Act and by educating those not involved (youth, ex-felons, discouraged ex-voters, new citizens, etc.) about the value of participation.

To achieve its policy goals, Democracy NC is dedicated to a series of “base building” goals that include developing adult volunteers, young organizers and local pro-democracy coalitions. Its strategy involves focusing a combination of research, education and organizing on winnable reforms and demonstrating the value of citizens being active owners of the political process.

Description of Program for Which Funding Is Sought

This recommendation is for general support.

Rationale for Recommendation

When the JEHT foundation announced in December 2008 that it would be closing immediately, Democracy NC had a proposal pending with the foundation for renewal funding at \$150,000 over one year. JEHT's Fair and Participatory Elections program was intending to recommend Democracy NC for funding at that level. After consulting with Democracy North Carolina, TIF staff are recommending a \$100,000 over one year grant to partly cover the loss of JEHT funding.

The recommended grant would also advance priorities of the Transparency and Integrity Fund (TIF). Democracy NC's current projects include efforts to promote government accountability and transparency by working coalitionally to advance reforms that would require all local governments to establish and enforce codes of ethical conduct, enact restrictions on "pay to play" practices for state contractors and expand electronic disclosure of campaign contributions, lobbyists' spending and economic-interest statements of public officials. In its electoral reform work, Democracy NC also addresses a priority of the Equality and Opportunity Fund, by working to improve election administration and protect people's voting rights.

Democracy NC has a track record of successfully advancing pro-democracy reforms in a key Southern state. The organization spearheaded the effort to enact Same-Day Registration in North Carolina, adopted in 2007, and make available a public campaign financing option for a significant number of statewide offices. In 2008, Democracy NC's field staff coordinated nonpartisan coalitions in five metropolitan areas, distributing 600,000 voter information flyers and providing data, lists and training to 350 volunteers. In that same election cycle, the same-day registration reform that Democracy NC had helped secure was utilized by 253,000 new voters. The state was decided by 14,000 votes.

The organization's leadership and its field organizers have strong ties to the state. Its executive director, Bob Hall, has been working with grassroots groups across North Carolina since 1970. Prior to joining Democracy NC, he was the executive director of the Institute for Southern Studies where he was recognized for his work with a MacArthur Fellowship. Of the ten member staff, five are field organizers, several of whom came to the organization through Democracy NC's summer training program.

Name of Organization: Demos: A Network for Ideas & Action

Tax Status: 501(c)(3) public charity

Purpose of Grant: To support the National Voter Registration Act Project

Previous OSI Support: \$2,450,000
\$250,000 from TIF (2008)
\$100,000 from Chairman's Special Grants (2008)
\$1,250,000 from Progressive Infrastructure (2005-2008)
\$250,000 from S.O.F. (2005)
\$600,000 from Governance & Public Policy (2000-2003)

Organization Budget: \$4,620,217

Project Budget: \$1,202,142

Major Sources of Support: Sandler Foundation
Wellspring Advisors
Carnegie Corporation
John Merck Foundation
Mitchell Kapor Foundation

Amount Requested: \$280,000 over one year

Amount Recommended: \$165,000 over one year

Term: July 1, 2009 – June 30, 2010

Description of Organization

Demos is a non-partisan public policy research and advocacy organization with a mission to help build a society with high levels of electoral participation and civic engagement. Demos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy; a vibrant and inclusive democracy; an empowered public sector that works for the common good; and responsible U.S. engagement in an interdependent world.

Demos' Democracy Program works to strengthen democracy in the United States by reducing barriers to voter participation and encouraging civic engagement. Demos supports state and national reform efforts by conducting research on current and long-range issues; advancing a broad agenda for election reform; providing advocates and policymakers with technical support; conducting litigation; and strengthening reform networks.

Description of Program for Which Funding Is Sought

Demos has spearheaded an effort over the past two years to improve state compliance with the National Voter Registration Act, specifically Section 7 of the law which is intended to ease the voter registration process for low-income individuals by designating all public assistance offices as registration agencies. Although the statute went into effect in 1993, the federal Election Assistance Commission's statistics show an 80% nationwide decrease in voter registrations from public assistance agencies between 1995 and 2006.

