

**Final Report**

**Citizen's Panel**  
on a  
**Clean Elections Option**

**Nathan Heffernan**  
**Chair**

**A Plan for Total Public Financing of State  
Primary and General Elections**

**June 1997**

## Section 1: The Challenge

The dedication of the Panel members convinces us that democracy is our greatest gift and that we, in Wisconsin, have a wealth of talent ready to work to preserve our political system. Every person asked to join the Panel accepted with enthusiasm and they performed magnificently. Like most Americans, they know the system is badly in need of repair and they jumped at the opportunity to design the needed reforms to take back our democracy from the private interests who now control our electoral process. They took seriously the challenge of Chief Justice Edward Ryan who challenged an earlier generation of Wisconsin citizens:

***"You will have to choose, which shall rule, wealth or man, who shall fill public stations, educated and patriotic free men or the serfs of corporate capital."***

Our thanks go to the Chair of the Commission, former Chief Justice Nathan S. Heffernan, for guiding the hearings while always careful to involve citizens in this process. Our appreciation to the Panel members who paid their own expenses, gave of their time, and created an atmosphere of intellectual excitement about the creation of a new approach to Wisconsin politics. Special thanks to Paul Uebelher, our sole staff person, who organized the meetings, contacted the media, listened to citizen calls and who made this a reality.

None of this would have been possible--video tape, web site, and the report without the generous support of the Evjue Foundation, the philanthropic arm of the Madison Capital Times and the Tides Foundation. We are deeply grateful to Fred Miller and all the Board members of the Evjue Foundation for their support. We hope they find it was well placed.

To the citizens of Wisconsin, we challenge you to answer the question posed a century ago. Will we elect free and independent people or only those who are sponsored by the private interests? Former Governor and Senator Gaylord Nelson urged that we stop demeaning our candidates by forcing them to become beggars. As for the public, he suggested a full length mirror. "If there is a problem, we must all look in that mirror to find the root cause. We can change the electoral system if we really want to."

The challenge is yours. Now let us ask the Legislature to permit the citizens of Wisconsin to vote on this bold plan put forward by the Citizen Panel. And we must challenge the media to stop judging the seriousness of candidates by the size of their campaign treasury and look instead to the wealth of their ideas. The question often asked of new candidates is, "Can you raise the money?". That is the wrong question. The question relevant to a democratic society is "Can you raise the level of the discussion of our most pressing issues, can you elevate the spirit of our citizens, can you challenge the voters to follow the dictates of our Constitution for life, liberty and the pursuit of happiness?"

Wisconsin has a chance to once again take the lead and we must not miss that opportunity.

  
Midge Miller

  
Ed Garvey

## **Section 2: Background of the Panel**

The Citizen's Panel on a Clean Election Option, took shape in January of 1997 following a meeting of the Madison Institute and Progressive Communication Systems (PCS). Troubled by the growing perception of corruption of our political system, Midge Miller, Don Jones of the Madison Institute, met with Ed Garvey, President of PCS to discuss how citizens could regain control of their political process.

The decision was made to ask retired Chief Justice of our Supreme Court, Nathan Heffernan, to chair a Citizen Panel and to seek the best available people to outline a plan of total public financing that would pass constitutional muster. Everyone asked, agreed to participate, at no fee, on the Citizen Panel. The result was an exciting group of citizens, anxious to deal with the corruption and champing at the bit to find rational and acceptable solutions.

What followed were hearings in Madison, Green Bay, Eau Claire and Milwaukee along with discussions with hundreds of citizens interested in reforming the political system. Inspired by the words of another Chief Justice, Edward Ryan, who spoke at the law school graduation in 1873, a class which included Bob La Follette, the Panel struggled with the details, listened to the faint of heart as well as those seeking bold reform, and constructed a system that is stunning in its simplicity.

It is the unanimous hope of the Citizen Panel that this will be the start of a grass roots movement to demand total public financing. The Citizen Panel approach states with a clear voice that the people of Wisconsin should pay for their own system of government because the alternative is profit seeking interests controlling the system. The position of the Panel is bolstered by a recent poll conducted for the Center for Responsive Politics by the Princeton Survey Research Associates. It is clear that the public is angry at the current political system.

70 % would limit how much wealthy candidates can contribute to their own campaigns.

71% concluded that good people are discouraged from running for office by the high cost of campaigns.

66% say that contributions have too much influence on elections and government policy.

58% say the two major political parties are not responsive to people's concern.

Cynicism has crept in, however, and six out of ten voters doubt that current legislators will reform the system. Clearly, it will take a grass roots effort to force politicians to clean up the corruption.