In partnership with Project Vote, ACORN, and the Lawyers' Committee for Civil Rights under Law, Demos launched the NVRA Project and identified ten initial target states in which to focus their efforts. The project aims to improve states' compliance with the public assistance provisions of the NVRA through negotiation, technical assistance, and litigation.

The project has already returned impressive results and demonstrated that strong NVRA enforcement efforts can yield huge dividends in voter registration. Last year alone, in the lead up to the 2008 election, the project generated registration applications from at least 130,000 low-income individuals.

Moving forward, Demos will continue to pursue enhanced NVRA Section 7 compliance through direct outreach in several original target states including Michigan, Nevada, Ohio, Pennsylvania, and West Virginia, and will expand the project into at least five new target states to include Alabama, Georgia, Illinois, Mississippi, and New York. They will complete ongoing litigation in Missouri and Ohio and engage in follow-up in states such as Virginia and North Carolina, where significant improvements have already been won. They will also continue to assist project partners with litigation to the extent necessary in other states, which may include New Mexico, Colorado, California, New Jersey, Oregon and Washington.

In addition, the project aims to institutionalize the changes that have already occurred and ensure that NVRA Section 7 compliance becomes embedded in state policies and procedures. The monitoring component of the project includes collecting and maintaining compliance data for each target state; creating a database with information from regular public records requests; and engaging in outreach to additional state-based organizations working with low-income populations to increase awareness of agency voter registration.

Finally, the project will explore opportunities to expand the constituencies benefiting from strong NVRA enforcement through several strategies, including enforcement work targeting state disability offices, which also have been lagging badly on voter registration, and seeking discretionary state designation of additional state and federal Section 7 offices such as state correctional institutions and veterans' facilities.

Rationale for Recommendation

Demos received funding from the JEHT Foundation for its NVRA project and at the time of the foundation's closure JEHT staff were committed to providing renewal funding in 2009, as they believed its NVRA work was Demos' best project. The Transparency and Integrity Fund (TIF) is therefore recommending a one-year emergency grant of \$165,000,

which would be matched by an anonymous Demos funder. The recommended grant would advance TIF's priority of supporting broad and equal access to the ballot and the Equality and Opportunity Fund's priority of enforcing voting rights.

Thirteen years after NVRA took effect there remains a sizeable income gap in registration rates between low-income and wealthier Americans. According to Demos' analysis of U.S. Census data, unregistered individuals in households making less than \$15,000 are twice as likely to say they are not registered because they do not know how or where to register as those making \$75,000 or more. To advance the TIF priority of broad and equal access to the ballot special effort is needed to address this gap in the availability of voter information and registration.

Work conducted by Demos and its partners over the past two years has shown that a serious effort can turn around the low number of NVRA registrations and bring substantial numbers of additional low-income people to the voter registration rolls. In North Carolina, for instance, where Demos worked closely with the State Board of Elections to enhance NVRA public assistance registration, there was a dramatic increase totaling over 77,000 registrations between February 2007 and December 2008 – compared to only 11,607 voters in all of 2005 and 2006. And in Missouri, Demos' litigation efforts resulted in over 26,400 public assistance registrations in just the first six weeks of court-ordered implementation – compared to about 15,500 in all of 2005 and 2006. If these rates of increase held constant in all states that began to implement the NVRA, millions of additional low-income Americans could join the ranks of registered voters.

TIF's support for Demos' NVRA work is likely to be limited beyond this year. National and state efforts are underway to modernize the voter registration system and although NVRA enforcement still has a great effect in increasing access to the ballot for mostly lower-income citizens, it may not be necessary over the longer term. Overall, USP's support for Demos has been decreased from its peak in 2007.

Demos' Democracy Program is led by Brenda Wright, who before coming to Demos, served as the Managing Attorney at the National Voting Rights Institute in Boston and the Director of the Voting Rights Project at the Lawyers' Committee for Civil Rights Under Law.