The first step in any reform is to identify the problem. The people have done that. It is the corrupting influence of money in politics. The second step is to present a comprehensive and understandable solution and the Citizen Panel has performed that service. The next step is to convince the public that they can, indeed, force change on the body politic if they are angry enough to demand change. It is that step that will require rolling up the sleeves and getting started in a long campaign for reform.

## **The Citizens Panel on a Clean Elections Option**

**NATHAN HEFFERNAN**, former Chief Justice of the Wisconsin Supreme Court.

**RICHARD CATES**, retired trial attorney, who assisted the Judiciary Committee during the impeachment process of President Richard Nixon.

**CARIN CLAUSS**, former Solicitor for the Department of Labor under President Carter, currently a University of Wisconsin Law Professor.

**PAUL HASSETT**, former Executive Director of Wisconsin Manufacturers and Commerce.

**BILL KRAUS**, former press secretary to Governor Dreyfus, political consultant to Republican candidates and regular panelist on Weekend.

**BARBARA LAWTON**, 1996 candidate for State Senate in Green Bay and a target of so-called "independent expenditures."

**CHARLIE DEE**, MATC teacher in Milwaukee, activist and former candidate for Congress in Milwaukee's 5th CD.

**ELLIOTT MARANISS**, former editor of the Madison Capital Times, advisor to the late Mayor of Milwaukee.

**STEVE BRAUNGINN**, Dane County Board member and political activist.

**LOUIS FORTIS**, former State Representative to the Assembly from Milwaukee and candidate for the State Senate.

**STAN GRUSZYNSKI**, former 5 term State Representative to the Assembly and candidate for Congress in Wisconsin's 8th CD.

**MARK KASTEL**, former candidate for Assembly in western Wisconsin, currently CEO of small, medium and agri-business management and consulting firm.

## Section 4: The Heffernan Citizen's Panel Plan

### Introduction

A recent St. Norbert College poll indicating 84% of Wisconsinites believe we need sweeping campaign finance reform verifies what low voter participation seemed to indicate: a widespread disenchantment with an election process increasingly driven by large sums of money; the consequent appearance of corruption and the real danger of corruption in government.

The ability to raise large sums of money stands as the first barrier to candidacy and, in fact, defines a candidate's viability. The Citizen's Panel on a Clean Election Option proposes to supplant that system with one where economic status and access to wealth are not qualifying factors for a potential candidate, where all citizens may participate in the election process in an equal and meaningful way as voters and as candidates.

Specifically, the Citizen's Panel recommends a system of full public financing of state elections for those who voluntarily accept campaign spending limits as set forth in Table 1.

The Panel has reached consensus that only complete public financing would free candidates and public officers from the time-consuming and compromising activity of fundraising and free them to be independent agents in the best interest of all citizens. The objective is citizen control of elections at the state level.

Toward that end, our proposal does not comment on the Feingold-McCain bill or other efforts to reform presidential and congressional elections. Accordingly, the following basic tenets guide our proposal:

1. Nothing short of full public financing for the nomination and election of all constitutional offices (Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer and Superintendent of Public Instruction), State Assembly, State Senate and judges (Supreme Court, Court of Appeals and Circuit Court) will solve the problem of corruption in state government.

2. Today, nominees for general election are effectively pre-selected by large, private contributors. Availability of public funding for primary races is crucial if the public is to be presented with a genuine slate of candidates from which to choose.

3. Not every person who aspires to hold office should necessarily qualify for public financing. Barriers present in our proposal serve to screen candidates without significant support.

4. Under the present system, an incumbent's true advantage lies in the reality that contributors give money with the expectation of influencing official conduct. Equal funding for both incumbent and challenger mitigates that edge.

## **Preamble**

Wisconsin has a democratic form of government. Such a government derives its power from the people. The electoral process is the device by which the people empower their elected officials. We believe that human freedom depends on this process.

Circumstances have occurred over the past several years which make the cost of the election process exorbitant, far more costly than the ordinary person can afford. This required expense, in most cases, has reduced our candidates for office to full time fundraisers, who appear to the people in the end not as champions of their will, but the tool of the very few who are able to provide the necessary money.

In such circumstances the power to govern is not derived from the people but from the few who have special interests which they want our government to protect.

In these circumstances the people have been stripped of the power necessary to make our democracy work. These circumstances deny people their right to self-government. If permitted to continue we will lose effective control of the elective process, essential to American freedom.

The first section of Article I of the Wisconsin Constitution sets forth our most important human values. This section states that all are born equally free and independent and have certain inherent rights, among these are life, liberty and the pursuit of happiness. This section also states that in order to secure these rights, our government has been instituted. Finally, this section dictates that it is we the people who empower our government. Because the people must reclaim this right, we propose taking this action.

## **The Wisconsin Clean Election Option**

To obtain ballot access and receive public financing in a primary election, any candidate for a constitutional office, (Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer and Superintendent of Public Instruction), Assembly, State Senate and judges (Supreme Court, Court of Appeals and Circuit Court) must obtain the number of nomination signatures listed below on nomination papers that will be provided by County Clerks. To be granted public financing in a primary, a candidate must demonstrate broad and committed public support by obtaining the requisite number of \$5 contributions from separate individuals to the "Clean Money Fund." The County Clerks will also provide preliminary campaign literature to assist candidates in obtaining ballot access to the nomination process.

Anyone meeting these requirements, who further agrees to forgo all private contributions and to abide by prescribed spending limits as outlined in Table 1, will receive the designated public funding for the primary campaign in a timely manner. Primary winners who participate in this system would then automatically receive the designated funding for the general election. All expenses must be documented, verified and submitted to the State Elections Board to

substantiate use of funds for legitimate campaign purposes.

If a candidate opts not to participate, accepts private money or exceeds the specified spending limits, the Clean Elections Fund will provide the opponent(s) funding to match that candidate's expenditures, up to a maximum of 2.5 times the amount allocated by the Clean Elections Fund. A candidate who initially agrees to the terms of the Clean Elections Option but then violates the law, by accepting private money or by exceeding the spending limits, will forfeit all public funding and be fined up to three times the amount of private money received. The Clean Elections Fund will provide the opponent in that race, funding to match that candidate's expenditures, up to a maximum of 2.5 times the limit listed in the agreement. Spending limits for candidates accepting public funding will remain in force in all circumstances.

**Table 1  
Spending Limits and Funds Available for Candidates Who Agree to the  
Clean Elections Option.**

<b>Office</b>	<b>Primary Election</b>	<b>General Election</b>
<b>Assembly</b>	<b>\$18,000</b>	<b>\$36,000</b>
<b>State Senate</b>	<b>\$36,000</b>	<b>\$72,000</b>
<b>Governor</b>	<b>\$500,000</b>	<b>\$1,000,000</b>
<b>Lt. Governor</b>	<b>\$200,000</b>	<b>\$75,000</b>
<b>Secretary of State</b>	<b>\$75,000</b>	<b>\$200,000</b>
<b>State Treasurer</b>	<b>\$75,000</b>	<b>\$200,000</b>
<b>Attorney General</b>	<b>\$400,000</b>	<b>\$600,000</b>
<b>Sup. Public Instruction</b>	<b>\$150,000</b>	<b>\$300,000</b>
<b>Circuit Court Judge</b>	<b>\$25,000</b>	<b>\$25-50,000*</b>
<b>Court of Appeals Judge</b>	<b>\$50,000</b>	<b>\$75,000</b>
<b>Supreme Court Justice</b>	<b>\$100,000</b>	<b>\$300,000</b>

\* Amount depends on the population of the district.

**War Chests (Unexpended Campaign Funds)**

All funds in excess of 5% of the Assembly spending limit for general elections allowed under the Clean Elections Option, 3% of the State Senate general election limit and 1% of all

other general elections spending limits, remaining in the candidate's treasury after the general election (on December 1st of the even numbered year) must be returned to the Clean Elections Fund or the individual contributor.

**Table 2  
Qualifications for The Wisconsin Clean Elections Option**

<b>Office</b>	<b>Nomination Signatures</b>	<b>\$5 Qualifying Contributions</b>
<b>Assembly</b>	<b>600</b>	<b>300</b>
<b>State Senate</b>	<b>1,200</b>	<b>600</b>
<b>Governor</b>	<b>27,000*</b>	<b>13,500</b>
<b>Lt. Governor</b>	<b>9,000*</b>	<b>4,500</b>
<b>Secretary of State</b>	<b>9,000*</b>	<b>4,500</b>
<b>State Treasurer</b>	<b>9,000*</b>	<b>4,500</b>
<b>Attorney General</b>	<b>22,500*</b>	<b>11,250</b>
<b>Sup. Public Instruction</b>	<b>13,500*</b>	<b>6,750</b>
<b>Circuit Court Judge</b>	<b>500</b>	<b>250</b>
<b>Court of Appeals Judge</b>	<b>1,000</b>	<b>500</b>
<b>Supreme Court Justice</b>	<b>9,000*</b>	<b>4,500</b>

\* Candidates for this office must secure a minimum of 5% of total signatures from each of Wisconsin's nine congressional districts.