Name of Organization: Justice at Stake Campaign

Tax Status: 501(c)(3) public charity

Purpose of Grant: To provide general support

Previous OSI Support: \$5,974,945
\$1,500,000 from TIF (2008)
\$750,000 from Progressive Infrastructure (2007)
\$2,314,945 from U.S. Justice Fund (2004-2006)
\$1,410,000 from Law & Society (2001-2003)

Organization Budget: \$1,533,182

Project Budget: N/A

Major Sources of Support:

Joyce Foundation	\$190,000
Carnegie Corporation of New York	\$125,000
Moriah Fund	\$30,000

Amount Requested: \$350,000 over one year

Amount Recommended: \$350,000 over one year

Term: June 1, 2009 – July 31, 2010

Description of Organization

The Justice at Stake Campaign (JAS or the Campaign) is a national, nonpartisan campaign organization located in Washington, DC. JAS was created by OSI in 2000 to provide the infrastructure for a broad-based, long-term campaign to counter the rising tide of partisan and special interest pressure on the fairness, impartiality and independence of our courts. Its mission is to educate Americans about the growing threat to the courts, and support reforms to keep courts fair, impartial and independent.

JAS monitors developments in all 50 states and focuses on those where partner contributions can have a significant impact. It serves as the hub organization for the judicial independence field, working in partnership with 50 organizations, 14 of which are current OSI grantees, and coordinates the activities of national and state allies; enables the sharing of information and expertise between judicial reform groups; develops campaign strategies; and orchestrates communications efforts.

Description of Program for Which Funding Is Sought

This recommendation is for general support.

Rationale for Recommendation

JAS anticipated a grant of \$350,000 from the JEHT Foundation in 2009 and the Transparency and Integrity Fund is recommending a one-year emergency grant of \$350,000 to cover that commitment.

The recommended grant would also advance priorities of the Transparency and Integrity Fund, as JAS confronts threats to the independence and impartiality of the U.S. judicial system. JAS is TIF's core judicial independence grantee and is also a valuable member of several OSI working groups, including a working group on judicial diversity.

Although 87% of all state judges are elected, and 38 states conduct Supreme Court elections, judges traditionally have not had to raise huge war chests, cater to special interests, make sound-bite promises or respond to hardball attacks. However, the past decade has seen an explosion of big money, special interest pressure, and TV air wars in the election of Supreme Court justices across the country.

This "New Politics of Judicial Elections" deters good people from becoming judges, increases voter apathy and cynicism, and threatens the fairness and impartiality of our courts. Recent surveys of the public by JAS showed that 3 in 4 Americans have come to believe that campaign contributions influence judges' decisions, and a second survey showed that even 26% of judges believe that themselves.

In early June 2009, the U.S. Supreme Court ruled in *Caperton v. Massey Coal* that elected judges violate 14th amendment due process rights when they rule on cases involving substantial financial supporters. The ruling was a victory for JAS and its allies, who coordinated activities and filed amicus briefs to bring attention to the troubling nature of high-cost judicial campaigns and reinforce the role of courts as fair and impartial, free of even the appearance of political or special interest interference. The day after the ruling, JAS was quoted in front page stories about it in major papers, including the *New York Times* and *Washington Post*. As state courts around the country now move to clarify their rules for disqualification of judges based on campaign contributions, JAS's efforts to engage in public education, research and outreach will continue to be critical.

The organization has been led ably by executive director Bert Brandenburg since 2005. He previously served as the Justice Department's Director of Public Affairs and chief spokesperson under Attorney General Janet Reno.

Name of Organization: University of Wisconsin

Tax Status: 501(c)(3) public charity

Purpose of Grant: To support research into the impact of Connecticut's new public financing program

Previous OSI Support: \$2,329,577
\$1,154,295 from Public Health (2008-2007, 2005-2004, 2001)
\$250,000 from Democracy and Power (2008)
\$300,000 from Progressive Infrastructure (2007)
\$20,337 from African Initiatives (2004)
\$550,229 from PDIA (2002, 2000, 1997)
\$25,000 from U.S. Justice Fund (2001)
\$29,716 from President's Grants (1998)

Organization Budget: N/A

Project Budget: \$61,000

Major Sources of Support: *Project*
University of Wisconsin (matching) \$6,000

Amount Requested: \$55,000 over one year

Amount Recommended: \$55,000 over one year

Term: May 1, 2009 – April 30, 2010

Description of Organization:

The University of Wisconsin system is one of the largest systems of public higher education in the country, serving more than 160,000 students each year and employing more than 32,000 faculty and staff statewide. The proposed project would be undertaken by Kenneth Mayer, a professor of political science at the University of Wisconsin-Madison, the system's flagship university.

Description of Program for Which Funding Is Sought:

The University of Wisconsin (U. Wisc.) researchers aim to complete a study on the impact of Connecticut's new public financing law on electoral competition. The first phase documented a decided lack of competition in state legislative elections under the old system. Many have forecast that the new law will increase competition. Early evidence shows more people running for office under the new law. The next phase of research would focus on the role of public financing in advancing election competition by asking: Have clean elections resulted in more candidates running, higher rates of competition, and more incumbents being defeated for re-election? Other questions will address:

- *Interest Group Strategies:* How have interest group electioneering activities adapted to the new “clean elections” environment? As these organizations have shifted their efforts away from campaign contributions, what new ways are they attempting to play a role? How have their lobbying efforts been influenced?
- *Legislative Agenda:* How has the focus of legislative efforts changed since the imposition of the new law? Are different types of policies being introduced, considered by committees, and debated on the floor? Have the substantive aspects of budgetary or regulatory proposals changed in appreciable ways?

Rationale for Recommendation:

When the JEHT foundation announced in December 2008 that it would be closing immediately, it was funding three research projects on the effects of Connecticut’s public financing system. On each project, investigators had completed the preliminary research and were expecting renewal grants from JEHT to complete the second and final stage. This recommended grant would enable Professor Mayer and his team to finish their important work and could make a significant contribution to the debate over the future of campaign finance reform. TIF worked with the Carnegie Corporation and Rockefeller Brothers Fund and each is recommending one of the projects for funding.

TIF is recommending the current grant to preserve and support progress on timely research at a moment when a confluence of events, including OSI’s and Carnegie’s departure from the field, the closure of the JEHT foundation and current economic decline, has led to a situation where campaign finance-related projects are understandably struggling financially. OSI support to the University of Wisconsin project now on an emergency basis would recognize OSI’s role in past campaign finance efforts, support the completion of this research and support the TIF priority of advancing broad and equal access to the ballot and its goal of investigating innovative and promising campaign finance reforms.

In 2006 the Connecticut legislature adopted a system of public financing for elections to legislative and statewide constitutional offices. Although adopted in the wake of the scandal involving Governor Rowland, the program has been presented by its supporters as a model for the nation, refining the systems already in place in Arizona and Maine. Advocates argue the new law will result in a number of positive benefits ranging from increased election competition to heightened citizen awareness and a reduced role for moneyed interest groups. Such an altered political landscape is expected to have important policy consequences.

This study will observe what actually happened in the first wave of publicly funded elections in Connecticut, the 2008 cycle. If competition is seen to increase, this will confirm existing hypotheses about candidate motivation and the role of money in politics. If, on the other hand, competition did not increase despite generous subsidies, there will be a need to rethink conventional wisdom about candidate motivation and barriers to entry. Scholars and advocates who value competition may have to look elsewhere for the means to achieve it.

Either way, the results will be useful in states debating reform as most of the innovation in campaign finance laws is now occurring at the state and local level. It will also provide useful evidence to advocates pursuing legal strategies in support of public financing.

Kenneth Mayer, professor of political science at the University of Wisconsin and Affiliate Faculty at LaFollette School of Public Affairs, will serve as the principal investigator for this component of the research project. Dr. Mayer has published widely on campaign finance reform issues and is on the editorial board of the *American Political Science Review*.