**Limits on Private Campaign Contribution to Non-Participants**

Campaign contributions may be limited within the confines of the Buckley vs Valeo decision to avoid corruption in the electoral process. However, the courts have also acknowledged that contributions are a First Amendment right guaranteeing individuals the right to have their views expressed. The goal of contribution limits must be to remove the potential for corruption in the system without infringing on individual rights of free speech. Currently contributions for state elections are limited by the Wisconsin legislature and by Congress for federal elections. The Citizens Panel prohibits all private contributions to candidates accepting public financing and would further limit contributions to non-participants as follows: all individual contributions to state constitutional candidates and supreme court candidates

would be reduced from the current level of \$10,000 to \$2,000 (\$1,000 in the primary and \$1,000 in the general).

Political action committee contribution limits for these same statewide candidates are currently set at 4% of their overall spending limit which ranges from \$43,128 for Governor to \$21,560 for Attorney General and \$8,625 for supreme court and the other constitutional officers. The panel recommends these be reduced to \$2,500 in the primary and a second \$2,500 in the general for all statewide candidates.

Contribution limits for Assembly and Senate elections are not changed, however these amounts should be reviewed from time to time.

The Citizens Panel would further limit campaign contributions by prohibiting all transfers of funds from one political action committee to another political action committee, and between individual candidate accounts.

### **Independent Expenditures and Issue Advocacy Expenditures**

Any group making independent expenditures in the promotion of or for the defeat of a candidate for office, must spend no more than 10% of their total expenditures in a particular contest within the last three weeks of the election. Issue advocacy expenditures, which identify in any way a candidate currently running for office, would be prohibited from spending any more than 10% of their total expenditure within the last 3 weeks of an election. All such groups would be required to register with the State Elections Board, prior to the expenditure of any funds and report all expenditures and the source of the funds expended electronically within 24 hours. The penalty for violating these provisions will be a fine of up to 3 times the total amount expended or 3 times the spending limit of the election the expenditure was attempting to influence, whichever is greater.

Issue advocacy, i.e., advocacy not related to the election or defeat of candidates is not covered in this proposal.

### **Electronic Filing**

The Citizen's Panel endorses the concept of electronic filing of all campaign expenditures and contributions by all candidates running for office in the State of Wisconsin. The Panel proposes that candidates report to the Elections Board electronically and that the Elections Board disseminate this information to the public via the Internet. In addition, the Panel believes all groups engaging in independent expenditures or issue advocacy should be subject to electronic filing requirements.

## **Source of Funding**

The Citizen's Panel recommends the Legislature appropriate \$5 per taxpayer, per year to the Clean Elections Fund. The Panel believes this, along with the \$5 qualifying contributions will be adequate to fund all state elections. The State Elections Board should be adequately funded to oversee the system and have authority to impose increased fines as a disincentive to violations. The Panel believes the estimated cost of operating the Clean Elections Option will cost the average taxpayer far less than the current system of exchanging campaign contributions for special interest legislation.

## **Conclusion--How to Stay Involved**

For those interested in day to day information about reform issues, there are several organizations involved and interested. You can find them on the Citizen Panel web site as we have linked them to our site.

For the most current information we recommend the Center for Responsive Politics, Kent Cooper, Executive Director. The Center provides almost all the information any serious student of our system needs. We suggest you also join the Center for Public Integrity headed by Chuck Lewis a former CBS employee who has produced some of the most interesting and informative material on efforts to corrupt our candidates by the monied interests.

The Wisconsin Democracy Campaign has done yeoman's work in placing \$100 contributors to our Legislators on their web site and we recommend you visit the site often. Common Cause and the League of Women Voters nationally and in Wisconsin, are pushing hard for Feingold/McCain and they deserve your support. Citizen Action advocates public financing of campaigns and is mobilizing its members to push for action on legislative proposals.

A new organization, Public Campaign, headed by Ellen Miller the former Director of the Center for Responsive Politics is an activist organization trying to help state efforts to reform the system through full public financing. See their web site and make that one of your favorite sites.

The National Voter Rights Institute is taking on the unfortunate decision of the United States Supreme Court, Buckley vs. Valeo, in an Ohio case. The federal Justice Department is thinking of joining that effort. The Wisconsin Attorney General and Secretary of State have already joined the suit as friends of the Court. The Institute is directed by John Bonifaz who co-authored a brilliant article entitled "The Wealth Primary" in which he argues that the First Amendment is important, but so is the Equal Protection provisions of the 5th and 14th Amendments to the Constitution. If it costs five million dollars to win a Senate seat, why is that different than a poll tax?

We urge you to get involved. Listen to the dictates of Deep Throat: "Follow the money" if you want to find out why legislation is proposed and adopted. Follow the money if you want to convince your neighbors to reform the system.

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